FY2017 Security Cooperation/Assistance Legislation Recap

Following is a document providing commentary and summary on security cooperation (SC)/security assistance (SA) programs for the SC community from the FY2017 National Defense Authorization Act (NDAA) and other related SC legislation, as of January 2017*

By

Associate Professor Thomas N. Williams Jr., Ph.D., P.E.

SC Plans, Programs, Policy, and Legislation Functional

Defense Institute of Security Cooperation Studies (DISCS – formerly known as DISAM)

Continuing Resolutions:


- Until other legislation was enacted, extended FY2016 authorities and appropriations into FY2017, through 9 December 2016, P.L. 114-223, Div. C
- Along with other amounts, $5.724B was identified for DoD-wide military construction projects, funds to remain available until September 30, 2021, P.L. 114-223, Div. A
- Rescissions of some unobligated balances totaling $396M: two biggest being $168M from the Affordable Care Act and $117M from the 2015 Department of State, Foreign Operations and Related Programs Appropriations Act (S/FOAA), P.L. 114-223, Div. D
- For the Zika Response an “…additional amount for fiscal year 2016 for ‘CDC-Wide Activities and Program Support’, $394,000,000 to remain available until September 30 2017, to prevent, prepare for, and respond to Zika virus, health conditions related to such, and other vector-borne diseases, domestically and internationally…”, P.L. 114-223, Div. B


- Until other legislation is enacted, extended FY2016 authorities and appropriations into FY2017, through 28 April 2017, P.L. 114-254, Div. A
- Funds were made available to support ongoing procurement for the Ohio Replacement Submarine, AH-64E/UH-60M Helicopters, and the KC-46A Tanker, P.L. 114-254, Div. A

*Note – as of the writing of this article, the associated DoD and DoS Appropriations have not been signed by the President. Therefore, final approved amounts for SC/SA programs cannot be stated and other changes made to FY2017 NDAA earmarks, programs, or guidance from these Appropriation Acts cannot be commented on.
- “Exception to limitation against appointment of persons as Secretary of Defense within seven years of relief from active duty as regular commissioned officers of the armed forces,” P.L. 114-254, Div. A

- The following amounts (rounded to nearest million) are appropriated for “additional amounts,” to be made available for the following SC related programs through 30 September 2017, provided that such amounts are designated for the Overseas Contingency Operations (OCO) account, P.L. 114-254, Div. B, Title I:
  o $4.746B for Military/DoD-wide personnel, operation, maintenance, procurement, & research funding needed to support Counterterrorism Operations
  o $652M for Military/DoD-wide personnel and operation funding needed to support the European Reassurance Initiative (ERI)
  o $290M for the DoD Iraq Train and Equip Fund (ITEF)
  o $88M for the DoD Joint Improvised Explosive Device Defeat Fund

- The following amounts (rounded to the nearest million) are appropriated for “additional amounts,” to be made available for the following SA related programs through 30 September 2018, provided that such funds are designated for the OCO account to counter ISIL, Russian Influence, and violent extremism in Africa, Europe, Eurasia, Middle East, and South/Central Asia, P.L. 114-254, Div. B, Title II:
  o $1.031B for DoS Economic Support Fund (ESF)
  o $26M for DoS International Narcotics Control and Law Enforcement (INCLE)
  o $128M for DoS Nonproliferation, Anti-terrorism, Demining and Related Programs (NADR)
  o $50M for DoS Peacekeeping Operations (PKO)
  o $200M for DoS Foreign Military Financing Program (FMFP)
  o $616M for USAID International Disaster Assistance

- Some ESF funds can be used in support of the Loan guarantee for Iraq, provided that such funds are not considered assistance; the Government of Iraq (GOI) commits an equitable share of these funds to the Kurdistan Region of Iraq; and, that the GOI regularly consults and notifies the Committee on Appropriations on said expenditures, P.L. 114-254, Div. B, Title II, Section 205(a).


- In the FY17 NDAA there is significant reform, consolidation, and codification of existing SC programs, along with other major changes to the business of security cooperation. In fact, Section 1241 establishes a new Chapter 16 in Title 10, U.S.C. called “Security Cooperation” Some key changes are:
  o Defined Security Cooperation Programs as “any program, activity (including exercise), or interaction of the Department of Defense with the Security
establishment of a foreign country to achieve a purpose as follows: (A) To build and develop allied and friendly security capabilities for self-defense and multinational operations. (B) To provide the armed forces with access to the foreign country during peacetime or a contingency operation. (C) To build relationships that promote specific United States security interests.” P.L. 114-332, Section 1241(a).

- Requires the Secretary of Defense to designate an individual and office at the Under Secretary of Defense-level or below with responsibility for oversight of strategic policy and guidance and responsibility for overall resource allocation for security cooperation programs and activities of the Department.

