under section 2763 of this title shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

(b) Transfer of funds to miscellaneous receipts of Treasury

Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 2763 of this title, amounts received from the disposition of instruments evidencing indebtedness under section 2764(b) of this title (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 2764(b) of this title, which sums are made available for such obligations), and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c) Credit of funds to reserve under section 2764(c)

Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 2764(c) of this title are paid out for a claim arising out of a loan guaranteed under section 2764 of this title, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

(Pub. L. 90–629, ch. 3, § 37, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93–189, § 25(11), Dec. 17, 1973, 87 Stat. 731; Pub. L. 96–533, title I, §§ 104(b), 105(e)(1), Dec. 16, 1980, 94 Stat. 3133, 3135.)

Editorial Notes

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–533, § 105(e)(1), inserted reference to section 2769 of this title.

Subsec. (c). Pub. L. 96–533, § 104(b), added subsec. (c).

1973—Subsec. (b). Pub. L. 93–189 inserted provisions relating to indebtedness under section 2764(b) of this title and exclusions of portions of the sales proceeds required at the time of disposition as a reserve for payment of claims under guaranties issued under section 2764(b) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as a note under section 2751 of this title.

§ 2778. Control of arms exports and imports

(a) Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; issuance of export licenses; negotiations information

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b) Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services

(1)(A)(i) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency

charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this chapter, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term ''foreign defense article or defense service'' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

(B) The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this chapter or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18 (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(C) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this chapter and regulations issued under this chapter, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)(A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Criminal violations; punishment

Any person who willfully violates any provision of this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, 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, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than $1,000,000 or imprisoned not more than 20 years, or both.

(d) Repealed. Pub. L. 96–70, title III, § 3303(a)(4), Sept. 27, 1979, 93 Stat. 499

(e) Enforcement powers of President

In carrying out functions under this section with respect to the export of defense articles and defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i), the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c) and (d) of section 1760 of the Export Control Reform Act of 2018 (50 U.S.C. 4819), and by subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(7), (c), and (h) of section 1761 of such Act (50 U.S.C. 4820), subject to the same terms and conditions as are applicable to such powers under such Act, except that section 1760(c)(2) of such Act (50 U.S.C. 4819(c)(2)) shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest. Nothing in this

subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section section[1] 1760(c) of the Export Control Reform Act of 2018 (50 U.S.C. 4819(c)), the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed the greater of $1,200,000 or the amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed..[1]

(f) Periodic review of items on Munitions List; exemptions

(1) The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.

(2) The President may not authorize an exemption for a foreign country from the licensing requirements of this chapter for the export of defense items under subsection (j) or any other provision of this chapter until 30 days after the date on which the President has transmitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a notification that includes—

(A) a description of the scope of the exemption, including a detailed summary of the defense articles, defense services, and related technical data covered by the exemption; and

(B) a determination by the Attorney General that the bilateral agreement concluded under subsection (j) requires the compilation and maintenance of sufficient documentation relating to the export of United States defense articles, defense services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal violations of any provision of this chapter, including the efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated United States defense items.

(3) Paragraph (2) shall not apply with respect to an exemption for Canada, the United Kingdom, or Australia from the licensing requirements of this chapter for the export of defense items.

(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 2779 of this title.

(5)(A) Except as provided in subparagraph (B), the President shall take such actions as may be necessary to require that, at the time of export or reexport of any major defense equipment listed on the 600 series of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15, Code of Federal Regulations, the major defense equipment will not be subsequently modified so as to transform such major defense equipment into a defense article.

(B) The President may authorize the transformation of any major defense equipment described in subparagraph (A) into a defense article if the President—

(i) determines that such transformation is appropriate and in the national interests of the United States; and

(ii) provides notice of such transformation to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate consistent with the notification requirements of section 2776(b)(5)(A) of this title.

(C) In this paragraph, the term ''defense article'' means an item designated by the President pursuant to subsection (a)(1).

(6) The President shall ensure that any major defense equipment that is listed on the 600 series of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15, Code of Federal Regulations, shall continue to be subject to the notification and reporting requirements of the following provisions of law:

(A) Section 2321j(f) of this title.
(B) Section 2415 of this title.
(C) Section 2753(d)(3)(A) of this title.
(D) Section 2765 of this title.
(E) Section 2776(b), (c), and (d) of this title.

(g) Identification of persons convicted or subject to indictment for violations of certain provisions

(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

(i) this section,

(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),[2]

(iii) section 793, 794, or 798 of title 18 (relating to espionage involving defense or classified information) or section 2339A of such title (relating to providing material support to terrorists),

(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) [50 U.S.C. 4315],

(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705) [50 U.S.C. 1705],

[1] So in original.

[2] See References in Text note below.

(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2),

(vii) chapter 105 of title 18 (relating to sabotage),

(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; [50 U.S.C. 3121]),

(xi) section 603(b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c)), or

(xii) sections 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175c);

(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18 for conspiracy to violate any of the statutes cited in subparagraph (A); and

(C) persons who are ineligible—

(i) to contract with,

(ii) to receive a license or other form of authorization to export from, or

(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term ''foreign corporation'' means a corporation that is not incorporated in the United States;

(B) the term ''foreign government'' includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term ''foreign person'' means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and includes foreign corporations, international organizations, and foreign governments;

(D) the term ''party to the export'' means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h) Judicial review of designation of items as defense articles or services

The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(i) Report to Department of State

As prescribed in regulations issued under this section, a United States person to whom a license has been granted to export an item on the United States Munitions List shall, not later than 15 days after the item is exported, submit to the Department of State a report containing all shipment information, including a description of the item and the quantity, value, port of exit, and end-user and country of destination of the item.

(j) Requirements relating to country exemptions for licensing of defense items for export to foreign countries

(1) Requirement for bilateral agreement

(A) In general

The President may utilize the regulatory or other authority pursuant to this chapter to exempt a foreign country from the licensing requirements of this chapter with respect to exports of defense items only if the United States Government has concluded a binding bilateral agreement with the foreign country. Such agreement shall—

(i) meet the requirements set forth in paragraph (2); and

(ii) be implemented by the United States and the foreign country in a manner that is legally-binding under their domestic laws.

(B) Exception for Canada

The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption for Canada from the licensing requirements of this chapter for the export of defense items.

(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 chapter 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.

