

the United Kingdom to transfer defense articles and services under section 2761 of this title related to AUKUS to receive expedited consideration and processing relative to all other letters of request other than from Taiwan and Ukraine.

(b) Technology transfer policy for Australia, Canada, and the United Kingdom

(1) In general

The Secretary of State, in consultation with the Secretary of Defense, shall create an anticipatory release policy for the transfer of technologies described in paragraph (2) to Australia, the United Kingdom, and Canada through Foreign Military Sales and Direct Commercial Sales that are not covered by an exemption under the International Traffic in Arms Regulations.

(2) Capabilities described

The capabilities described in this paragraph are—

(A) Pillar One-related technologies associated with submarine and associated combat systems; and

(B) Pillar Two-related technologies, including hypersonic missiles, cyber capabilities, artificial intelligence, quantum technologies, undersea capabilities, and other advanced technologies.

(3) Expedited decision-making

Review of a transfer under the policy established under paragraph (1) shall be subject to an expedited decision-making process.

(c) Interagency policy and guidance

The Secretary of State and the Secretary of Defense shall jointly review and update interagency policies and implementation guidance related to requests for Foreign Military Sales and Direct Commercial Sales, including by incorporating the anticipatory release provisions of this section.

(Pub. L. 118–31, div. A, title XIII, §1341, Dec. 22, 2023, 137 Stat. 509.)

§ 10422. Identification and pre-clearance of platforms, technologies, and equipment for sale to Australia and the United Kingdom through foreign military sales and direct commercial sales

(a) In general

Not later than 90 days after December 22, 2023, and on a biennial basis thereafter for 8 years, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report that includes a list of advanced military platforms, technologies, and equipment that are pre-cleared and prioritized for sale and release to Australia, the United Kingdom and Canada through the Foreign Military Sales and Direct Commercial Sales programs without regard to whether a letter of request or license to purchase such platforms, technologies, or equipment has been received from any of such country.

(b) Additional items

Each list may include items that are not related to the AUKUS partnership but may not in-

clude items that are not covered by an exemption under the International Traffic in Arms Regulations except unmanned aerial or hypersonic systems.

(Pub. L. 118–31, div. A, title XIII, §1342, Dec. 22, 2023, 137 Stat. 509.)

Executive Documents

DELEGATION OF FUNCTIONS

Functions and authorities vested in the President under this section delegated to Secretary of State, in consultation with Secretaries of Defense and Energy, by Memorandum of President of the United States, §1(c)(ii), July 9, 2024, 89 F.R. 57337, set out in a note under section 10413 of this title.

§ 10423. Expedited review of export licenses for exports of advanced technologies to Australia, the United Kingdom, and Canada

(a) In general

Not later than 180 days after December 22, 2023, the Secretary of State, in coordination with the Secretary of Defense, shall initiate a rulemaking to establish an expedited decision-making process, classified or unclassified, for applications to export to Australia, the United Kingdom, and Canada commercial, advanced-technology defense articles and defense services that are not covered by an exemption under the International Traffic in Arms Regulations.

(b) Eligibility

To qualify for the expedited decision-making process described in subsection (a), an application shall be for an export of defense articles or defense services that will take place wholly within or between the physical territory of Australia, Canada, or the United Kingdom and the United States and with governments or corporate entities from such countries.

(c) Availability of expedited process

The expedited decision-making process described in subsection (a) shall be available for both classified and unclassified items, and the process must satisfy the following criteria to the extent practicable:

(1) Any licensing application to export defense articles and services that is related to a government to government agreement must be approved, returned, or denied within 30 days of submission.

(2) For all other licensing requests, any review shall be completed not later than 45 calendar days after the date of application.

(Pub. L. 118–31, div. A, title XIII, §1344, Dec. 22, 2023, 137 Stat. 513.)

