

“(C) uses a ground control system or operating software developed in a covered foreign country or by an entity domiciled in a covered foreign country; or

“(D) uses network connectivity or data storage located in or administered by an entity domiciled in a covered foreign country; or

“(2) a system manufactured in a covered foreign country or by an entity domiciled in a covered foreign country for the detection or identification of covered unmanned aircraft systems.

“(b) PROHIBITION ON CERTAIN CONTRACTS.—The Secretary of Defense may not enter into a contract (or extend or renew a contract) on or after October 1, 2024, with an entity that operates (as determined by the Secretary or the Secretary’s designee) equipment from a covered unmanned aircraft system company in the performance of a Department of Defense contract.

“(c) EXEMPTION.—The Secretary of Defense is exempt from any restrictions under subsection (a) or (b) if the operation, procurement, or contracting action is for the purposes of—

“(1) Counter-UAS surrogate testing and training; or

“(2) intelligence, electronic warfare, and information warfare operations, testing, analysis, and training.

“(d) WAIVER.—The Secretary of Defense (or the Secretary’s designee) may waive any restrictions under subsections (a) or (b) by certifying in writing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the operation, procurement, or contracting action is required in the national interest of the United States.

“(e) DEFINITIONS.—In this section:

“(1) COVERED FOREIGN COUNTRY.—The term ‘covered foreign country’ means any of the following:

“(A) the People’s Republic of China.

“(B) The Russian Federation.

“(C) The Islamic Republic of Iran.

“(D) The Democratic People’s Republic of Korea.

“(2) COVERED UNMANNED AIRCRAFT SYSTEM.—The term ‘covered unmanned aircraft system’ means an unmanned aircraft system and any related services and equipment.

“(3) COVERED UNMANNED AIRCRAFT SYSTEM COMPANY.—The term ‘covered unmanned aircraft system company’ means any of the following:

“(A) Da-Jiang Innovations (or any subsidiary or affiliate of Da-Jiang Innovations).

“(B) Any entity that produces or provides unmanned aircraft systems and is included on Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce.

“(C) Any entity that produces or provides unmanned aircraft systems and—

“(i) is domiciled in a covered foreign country; or

“(ii) is subject to unmitigated foreign ownership, control or influence by a covered foreign country, as determined by the Secretary of Defense unmitigated foreign ownership, control or influence in accordance with the National Industrial Security Program (or any successor to such program).”

[Pub. L. 117–263, div. A, title VIII, §817(b), Dec. 23, 2022, 136 Stat. 2708, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue policy to—

[“(1) implement the requirements of section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 4871 note), as amended by this section, including by establishing a due diligence process for the Department of Defense to make determinations required by subsection (b) of such section 848 (as amended by this section); and

[“(2) establish an appeal process for any offerors or awardees with which the Secretary has not entered

into a contract or has not extended or renewed a contract pursuant to subsection (b) of such section 848 (as amended by this section).”]

#### ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE ITEMS AND COMPONENTS

Pub. L. 108–136, div. A, title VIII, §821, Nov. 24, 2003, 117 Stat. 1546, provided that:

“(a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Secretary of Defense, in coordination with the Secretary of State, shall identify and list foreign countries that restrict the provision or sale of military goods or services to the United States because of United States counterterrorism or military operations after the date of the enactment of this Act [Nov. 24, 2003]. The Secretary shall review and update the list as appropriate. The Secretary may remove a country from the list, if the Secretary determines that doing so would be in the interest of national defense.

“(b) PROHIBITION ON PROCUREMENT OF ITEMS FROM IDENTIFIED COUNTRIES.—The Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country identified under subsection (a).

“(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (b) if the Secretary determines in writing and notifies Congress that the Department of Defense’s need for the item is of such an unusual and compelling urgency that the Department would be unable to meet national security objectives.

“(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), subsection (b) applies to contracts in existence on the date of the enactment of this Act [Nov. 24, 2003] or entered into after such date.

“(2) With respect to contracts in existence on the date of the enactment of this Act, the Secretary of Defense shall take such action as is necessary to ensure that such contracts are in compliance with subsection (b) not later than 24 months after such date.”

#### § 4872. Acquisition of sensitive materials from non-allied foreign nations: prohibition

(a) IN GENERAL.—Except as provided in subsection (c) or (e), the Secretary of Defense may not—

(1) procure any covered material melted or produced in any covered nation, or any end item that contains a covered material manufactured in any covered nation, except as provided by subsection (c); or

(2) sell any material from the National Defense Stockpile, if the National Defense Stockpile Manager determines that such a sale is not in the national interests of the United States, to—

(A) any covered nation; or

(B) any third party that the Secretary reasonably believes is acting as a broker or agent for a covered nation or an entity in a covered nation.

(b) APPLICABILITY.—Subsection (a) shall apply to prime contracts and subcontracts at any tier.

