SEC. 1208. EXTENSION OF EXPIRATION DATE OF TRANSITIONAL AUTHORITIES TO PROVIDE ASSISTANCE TO ENHANCE THE CAPACITY OF COUNTERTERRORISM FORCES OF CERTAIN EAST AFRICAN COUNTRIES AND YEMEN.

(a) EXPIRATION DATE.—Subsection (n) of section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1628) is amended—

(1) in paragraph (1), by striking "fiscal year 2012" and inserting "fiscal years 2012 and 2013"; and

(2) in paragraph (4)(A)(ii), by striking "September 30, 2012" and inserting "September 30, 2013".

(b) FUNDING.—Subsection (o) of such section is amended—

(1) in paragraph (1)—

(A) by striking "FISCAL YEAR 2012" and inserting "FISCAL YEARS 2012 AND 2013";

(B) by inserting "and during fiscal year 2013 may not exceed $450,000,000" after "during fiscal year 2012 may not exceed $350,000,000"; and

(C) by inserting "in each such fiscal year" in subparagraphs (A) and (B) after "$75,000,000 may be used"; and

(2) in paragraph (2)—

(A) by striking "FISCAL YEARS 2013 AND AFTER" and inserting "FISCAL YEARS 2014 AND AFTER" in the subsection heading; and

(B) by striking "after fiscal year 2012" and inserting "after fiscal year 2013".

Section-by-Section Analysis

This proposal seeks provisional authority under section 1207(n) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 to continue to provide equipment, supplies, training, and minor military construction into fiscal year 2013 while the processes for implementing the Global Security Contingency Fund (section 1207(b) of the FY 2012 NDAA) are established.

It would provide continued authority for the Secretary of Defense to smoothly plan and execute critical projects that enable partners in the war on terror, control of borders and coastal areas, control of ungoverned terrain and for deployment, sustainment, and operations in peace keeping and enforcement missions in CT environments, such as Somalia. It is critical that this authority is kept in place to bridge the gap between this authority and the planned authority in subsection b and until the new authority is fully developed and implemented. This continuation fulfills the purpose of the 1207(n) authority, specifically ensuring that the effort to provide required assistance to forces participating in the AMISOM mission and CT operations in East Africa and Yemen are successful.

Budget Implications: The authority would potentially continue the Secretary's authority to transfer from Defense-wide operation and maintenance activities up to $75 million in FY 13 under section 1207(o)(1)(A) and up to $75 million under section 1207(o)(1)(B), if the Global Security Contingency Fund (GSCF) authorized in section 1207(b) is not fully operational before the end of FY 12. The impact upon adoption would depend upon whether the GSCF were operational by the end of FY 12. If it is operational before the end of FY 12, this authority would expire of the date it is operational. It is only in the event that the GSCF is not operational by that date that this proposal would authorize continued activities into FY 13.

Changes to Existing Law: This proposal would make the following changes to section 1207 of the National Defense Authorization Act for Fiscal Year 2012:

SEC. 1207. GLOBAL SECURITY CONTINGENCY FUND.

(a) ***

****

(n) TRANSITIONAL AUTHORITIES.—

(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, provide the types of assistance described in subsection (c), and assistance for minor military construction, during ~~fiscal year 2012~~ fiscal years 2012 and 2013 as follows:

(A) To enhance the capacity of the national military forces, security agencies, serving a similar defense function, and border security forces of Djibouti, Ethiopia, and Kenya to conduct counterterrorism operations against al-Qaeda, al-Qaeda affiliates, and al Shabaab.

(B) To enhance the capacity of national military forces participating in the African Union Mission in Somalia to conduct counterterrorism operations described in subparagraph (A).

(C) To enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counter-terrorism operations against al-Qaeda in the Arabian Peninsula and its affiliates.

(2) LIMITATIONS.—

(A) ASSISTANCE OTHERWISE PROHIBITED BY LAW.— The Secretary of Defense may not use the authority in this subsection to provide any type of assistance that is otherwise prohibited by any provision of law.

(B) ELIGIBLE COUNTRIES.—The Secretary of Defense may not use the authority in this subsection to provide a type of assistance to a foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(C) YEMEN.—The authority specified in paragraph (1)(C), and the authority to provide assistance pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 2456), may not be used for Yemen until 30 days after the date on which the Secretary of Defense and the Secretary of State jointly certify in writing to the specified congressional committees that the use of such authority is important to the national security interests of the United States. The certification shall include the following:

(i) The reasons for the certification.

(ii) A justification for the provision of assistance.

(iii) An acknowledgment by the Secretary of Defense and the Secretary of State that they have received assurance from the Government of Yemen that any assistance so provided will be utilized in manner consistent with subsection ©(2).

(3) NOTICE TO CONGRESS.—Not less than 15 days before funds are obligated to provide assistance under this subsection, the Secretary of Defense shall submit to the specified congressional committees a notice setting forth the following:

(A) The type of assistance to be provided.

(B) The national military forces to be supported.

(C) The objectives of such assistance.

(D) The estimated cost of such assistance.

(E) The intended duration of such assistance.

(4) TERMINATION.—

(A) IN GENERAL.—Assistance authorized by this subsection may be provided until the earlier of—

(i) the date on which the Secretary of State determines that all necessary guidance has been issued and processes for implementation of the authority in subsection (b) are established and fully operational; or

(ii) ~~September 30, 2012~~September 30, 2013.

(B) COMPLETION OF ONGOING ACTIVITIES AFTER TERMINATION.—An assistance activity authorized by this subsection that begins before the date of termination provided in subparagraph (A) may be completed after that date, but only using funds available before that date.

(o) FUNDING-

(1) ~~FISCAL YEAR 2012~~FISCAL YEARS 2012 AND 2013.—The total amount available to the Department of Defense and the Department of State to provide assistance under this section during fiscal year 2012 may not exceed $350,000,000 and during fiscal year 2013 may not exceed $450,000,000, of which--

(A) $75,000,000 may be used in each such fiscal year for assistance authorized by subparagraphs (A) and (B) of subsection (n)(1); and

(B) $75,000,000 may be used in each such fiscal year for assistance authorized by subparagraph (C) of subsection (n)(1).

(2) ~~FISCAL YEARS 2013 AND AFTER~~FISCAL YEARS 2014 AND AFTER.—The total amount available to the Department of Defense and the Department of State to provide assistance under this section during a fiscal year ~~after fiscal year 2012~~after fiscal year 2013 may not exceed $300,000,000.

(p) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term ”specified congressional committees” means--

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(q) EXPIRATION- The authority under this section may not be exercised after September 30, 2015. An activity under a program authorized by subsection (b) commenced before that date may be completed after that date, but only using funds available for fiscal years 2012 through 2015.