(2) Requirements of bilateral agreement

A bilateral agreement referred to in paragraph (1)—

(A) shall, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy requiring—

(i) conditions on the handling of all United States-origin defense items exported to the foreign country, including prior written United States Government approval for any reexports to third countries;

(ii) end-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users, including such documentation as is needed in order to ensure compliance and enforcement, with respect to such United States-origin defense items;

(iii) establishment of a procedure comparable to a ''watchlist'' (if such a watchlist does not exist) and full cooperation with United States Government law enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses; and

(iv) establishment of a list of controlled defense items to ensure coverage of those items to be exported under the exemption; and

(B) should, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy regarding—

(i) controls on the export of tangible or intangible technology, including via fax, phone, and electronic media;

(ii) appropriate controls on unclassified information relating to defense items exported to foreign nationals;

(iii) controls on international arms trafficking and brokering;

(iv) cooperation with United States Government agencies, including intelligence agencies, to combat efforts by third countries to acquire defense items, the export of which to such countries would not be authorized pursuant to the export control regimes of the foreign country and the United States; and

(v) violations of export control laws, and penalties for such violations.

(3) Advance certification

Not less than 30 days before authorizing an exemption for a foreign country from the licensing requirements of this chapter for the export of defense items, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a certification that—

(A) the United States has entered into a bilateral agreement with that foreign country satisfying all requirements set forth in paragraph (2);

(B) the foreign country has promulgated or enacted all necessary modifications to its laws and regulations to comply with its obligations under the bilateral agreement with the United States; and

(C) the appropriate congressional committees will continue to receive notifications pursuant to the authorities, procedures, and practices of section 2776 of this title for defense exports to a foreign country to which that section would apply and without regard to any form of defense export licensing exemption otherwise available for that country.

(4) Definitions

In this section:

(A) Defense items

The term ''defense items'' means defense articles, defense services, and related technical data.

(B) Appropriate congressional committees

The term ''appropriate congressional committees'' means—

(i) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(ii) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(k) Licensing of certain commerce-controlled items

(1) In general

A license or other approval from the Department of State granted in accordance with this section may also authorize the export of items subject to the Export Administration Regulations if such items are to be used in or with defense articles controlled on the United States Munitions List.

(2) Other requirements

The following requirements shall apply with respect to a license or other approval to authorize the export of items subject to the Export Administration Regulations under paragraph (1):

(A) Separate approval from the Department of Commerce shall not be required for such items if such items are approved for export under a Department of State license or other approval.

(B) Such items subject to the Export Administration Regulations that are exported pursuant to a Department of State license or other approval would remain under the jurisdiction of the Department of Commerce with respect to any subsequent transactions.

(C) The inclusion of the term ''subject to the EAR'' or any similar term on a Department of State license or approval shall not affect the jurisdiction with respect to such items.

(3) Definition

In this subsection, the term ''Export Administration Regulations'' means—

(A) the Export Administration Regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(B) any successor regulations.

(*l*) AUKUS defense trade cooperation

(1) Determination and certification

(A) In general

Not later than 120 days after December 22, 2023, the President shall determine and certify in writing, and include a detailed justification, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives whether Australia or the United Kingdom has—

(i) implemented a system of export controls comparable to those of the United States that satisfies the elements of subsection (j)(2)(A)(i), (ii), (iii), and (iv) and subsection (j)(2)(B)(i), (ii) and (v) for United States-origin defense articles and defense services, and for controlling the provision of military training; and

(ii) implemented a comparable exemption from its export controls for the United States.

(B) Matters to be included

(i) Requirements met

If the President makes the determination that Australia or the United Kingdom meets the comparability standards of clauses (i) and (ii) of subparagraph (A), the justification required by such subparagraph shall include an assessment of how the country satisfied the specific elements described in such clauses.

(ii) Requirements not met

If the President makes a determination that Australia or the United Kingdom does not meet the comparability standards of clauses (i) and (ii) of subparagraph (A), the justification required by such subparagraph shall include, as applicable—

(I) the specific elements of either such clause (i) or (ii) that were determined not to meet the comparability standards;

(II) the specific actions the country needs to take in order to meet the comparability standards; and

(III) the actions the United States is taking, as appropriate, to facilitate that the country is granted an exemption in a timely manner upon meeting the comparability standards.

(C) Form

The determination and certification described in subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(2) Exemption

Upon submittal of a determination and certification to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that Australia or the United Kingdom has met the comparability standards of clauses (i) and (ii) of paragraph (1)(A), and subject to the limitation in paragraph (4), the President shall immediately exempt from the licensing or other approval requirements of this section exports and transfers (including reexports, transfers, temporary imports, and brokering activities) of defense articles and defense services between the United States and that country or among the United States, the United Kingdom, and Australia.

(3) Reassessment

(A) In general

If the President is unable to make a determination that Australia or the United Kingdom has met the comparability standards of clauses (i) and (ii) of paragraph (1)(A) or suspends the exemption pursuant to paragraph (5), the President shall—

(i) not less frequently than once every 120 days reassess whether the country has met those requirements;

(ii) report the results of such reassessment in writing, and include a detailed justification, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(iii) report on steps the country must take to establish the exemption.

(B) Positive reassessment

Upon any reassessment under subparagraph (A) in which the President determines that Australia or the United Kingdom has met the comparability standards of clauses (i) and (ii) of paragraph (1)(A), the President shall immediately provide to that country an exemption described in paragraph (2).

(C) Negative reassessment

If the President finds in any reassessment under subparagraph (A) that Australia or the United Kingdom has not met the comparability standards of clauses (i) and (ii) of paragraph (1)(A), the written reassessment shall include, as applicable—

(i) the specific elements of either such clauses that were determined not to be comparable;

(ii) the specific actions the country needs to take in order to meet the comparability standards; and

(iii) the actions the United States is taking, as appropriate, to facilitate that the country is granted an exemption in a timely manner upon meeting the comparability standards.

(D) Form

The reassessment described in subparagraph (A)(ii) shall be submitted in an unclassified form, but may include a classified annex.

(4) Limitation

An exemption described in paragraph (2) shall not apply to any activity (including exports, transfers, reexports, retransfers, temporary imports, or brokering) of defense articles and defense services between or among the United States, the United Kingdom, and Australia that—

(A) are excluded by those countries;

(B) are referred to in subsection (j)(1)(C)(ii); or

(C) involve individuals or entities that are not approved by—

(i) the Secretary of State; and

(ii) the Ministry of Defense, the Ministry of Foreign Affairs, or other similar authority within those countries.

