

110TH CONGRESS  
2D SESSION

# H. R. 7177

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 17), 2008

Received

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## AN ACT

To authorize the transfer of naval vessels to certain foreign recipients, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

# **TITLE I—NAVAL VESSEL TRANSFER**

## **SECTION 101. SHORT TITLE.**

This title may be cited as the “Naval Vessel Transfer Act of 2008”.

## **SEC. 102. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.**

(a) TRANSFERS BY GRANT.—The President is authorized to transfer the vessels specified in paragraphs (1), (3), and (4) of section 501(a) of H.R. 5916 of the 110th Congress, as passed the House of Representatives on May 15, 2008, to the foreign recipients specified in paragraphs (1), (3), and (4) of such section, respectively, on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwith-

1 standing section 516(e) of the Foreign Assistance Act of  
2 1961 (22 U.S.C. 2321j(e))).

3 (d) REPAIR AND REFURBISHMENT IN UNITED  
4 STATES SHIPYARDS.—To the maximum extent prac-  
5 ticable, the President shall require, as a condition of the  
6 transfer of a vessel under this section, that the recipient  
7 to which the vessel is transferred have such repair or re-  
8 furbishment of the vessel as is needed, before the vessel  
9 joins the naval forces of the recipient, performed at a ship-  
10 yard located in the United States, including a United  
11 States Navy shipyard.

12 (e) EXPIRATION OF AUTHORITY.—The authority to  
13 transfer a vessel under this section shall expire at the end  
14 of the 2-year period beginning on the date of the enact-  
15 ment of this Act.

## 16 **TITLE II—UNITED STATES ARMS** 17 **EXPORTS**

### 18 **SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILI-** 19 **TARY EDGE OVER MILITARY THREATS.**

20 (a) ASSESSMENT REQUIRED.—The President shall  
21 carry out an empirical and qualitative assessment on an  
22 ongoing basis of the extent to which Israel possesses a  
23 qualitative military edge over military threats to Israel.  
24 The assessment required under this subsection shall be

1 sufficiently robust so as to facilitate comparability of data  
2 over concurrent years.

3 (b) USE OF ASSESSMENT.—The President shall en-  
4 sure that the assessment required under subsection (a) is  
5 used to inform the review by the United States of applica-  
6 tions to sell defense articles and defense services under  
7 the Arms Export Control Act (22 U.S.C. 2751 et seq.)  
8 to countries in the Middle East.

9 (c) REPORTS.—

10 (1) INITIAL REPORT.—Not later than June 30,  
11 2009, the President shall transmit to the appro-  
12 priate congressional committees a report on the ini-  
13 tial assessment required under subsection (a).

14 (2) QUADRENNIAL REPORT.—Not later than  
15 four years after the date on which the President  
16 transmits the initial report under paragraph (1),  
17 and every four years thereafter, the President shall  
18 transmit to the appropriate congressional commit-  
19 tees a report on the most recent assessment required  
20 under subsection (a).

21 (d) CERTIFICATION.—Section 36 of the Arms Export  
22 Control Act (22 U.S.C. 2776) is amended by adding at  
23 the end the following:

24 “(h) CERTIFICATION REQUIREMENT RELATING TO  
25 ISRAEL’S QUALITATIVE MILITARY EDGE.—

1           “(1) IN GENERAL.—Any certification relating  
2           to a proposed sale or export of defense articles or  
3           defense services under this section to any country in  
4           the Middle East other than Israel shall include a de-  
5           termination that the sale or export of the defense ar-  
6           ticles or defense services will not adversely affect  
7           Israel’s qualitative military edge over military  
8           threats to Israel.

9           “(2) QUALITATIVE MILITARY EDGE DEFINED.—  
10          In this subsection, the term ‘qualitative military  
11          edge’ means the ability to counter and defeat any  
12          credible conventional military threat from any indi-  
13          vidual state or possible coalition of states or from  
14          non-state actors, while sustaining minimal damages  
15          and casualties, through the use of superior military  
16          means, possessed in sufficient quantity, including  
17          weapons, command, control, communication, intel-  
18          ligence, surveillance, and reconnaissance capabilities  
19          that in their technical characteristics are superior in  
20          capability to those of such other individual or pos-  
21          sible coalition of states or non-state actors.”.

22          (e) DEFINITIONS.—In this section:

23                 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
24                 TEES.—The term “appropriate congressional com-  
25                 mittees” means the Committee on Foreign Affairs of

1 the House of Representatives and the Committee on  
2 Foreign Relations of the Senate.

3 (2) QUALITATIVE MILITARY EDGE.—The term  
4 “qualitative military edge” has the meaning given  
5 the term in section 36(h) of the Arms Export Con-  
6 trol Act, as added by subsection (d) of this section.