**SUBCHAPTER III—AUKUS SUBMARINE
TRANSFER AUTHORIZATION ACT**

§ 10431. Authorization of sales of Virginia Class submarines to Australia

(a) In general

Effective beginning on the date that is one year after December 22, 2023, the President is authorized to transfer up to two Virginia Class submarines from the inventory of the Department of the Navy to the Government of Aus-

tralia on a sale basis, and transfer not more than one additional Virginia Class submarine to the Government of Australia on a sale basis pursuant to section 21 of the Arms Export Control Act (22 U.S.C. 2761) during the 20-year period beginning on December 22, 2023, to implement the trilateral security partnership between Australia, the United Kingdom, and the United States (in this section referred to as the “AUKUS partnership”).

(b) Provisions of law superseded

The transfer of a vessel authorized under subsection (a) shall not be subject to the requirements of—

- (1) section 36 of the Arms Export Control Act (22 U.S.C. 2776); or
- (2) section 8677 of title 10.

(c) Costs of transfers

Any expense incurred by the United States in connection with a transfer of a vessel authorized under subsection (a) shall be charged to the Government of Australia notwithstanding section 2321j(e) of this title.

(d) Certifications and other requirements

(1) In general

Not later than 270 days prior to the transfer of a vessel authorized under subsection (a), the President shall submit to the appropriate congressional committees and leadership a certification that—

- (A) the transfer of such vessels—
 - (i) will not degrade the United States undersea capabilities;
 - (ii) is consistent with United States foreign policy and national security interests; and
 - (iii) is in furtherance of the AUKUS partnership;

(B) the United States is making sufficient submarine production and maintenance investments to meet the combination of United States military requirements and the requirements under subparagraph (A);

(C) the Government of Australia has provided the appropriate funds and support for the additional capacity required to meet the requirements identified in this section; and

(D) the Government Australia has the capability to host and fully operate the vessels authorized to be transferred.

(2) Waiver of chief of naval operations certification

The requirement for the Chief of Naval Operations to make a certification under section 8678 of title 10 shall not apply to the transfer of a vessel authorized under subsection (a).

(3) Required mutual defense agreement

(A) In general

The President may not provide for the transfer of a vessel authorized under subsection (a) unless the United States and Australia have entered into a mutual defense agreement that meets the requirements of subparagraph (B) and such agreement is in effect.

(B) Requirements

A mutual defense agreement meets the requirements described in this subparagraph if the agreement—

(i) provides a clear legal framework for the sole purpose of Australia’s acquisition of conventionally armed, nuclear-powered submarines; and

(ii) meets the highest nonproliferation standards for the exchange of nuclear materials, technology, equipment, and information between the United States and Australia.

(4) Subsequent sales

A transfer of vessel that is a Virginia class submarine on a sale basis other than a transfer described in subsection (a) may occur only if such transfer is explicitly authorized pursuant to a law enacted after December 22, 2023.

(e) Crediting of receipts

(1) In general

Notwithstanding any provision of law pertaining to the crediting of amounts received from a sale under the terms of section 21 of the Arms Export Control Act (22 U.S.C. 2761), any receipt of the United States as a result of a transfer of a vessel authorized under subsection (a) shall—

(A) be credited, at the discretion of the President to—

- (i) the appropriation, fund, or account used in incurring the original obligation;
- (ii) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures for the original acquisition of submarines transferred under this section were made; or
- (iii) any other appropriation, fund, or account available for the improvement of the United States submarine industrial base; and

(B) remain available for obligation until expended for the same purpose as the appropriation to which the receipt is credited.

(2) Notifications and report

(A) Initial notification

Not later than 30 days before the date of the delivery of the first vessel authorized to be transferred under subsection (a), the President shall notify the appropriate congressional committees and leadership of the following:

(i) The Government of Australia has achieved Submarine Rotational Forces-West full operational capability to support 4 rotationally deployed Virginia class submarines and one Astute class submarine, including having demonstrated the domestic capacity to fully perform all the associated activities necessary for the safe hosting and operation of nuclear-powered submarines.