(5) Temporary suspension of exemption

(A) In general

The President may suspend an exemption described in paragraph (2) with respect to Australia or the United Kingdom if the President determines and certifies in writing, and includes a detailed justification, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that—

(i) the country has ceased to implement a system of export controls comparable to those of the United States that satisfies the elements of subsection (j)(2)(A)(i), (ii), (iii), and (iv) and subsection (j)(2)(B)(i), (ii) and (v) for United States-origin defense articles and defense services, and for controlling the provision of military training; and

(ii) due to a substantial change in circumstance, the suspension is necessary to protect the vital national security or foreign policy interests of the United States in relation to the country concerned; or

(iii) the country concerned has ceased to implement a comparable exemption from its export controls for the United States.

(B) Additional matter to be included

The justification required to be included in the determination and certification described in subparagraph (A) shall also include a description of the specific actions the United States and the country are taking to address the reasons for the suspension.

(C) Form

The determination and certification described in subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(D) Report

If the President reissues an exemption described in paragraph (2) with respect to Australia or the United Kingdom that the President suspended pursuant to subparagraph (A), 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 stating the steps the country took that allowed the exemption to be so reinstated.

(6) Certain requirements not applicable

(A) In general

Paragraphs (1), (2), and (3) of section 2753(d) of this title shall not apply to any export or transfer that is the subject of an exemption described in paragraph (2).

(B) Quarterly reports

The Secretary of State shall—

(i) require all exports and transfers that would be subject to the requirements of paragraphs (1), (2), and (3) of section 2753(d) of this title but for the application of subparagraph (A) to be reported to the Secretary; and

(ii) submit such reports to the Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives on a quarterly basis.

(7) Sunset

(A) In general

Any exemption described in paragraph (2) shall terminate on the date that is 15 years after December 22, 2023.

(B) Renewal

The Secretary of State may renew such exemption for 5 years upon a certification to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that such exemption is in the vital national interest of the United States with a detailed justification for such certification.

(Pub. L. 90–629, ch. 3, §38, as added Pub. L. 94–329, title II, §212(a)(1), June 30, 1976, 90 Stat. 744; amended Pub. L. 95–92, §20, Aug. 4, 1977, 91 Stat. 623; Pub. L. 96–70, title III, §3303(a)(4), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96–72, §22(a), Sept. 29, 1979, 93 Stat. 535; Pub. L. 96–92, §21, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96–533, title I, §107(a), (c), Dec. 16, 1980, 94 Stat. 3136; Pub. L. 97–113, title I, §§106, 107, Dec. 29, 1981, 95 Stat. 1522; Pub. L. 99–64, title I, §123(a), July 12, 1985, 99 Stat. 156; Pub. L. 99–83, title I, §119(a), (b), Aug. 8, 1985, 99 Stat. 203, 204; Pub. L. 100–202, §101(b) [title VIII, §8142(a)], Dec. 22, 1987, 101 Stat. 1329–43, 1329–88; Pub. L. 100–204, title XII, §1255, Dec. 22, 1987, 101 Stat. 1429; Pub. L. 101–222, §§3(a), 6, Dec. 12, 1989, 103 Stat. 1896, 1899; Pub. L. 103–236, title VII, §714(a)(1), Apr. 30, 1994, 108 Stat. 497; Pub. L. 104–164, title I, §§151(a), 156, July 21, 1996, 110 Stat. 1437, 1440; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(2), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §§1302(a), 1303, 1304], Nov. 29, 1999, 113 Stat. 1536, 1501A–510, 1501A–511; Pub. L. 106–280, title I, §102(a), (b), Oct. 6, 2000, 114 Stat. 846, 848; Pub. L. 107–228, div. B, title XIV, §1406, Sept. 30, 2002, 116 Stat. 1458; Pub. L. 108–458, title VI, §6910, Dec. 17, 2004, 118 Stat. 3774; Pub. L. 111–195, title I, §107(a)(2), July 1, 2010, 124 Stat. 1337; Pub. L. 111–266, title I, §§102(b)–103(c), Oct. 8, 2010, 124 Stat. 2797, 2799; Pub. L. 113–276, title II, §§204, 205, 208(a)(1), (3), (b)(1)(A), Dec. 18, 2014, 128 Stat. 2990–2993; Pub. L. 117–263, div. I, title XCVII, §9708, Dec. 23, 2022, 136 Stat. 3918; Pub. L. 118–31, div. A, title XIII, §§1343(a), 1345(a), Dec. 22, 2023, 137 Stat. 510, 514.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Such Act, referred to in subsec. (e), means the Export Control Reform Act of 2018, subtitle B (§§1741–1781) of title XVII of div. A of Pub. L. 115–232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

Section 11 of the Export Administration Act of 1979, referred to in subsec. (g)(1)(A)(ii), was classified to section 2410 of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as section 4610 of Title 50. Section 11 of the Act was subsequently repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. Provisions relating to penalties are covered generally in section 4819 of Title 50, as enacted by Pub. L. 115–232.

Section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2), referred to in subsec. (g)(1)(A)(vi), probably means section 104 of the Foreign Corrupt Practices Act of 1977, which is classified to section 78dd–2 of Title 15, Commerce and Trade.

Sections 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, referred to in subsec. (g)(1)(A)(xii), probably means sections 6903, 6904, 6905, and 6906, respectively, of Pub. L. 108–458, which enacted section 2332g of Title 18, Crimes and Criminal Procedure, amended sections 2122 and 2272 of Title 42, The Public Health and Welfare, and enacted sections 2332h and 175c of Title 18.

The Immigration and Nationality Act, referred to in subsec. (g)(9)(C), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (k)(3)(A), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

AMENDMENTS

2023—Subsec. (f)(3). Pub. L. 118–31, §1345(a), inserted '', the United Kingdom, or Australia'' after ''Canada''.

Subsec. (*l*). Pub. L. 118–31, §1343(a), added subsec. (*l*).

2022—Subsec. (e). Pub. L. 117–263 substituted ''subsections (c) and (d) of section 1760 of the Export Control Reform Act of 2018 (50 U.S.C. 4819), and by subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(7), (c), and (h) of section 1761 of such Act (50 U.S.C. 4820)'' for ''subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act'', ''1760(c)(2) of such Act (50 U.S.C. 4819(c)(2))'' for ''11(c)(2)(B) of such Act'', ''section 1760(c) of the Export Control Reform Act of 2018 (50 U.S.C. 4819(c))'' for ''11(c) of the Export Administration Act of 1979'', and ''the greater of $1,200,000 or the amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed.'' for ''$500,000''.

