

Public Law 111–266
111th Congress

An Act

To implement certain defense trade cooperation treaties, and for other purposes.

Oct. 8, 2010

[S. 3847]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Security Cooperation Act of 2010”.

Security
Cooperation Act
of 2010.
22 USC 2751
note.

**TITLE I—DEFENSE TRADE
COOPERATION TREATIES**

Defense Trade
Cooperation
Treaties
Implementation
Act of 2010.
22 USC 2751
note.

SEC. 101. SHORT TITLE.

This title may be cited as the “Defense Trade Cooperation Treaties Implementation Act of 2010”.

SEC. 102. EXEMPTIONS FROM REQUIREMENTS.

(a) **RETRANSFER REQUIREMENTS.**—Section 3(b) of the Arms Export Control Act (22 U.S.C. 2753(b)) is amended by inserting “a treaty referred to in section 38(j)(1)(C)(i) of this Act permits such transfer without prior consent of the President, or if” after “if”.

(b) **BILATERAL AGREEMENT REQUIREMENTS.**—Section 38(j)(1) of such Act (22 U.S.C. 2778(j)(1)) is amended—

(1) in the subparagraph heading for subparagraph (B), by inserting “FOR CANADA” after “EXCEPTION”; and

(2) by adding at the end the following new subparagraph:

“(C) EXCEPTION FOR DEFENSE TRADE COOPERATION TREATIES.—

“(i) **IN GENERAL.**—The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption from the licensing requirements of this Act for the export of defense items to give effect to any of the following defense trade cooperation treaties, provided that the treaty has entered into force pursuant to article II, section 2, clause 2 of the Constitution of the United States:

“(I) The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on

June 21 and 26, 2007 (and any implementing arrangement thereto).

“(II) The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney September 5, 2007 (and any implementing arrangement thereto).

“(ii) LIMITATION OF SCOPE.—The United States shall exempt from the scope of a treaty referred to in clause (i)—

“(I) complete rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) or complete unmanned aerial vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least a 500 kilogram payload to a range of 300 kilometers, and associated production facilities, software, or technology for these systems, as defined in the Missile Technology Control Regime Annex Category I, Item 1;

“(II) individual rocket stages, re-entry vehicles and equipment, solid or liquid propellant motors or engines, guidance sets, thrust vector control systems, and associated production facilities, software, and technology, as defined in the Missile Technology Control Regime Annex Category I, Item 2;

“(III) defense articles and defense services listed in the Missile Technology Control Regime Annex Category II that are for use in rocket systems, as that term is used in such Annex, including associated production facilities, software, or technology;

“(IV) toxicological agents, biological agents, and associated equipment, as listed in the United States Munitions List (part 121.1 of chapter I of title 22, Code of Federal Regulations), Category XIV, subcategories (a), (b), (f)(1), (i), (j) as it pertains to (f)(1), (l) as it pertains to (f)(1), and (m) as it pertains to all of the subcategories cited in this paragraph;

“(V) defense articles and defense services specific to the design and testing of nuclear weapons which are controlled under United States Munitions List Category XVI(a) and (b), along with associated defense articles in Category XVI(d) and technology in Category XVI(e);

“(VI) with regard to the treaty cited in clause (i)(I), defense articles and defense services that the United States controls under the United States Munitions List that are not controlled by the United Kingdom, as defined in the United Kingdom Military List or Annex 4 to the United Kingdom Dual Use List, or any successor lists thereto; and

“(VII) with regard to the treaty cited in clause (i)(II), defense articles for which Australian laws,

regulations, or other commitments would prevent Australia from enforcing the control measures specified in such treaty.”.

SEC. 103. ENFORCEMENT.

(a) **CRIMINAL VIOLATIONS.**—Section 38(c) of such Act (22 U.S.C. 2778(c)) is amended by striking “this section or section 39, or any rule or regulation issued under either section” and inserting “this section, section 39, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 39, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty”.

(b) **ENFORCEMENT POWERS OF PRESIDENT.**—Section 38(e) of such Act (22 U.S.C. 2778(e)) is amended by striking “defense services,” and inserting “defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i).”