(ii) The Government of Australia has achieved sovereign-ready initial operational capability to support a Royal Australian Navy Virginia class submarine, including having demonstrated the domestic capacity to fully perform all the associated—

(I) activities necessary for the safe hosting and operation of nuclear-powered submarines;

- (II) crewing;
- (III) operations;
- (IV) regulatory and emergency procedures, including those specific to nuclear power plants; and
- (V) detailed planning for enduring Virginia class submarine ownership, including each significant event leading up to and including nuclear defueling.

(B) Notification

Not later than 30 days after the date of a transfer of any vessel authorized under subsection (a), and upon any transfer or depositing of funds received pursuant to such a transfer, the President shall notify the appropriate congressional committees and leadership of—

- (i) the amount of funds received pursuant to the transfer; and
- (ii) the specific account or fund into which the funds described in clause (i) are deposited.

(C) Report

Not later than 30 days after the receipt of funds as described in subparagraph (B), the President shall submit to the appropriate congressional committees and leadership a report on the matters described in clauses (i) and (ii) of subparagraph (A).

(f) Applicability of existing law to transfer of special nuclear material and utilization facilities for military applications

(1) In general

With respect to any special nuclear material for use in utilization facilities or any portion of a vessel transferred under the authority of subsection (a) constituting utilization facilities for military applications under section 2121 of title 42, the transfer of such material or such facilities shall only occur in accordance with such section 2121 of title 42.

(2) Use of funds

The President may use proceeds from a transfer described in subparagraph (1) for the acquisition of submarine naval nuclear propulsion plants and the nuclear fuel to replace the propulsion plants and fuel transferred to the Government of Australia.

(g) Omitted

(h) Transfer or export of defense services

(1) In general

The President may transfer or authorize the export of defense services (as such term is defined in section 47 of the Arms Export Control Act (22 U.S.C. 2794)) to the Government of Australia and the Government of the United Kingdom necessary or incidental to support the transfer and operation of vessels authorized under subsection (a).

(2) Authority to export to Australian and United Kingdom private and public-sector personnel

The transfer or export of defense services under this subsection may be directly exported to private and public-sector personnel of Australia or to private and public-sector

personnel of the United Kingdom to support the development of the Australian submarine industrial base necessary for submarine security activities between members of the AUKUS partnership, including in the case in which such private and public-sector personnel are not officers, employees, or agents of the Government of Australia or the Government of the United Kingdom.

(3) Application of requirements for retransfer and reexport

Any person who receives any defense service transferred or exported under paragraph (1) may retransfer or reexport such service to other persons only in accordance with the requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(4) Security controls

(A) In general

Any defense service transferred or exported under paragraph (1) shall be subject to appropriate security controls to ensure that any sensitive information conveyed by such transfer or export is protected from disclosure to persons unauthorized by the United States to receive such information.

(B) Certification

Not later than 30 days before the first transfer or export of a defense service under paragraph (1), and annually thereafter, the President shall certify to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that the controls described in subparagraph (A) will protect the information described in such subparagraph for the defense services so transferred or exported.

(i) Report

(1) In general

Not later than 180 days after December 22, 2023, and annually thereafter for 15 years, the President shall submit to the appropriate congressional committees and leadership a report describing—

(A) the status of the transfer of vessels authorized under subsection (a);

(B) the implementation of submarine security cooperation under the AUKUS partnership and challenges towards its implementation;

(C) expansion of the public and private Virginia class submarine production and repair facilities, to include proposed work conducted in Australia and the United Kingdom to meet the additional work required by commitments under the AUKUS partnership;

(D) an annual procurement schedule for the total quantity of submarines the Department of Defense plans to procure over the 15 years following December 22, 2023; and

(E) a list of transfers or exports of defense services authorized under subsection (h) and the private-sector personnel of Australia or the private-sector personnel of the United Kingdom to whom the defense services were exported.

(2) Form

The report required by this subsection shall be submitted in classified form.

(Pub. L. 118–31, div. A, title XIII, § 1352, Dec. 22, 2023, 137 Stat. 514.)

Editorial Notes

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (h)(3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Section is comprised of section 1352 of Pub. L. 118–31. Subsec. (g) of section 1352 of Pub. L. 118–31 amended section 8680 of Title 10, Armed Forces.