2014—Subsec. (b)(1)(B), (C). Pub. L. 113–276, §208(b)(1)(A)(i), redesignated subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations as (C).

Subsec. (f)(1). Pub. L. 113–276, §208(a)(1), substituted ''the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and'' for ''the Speaker of the House of Representatives and''.

Subsec. (f)(2). Pub. L. 113–276, §208(a)(3), substituted ''Foreign Affairs'' for ''International Relations'' in introductory provisions.

Subsec. (f)(5). Pub. L. 113–276, §205(a), added par. (5).

Subsec. (f)(6). Pub. L. 113–276, §205(b), added par. (6).

Subsec. (g)(1)(A)(xi). Pub. L. 113–276, §208(b)(1)(A)(ii)(I), substituted '', or'' for ''; or''.

Subsec. (g)(1)(A)(xii). Pub. L. 113–276, §208(b)(1)(A)(ii)(II), substituted ''sections'' for ''section'' and ''(18 U.S.C. 175c)'' for ''(18 U.S.C. 175b)''.

Subsec. (j)(2). Pub. L. 113–276, §208(b)(1)(A)(iii), inserted ''in'' before ''paragraph (1)'' in introductory provisions.

Subsec. (j)(3), (4)(B)(i). Pub. L. 113–276, §208(a)(3), substituted ''Foreign Affairs'' for ''International Relations''.

Subsec. (k). Pub. L. 113–276, §204, added subsec. (k).

2010—Subsec. (c). Pub. L. 111–266, §103(a), substituted ''this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, 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'' for ''this section or section 2779 of this title, or any rule or regulation issued under either section''.

Pub. L. 111–195 substituted ''20 years'' for ''ten years''.

Subsec. (e). Pub. L. 111–266, §103(b), substituted ''defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i),'' for ''defense services,''.

Subsec. (f)(4). Pub. L. 111–266, §103(c), added par. (4).

Subsec. (j)(1)(B). Pub. L. 111–266, §102(b)(1), inserted ''for Canada'' after ''Exception'' in heading.

Subsec. (j)(1)(C). Pub. L. 111–266, §102(b)(2), added subpar. (C).

2004—Subsec. (g)(1)(A)(xii). Pub. L. 108–458 added cl. (xii).

2002—Subsec. (f)(1). Pub. L. 107–228 substituted ''The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.'' for ''Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979.''

2000—Subsec. (f). Pub. L. 106–280, §102(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (j). Pub. L. 106–280, §102(a), added subsec. (j).

1999—Subsec. (e). Pub. L. 106–113, §1000(a)(7) [title XIII, §1303], in first sentence, inserted ''section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that'' after ''except that''.

Subsec. (g)(1)(A)(iii). Pub. L. 106–113, §1000(a)(7) [title XIII, §1304], inserted ''or section 2339A of such title (relating to providing material support to terrorists)'' before comma at end.

Subsec. (i). Pub. L. 106–113, §1000(a)(7) [title XIII, §1302(a)], added subsec. (i).

1998—Subsec. (a)(2). Pub. L. 105–277 substituted ''take into account'' for ''be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to'' and struck out at end ''The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.''

1996—Subsec. (b)(1)(A). Pub. L. 104–164, §151(a), designated existing provisions of subpar. (A) as cl. (i) and added cl. (ii).

Subsec. (e). Pub. L. 104–164, §156, inserted before period at end of first sentence '', except that the names

of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest''.

1994—Subsec. (a)(2). Pub. L. 103–236 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.''

1989—Subsec. (a)(2). Pub. L. 101–222, §3(a), inserted ''support international terrorism,'' after ''arms race,''.

Subsec. (h). Pub. L. 101–222, §6, added subsec. (h).

1987—Subsec. (b)(1). Pub. L. 100–204, §1255(b), designated existing provisions as subpar. (A) and added subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations.

Pub. L. 100–202 designated existing provisions as subpar. (A) and added subpar. (B) relating to allowance of return to United States of certain military firearms, etc., under certain circumstances.

Subsec. (b)(3). Pub. L. 100–204, §1255(c), added par. (3).

Subsec. (g). Pub. L. 100–204, §1255(a), added subsec. (g).

1985—Subsec. (c). Pub. L. 99–83, §119(a), inserted ''for each violation'' before ''not more'' and substituted ''$1,000,000'' for ''$100,000'' and ''ten'' for ''two''.

Subsec. (e). Pub. L. 99–83, §119(b), inserted provisions relating to civil penalty for each violation.

Pub. L. 99–64 substituted ''(g)'' for ''(f)''.

1981—Subsec. (b)(3). Pub. L. 97–113, §106, struck out par. (3) which placed a $100,000,000 ceiling on commercial arms exports of major defense equipment to all countries other than NATO countries, Japan, Australia, and New Zealand.

Subsec. (f). Pub. L. 97–113, §107, added subsec. (f).

1980—Subsec. (a)(3). Pub. L. 96–533, §107(c), added par. (3).

Subsec. (b)(3). Pub. L. 96–533, §107(a), increased the limitation in the sale of major defense equipment exports to $100,000,000 from $35,000,000.

1979—Subsec. (b)(3). Pub. L. 96–92 increased the limitation in the sale of major defense equipment exports to $35,000,000 from $25,000,000.

Subsec. (d). Pub. L. 96–70 struck out subsec. (d) which provided that this section applies to and within the Canal Zone.

Subsec. (e). Pub. L. 96–72 substituted ''subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act'' for ''sections 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Administration Act of 1969''.

1977—Subsec. (b)(3). Pub. L. 95–92 inserted provisions relating to exceptions to prohibitions against issuance of licenses under this section and procedures applicable for implementation of such exceptions.

Statutory Notes and Related Subsidiaries

REFERENCE TO SECTION 1934 OF THIS TITLE DEEMED REFERENCE TO THIS SECTION

Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, provided in part that: ''Any reference to such section [section 1934 of this title] shall be deemed to be a reference to section 38 of the Arms Export Control Act [this section] and any reference to licenses issued under section 38 of the Arms Export Control Act [this section] shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.''

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–164, title I, §151(b), July 21, 1996, 110 Stat. 1438, provided that: ''Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a) [22 U.S.C. 2778(b)(1)(A)(ii)], shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act [July 21, 1996].''

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–202, §101(b) [title VIII, §8142(b)], Dec. 22, 1987, 101 Stat. 1329–43, 1329–88, provided that:

''(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1)(B) of this section], as added by subsection (a), shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act [Dec. 22, 1987].