- Also, in this new Chapter 16, there are Sections that encompass the main aspects of previous SC programs that have been repealed, re-codified, and/or codified; and sometimes consolidated into a new a Program/Section. For instance, Section 332 “Friendly foreign countries; international and regional organizations; defense institution capacity building” encodes the major aspects of two previous Defense Institution Building (DIB) programs: “Assignment of DoD as MoD Advisors (MODA)” & “Defense Institution Reform Initiative (DIRI).”

- About 21 existing SC programs will be consolidated into eight new programs (Sections). These eight new Sections will then be permanent U.S. law and no longer need periodic reauthorization; the first eight new programs reviewed below are these new Sections:

- In the FY17 NDAA there are 13 New Security Cooperation Programs Authorized for FY17:
  - **Section 311, “Exchange of defense personnel between United States and friendly foreign countries: authority”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows DoD organizations to exchange military or civilian personnel with other friendly countries; the mutual exchange of military or civilian engineers and scientists with friendly countries in a permanent change of station to become producing members of the host nation’s military RDT&E community; and, includes non-reciprocal exchange of defense personnel with allied and friendly countries and international organizations, P.L. 114-328, Section 1242(a)(1).
    - Repeals the following three programs, which Section 311 will replace: “Defense Personnel Exchange Program”, “Engineers and Scientists Exchange Program”, & “Non-Reciprocal Exchange of Defense Personnel”, P.L. 114-328, Section 1242(c).
  - **Section 312, “Payment of personnel expenses necessary for theater security cooperation”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows, within certain specified limitations, the payment of personnel expenses (travel, subsistence, & similar expenses) for Defense personnel of friendly foreign governments that the DoD considers necessary
for theater security cooperation. This includes administrative services and support (travel, subsistence, and some medical) for liaison officers of a foreign country while that individual is temporarily assigned to a DoD headquarters; costs not to exceed $150,000 in any fiscal year. Personnel expenses can cover costs to attend some conferences and seminars, P.L. 114-328, Section 1243(a).

- Repeals the following four programs, which Section 312 will replace: “African Cooperation,” “LATAM Cooperation: Payment of Personnel Expenses,” “Payment of Expenses to attend Bilateral or Regional Conferences,” & “Payment of Foreign Nation Liaison Officer Expenses” P.L. 114-328, Section 1243(b)(1).

  - **Section 321, “Training with friendly foreign countries: payment of training and exercise expenses”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows U.S. armed forces, under the jurisdiction of the Secretary of Defense, to train with military forces or other security forces of a friendly foreign country, if the Secretary determines that it is in the national security interest to do so. Costs allowed includes deployment expenses, the incremental expenses of a friendly foreign force of a developing country as a direct result of participating; and, small-scale construction (not to exceed $750K) that is directly related to the effective accomplish of the training exercise, P.L. 114-328, Section 1244(a).
    - Repeals the program “1203, Training of General Purpose Forces of the United States Armed forces with Military and other Security Forces of Friendly Foreign Countries” and re-codifies the program “Developing Country Combined Exercise Program (DCCEP)” into Section 321, P.L. 114-328, Section 1244(a) & (c).

  - **Section 331, “Friendly foreign countries: authority to provide support for conduct of operations”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that provides support (logistics, supplies, and services) to forces of a friendly foreign country participating in: an operation with the armed forces of the DoD, military/stability operation that benefits U.S. national security interests; and/or solely for the purpose of enhancing interoperability of military forces in a combined operation. Additionally, the Secretary of Defense can also provide this support to operations in which the United States is not participating if the Secretary of Defense and State jointly certify to Congress that the operation is in U.S. national security interests and the appropriate report is filed. P.L. 114-328, Section 1245(a).
    - This support includes the procurement of equipment for the purpose of loaning such equipment to the military forces of a friendly foreign country participating in a U.S.-supported coalition or combined operation. This
support also includes specialized training in connection with such an operation and small-scale construction.

- The aggregate value of all logistic support, supplies, and service provided in any fiscal year may not exceed $450M. P.L. 114-328, Section 1245(a)
- The following program has been transferred and recoded into Section 331: “Logistic Support for Allied Forces in Combined Operations” & the following Program has been repealed and replaced with Section 331: “1207, Support to National Military Forces of Allied Countries for Counterterrorism Operations in Africa”, P.L. 114-328, Section 1245(a)
  
  o Section 332, “Friendly foreign countries; international and regional organizations: defense institution capacity building.”
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows SMEs, civilian advisors, and other expertise in helping a respective country’s MoDs and/or various security agencies with Defense Institution Building (DIB). DIB is the development of effective and accountable foreign defense establishments, P.L. 114-328, Section 1241(c)(1).
    - Codifies the following two programs into the new Section 332, Chapter 16 of Title 10 U.S.C.: “Assignment of DoD Civpers as MoD Advisors (MODA)” & “Defense Institution Reform Initiative (DIRI),” P.L. 114-328, Section 1241(c)(3).
  