(c) EXCEPTIONS.—Subsection (a)(1) does not apply under the following circumstances:

(1) If the Secretary of Defense or the Secretary of the military department concerned—

(A) identifies a specific end item for which a specific covered material of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price; and

(B) waives subsection (a)(1) for such specific end item and such specific covered material for a period not exceeding 36 months.

(2) To the procurement of an end item described in subsection (a)(1) or the sale of any covered material described under subsection (a)(1) by the Secretary outside of the United States in support of contingency operations or for use outside of the United States.

(3) To the purchase by the Secretary of an end item containing a covered material that is—

(A) a commercially available off-the-shelf item (as defined in section 104 of title 41), other than—

(i) a commercially available off-the-shelf item that is 50 percent or more tungsten by weight; or

(ii) a mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(B) an electronic device, unless the Secretary of Defense, upon the recommendation of the Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-1), determines that the domestic availability of a particular electronic device is critical to national security; or

(C) a neodymium-iron-boron magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States.

(d) DELEGATION.—The authorities in subsection (c)—

(1) may be delegated to the head of contracting activity for the relevant component for an exception for a single acquisition program;

(2) may be delegated to the senior acquisition executive of a military department for an exception for multiple programs within such military department; and

(3) may be delegated to the Undersecretary of Defense for Acquisition and Sustainment for an exception for more than one military department.

(e) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary of Defense of the Secretary<sup>1</sup> or the Secretary of the military department concerned, may accept the delivery of an end item containing covered material manufactured in a covered nation if the Secretary determines in writing that acceptance of such end item is necessary to the national security interests of the United States.

(2) DELEGATION.—A written determination under paragraph (1)—

(A) may be delegated—

(i) to the senior acquisition executive of the military department concerned for a waiver for one or more acquisition programs within such military department; and

(ii) to the Deputy Secretary of Defense or the Under Secretary of Defense for Ac-

quisition and Sustainment for a waiver applicable to more than one military department;

(B) shall specify the quantity of end items to which the waiver applies and the time period over which the waiver applies; and

(C) shall be provided to the congressional defense committees prior to making such a determination (except that in the case of an urgent national security requirement, such certification may be provided to the defense committees up to 7 days after it is made).

(f) DEFINITIONS.—In this section:

(1) COVERED MATERIAL.—The term “covered material” means—

(A) samarium-cobalt magnets;

(B) neodymium-iron-boron magnets;

(C) tungsten metal powder;

(D) tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy; and

(E) tantalum metals and alloys.

(2) COVERED NATION.—The term “covered nation” means—

(A) the Democratic People’s Republic of North Korea;

(B) the People’s Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(3) END ITEM.—The term “end item” has the meaning given in section 4863(m) of this title.

(Added Pub. L. 115-232, div. A, title VIII, §871(a), Aug. 13, 2018, 132 Stat. 1904, §2533c; amended Pub. L. 116-92, div. A, title VIII, §849, Dec. 20, 2019, 133 Stat. 1508; renumbered §4872 and amended Pub. L. 116-283, div. A, title VIII, §844(a), title XVIII, §1870(d)(2), (3), Jan. 1, 2021, 134 Stat. 3766, 4286; Pub. L. 117-81, div. A, title XVII, §1701(t)(2)(B), (C), (3), Dec. 27, 2021, 135 Stat. 2150; Pub. L. 117-263, div. A, title XIV, §1411(d)(2)(B), Dec. 23, 2022, 136 Stat. 2872; Pub. L. 118-31, div. A, title VIII, §834, Dec. 22, 2023, 137 Stat. 337; Pub. L. 118-159, div. A, title VIII, §844(b), Dec. 23, 2024, 138 Stat. 1991.)

#### AMENDMENT OF SUBSECTIONS (a)(1) AND (c)(3)(A)(i)

*Pub. L. 116-283, div. A, title VIII, §844, Jan. 1, 2021, 134 Stat. 3766, provided that, effective 6 years after Jan. 1, 2021, section 2533c of this title, which is now this section, is amended as follows:*

*(1) in subsection (a)(1), by striking “material melted” and inserting “material mined, refined, separated, melted.”; and*

*(2) in subsection (c)(3)(A)(i), by striking “tungsten” and inserting “covered material”.*

*See Codification and 2021 Amendment notes below.*

#### Editorial Notes

##### CODIFICATION

Pub. L. 116-283, §1870(d)(2), which had initially directed the transfer of section 2536 of this title to this section, was amended by Pub. L. 117-81, §1701(t)(2)(B), (C), and, after that amendment, such transfer was no longer directed. Instead, Pub. L. 116-283, as amended by Pub. L. 117-81, transferred section 2533c of this title to this section and section 2536 of this title to section 4874.

<sup>1</sup> So in original.