22 USC 2778.

(c) **NOTIFICATION REGARDING EXEMPTIONS FROM LICENSING REQUIREMENTS.**—Section 38(f) of such Act (22 U.S.C. 2778(f)) is amended by adding at the end the following new paragraph:

“(4) Paragraph (2) shall not apply with respect to an exemption under subsection (j)(1) to give effect to a treaty referred to in subsection (j)(1)(C)(i) (and any implementing arrangements to such treaty), provided that the President promulgates regulations to implement and enforce such treaty under this section and section 39.”.

(d) **INCENTIVE PAYMENTS.**—Section 39A(a) of such Act (22 U.S.C. 2779a(a)) is amended by inserting “or exported pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act” after “under this Act”.

SEC. 104. CONGRESSIONAL NOTIFICATION.

(a) **RETRANSFERS AND REEXPORTS.**—Section 3(d)(3)(A) of such Act (22 U.S.C. 2753(d)(3)(A)) is amended by inserting “or has been exempted from the licensing requirements of this Act pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act where such treaty does not authorize the transfer without prior United States Government approval” after “approved under section 38 of this Act”.

(b) **DISCRIMINATION.**—Section 5(c) of such Act (22 U.S.C. 2755(c)) is amended by inserting “or any import or export under a treaty referred to in section 38(j)(1)(C)(i) of this Act” after “under this Act”.

(c) **ANNUAL ESTIMATE OF SALES.**—Section 25(a) of such Act (22 U.S.C. 2765(a)) is amended—

(1) in paragraph (1), by inserting “, as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act,” after “commercial exports under this Act”; and

(2) in paragraph (2), by inserting “, as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act,” after “commercial exports”.

(d) **PRESIDENTIAL CERTIFICATIONS.**—

(1) **EXPORTS.**—Section 36(c) of such Act (22 U.S.C. 2776(c)) is amended by adding at the end the following new paragraph:

“(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an

Deadlines.
Applicability.

export pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 38(j)(1) of this Act, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.”.

(2) **COMMERCIAL TECHNICAL ASSISTANCE OR MANUFACTURING LICENSING AGREEMENTS.**—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended by adding at the end the following new paragraph:

“(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 38(j)(1) of this Act, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.”.

(e) **FEES AND POLITICAL CONTRIBUTIONS.**—Section 39(a) of such Act (22 U.S.C. 2779(a)) is amended—

(1) in paragraph (1), by striking “; or” and inserting a semicolon;

(2) in paragraph (2), by inserting “or” after the semicolon; and

(3) by adding at the end the following new paragraph:
“(3) exports of defense articles or defense services pursuant to a treaty referenced in section 38(j)(1)(C)(i) of this Act;”.

22 USC 2778
note.

SEC. 105. LIMITATION ON IMPLEMENTING ARRANGEMENTS.

(a) **IN GENERAL.**—No amendment to an implementing arrangement concluded pursuant to a treaty referred to in section 38(j)(1)(C)(i) of the Arms Export Control Act, as added by this Act, shall enter into effect for the United States unless the Congress adopts, and there is enacted, legislation approving the entry into effect of that amendment for the United States.

Applicability.

(b) **COVERED AMENDMENTS.**—

(1) **IN GENERAL.**—The requirements specified in subsection (a) shall apply to any amendment other than an amendment that addresses an administrative or technical matter. The requirements in subsection (a) shall not apply to any amendment that solely addresses an administrative or technical matter.

(2) **U.S.-UK IMPLEMENTING ARRANGEMENT.**—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, signed at Washington February 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

(C) any amendment to section 4, paragraph (4) that modifies the criteria for including items on the list of defense articles exempt from the treaty;

(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

(E) any amendment to section 7, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental United Kingdom entities and facilities;

(F) any amendment to section 7, paragraph (9) that modifies the conditions for suspending or removing a United Kingdom entity from the approved community under the treaty;

(G) any amendment to section 7, paragraphs (11) or (12) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

(H) any amendment to section 9, paragraphs (1), (3), (7), (8), (9), (12), or (13) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exceptions to such requirement; and

(I) any amendment to section 11, paragraph (4)(b) that modifies conditions of entry to the United Kingdom community under the treaty.