''(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act [Dec. 22, 1987] with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] as in effect on the day before the date of the enactment of this Act.

''(B) In the case of an import permit described in subparagraph (A) which was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act [Dec. 22, 1987] under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

''(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] to reflect the provisions of subparagraph (B) of such section, as added by subsection (a), such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided*, That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section [Dec. 22, 1987] the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further*, That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone.''

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–83, title I, §119(c), Aug. 8, 1985, 99 Stat. 204, provided that: ''This section [amending this section] shall take effect upon the date of enactment of this Act [Aug. 8, 1985] or October 1, 1985, whichever is later. The amendments made by this section apply with respect to

violations occurring after the effective date of this section.''

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–72 effective upon the expiration of the Export Administration Act of 1969, which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, see Pub. L. 96–72, § 19(a), Sept. 29, 1979, 93 Stat. 535, which was classified to section 4621 of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, § 1766(a), Aug. 13, 2018, 132 Stat. 2232.

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of this title.

REGULATIONS

Pub. L. 111–266, title I, § 106, Oct. 8, 2010, 124 Stat. 2802, provided that: ''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 [see Short Title of 2010 Amendment notes set out under section 2751 of this title], and with the terms of any resolution of advice and consent adopted by the Senate with respect to either treaty.''

RULE OF CONSTRUCTION

Pub. L. 111–266, title I, § 107, Oct. 8, 2010, 124 Stat. 2802, provided that: ''Nothing in this title [see section 101 of Pub. L. 111–266, set out as a Short Title of 2010 Amendment note under section 2751 of 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 [see Short Title of 2010 Amendment notes set out under section 2751 of this title], and the International Traffic in Arms Regulations (subchapter M of chapter I of title 22, Code of Federal Regulations).''

REPORTS

Pub. L. 118–31, div. A, title XIII, § 1343(b), Dec. 22, 2023, 137 Stat. 513, provided that:

''(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], and annually thereafter until no exemptions described in subsection (*l*)(2) of section 38 of the Arms Export Control Act (22 U.S.C. 2778), as added by subsection (a) of this section, remain in effect, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the operation of exemptions described in such subsection (*l*)(2), including whether any changes to such exemptions are likely to be made in the coming year.

''(2) INITIAL REPORT.—The first report submitted under paragraph (1) shall also include an assessment of key recommendations the United States Government has provided to the Governments of Australia and the United Kingdom to revise laws, regulations, and policies of such countries that are required to implement the AUKUS partnership.

''(3) REPORT ON EXPEDITED REVIEW OF EXPORT LICENSES FOR EXPORTS OF ADVANCED TECHNOLOGIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in coordination with the Secretary of Defense, shall report on the practical application of a possible 'fast track' decision-making process for applications, classified or unclassified, to export defense articles and defense services to Australia, the United Kingdom, and Canada.''

UNITED STATES MUNITIONS LIST PERIODIC REVIEWS

Pub. L. 118–31, div. A, title XIII, § 1345(b), Dec. 22, 2023, 137 Stat. 514, provided that:

''(1) IN GENERAL.—The Secretary of State, acting through authority delegated by the President to carry out periodic reviews of items on the United States Munitions List under section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) and in coordination with the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the Director of the Office of Management and Budget, shall carry out such reviews not less frequently than every 3 years.

''(2) SCOPE.—The periodic reviews described in paragraph (1) shall focus on matters including—

''(A) interagency resources to address current threats faced by the United States;

''(B) the evolving technological and economic landscape;

''(C) the widespread availability of certain technologies and items on the United States Munitions List; and

''(D) risks of misuse of United States-origin defense articles.

''(3) CONSULTATION.—The Department of State may consult with the Defense Trade Advisory Group (DTAG) and other interested parties in conducting the periodic review described in paragraph (1).''

SATELLITES AND RELATED ITEMS

Pub. L. 112–239, div. A, title XII, subtitle E, Jan. 2, 2013, 126 Stat. 2018, as amended by Pub. L. 117–263, div. F, title LXVIII, § 6811(g), Dec. 23, 2022, 136 Stat. 3601, provided that:

''SEC. 1261. REMOVAL OF SATELLITES AND RELATED ITEMS FROM THE UNITED STATES MUNITIONS LIST.

''(a) REPEAL.—[Amended section 1513 of Pub. L. 105–261, set out in a note below.]

''(b) ADDITIONAL DETERMINATION AND REPORT.—Accompanying but separate from the submission to Congress of the first notification after the date of the enactment of this Act [Jan. 2, 2013] under section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) relating to the removal of satellites and related items from the United States Munitions List, the President shall also submit to Congress—

''(1) a determination by the President that the removal of such satellites and items from the United States Munitions List is in the national security interests of the United States; and

''(2) a report identifying and analyzing any differences between—

''(A) the recommendations and draft regulations for controlling the export, re-export, and transfer of such satellites and related items that were submitted in the report to Congress required by section 1248 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2546); and

''(B) the final regulations under which the export, re-export, and transfer of such satellites and related items would continue to be controlled.

''(c) PROHIBITION.—

''(1) IN GENERAL.—Subject to paragraph (3), no satellites or related items that are made subject to the

Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of subsection (a) of this section, whether or not enumerated on the Commerce Control List—

''(A) may be exported, re-exported, or transferred, directly or indirectly, to—

''(i) any government of a country described in paragraph (2); or

''(ii) any entity or person in or acting for or on behalf of such government, entity, or person; or

''(B) may be launched in a country described in paragraph (2) or as part of a launch vehicle owned, operated, or manufactured by the government of such country or any entity or person in or acting for or on behalf of such government, entity, or person.

''(2) COUNTRIES DESCRIBED.—The countries referred to in paragraph (1) are the following:

''(A) The People's Republic of China.

''(B) North Korea.

''(C) Any country that is a state sponsor of terrorism.

''(3) WAIVER.—The President may waive the prohibition in paragraph (1) on a case-by-case basis if not later than 30 days before doing so the President—

''(A) determines that it is in the national interest of the United States to do so; and

''(B) notifies the appropriate congressional committees of such determination.

''(d) PRESUMPTION OF DENIAL.—Any license or other authorization to export satellites and related items to a country with respect to which the United States maintains a comprehensive arms embargo shall be subject to a presumption of denial.

''(e) REPORT.—

''(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and once every two years thereafter, the Director of National Intelligence, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on efforts of state sponsors of terrorism, other foreign countries, or entities to illicitly acquire satellites and related items.