Executive Documents

DELEGATION OF FUNCTIONS

Functions and authorities vested in the President under subsecs. (e)(2)(B), (C) and (g) of this section delegated to Secretary of Defense, in consultation with Secretary of Energy, and under subsecs. (d)(1), (e)(2)(A), (h)(4), and (i) of this section to Secretary of Defense, in consultation with Secretaries of State and Energy, by Memorandum of President of the United States, §1(a), (b), (c)(iii)–(v), July 9, 2024, 89 F.R. 57337, set out in a note under section 10413 of this title.

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER SECTIONS 1352 AND 1353 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2024

Memorandum of President of the United States, Dec. 11, 2024, 89 F.R. 101835, provided:

Memorandum for the Secretary of State[,] the Secretary of Defense[,] the Secretary of Energy[, and] the Director of the Office of Management and Budget

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code:

SECTION 1. (a) I hereby delegate to the Secretary of State, in consultation with the Secretaries of Defense and Energy, the functions and authorities vested in the President by section 1352(a) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) (the “Act”) [22 U.S.C. 10431(a)].

(b) I hereby delegate to the Secretary of Defense, in consultation with the Secretaries of State and Energy and the Director of the Office of Management and Budget, the functions and authorities vested in the President by section 1352(e)(1)(A) of the Act.

(c) I hereby delegate to the Secretary of Energy, in consultation with the Secretary of Defense and the Director of the Office of Management and Budget, the functions and authorities vested in the President by section 1352(f)(2) of the Act.

(d) I hereby delegate to the Secretary of Defense for funds transferred to Department of Defense accounts and to the Secretary of Energy for funds transferred to Department of Energy accounts, in coordination with the Director of the Office of Management and Budget, the functions and authorities vested in the President by sections 1353(c), 1353(e)(1)(D), and 1353(e)(3) of the Act [22 U.S.C. 10432(c), (e)(1)(D), (e)(3)].

(e) I hereby delegate to the Director of the Office of Management and Budget, in consultation with the Secretaries of Defense and Energy, as appropriate, the functions and authorities vested in the President by sections 1353(a), 1353(e)(1)(A), 1353(e)(2), and 1353(f)(1) of the Act.

SEC. 2. The delegation in this memorandum shall apply to any provision of any future public law that is

the same or substantially the same as the provision referenced in this memorandum.

SEC. 3. The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§ 10432. Acceptance of contributions in support of Australia, United Kingdom, and United States submarine security activities**(a) Acceptance authority**

The President may accept from the Government of Australia contributions of money made by the Government of Australia for use by the Department of Defense in support of non-nuclear related aspects of submarine security activities between Australia, the United Kingdom, and the United States (in this section referred to as the “AUKUS partnership”).

(b) Establishment of Submarine Security Activities Account**(1) In general**

There is established in the Treasury of the United States a special account to be known as the ‘Submarine Security Activities Account’.

(2) Credit to account

Contributions of money accepted by the President under subsection (a) shall be credited to the Submarine Security Activities Account.

(3) Availability

Amounts credited to the Submarine Security Activities Account shall remain available until expended.

(c) Use of funds**(1) In general**

Subject to paragraphs (2) and (3) of subsection (b), the President may use funds in the Submarine Security Activities Account—

(A) for any purpose authorized by law that the President determines would support the AUKUS submarine security activities;

(B) to carry out a military construction project that is consistent with the purposes for which the contributions were made and is authorized by law;

(C) to develop and increase the submarine industrial base workforce by investing in recruiting, training, and retaining key specialized labor at public and private shipyards; or

(D) to upgrade facilities, equipment, and infrastructure needed to repair and maintain submarines at public and private shipyards.

(2) No further specific authorization in law required

Funds in the Submarine Security Activities Account may be used as described in this subsection without further specific authorization in law.

(d) Plan for use of funds

Not later than 30 days prior to any use of any funds in the Submarine Security Activities Account, the President shall submit to the appropriate congressional committees and leadership a plan detailing—