  o Section 333, “Foreign security forces: authority to build capacity.”
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows the Secretary of Defense to provide equipment, services, and training to the national security forces of one or more foreign countries for the purpose of building capacity to do one or more of the following operations: Counterterrorism, Counter-weapons of mass destruction, Counter-illicit drug trafficking, Counter-transnational organized crime, Maritime/border security, Military intelligence, or Activities that contribute to an international coalition operations, P.L. 114-328, Section 1241(d)(1).
    - Along with various reporting requirements, this new section prohibits assistance to units that have committed gross violations of human rights, and no more than five years of sustainment support can be provided for equipment provided by this section or for equipment previously provided by the DoD in fiscal year 2015 or 2016, P.L. 114-328, Section 1241(d)(1).
    - FY2017 funding earmarked for Section 333 comes from various sources: what remains of the $750M of CTPF for FY17; $125M transferred from Drug Interdiction and Counter-Drug Activities; a portion of DSCA’s $621M O&M budget; and, part of the $1.17B Counter-ISIL Fund for counter-ISIL purposes in countries other than Iraq and Syria. All this funding is derived only from DoD O&M and made available for DSCA to use for Section 333 for what
begins is one fiscal year and ends not later than the end of the second fiscal year thereafter, P.L. 114-328, Section 1241(d)(1) & tables 4301, 4302, 4501, & 4502.

- 270 days after enactment of the NDAA the following four programs will be repealed, which Section 333 will then replace: “1204, Authority to Conduct Activities to Enhance the Capability of Foreign Countries to Respond to Incidents involving Weapons of Mass Destruction”, “2282, Building Capacity of Foreign Security Forces”, “1033, DoD Assistance for C/N Activities by Certain Countries”, & “Assistance to the Government of Jordan for Border Security Operations”, P.L. 114-328, Section 1241(d)(5).

  - **Section 341, “Department of Defense State Partnership Program.”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows the National Guard to interact and exchange personnel with civil, military, and emergency/disaster response personnel of friendly partner nations, P.L. 114-328, Section 1246(a).
    - Along with various reporting requirements, this new section prohibits assistance to units that have committed gross violations of human rights and strikes obsolete provisions conform to the new codification in Section 341, P.L. 114-328, Section 1246(b).
    - Repeals the following two programs; which Section 341 will replace: “State Partnership Program” & “National Guard State Partnership Exchange Program”, P.L. 114-328, Section 1246(e).

  - **Section 347, “International engagement authorities for service academies.”**
    - Purpose: Codification into permanent U.S. law of the before mentioned program that allows the service academies (The U.S. Naval Academy, the U.S. Military Academy, and the U.S. Air Force Academy), under the authority of each Service Secretary, to permit persons from foreign countries to receive instruction at said service academy. This includes student exchanges with foreign military academies for educational purposes or cultural activities, P.L. 114-328, Section 1248(a).
    - Each service academy shall bear the costs of such attendance from funds appropriated for that academy and from such additional funds as may be available to that academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training. Expenditures from appropriated funds in support of any such activity may not exceed $40K during any fiscal year, P.L. 114-328, Section 1247(a).
    - Repeals the following two programs; which Section 347 will replace: “Attendance at Military Academies” & “Military Academy Exchange Program,” P.L. 114-328, Section 1247(b)
Section 1287 “Global Engagement Center”
- Purpose: DoS, in coordination with DoD, will create a Global Engagement Center (GEC) that “…shall be to lead, synchronize, and coordinate efforts of the Federal Government to recognize, understand, expose, and counter foreign state and non-state propaganda and disinformation efforts aimed at undermining United State national security interests” P.L. 114-328, Section 1287(a)(2).
- “…not more than 50 United States citizens or aliens are employed as personal services contractors under the authority of this paragraph at any time…” P.L. 114-328, Section 1287(d)(2)(C).
- Funding: Less than $80M that are earmarked from amounts authorized to be appropriated for the DoD for FY17 and not to exceed $60M from DoS for FY17 and the same amounts are also authorized from both departments for FY18, P.L. 114-328, Section 1287(e)(1)(A) & (B).

Section 1281, “Enhancement of Interagency Support During Contingency Operations and Transition Periods”
- Purpose: “The Secretary of Defense and the Secretary of State may enter into an agreement under which each Secretary may provide covered support, supplies, and services on a reimbursement basis, or by exchange of covered support, supplies, and services, to the other Secretary during a contingency operation and related transition period for up to 2 years following the end of such contingency operation.” P.L. 114-328, Section 1281(a).

Section 1274 “Report on the Potential for Cooperation Between the United States and Israel on Directed Energy Capabilities”
- Although technically not a new program, it could lead to a new program so is listed here.
- Purpose: “Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the potential for cooperative development by the United States and Israel of a directed energy capability to defeat ballistic missiles, cruise missiles, unmanned aerial vehicles, mortars, and improvised explosive devices that threaten the United States, deployed forces of the United States, or Israel.” P.L. 114-328, Section 1274(a).