''(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

''SEC. 1262. REPORT ON LICENSES AND OTHER AUTHORIZATIONS TO EXPORT CERTAIN SATELLITES AND RELATED ITEMS.

''(a) IN GENERAL.—Not later than 60 days after the end of each calendar year through 2020, the President shall submit to the committees of Congress specified in subsection (b) a report summarizing all licenses and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a).

''(b) COMMITTEES OF CONGRESS SPECIFIED.—The committees of Congress specified in this subsection are—

''(1) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate; and

''(2) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

''SEC. 1263. REPORT ON COUNTRY EXEMPTIONS FOR LICENSING OF EXPORTS OF CERTAIN SATELLITES AND RELATED ITEMS.

''(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Commerce, in consultation with the Attorney General, the Secretary of Homeland Security, and the heads of other Federal departments and agencies as appropriate, shall submit to the appropriate congressional committees a report that contains an assessment of the extent to which the terms and conditions of exemptions for foreign countries to the licensing requirements and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a) contain strong safeguards.

''(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include a description of the extent to which the terms and conditions of exemptions described in subsection (a), including other relevant laws, regulations, and practices, support law enforcement efforts to detect, prevent, and prosecute criminal, administrative, and other violations of any provision of the Export Administration Regulations (15 CFR part 730 et seq.), including efforts on the part of state sponsors of terrorism, organizations determined by the Secretary of State to have provided support for international terrorism, or other foreign countries, to acquire illicitly satellites and related items from the United States.

''SEC. 1264. END-USE MONITORING OF CERTAIN SATELLITES AND RELATED ITEMS.

''(a) IN GENERAL.—In order to ensure accountability with respect to the export of satellites and related items that become subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a), the President shall provide for the end-use monitoring of such satellites and related items.

''(b) REPORT.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Commerce, in consultation with the heads of other Federal departments and agencies as appropriate, shall submit to Congress a report describing the actions taken to implement this section, including identification of resource shortfalls or other constraints on effective end-use monitoring of satellites and related items described in subsection (a).

''SEC. 1265. INTERAGENCY REVIEW OF MODIFICATIONS TO CATEGORY XV OF THE UNITED STATES MUNITIONS LIST.

''(a) IN GENERAL.—Subject to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)), the President shall ensure that the Secretary of State, the Secretary of Defense, the Secretary of Commerce and, as appropriate, the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, will review any removal or addition of an item to Category XV of the United States Munitions List (relating to spacecraft systems and associated equipment).

''(b) EFFECTIVE DATE.—The requirement of subsection (a) shall apply with respect to any item described in subsection (a) that is proposed to be removed or added to Category XV of the United States Munitions List on or after the date of the enactment of this Act [Jan. 2, 2013].

''SEC. 1266. RULES OF CONSTRUCTION.

''(a) IN GENERAL.—Subtitle B of title XV of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2173; 22 U.S.C. 2778 note) shall continue to apply to satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a).

''(b) ADDITIONAL RULE.—Nothing in this subtitle or any amendment made by this subtitle shall be construed as removing or limiting the authorities of the President under subsection (a) or (b) of section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) with respect to defense articles and defense services that remain subject to the jurisdiction of the International Traffic in Arms Regulations.

''SEC. 1267. DEFINITIONS.

''In this subtitle:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

''(B) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) STATE SPONSOR OF TERRORISM.—The term 'state sponsor of terrorism' means any country the government of which the Secretary of State has determined has repeatedly provided support for international terrorism pursuant to—

''(A) [former] section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) [former 50 U.S.C. 4605(j)] (as continued in effect under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.]);

''(B) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

''(C) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

''(D) any other provision of law.

''(3) UNITED STATES MUNITIONS LIST.—The term 'United States Munitions List' means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).''

[Memorandum of President of the United States, Oct. 28, 2013, 78 F.R. 71985, delegated to the Secretary of State, in consultation with the heads of other executive departments and agencies, the functions of the President under section 1261(b) of Pub. L. 112–239, set out above, and to the Secretary of Commerce the functions of the President under section 1262(a) of Pub. L. 112–239, set out above.]

LIMITATION ON IMPLEMENTING ARRANGEMENTS

Pub. L. 111–266, title I, § 105, Oct. 8, 2010, 124 Stat. 2800, provided that:

''(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 [22 U.S.C. 2778(j)(1)(C)(i)], 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.

''(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 [sic] 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.

''(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.''

[Memorandum of President of the United States, Feb. 20, 2013, 78 F.R. 13997, delegated to the Secretary of

State (1) the function of the President to make all certifications, reports, and notifications to Congress prior to entry into force of the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, as well as to provide annual reports thereafter, consistent with section 2 of the Senate Resolution of Advice and Consent to Ratification of the Treaty, dated Sept. 29, 2010, and (2) the responsibility of the President, under Pub. L. 111–266, to provide congressional notification of amendments to the implementing arrangements that are made pursuant to section 105(c) of Pub. L. 111–266, set out above.]

[Memorandum of President of the United States, Mar. 6, 2012, 77 F.R. 15231, delegated to the Secretary of State, in consultation with the heads of other executive departments and agencies, (1) the function of the President to make all certifications, reports, and notifications to Congress prior to entry into force of 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, as well as to provide annual reports thereafter, consistent with section 2 of the Senate Resolution of Advice and Consent to Ratification of the Treaty, dated Sept. 29, 2010, and (2) the responsibility of the President under Pub. L. 111–266, to provide congressional notification of amendments to the Implementing Arrangements that are made pursuant to section 105(c) of Pub. L. 111–266, set out above.]

INFORMATION MANAGEMENT PRIORITIES

Pub. L. 107–228, div. B, title XIV, §1403, Sept. 30, 2002, 116 Stat. 1453, provided that:

''(a) OBJECTIVE.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

''(b) ESTABLISHMENT OF AN ELECTRONIC SYSTEM.—Of the amount made available pursuant to section 1402 of this Act [116 Stat. 1453], $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

''(1) is a secure, electronic system for the filing and review of Munitions List license applications;

''(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

''(3) is capable of exchanging data with—

''(A) the Export Control Automated Support System of the Department of Commerce;

''(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

''(C) the Export Control System of the Central Intelligence Agency; and

''(D) the Proliferation Information Network System of the Department of Energy.

''(c) MUNITIONS LIST DEFINED.—In this section, the term 'Munitions List' means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).''

