SEC. 1202. THREE-YEAR EXTENSION OF AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

Section 1207(f) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 10 U.S.C. 168 note) is amended by striking "September 30, 2012" and inserting "September 30, 2015".

Section-by-Section Analysis

This proposal would extend through September 30, 2015, the authority provided in section 1207 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010 (P.L. 111-84) that allows the Secretary of Defense to enter into non-reciprocal international defense personnel exchange agreements.

Personnel exchanges between the Department of Defense of the United States of America (U.S. DoD) and its components with the defense establishments of foreign nations are a cornerstone for building cooperation, collaboration, and mutual understanding between the United States and our allies, friends, and coalition partners. Such exchanges are also an important part of exposing military officers of friendly foreign nations to U.S. values of respect for international law, civilian control of the military, and the proper role of the military establishment in a democracy. This is accomplished by bringing military and civilian defense personnel of defense ministries of foreign governments to serve with the U.S. DoD.

The goals and benefits of exchanges, reciprocal or non-reciprocal, with foreign countries are specific to the circumstances and countries involved. In the case of emerging democracies, the United States may have more interest in fully reciprocal exchanges with certain countries than with others; for long-established democracies, and more traditional allies, the interests may differ yet again. The authority granted in section 1207 of the NDAA for FY 2010 benefits the U.S. DoD, including the Military Departments, the Combatant Commands, Joint Improvised Explosive Device Defeat Organization (JIEDDO), and other U.S. DoD components, by authorizing non-reciprocal exchanges of personnel with foreign countries in all categories. Without this authority, the U.S. DoD will not normally be authorized to host foreign military defense personnel unless the U.S. DoD simultaneously assigns its own personnel, on a reciprocal basis, to serve in the foreign country of the particular foreign military defense personnel being hosted by the U.S. DoD. Requiring reciprocal exchanges in all cases would seriously hamper the personnel exchange program.

Currently, JIEDDO has concluded three non-reciprocal exchange agreements: one with the Department of Defence of Australia (AU DOD), one with the Department of National Defence of Canada (CAN DND), and one with the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (UK MOD); the Department of the Army has

concluded one non-reciprocal exchange agreement with the CAN DND and is negotiating one non-reciprocal exchange agreement with the UK MOD; the Department of the Navy is negotiating three non-reciprocal exchange agreements: one with the AU DOD, one with the CAN DND, and one with the UK MOD, and it is awaiting final authority to negotiate and conclude non-reciprocal exchange agreements with the Ministry of Defense of Peru and the Ministry of Defence of the Kingdom of Norway; the U.S. Strategic Command is negotiating two non-reciprocal exchange agreements with the AU DOD and the UK MOD, and awaiting final authority to negotiate and conclude non-reciprocal exchange agreements with the Federal Ministry of Defence of the Federal Republic of Germany and the Ministry of Defense of the Kingdom of the Netherlands; and the U.S. Pacific Command is negotiating one non-reciprocal exchange agreement with the New Zealand Defence Force.

Extending this authority will allow the continuation of assignments of foreign defense personnel to U.S. DoD units, and will continue building cooperation, collaboration, and mutual understanding between the U.S. DoD and the defense establishments of our allies, friends, and coalition partners. Prior to obtaining the authority under Section 1207, U.S. DoD Components had to rely on informal or other administrative personnel arrangements under other statutory authority that was not expressly intended for facilitating "one-way" exchanges of defense personnel from coalition partners.

Budget Implications: This proposal has no significant budget implications. Foreign military officers from the AU DOD, the CAN DND, and the UK MOD assigned to JIEDDO fulfill JIEDDO operational requirements while providing work experience and proficiency maintenance to the foreign military personnel. These assignments are non-reciprocal.

The foreign military personnel gain operational expertise and technical knowledge while providing support to JIEDDO and other U.S. DoD Components. These foreign military officers are only assigned to positions specified in Memoranda of Understanding between the United States and the respective countries. Section 1207 of the NDAA for FY 2010 provides sufficient legal authority to spend appropriated funds in order to support the proposed agreements. JIEDDO's administrative service and support costs will be funded through the Staff and Infrastructure, Line of Operation 4 account within the Joint IED Defeat Fund. Assuming Congress continues to fund JIEDDO as it has in the past, the funds used will be strictly from the Overseas Contingency Operations (OCO) account.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
U.S, DoD	0	0	0	0	0	JIEDDO	04	
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would make the following changes to section 1207 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, 10 U.S.C. 168 note), as amended:

SEC. 1207. AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

(a) AUTHORITY TO ENTER INTO NON-RECIPROCAL INTERNATIONAL EXCHANGE AGREEMENTS.—

(1) IN GENERAL.—The Secretary of Defense may enter into non-reciprocal international defense personnel exchange agreements.

(2) INTERNATIONAL DEFENSE PERSONNEL EXCHANGE AGREEMENTS DEFINED.—For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of military and civilian personnel of the defense ministry of that foreign government.

(b) ASSIGNMENT OF PERSONNEL.—

(1) IN GENERAL.—Pursuant to a non-reciprocal international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense.

(2) MUTUAL AGREEMENT REQUIRED.—An individual may not be assigned to a position pursuant to a non-reciprocal international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) PAYMENT OF PERSONNEL COSTS. —

(1) IN GENERAL.—The foreign government with which the United States has entered into a non-reciprocal international defense personnel exchange agreement shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its personnel under such agreement in accordance with the applicable laws and regulations of such government.

(2) EXCLUDED COSTS.—Paragraph (1) does not apply to the following costs:

(A) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(B) Costs incident to the use of facilities of the United States Government in the performance of assigned duties.

(C) The cost of temporary duty of the exchanged personnel directed by the United States Government.

(d) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to a non-reciprocal agreement under this section may take or be required to take an oath of allegiance or to hold an official capacity in the government.

(e) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the end of the fiscal year in which the authority in subsection (a) has been exercised, the Secretary of Defense shall submit to the appropriate congressional committees a report on the use of the authority through the end of such fiscal year.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the number of non-reciprocal international defense personnel exchange agreements, the number of personnel assigned pursuant to such agreements, the

Department of Defense component to which the personnel have been assigned, the duty title of each assignment, and the countries with which the agreements have been concluded.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term "appropriate congressional committees" means —

(A) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(f) DURATION OF AUTHORITY.—The authority under this section shall expire on September 30, ~~2012~~2015.