Section 381, “Consolidated Annual Budget for Security Cooperation Programs and Activities of the Department of Defense”
- Purpose: “…shall set forth by budget function and as a separate item the amounts requested for the Department of Defense for such fiscal year for all security cooperation programs and activities of the Department of Defense, including the military departments, to be conducted in such fiscal year, including the specific country or region and the applicable authority, to the extent practicable...”, P.L. 114-328, Section 1241(a)(3).
HOWEVER: The FY17 NDAA proposal to create a Security Cooperation Enhancement Fund (SCEF) was not adopted (see “Significant FY17 NDAA Provisions Not Adopted” later in this article for more details)

- Section 384, “Department of Defense security cooperation workforce development”
  - Program Required: The creation and codification of “…program to be known as ‘Department of Defense Security Cooperation Workforce Development Program’ (in this section referred to as the ‘Program’) to oversee the development and management of a professional workforce supporting security cooperation programs and activities of the Department of Defense…” P.L. 114-328, Section 1250(a).
  - Purpose: “…to improve the quality and professionalism of the security cooperation workforce in order to ensure that the workforce (1) has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate support to the assessment, planning, monitoring, execution, evaluation, and administration…” of SA/SC programs; and (2) “is assigned in a manner that ensures personnel with the appropriate level of expertise and experience are assigned in sufficient numbers to fulfill requirements…” for SA/SC programs and activities. P.L. 114-328, Section 1250(a).
  - SC Workforce Defined: Members of armed forces and civilian employees of the DoD who plan, monitor, and/or conduct SC/SA programs in the security cooperation organizations of overseas U.S. missions; geographic and functional combatant commands; military departments (including technology release); Defense Agencies and Field Activities; and other DoD personnel (e.g. OSD, Joint Staff) who contribute significantly to SA/SC programs and activities. P.L. 114-328, Section 1250.
  - Guidance: “Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, the Secretary shall issue interim guidance for the execution and administration of the Program.” & “Not later than one year after the date of the enactment of the National Defense…the Secretary shall issue final guidance” P.L. 114-328, Section 1250(a).
  - This Guidance will identify SC workforce career paths, certification for SC positions, define SC training, and develop a means to track SC workforce skills/certifications. Furthermore, it will establish and maintain a school that trains, educates, and certifies the SC workforce. P.L. 114-328, Section 1250(a).
  - Funding: “Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to carry out the Program.” P.L. 114-328, Section 1250(a)
Reporting: “Not later than March 1, 2018, and each year thereafter through 2021, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Security Cooperation Workforce Development Program required by section 384 of title 10...for the fiscal year beginning in the year in which such a report is submitted,” P.L. 114-328, Section 1250(a).

- 54 Existing Security Cooperation Programs had the following significant changes for FY17:
  - 1204, Authority to Conduct Activities to Enhance the Capability of Foreign Countries to Respond to Incidents involving Weapons of Mass Destruction
    - Will be repealed and the essence of this program will then be found in Section 333 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(d)(5).
  - 1206, Training Security Forces and Associated Security Ministries of Foreign Countries to Promote Respect for the Rule of Law and Human Rights
    - Reporting requirements have now been codified and standardized along with great deal of other SC program reporting requirements in Section 386, of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1251.
  - 1207, Support to National Military Forces of Allied Countries for Counterterrorism Operations in Africa
    - Repealed and the essence of this program will be found in Section 331(c)(1)(B) of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1245(a).
  - 1004, Additional Support for Counter-Drugs Activities and Activities to Counter Transnational Organized Crime
    - Modification and codification into Section 384, Chapter 18, 10 U.S.C., P.L. 114-328, Section 1011.
  - 1209, Authority to Provide Assistance to the Vetted Syrian Opposition
  - 1226, Support to the Government of Jordan and Lebanon for Border Security
    - Expanded to include Egypt & Tunisia. P.L. 114-328, Section 1294(a)(1)(A).
  - 1234, Logistics Support for Coalition Forces Supporting Certain U.S. Military Operations
    - Extension to 31 December 2017. P.L. 114-328, Section 1201(2).
  - 1251, Training for Eastern European National Military Forces during Multilateral Exercises
    - Title is changed to “Training for Eastern European National Security Forces in the course of Multilateral Exercises” and extended to 30 September 2018. P.L. 114-328, 1233(a) & (c).
- **1533, Joint Improvised Explosive Device Defeat Fund for Training of Foreign Security Forces to Defeat Improvised Explosive Devices**
  - The "Joint Improvised Explosive Device Defeat Fund" has been extended through FY17. P.L. 114-328, Section 1522(b)(1)(A).