[For definition of ''Secretary'' as used in section 1403 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

EFFECTIVE REGULATION OF SATELLITE EXPORT ACTIVITIES

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §1309], Nov. 29, 1999, 113 Stat. 1536, 1501A–513, provided that:

''(a) LICENSING REGIME.—

''(1) ESTABLISHMENT.—The Secretary of State shall establish a regulatory regime for the licensing for export of commercial satellites, satellite technologies, their components, and systems which shall include expedited approval, as appropriate, of the licensing for export by United States companies of commercial satellites, satellite technologies, their components, and systems, to NATO allies and major non-NATO allies (as used within the meaning of section 644(q) of the Foreign Assistance Act of 1961 [22 U.S.C. 2403(q)]).

''(2) REQUIREMENTS.—For proposed exports to those nations which meet the requirements of paragraph (1), the regime should include expedited processing of requests for export authorizations that—

''(A) are time-critical, including a transfer or exchange of information relating to a satellite failure or anomaly in-flight or on-orbit;

''(B) are required to submit bids to procurements offered by foreign persons;

''(C) relate to the re-export of unimproved materials, products, or data; or

''(D) are required to obtain launch and on-orbit insurance.

''(3) ADDITIONAL REQUIREMENTS.—In establishing the regulatory regime under paragraph (1), the Secretary of State shall ensure that—

''(A) United States national security considerations and United States obligations under the Missile Technology Control Regime are given priority in the evaluation of any license; and

''(B) such time is afforded as is necessary for the Department of Defense, the Department of State, and the United States intelligence community to conduct a review of any license.

''(b) FINANCIAL AND PERSONNEL RESOURCES.—Of the funds authorized to be appropriated in section 101(1)(A) [113 Stat. 1501A–410], $9,000,000 is authorized to be appropriated for the Office of Defense Trade Controls of the Department of State for each of the fiscal years 2000 and 2001, to enable that office to carry out its responsibilities.

''(c) IMPROVEMENT AND ASSESSMENT.—The Secretary of State should, not later than 6 months after the date of the enactment of this Act [Nov. 29, 1999], submit to the Congress a plan for—

''(1) continuously gathering industry and public suggestions for potential improvements in the Department of State's export control regime for commercial satellites; and

''(2) arranging for the conduct and submission to Congress, not later than 15 months after the date of the enactment of this Act, of an independent review of the export control regime for commercial satellites as to its effectiveness at promoting national security and economic competitiveness.''

PROLIFERATION AND EXPORT CONTROLS

Pub. L. 106–65, div. A, title XIV, §§1402–1405, 1408–1412, Oct. 5, 1999, 113 Stat. 798–804, as amended by Pub. L. 106–398, §1 [[div. A], title XII, §1204], Oct. 30, 2000, 114 Stat. 1654, 1654A–325; Pub. L. 107–107, div. A, title X, §1048(g)(8), Dec. 28, 2001, 115 Stat. 1228, provided that:

''SEC. 1402. ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN

''(a) ANNUAL REPORT.—Not later than March 30 of each year beginning in the year 2000 and ending in the year 2007, the President shall transmit to Congress a report on transfers to countries and entities of concern during the preceding calendar year of the most significant categories of United States technologies and technical information with potential military applications.

''(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include, at a minimum, the following:

''(1) An assessment by the Director of Central Intelligence of efforts by countries and entities of concern to acquire technologies and technical information referred to in subsection (a) during the preceding calendar year.

''(2) An assessment by the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the Director of Central Intelligence, of the cumulative impact of licenses granted by the United States for

exports of technologies and technical information referred to in subsection (a) to countries and entities of concern during the preceding 5-calendar year period on—

''(A) the military capabilities of such countries and entities; and

''(B) countermeasures that may be necessary to overcome the use of such technologies and technical information.

''(3) An audit by the Inspectors General of the Departments of Defense, State, Commerce, and Energy, in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, of the policies and procedures of the United States Government with respect to the export of technologies and technical information referred to in subsection (a) to countries and entities of concern.

''(4) The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors General that have been set forth in a previous annual report under this section pursuant to paragraph (3).

''(c) ADDITIONAL REQUIREMENT FOR FIRST REPORT.—The first annual report required by subsection (a) shall include an assessment by the Inspectors General of the Departments of State, Defense, Commerce, and the Treasury and the Inspector General of the Central Intelligence Agency of the adequacy of current export controls and counterintelligence measures to protect against the acquisition by countries and entities of concern of United States technology and technical information referred to in subsection (a).

''(d) SUPPORT OF OTHER AGENCIES.—Upon the request of the officials responsible for preparing the assessments required by subsection (b), the heads of other departments and agencies shall make available to those officials all information necessary to carry out the requirements of this section.

''(e) CLASSIFIED AND UNCLASSIFIED REPORTS.—Each report required by this section shall be submitted in classified form and unclassified form.

''(f) DEFINITION.—As used in this section, the term 'countries and entities of concern' means—

''(1) any country the government of which the Secretary of State has determined, for purposes of [former] section 6(j) of the Export Administration Act of 1979 [former 50 U.S.C. 4605(j)] or other applicable law, to have repeatedly provided support for acts of international terrorism;

''(2) any country that—

''(A) has detonated a nuclear explosive device (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(4))); and

''(B) is not a member of the North Atlantic Treaty Organization; and

''(3) any entity that—

''(A) is engaged in international terrorism or activities in preparation thereof; or

''(B) is directed or controlled by the government of a country described in paragraph (1) or (2).

''SEC. 1403. RESOURCES FOR EXPORT LICENSE FUNCTIONS

''(a) OFFICE OF DEFENSE TRADE CONTROLS.—

''(1) IN GENERAL.—The Secretary of State shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Office of Defense Trade Controls of the Department of State relating to the review and processing of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

''(2) AVAILABILITY OF EXISTING APPROPRIATIONS.—The Secretary of State shall take the necessary steps to ensure that those funds made available under the heading 'Administration of Foreign Affairs, Diplomatic and Consular Programs' in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277) [112 Stat. 2681–92] are made available, upon the enactment of this Act, to the Office of Defense Trade Controls of the Department of State to carry out the purposes of the Office.

''(b) DEFENSE THREAT REDUCTION AGENCY.—The Secretary of Defense shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Defense Threat Reduction Agency of the Department of Defense relating to the review of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

''(c) UPDATING OF STATE DEPARTMENT REPORT.—Not later than March 1, 2000, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall transmit to Congress a report updating the information reported to Congress under section 1513(d)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (22 U.S.C. 2778 note).

