

United States Code [now 10 U.S.C. 4874], as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 23, 1992].”

REMOVAL OF NATIONAL INTEREST DETERMINATION
REQUIREMENTS FOR CERTAIN ENTITIES

Pub. L. 115-232, div. A, title VIII, § 842, Aug. 13, 2018, 132 Stat. 1878, provided that:

“(a) IN GENERAL.—Effective October 1, 2020, a covered NTIB entity operating under a special security agreement pursuant to the National Industrial Security Program shall not be required to obtain a national interest determination as a condition for access to proscribed information.

“(b) ACCELERATION AUTHORIZED.—Notwithstanding the effective date of this section, the Secretary of Defense, in consultation with the Director of the Information Security Oversight Office, may waive the requirement to obtain a national interest determination for a covered NTIB entity operating under such a special security agreement that has—

“(1) a demonstrated successful record of compliance with the National Industrial Security Program; and

“(2) previously been approved for access to proscribed information.

“(c) DEFINITIONS.—In this section:

“(1) COVERED NTIB ENTITY.—The term ‘covered NTIB entity’ means a person that is a subsidiary located in the United States—

“(A) for which the ultimate parent company and any intermediate parent companies of such subsidiary are located in a country that is part of the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]); and

“(B) that is subject to the foreign ownership, control, or influence requirements of the National Industrial Security Program.

“(2) PROSCRIBED INFORMATION.—The term ‘proscribed information’ means information that is—

“(A) classified at the level of top secret;

“(B) communications security information (excluding controlled cryptographic items when unkeyed or utilized with unclassified keys);

“(C) restricted data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

“(D) special access program information under section 4.3 of Executive Order No. 13526 (75 Fed. Reg. 707; 50 U.S.C. 3161 note) or successor order; or

“(E) designated as sensitive compartmented information.”

REVIEW REGARDING APPLICABILITY OF FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE REQUIREMENTS OF NATIONAL INDUSTRIAL SECURITY PROGRAM TO NATIONAL TECHNOLOGY AND INDUSTRIAL BASE COMPANIES

Pub. L. 115-91, div. A, title XVII, § 1712, Dec. 12, 2017, 131 Stat. 1811, as amended by Pub. L. 116-283, div. A, title XVIII, § 1866(d)(5), Jan. 1, 2021, 134 Stat. 4280, provided that:

“(a) REVIEW.—The Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall review whether organizations whose ownership or majority control is based in a country that is part of the national technology and industrial base should be exempted from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program.

“(b) AUTHORITY.—The Secretary of Defense may establish a program to exempt organizations described under subsection (a) from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program. Any such program shall comply with the requirements of this subsection.

“(1) IN GENERAL.—Under a program established under this subsection, the Secretary, with the con-

currence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall maintain a list of organizations owned or controlled by a country that is part of the national technology and industrial base that are eligible for exemption from the requirements described under such subsection.

“(2) DETERMINATIONS OF ELIGIBILITY.—Under a program established under this subsection, the Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, may (on a case-by-case basis and for the purpose of supporting specific needs of the Department of Defense) designate an organization whose ownership or majority control is based in a country that is part of the national technology and industrial base as exempt from the requirements described under subsection (a) upon a determination that such exemption—

“(A) is beneficial to improving collaboration within countries that are a part of the national technology and industrial base;

“(B) is in the national security interest of the United States; and

“(C) will not result in a greater risk of the disclosure of classified or sensitive information consistent with the National Industrial Security Program.

“(3) EXERCISE OF AUTHORITY.—The authority under this subsection may be exercised beginning on the date that is the later of—

“(A) the date that is 60 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a report summarizing the review conducted under subsection (a); and

“(B) the date that is 30 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a written notification of a determination made under paragraph (2), including a discussion of the issues related to the foreign ownership or control of the organization that were considered as part of the determination.

“(c) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ has the meaning given the term in section 301 of title 10, United States Code.

“(2) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—the [sic] term ‘national technology and industrial base’ has the meaning given the term in section 4801 of title 10, United States Code.”

§ 4875. Prohibition on acquisition of personal protective equipment and certain other items from non-allied foreign nations

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense may not procure any covered item from any covered nation.