- **2282, Building Capacity of Foreign Security Forces**
  - Will be repealed and the essence of this program will then be found in Section 333 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(d)(5).

- **1021, Unified Counter-Drug and Counterterrorism Campaign in Colombia**
  - Extended through FY19, P.L. 114-328, Section 1013.

- **1033, DoD Assistance for C/N Activities by Certain Countries**
  - Will be repealed and the essence of this program will then be found in Section 333 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(d)(5).

- **1208, Support of Special Operations to Combat Terrorism**
  - Repealed and codified into Section 127(e) of Chapter 3, 10 U.S.C., P.L. 114-328, Section 1203.
  - Amount authorized increased to $100M for any given FY. P.L. 114-328, Section 1203(a).

- **1233, Coalition Support Fund**
  - Modification and extension to 31 December 2017. P.L. 114-328, Section 1218(a).
  - The amount authorized for FY17 is $1.1B in DoD O&M. P.L. 114-328, Section 1218(c)(1).
  - Extension of limitation on reimbursement to Pakistan ($400M), pending certification that Pakistan continues to significantly disrupt and prosecute the Haqqani Network in Pakistan and actively coordinates with the Government of Afghanistan to restrict the movement of militants along the Afghanistan-Pakistan border. P.L. 114-328, Section 1218(g).

- **African Cooperation**
  - Repealed and the essence of this program will be found in Section 312 of the new Chapter 16, 10 U.S.C., NDAA, P.L. 114-328, Section 1243(a).

- **Assignment DoD Civpers as MoD Advisors (MODA) for Defense Institution Building**
  - Codified into Section 332 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(a).

- **Assistance to the Government of Jordan for Border Security Operations**
  - Will be repealed and the essence of this program will then be found in Section 333 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(d)(5).

- **Attendance at Military Academies**
  - Repealed and the essence of this program will be found in Section 347 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1248(a).
- **Aviation Leadership Program (ALP)**
  - Codified into Section 348 of the new Chapter 16, 10 U.S.C., titled “Aviation Leadership Program”, P.L. 114-328, Section 1241.

- **Coalition Readiness Support Program (CRSP)**
  - Modification and extension to 31 December 2017. P.L. 114-328, Section 1218(a).

- **Commander’s Emergency Response Program (CERP)**
  - Extension to 31 December 2018 P.L. 114-328, Section 1211(a)(1)A).
  - Also expands the authorization to make certain payments to redress injury and loss in Iraq and Syria P.L. 114-328, Section 1211(b).

- **Cooperative Threat Reduction (CTR) Program**
  - In general, $326M was authorized, with certain amounts earmarked for various subprograms P.L. 114-328, Section 1302(a).

- **Counterterrorism Partnerships Fund (CTPF)**
  - Extended to FY18 P.L. 114-328, Section 1525(a).
  - The funds remaining in the FY17 CTPF are earmarked for Section 333 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(d)(1) & tables 4301, 4302, 4501, & 4502.

- **Defense Institution Reform Initiative (DIRI) for Defense Institution Building**
  - Codified into Section 332 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(a).

- **Defense Personnel Exchange Program**
  - Repealed and the essence of this program will be found in Section 311 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1242(c).

- **Developing Country Combined Exercise Program (DCCEP)**
  - Re-codified into Section 321 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1244(a).

- **1203, Training of General Purpose Forces of the United States Armed Forces with Military and other Security Forces of Friendly Foreign Countries**
  - Repealed and the essence of this program will be found in Section 321, of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1244(c).

- **Electronic Distribution of Training Material**
  - Transferred and codified into Section 346 of the new Chapter 16, 10 U.S.C., titled “Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces,” P.L. 114-328, Section 1241.

- **Engineers and Scientists Exchange Program (ESEP)**
  - Repealed and the essence of this program will be found in Section 311, of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1242(c).
- **Exercise-Related Construction (ERC)**
  - The essence of this program can now be found in Section 321(b)(5) of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1244.

- **Humanitarian Mine Action (HMA)**
  - The amount earmarked from annual OHDACA funds has been increased from $10M to $15M, P.L. 114-328, Section 1082.

- **Inter-European Air Force Academy**
  - Codified into Section 350 of the new Chapter 16, 10 U.S.C., titled “Inter-European Air Force Academy,” a similar codification was done for Inter-American Air Force Academy, which is now Section 349 of the same Chapter, P.L. 114-328, Section 1241.

- **Israeli Cooperative Programs**
  - In FY17 $62M is earmarked for the Iron Dome defense system, with coproduction to take place in the U.S. by U.S. industry, P.L. 114-328, Section 1690(a)(1).
  - “…not more than $150,000,000 may be provided to the Government of Israel to procure the David’s Sling Weapon System, including for coproduction of parts and components in the United States by United States industry…”, P.L. 114-328, Section 1690(b)(1)(A).
  - “…not more than $120,000,000 may be provided to the Government of Israel for the Arrow 3 Upper Tier…including for coproduction of parts and components in the United States by United States industry.” P.L. 114-328, Section 1690(b)(1)(B).