(3) U.S.-AUSTRALIA IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the Australia Concerning Defense Trade Cooperation, signed at Washington March 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

(C) any amendment to section 4, paragraph (4) that modifies criteria for including items on the list of defense articles exempt from the scope of the treaty;

(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

(E) any amendment to section 6, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental Australian entities and facilities;

(F) any amendment to section 6, paragraph (9) that modifies the conditions for suspending or removing an Australian entity from the Australia community under the treaty;

(G) any amendment to section 6, paragraphs (11), (12), (13), or (14) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

(H) any amendment to section 9, paragraphs (1), (2), (4), (7), or (8) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exceptions to such requirement; and

(I) any amendment to section 11, paragraph (6) that modifies conditions of entry to the Australian community under the treaty.

Deadline.
President.
Reports.

(c) CONGRESSIONAL NOTIFICATION FOR OTHER AMENDMENTS TO IMPLEMENTING ARRANGEMENTS.—Not later than 15 days before any amendment to an implementing arrangement to which subsection (a) does not apply shall take effect, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing—

(1) the text of the amendment; and

(2) an analysis of the amendment's effect, including an analysis regarding why subsection (a) does not apply.

President.
22 USC 2778
note.

SEC. 106. IMPLEMENTING REGULATIONS.

The President is authorized to issue regulations pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) to implement and enforce the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto) and the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), consistent with other applicable provisions of the Arms Export Control Act, as amended by this Act, and with the terms of any resolution of advice and consent adopted by the Senate with respect to either treaty.

22 USC 2778
note.

SEC. 107. RULE OF CONSTRUCTION.

Nothing in this title, the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto), the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), or in any regulation issued to implement either treaty, shall be construed to modify or supersede any provision of law or regulation other than the Arms Export Control Act (22 U.S.C. 2751 et seq.), as amended by this Act, and the International Traffic in Arms Regulations (subchapter M of chapter I of title 22, Code of Federal Regulations).

TITLE II—AUTHORITY TO TRANSFER NAVAL VESSELS

Naval Vessel
Transfer Act of
2010.

SEC. 201. SHORT TITLE.

This title may be cited as the “Naval Vessel Transfer Act of 2010”.

SEC. 202. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) INDIA.—To the Government of India, the OSPREY class minehunter coastal ships KINGFISHER (MHC–56) and CORMORANT (MHC–57).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ships OSPREY (MHC–51), BLACKHAWK (MHC–58), and SHRIKE (MHC–62).

(3) CHILE.—To the Government of Chile, the NEWPORT class amphibious tank landing ship TUSCALOOSA (LST–1187).

(4) MOROCCO.—To the Government of Morocco, the NEWPORT class amphibious tank landing ship BOULDER (LST–1190).

(b) TRANSFER BY SALE.—The President is authorized to transfer the OSPREY class minehunter coastal ship ROBIN (MHC–54) to the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a)) on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country 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).

(d) 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 (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e))).

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of the recipient, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

TITLE III—OTHER MATTERS**SEC. 301. EXPEDITED CONGRESSIONAL DEFENSE EXPORT REVIEW PERIOD FOR ISRAEL.**

The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

22 USC 2753,
2761, 2776,
2796a, 2796b.

(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 “Israel,” before “or New Zealand” each place it appears; and

(2) in section 3(b)(2), by inserting “the Government of Israel,” before “or the Government of New Zealand”.

SEC. 302. EXTENSION OF WAR RESERVES STOCKPILE AUTHORITY.

(a) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005.—Section 12001(d) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) is amended by striking “more than 4 years after” and inserting “more than 8 years after”.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by striking “fiscal years 2007 and 2008” and inserting “fiscal years 2011 and 2012”.

Approved October 8, 2010.

LEGISLATIVE HISTORY—S. 3847:

CONGRESSIONAL RECORD, Vol. 156 (2010):

Sept. 27, considered and passed Senate.

Sept. 28, considered and passed House.