7 **SEC. 202. IMPLEMENTATION OF MEMORANDUM OF UNDER-**  
8 **STANDING WITH ISRAEL.**

9 (a) IN GENERAL.—Of the amount made available for  
10 fiscal year 2009 for assistance under the program author-  
11 ized by section 23 of the Arms Export Control Act (22  
12 U.S.C. 2763) (commonly referred to as the “Foreign Mili-  
13 tary Financing Program”), the amount specified in sub-  
14 section (b) is authorized to be made available on a grant  
15 basis for Israel.

16 (b) COMPUTATION OF AMOUNT.—The amount re-  
17 ferred to in subsection (a) is the amount equal to—

18 (1) the amount specified under the heading  
19 “Foreign Military Financing Program” for Israel for  
20 fiscal year 2008; plus

21 (2) \$150,000,000.

22 (c) OTHER AUTHORITIES.—

23 (1) AVAILABILITY OF FUNDS FOR ADVANCED  
24 WEAPONS SYSTEMS.—To the extent the Government  
25 of Israel requests the United States to provide as-

1       sistance for fiscal year 2009 for the procurement of  
2       advanced weapons systems, amounts authorized to  
3       be made available for Israel under this section shall,  
4       as agreed to by Israel and the United States, be  
5       available for such purposes, of which not less than  
6       \$670,650,000 shall be available for the procurement  
7       in Israel of defense articles and defense services, in-  
8       cluding research and development.

9               (2) DISBURSEMENT OF FUNDS.—Amounts au-  
10      thorized to be made available for Israel under this  
11      section shall be disbursed not later than 30 days  
12      after the date of the enactment of an Act making  
13      appropriations for the Department of State, foreign  
14      operations, and related programs for fiscal year  
15      2009, or October 31, 2008, whichever occurs later.

16 **SEC. 203. SECURITY COOPERATION WITH THE REPUBLIC**  
17 **OF KOREA.**

18       (a) FINDINGS.—Congress makes the following find-  
19      ings:

20               (1) Close and continuing defense cooperation  
21      between the United States and the Republic of  
22      Korea continues to be in the national security inter-  
23      est of the United States.

1           (2) The Republic of Korea was designated a  
2           major non-NATO ally in 1987, the first such des-  
3           ignation.

4           (3) The Republic of Korea has been a major  
5           purchaser of United States defense articles and serv-  
6           ices through the Foreign Military Sales (FMS) pro-  
7           gram, totaling \$6,900,000,000 in deliveries over the  
8           last 10 years.

9           (4) Purchases of United States defense articles,  
10          services, and major defense equipment facilitate and  
11          increase the interoperability of Republic of Korea  
12          military forces with the United States Armed  
13          Forces.

14          (5) Congress has previously enacted important,  
15          special defense cooperation arrangements for the Re-  
16          public of Korea, as in the Act entitled “An Act to  
17          authorize the transfer of items in the War Reserves  
18          Stockpile for Allies, Korea”, approved December 30,  
19          2005 (Public Law 109–159; 119 Stat. 2955), which  
20          authorized the President, notwithstanding section  
21          514 of the Foreign Assistance Act of 1961 (22  
22          U.S.C. 2321h), to transfer to the Republic of Korea  
23          certain defense items to be included in a war reserve  
24          stockpile for that country.



(6) Enhanced support for defense cooperation with the Republic of Korea is important to the national security of the United States, including through creation of a status in law for the Republic of Korea similar to the countries in the North Atlantic Treaty Organization, Japan, Australia, and New Zealand, with respect to consideration by Congress of foreign military sales to the Republic of Korea.

(b) SPECIAL FOREIGN MILITARY SALES STATUS FOR REPUBLIC OF KOREA.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A), 62(c)(1), and 63(a)(2), by inserting “the Republic of Korea,” before “or New Zealand” each place it appears;

(2) in section 3(b)(2), by inserting “the Government of the Republic of Korea,” before “or the Government of New Zealand”;

(3) in section 21(h)(1)(A), by inserting “the Republic of Korea,” before “or Israel”; and

(4) in section 21(h)(2), by striking “or to any member government of that Organization if that Organization or member government” and inserting “, to any member government of that Organization, or

1 to the Governments of the Republic of Korea, Aus-  
2 tralia, New Zealand, Japan, or Israel if that Organi-  
3 zation, member government, or the Governments of  
4 the Republic of Korea, Australia, New Zealand,  
5 Japan, or Israel”.

Passed the House of Representatives September 27,  
2008.

Attest: LORRAINE C. MILLER,  
*Clerk.*