- **Joint Combined Exchange Training (JCET)**
  - Re-codifies the program into Section 322 of the new Chapter 16, 10 U.S.C., titled, “Special operations forces: training with friendly foreign forces”, P.L. 114-328, Section 1244.
  - The JCET Program will be treated as a stand-alone authority within Chapter 16, 10 U.S.C., so that the administration of the JCET Program by the Commander, U.S. Special Operations Command is not negatively impacted, P.L. 114-328, Committee Comments on Section 1244.

- **LATAM Cooperation: Payment of Personnel Expenses**
  - Repealed and the essence of this program will be found in Section 312 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1243(b)(1).

- **Logistic Support for Allied Forces in Combined Operations**
  - Transferred and recoded into Section 331 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1245(a).

- **Military Academy Exchange Program**
  - Repealed and the essence of this program will be found in Section 347 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1248(a).
- **Multinational Military Centers of Excellence**
  - Transferred and codified into Section 344 of the new Chapter 16, 10 U.S.C., titled “Participation in multinational military centers of excellence,” P.L. 114-328, Section 1241(g).

- **National Guard State Partnership Exchange Program**
  - Repealed and the essence of this program will be found in Section 341 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1246(e).

- **No-Cost Transfer of Defense Articles to Military and Security Forces of Afghanistan**
  - Modification and extension until 31 December 2017, P.L. 114-328, Section 1213(a).

- **Special Defense Acquisition Fund**
  - Fund has been increased from $1.070B to $2.5B, P.L. 114-328, Section 1202(a).
  - “…in any fiscal year after fiscal year 2016, $500,000,000 may be used in such fiscal year only to procure and stock precision guided munitions that may be required by partner and allied forces to enhance the effectiveness of current or future contributions of such forces to overseas contingency operations conducted or supported by the United States.” P.L. 114-328, Section 1202(b).

- **Afghanistan Security Forces Fund (ASFF)**
  - “Of the funds available to the Department of Defense for the Afghan Security Forces Fund for fiscal year 2017, it is the goal that $25,000,000, but in no event less than $10,000,000 shall be used for” the recruitment, integration, retention, and treatment of women in; the Afghan National Security Forces; Special Operations Forces; and Contracted Female Security Personnel for Future Elections. Funds are also to be used for the development and dissemination of gender and human rights education and training with the Afghan Ministry of Defense and Ministry of Interior. P.L. 114-328, 1521(d).

- **Non-Conventional Assisted Recovery Capabilities (NCARC) Assistance**
  - Extended through FY21, P.L. 114-328, Section 1282(a).

- **Non-Reciprocal Exchange of Defense Personnel**
  - Repealed and the essence of this program will be found in Section 311 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1242(c).

- **Payment of Expenses to attend Bilateral or Regional Conferences**
  - Repealed and the essence of this program will be found in Section 312 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1243(b)(1).

- **Payment of Foreign Nation Liaison Officer Expenses**
  - Repealed and the essence of this program will be found in Section 312 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1243(b)(1).
- **Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance**
  - Transferred and codified into Section 313 of the new Chapter 16, 10 U.S.C., titled “Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance,” P.L. 114-328, Section 1241(b).

- **Regional Centers for Security Studies (RCSS)**
  - Transferred and codified into Section 342 of the new Chapter 16, 10 U.S.C. titled “Regional centers for security studies,” P.L. 114-328, Section 1241(e).
  - The “Western Hemisphere Institute for Security Cooperation” gets its own section 343 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1241(f).

- **Regional Defense Combating Terrorism Fellowship Program (CTFP)**
  - Transferred and codified into Section 345 of the new Chapter 16, 10 U.S.C., titled “Regional Defense Combating Terrorism Fellowship Program,” P.L. 114-328, Section 1247.

- **Maritime Security Initiative (aka: South China Sea Initiative)**
  - The name of this program has been officially changed to “Southeast Asia Maritime Security Initiative,” P.L. 114-328, Section 1289(a).

- **State Partnership Program (SPP)**
  - Repealed and the essence of this program will be found in Section 341 of the new Chapter 16, 10 U.S.C., P.L. 114-328, Section 1246(e).

- **Ukraine Security Assistance Initiative**
  - Extension to 31 December 2018, P.L. 114-328, Section 1237(e).
  - Funding increased to $300M for FY16 and to $350M for FY17, P.L. 114-328, Section 1237(f).
  - $175M will be withheld until the Government of Ukraine has taken substantial actions to make defense institutional reforms, in such areas as civilian control of the military and increased transparency/accountability in defense procurement, along with other anti-corruption measures. P.L. 114-328, Section 1237(c).

- **United States-Israel Anti-Tunnel Cooperation**
  - Funding increased from $25M to $50M. P.L. 114-328, Section 1295(a).