Amendments by section 844(a) of Pub. L. 116-283, which were directed to section 2533c of this title effective 5 years after Jan. 1, 2021, are to be executed to this section, to reflect the probable intent of Congress and the renumbering of section 2533c as this section by Pub. L. 116-283, as amended by Pub. L. 117-81, effective Jan. 1, 2022.

#### AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159, §844(b)(1), inserted “or (e)” after “subsection (c)” in introductory provisions.

Subsec. (c)(1). Pub. L. 118-159, §844(b)(2)(A), inserted “or the Secretary of the military department concerned” after “Secretary of Defense” in introductory provisions.

Subsec. (c)(2). Pub. L. 118-159, §844(b)(2)(B), inserted “in support of contingency operations or” before “for use outside”.

Subsecs. (d) to (f). Pub. L. 118-159, §844(b)(3), (4), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

2023—Subsec. (c). Pub. L. 118-31, §834(1), substituted “Subsection (a)(1)” for “Subsection (a)” in introductory provisions.

Subsec. (c)(1). Pub. L. 118-31, §834(2), substituted “Defense—” for “Defense determines that covered materials”, inserted subpar. (A) designation and “identifies a specific end item for which a specific covered material” before “of satisfactory quality”, and added subpar. (B).

2022—Subsec. (c)(3)(B). Pub. L. 117-263 substituted “Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-1)” for “Strategic Materials Protection Board pursuant to section 187 of this title”.

2021—Pub. L. 116-283, §1870(d)(3)(B), as amended by Pub. L. 117-81, §1701(t)(3), amended section catchline generally. Prior to amendment, section catchline read as follows: “Prohibition on acquisition of sensitive materials from non-allied foreign nations”.

Pub. L. 116-283, §1870(d)(2), as amended by Pub. L. 117-81, §1701(t)(2)(B), (C), renumbered section 2533c of this title as this section.

Subsec. (a)(1). Pub. L. 116-283, §844(a)(1), substituted “material mined, refined, separated, melted,” for “material melted”. See Codification note above.

Subsec. (c)(3)(A)(i). Pub. L. 116-283, §844(a)(2), substituted “covered material” for “tungsten”. See Codification note above.

Subsec. (d)(3). Pub. L. 116-283, §1870(d)(3)(A), as amended by Pub. L. 117-81, §1701(t)(3), substituted “section 4863(m)” for “section 2533b(m)”.

2019—Subsec. (a)(2). Pub. L. 116-92, §849(a), substituted “material” for “covered material” in introductory provisions.

Subsec. (d)(1)(E). Pub. L. 116-92, §849(b), added subpar. (E).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below for section 1870(d)(2), (3) of Pub. L. 116-283.

Pub. L. 116-283, div. A, title VIII, §844(b), Jan. 1, 2021, 134 Stat. 3766, as amended by Pub. L. 118-31, div. A, title VIII, §854, Dec. 22, 2023, 137 Stat. 345, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date that is 6 years after the date of the enactment of this Act [Jan. 1, 2021].”

Amendment by section 1870(d)(2), (3) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

#### § 4873. Additional requirements pertaining to printed circuit boards

##### (a) IN GENERAL.—

(1) Beginning on the date determined under paragraph (3), the Secretary of Defense may not acquire a covered printed circuit board from a covered nation.

(2) Paragraph (1) shall not apply with respect to any acquisition of supplies or services below the micro-purchase threshold under section 3573 of this title.

(3) Paragraph (1) shall take effect on January 1, 2027.

##### (b) WAIVER.—

(1) The Secretary may waive the prohibition under subsection (a) if the Secretary determines in writing that—

(A) there are no significant national security concerns regarding counterfeiting, quality, or unauthorized access created by such waiver;

(B) the waiver is required to support national security; and

(C) a covered printed circuit board of satisfactory quality and sufficient quantity, in the required form, cannot be procured as and when needed from nations other than a covered nation at reasonable cost, excluding comparisons with non-market economies.

(2) Not later than 10 days after the Secretary provides a waiver under paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notice setting forth the reasoning for the waiver, together with a copy of the waiver itself.

##### (c) DEFINITIONS.—In this section:

(1) COVERED NATION.—The term “covered nation” means—

(A) the Democratic People’s Republic of North Korea;

(B) the People’s Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(2) COVERED PRINTED CIRCUIT BOARD.—The term “covered printed circuit board” means any specified type of partially manufactured or complete bare printed circuit board or fully or partially assembled printed circuit board that—

(A) performs a mission critical function in any product or service that is not a commercial product or commercial service; or

(B) is a component of—

(i) a defense security system; or

(ii) a system, other than a defense security system, that transmits or stores information and which the Secretary identifies as national security sensitive in the contract under which such printed circuit board is acquired.

(3) SECRETARY.—The term “Secretary” means the Secretary of Defense.

(4) COMMERCIAL PRODUCT; COMMERCIAL SERVICE; COMMERCIALLY AVAILABLE OFF-THE SHELF ITEM.—The terms “commercial product”, “commercial service”, and “commercially