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

(c) EXCEPTIONS.—

(1) IN GENERAL.—Subsection (a) does not apply under the following circumstances:

(A) If the Secretary of Defense determines that covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed from nations other than covered nations to meet requirements at a reasonable price.

(B) The procurement of a covered item for use outside of the United States.

(C) Purchases for amounts not greater than \$150,000.

(2) **LIMITATION.**—A proposed procurement in an amount greater than \$150,000 may not be divided into several purchases or contracts for lesser amounts in order to qualify for this exception.

(d) **DEFINITIONS.**—In this section:

(1) **COVERED ITEM.**—The term “covered item” means an article or item of—

(A) personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material (including nitrile and vinyl gloves, surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, surgical and isolation gowns, and head and foot coverings) or clothing, and the materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or

(B) sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

(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.

(Added Pub. L. 117–81, div. A, title VIII, § 802(a)(1), Dec. 27, 2021, 135 Stat. 1812, § 2533e; renumbered § 4875, Pub. L. 117–81, div. A, title VIII, § 802(b)(1), Dec. 27, 2021, 135 Stat. 1813.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81 renumbered section 2533e of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81, which renumbered section 2533e of this title as this section, deemed to have taken effect immediately before section 1881 of Pub. L. 116–283, subsec. (a) of which had repealed chapter 148 of this title, where section 2533c was located. See section 881(a) of Pub. L. 117–263, set out as a note under section 4027 of this title.

Pub. L. 117–81, div. A, title VIII, § 802(b)(3), Dec. 27, 2021, 135 Stat. 1814, provided that: “The transfer, redesignation, and amendments made by this subsection [renumbering section 2533e of this title as this section] shall take effect immediately after the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] take effect [Jan. 1, 2022].” See note above.

REFERENCES; SAVINGS PROVISION; RULE OF CONSTRUCTION

Pub. L. 117–81, div. A, title VIII, § 802(b)(4), Dec. 27, 2021, 135 Stat. 1814, provided that: “Sections 1883 through 1885 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [set out as notes preceding section 3001 of this title] shall apply with respect to the transfers, redesignations, and amendments made under this subsection [see Effective Date of 2021 Amendment note above] as if such transfers, redesignations, and amendments were made under title XVIII of such Act.”

SUBCHAPTER IV—DEFENSE INDUSTRIAL RESERVE AND INDUSTRIAL MOBILIZATION

Sec.

4881. Defense Industrial Reserve.

4882. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.

4883. Industrial mobilization: plants; lists.

4884. Industrial mobilization: Board on Mobilization of Industries Essential for Military Preparedness.

§ 4881. Defense Industrial Reserve

(a) **DECLARATION OF PURPOSE AND POLICY.**—It is the intent of Congress—

(1) to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and an industrial reserve of machine tools and other industrial manufacturing equipment may be assured for immediate use to supply the needs of the armed forces in time of national emergency or in anticipation thereof;

(2) that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements for immediate use in time of national emergency, and that any such items which shall become excess to such requirements shall be disposed of as expeditiously as possible;

(3) that to the maximum extent practicable, reliance will be placed upon private industry for support of defense production; and

(4) that machine tools and other industrial manufacturing equipment may be held in plant equipment packages or in a general reserve to maintain a high state of readiness for production of critical items of defense materiel, to provide production capacity not available in private industry for defense materiel, or to assist private industry in time of national disaster.

(b) **POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.**—(1) To execute the policy set forth in subsection (a), the Secretary of Defense shall—

(A) determine which industrial plants and installations (including machine tools and other industrial manufacturing equipment) should become a part of the Defense Industrial Reserve;

(B) designate what excess industrial property shall be disposed of;

(C) establish general policies and provide for the transportation, handling, care, storage, protection, maintenance, repair, rebuilding, utilization, recording, leasing and security of such property;

(D) direct the transfer without reimbursement of such property to other Government agencies with the consent of such agencies;

(E) direct the leasing of any of such property to designated lessees;

(F) authorize the disposition in accordance with existing law of any of such property when in the opinion of the Secretary such property is no longer needed by the Department of Defense; and

(G) notwithstanding chapter 5 of title 40 and any other provision of law, authorize the