- **USG Wales Initiative Fund (WIF)**
  - Much of what the WIF was set up for is now covered in various Sections of the new Chapter 16, 10 U.S.C. - DIB (Section 332), Mil-to-Mil Contacts (Section 311), Payment of Expenses to attend Bilateral or Regional Conferences (Section 312), and Payment of training and exercise expenses (Section 321).
Seven Unique Security Cooperation Areas of Emphasis for the FY17 NDAA

The FY17 NDAA, much like the FY16 NDAA, has a heavy emphasis on evaluating, assessing, monitoring, and reporting on the management/effectiveness of security cooperation; programs of note are:

- **Section 1272(a), “Monitoring and Evaluation of Overseas Humanitarian, Disaster, and Civic Aid Programs of the Department of Defense”** requires, “In General – Of the amounts authorized to be appropriated by this Act for Overseas Humanitarian, Disaster, and Civic Aid, the Secretary of Defense is authorized to use up to 5 percent of such amounts to conduct monitoring and evaluation of programs that are funded using such amounts during fiscal years 2017 and 2018.”

- **Section 1204, “Independent Evaluation of Strategic Framework for Security Cooperation.”** DoD is required to enter into an agreement with a federally funded research center and/or other independent entity to evaluate the strategic framework for DoD security cooperation. Report due to Congress before 1 November 2018.

- **Section 1205, “Assessment, Monitoring, and Evaluation (AM&E) Framework for Security Cooperation.”** It is recommended that DoD develop and maintain an assessment, monitoring, and evaluation framework for security cooperation programs with foreign countries to ensure accountability and implement best practices.

- **Section 1251, “Reporting Requirements.”** Codifies reporting requirements in the new Chapter 16, 10 U.S.C., for all the security cooperation activities/programs into a regular annual report.

- **Section 1252, “Quadrennial Review of Security Sector Assistance Program and Authorities of the United States Government.”** Requires the President starting on January 31, 2018, and every four years thereafter through 2034, to complete and submit to Congress a review of the security sector assistance programs, policies, authorities, and resources of the United States Government across the United States Government. The review should identify any gaps, highlight successes, address if current programs are sufficient to achieve stated goals, confirm that SC programs remain in alignment with national security/foreign policy objectives, and develop recommendations.

- There is also a renewed emphasis on improving and modifying the FMS process; programs of are note are:
  - **Section 1297, “International Sales Process Improvements”** within 180 days of enactment of the FY17 NDAA the Sectary of Defense shall develop a plan to improve management and use of admin fees collected by DSCA under FMS program. This plan should present options to use fees more effectively, improve staffing, improve the licensing review process at DTSA, and
recommend on how to maintain a cadre of contracting officers/acquisition officials that specialize in FMS.

- **Section 811, “Limit on Undefinitized Contracts for FMS”** prohibits the use of undefinitized actions for FMS contracts unless the terms and price are agreed on by the end of 180 days beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price. Provision can be waived if necessary to support a contingency operation, a humanitarian action, or a peacekeeping operation.

- **Section 830, “Firm Fixed Price for FMS Contracts”** prescribes regulations to require use of firm fixed-price contracts for FMS cases. These regulations will include exceptions, where a foreign partner has established a preference for a different contract type (in writing). These regulations will also allow the Secretary of Defense to waive this requirement on a case-by-case basis when in the best interest of the U.S. taxpayer. These regulations will be implemented within 180 days after the enactment of the FY17 NDAA. Additionally, the DoD will establish a pilot program to reform and accelerate FMS contracting and pricing based upon actual cost data. This pilot program expires January 1, 2020.

- Much like the FY16 NDAA, the FY17 NDAA has a significant emphasis on human rights, programs of note:
  - **Section 1263, “Authorization of Imposition of Sanctions,”** authorizes the President to impose sanctions against: 1) any foreign person who is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals in any foreign country who is attempting to expose illegal government activity and/or is promoting human rights; 2) a government official responsible for or complicit in acts of significant corruption, to include the expropriation of private or public assets; & 3) any foreign person who materially assisted a government official with the before-mentioned corruption. Sanctions include U.S. visa ineligibility, revocation of a U.S.-issued visa, and the blocking of all transactions related to property and interests thereof, if such properties are in the U.S. The President may terminate sanctions if he makes certain determinations, and the President’s authority to impose sanctions expires six years after the enactment of the FY17 NDAA.
  - **Section 1298, “Efforts to End Modern Slavery,”** no later than 90 days after the date of enactment of the FY17 NDAA, the DoD shall provide to the appropriate congressional committees a briefing on DoD policies and guidance with respect to the education and training on human slavery and the appropriate role of the U.S. Armed Forces in combatting trafficking in persons that is received by personnel of U.S. Armed Forces, including uniformed and civilian personnel engaged in partnerships with foreign nations.
Emphasis on the importance of water in contingency operations; program of note:

- **Section 1291, “Agreements with Foreign Governments to Develop Land-based Water Resources in Support of and in Preparation for Contingency Operations.”** The DoD, with concurrence of DoS, is authorized to enter into agreements with the governments of foreign countries to develop land-based water resources in support of and/or in preparation for a contingency operation.

Enhancing Security Cooperation with India; program of note:

- **Section 1292, “Enhancing Defense and Security Cooperation with India.”** This section gives the DoD the ability to ensure that exchanges of senior military officers and civilian defense officials take place to enhance combined military planning, cooperative military operations, and other engagements. The Secretaries of Defense and State will issue a joint report within 180 days and every year thereafter starting 180 days after the enactment of the FY17 NDAA. Overall actions in support of this program should recognize India’s status as a major defense partner; facilitate the transfer of advanced technology, strengthen U.S.-India defense trade, increase durability of the India Rapid Reaction Cell, promote policies to encourage efficient sales of defense articles to India, support development of India’s export control regime, and most importantly advance U.S. interests in South Asia & the greater Indo-Asia-Pacific region.

Military exchanges between the United States and Taiwan; program of note:

- **Section 1284, “Sense of Congress on Military Exchanges between the United States and Taiwan.”** Even though some provisions for Taiwan, such as the proposal to grant RIMPAC exercise observer status, were not adopted, Congress emphasized the importance of a “program of exchange of senior military officers and senior between the United States and Taiwan designed to improve military to military relations...include exchanges focused on the following: (1) Threat analysis. (2) Military doctrine. (3) Force planning. (4) Logistical support. (5) Intelligence collection and analysis. (6) Operational tactics, techniques, and procedures. (7) Humanitarian assistance and disaster relief” P.L. 114-328, Section 1284(a) & (c).

Update to the U.S. International Broadcasting Act (Radio Free Europe/Asia); program of note:

- **Section 1288, “Modification of United States International Broadcasting Act of 1994.”** This section establishes the Chief Executive Officer for the board of governors; ensures continued existence within the executive branch; provides authority to redirect/reprogram funds within the scope of any grant/cooperative agreement; establishes the international broadcasting advisory board; establishes reporting procedures; and provides authority for an inspector general to ensure journalistic integrity and fact-based reporting.
Significant FY17 NDAA Provisions Not Adopted

- **Section 1260, “Security Cooperation Enhancement Fund (SCEF)”**
  - This would have created a single fund in support of Section 381, “Consolidated Annual Budget for Security Cooperation Programs and Activities of the Department of Defense,” composed of monies transferred from the following: Drug Interdiction and Counter-Drug Activities; Combating Terrorism Fellowship Program; Defense Institute of International Legal Studies; Defense Institution Reform Initiative (DIRI); Global Train and Equip Program; Ministry of Defense Advisors (MODA); Regional Centers; and the Wales Initiative Fund/Partnership.
  - The Senate version of the FY17 NDAA contained this Section, but the House version did not. In the Joint Explanatory Statement of the Committee Conference, the Senate receded this Section.

- **Section 1259(J) “Authorization of United States Assistance to Israel”**
  - This Section would have authorized the President aid Israel in improving maritime security and maritime domain awareness in the Eastern Mediterranean Sea.
  - The House version of the FY17 NDAA contained this Section, but the Senate version did not. In the Joint Explanatory Statement of the Committee Conference, the House receded this Section.

Other Legislation/Security Agreements of Interest:

  - Besides the regular titles on embassy security, personnel issues, and international organizations, there were a couple sections of interest pertaining to Section 1288 of the FY17 NDAA “Modification of United States International Broadcasting Act of 1994.” P.L 114-323 established certification requirements for the IT systems related to international broadcasting and further expanded on the Broadcasting Board of Governors.

  - Updated the United States-Israel Advanced Research Partnership Act of 2014 by adding “(g) Cybersecurity. – As part of the international cooperative activities authorized in this section, the Under Secretary in coordination with Department of State and appropriate Federal officials, may enter into cooperative research activities with Israel to strengthen preparedness against cyber threats and enhance capabilities in cybersecurity.” P.L. 114-304, Section 2(a)(1)(C).
  - “No additional funds are authorized to be appropriated to carry out this Act or the amendments made by this Act.” P.L. 114-304, Section 3.
- **United States-Israel 10-year Security Agreement, 2016**
  - Starting in budget year 2019, Israel will receive $3.3B in FMFP, instead of 3.1, for a 10-year period.
  - In this agreement, Israel’s ability to use some of these FMFP funds on items from its own defense industry will be phased out. At which point all these FMFP funds must be spent on products from the U.S. defense industry.
  - Will eliminate Israel’s current allowance to spend a portion of the above funds on fuel for its military.
  - There will also be $5B in missile defense spending made available to Israel in this 10-year period.