''SEC. 1404. SECURITY IN CONNECTION WITH SATELLITE EXPORT LICENSING

''As a condition of the export license for any satellite to be launched in a country subject to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (22 U.S.C. 2778 note), the Secretary of State shall require the following:

''(1) That the technology transfer control plan required by section 1514(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note) be prepared by the Department of Defense and the licensee, and that the plan set forth enhanced security arrangements for the launch of the satellite, both before and during launch operations.

''(2) That each person providing security for the launch of that satellite—

''(A) report directly to the launch monitor with regard to issues relevant to the technology transfer control plan;

''(B) have received appropriate training in the International Trafficking in Arms Regulations (hereafter in this title [enacting this note and amending provisions set out as a note under section 4604 of Title 50, War and National Defense] referred to as 'ITAR').

''(C) have significant experience and expertise with satellite launches; and

''(D) have been investigated in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level designated as 'Secret'.

''(3) That the number of such persons providing security for the launch of the satellite shall be sufficient to maintain 24-hour security of the satellite and related launch vehicle and other sensitive technology.

''(4) That the licensee agree to reimburse the Department of Defense for all costs associated with the provision of security for the launch of the satellite.

''SEC. 1405. REPORTING OF TECHNOLOGY TRANSMITTED TO PEOPLE'S REPUBLIC OF CHINA AND OF FOREIGN LAUNCH SECURITY VIOLATIONS

''(a) MONITORING OF INFORMATION.—The Secretary of Defense shall require that space launch monitors of the Department of Defense assigned to monitor launches in the People's Republic of China maintain records of all information authorized to be transmitted to the People's Republic of China with regard to each space launch that the monitors are responsible for monitoring, including copies of any documents authorized for such transmission, and reports on launch-related activities.

''(b) TRANSMISSION TO OTHER AGENCIES.—The Secretary of Defense shall ensure that records under subsection (a) are transmitted on a current basis to appro-

priate elements of the Department of Defense and to the Department of State, the Department of Commerce, and the Central Intelligence Agency.

''(c) RETENTION OF RECORDS.—Records described in subsection (a) shall be retained for at least the period of the statute of limitations for violations of the Arms Export Control Act [22 U.S.C. 2751 et seq.].

''(d) GUIDELINES.—The Secretary of Defense shall prescribe guidelines providing space launch monitors of the Department of Defense with the responsibility and the ability to report serious security violations, problems, or other issues at an overseas launch site directly to the headquarters office of the responsible Department of Defense component.

''SEC. 1408. ENHANCED MULTILATERAL EXPORT CONTROLS

''(a) NEW INTERNATIONAL CONTROLS.—The President shall seek to establish new enhanced international controls on technology transfers that threaten international peace and United States national security.

''(b) IMPROVED SHARING OF INFORMATION.—The President shall take appropriate actions to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology covered by the Wassenaar Arrangement and enforce technology controls and re-export requirements for such technology.

''(c) DEFINITION.—As used in this section, the term 'Wassenaar Arrangement' means the multilateral export control regime covering conventional armaments and sensitive dual-use goods and technologies that was agreed to by 33 co-founding countries in July 1996 and began operation in September 1996.

''SEC. 1409. ENHANCEMENT OF ACTIVITIES OF DEFENSE THREAT REDUCTION AGENCY

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of Defense shall prescribe regulations to—

''(1) authorize the personnel of the Defense Threat Reduction Agency (DTRA) who monitor satellite launch campaigns overseas to suspend such campaigns at any time if the suspension is required for purposes of the national security of the United States;

''(2) ensure that persons assigned as space launch campaign monitors are provided sufficient training and have adequate experience in the regulations prescribed by the Secretary of State known as the ITAR and have significant experience and expertise with satellite technology, launch vehicle technology, and launch operations technology;

''(3) ensure that adequate numbers of such monitors are assigned to space launch campaigns so that 24-hour, 7-day per week coverage is provided;

''(4) take steps to ensure, to the maximum extent possible, the continuity of service by monitors for the entire space launch campaign period (from satellite marketing to launch and, if necessary, completion of a launch failure analysis);

''(5) adopt measures designed to make service as a space launch campaign monitor an attractive career opportunity;

''(6) allocate funds and other resources to the Agency at levels sufficient to prevent any shortfalls in the number of such personnel;

''(7) establish mechanisms in accordance with the provisions of section 1514(a)(2)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) that provide for—

''(A) the payment to the Department of Defense by the person or entity receiving the launch monitoring services concerned, before the beginning of a fiscal year, of an amount equal to the amount estimated to be required by the Department to monitor the launch campaigns during that fiscal year;

''(B) the reimbursement of the Department of Defense, at the end of each fiscal year, for amounts expended by the Department in monitoring the launch campaigns in excess of the amount provided under subparagraph (A); and

''(C) the reimbursement of the person or entity receiving the launch monitoring services if the amount provided under subparagraph (A) exceeds the amount actually expended by the Department of Defense in monitoring the launch campaigns;

''(8) review and improve guidelines on the scope of permissible discussions with foreign persons regarding technology and technical information, including the technology and technical information that should not be included in such discussions;

''(9) provide, in conjunction with other Federal agencies, on at least an annual basis, briefings to the officers and employees of United States commercial satellite entities on United States export license standards, guidelines, and restrictions, and encourage such officers and employees to participate in such briefings;

''(10) establish a system for—

''(A) the preparation and filing by personnel of the Agency who monitor satellite launch campaigns overseas of detailed reports of all relevant activities observed by such personnel in the course of monitoring such campaigns;

''(B) the systematic archiving of reports filed under subparagraph (A); and

''(C) the preservation of such reports in accordance with applicable laws; and

''(11) establish a counterintelligence program within the Agency as part of its satellite launch monitoring program.

''(b) ANNUAL REPORT ON IMPLEMENTATION OF SATELLITE TECHNOLOGY SAFEGUARDS.—(1) The Secretary of Defense and the Secretary of State shall each submit to Congress each year, as part of the annual report for that year under section 1514(a)(8) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261, 22 U.S.C. 2778 note], the following:

''(A) A summary of the satellite launch campaigns and related activities monitored by the Defense Threat Reduction Agency during the preceding fiscal year.

''(B) A description of any license infractions or violations that may have occurred during such campaigns and activities.

''(C) A description of the personnel, funds, and other resources dedicated to the satellite launch monitoring program of the Agency during that fiscal year.

''(D) An assessment of the record of United States satellite makers in cooperating with Agency monitors, and in complying with United States export control laws, during that fiscal year.

''(2) Each report under paragraph (1) shall be submitted in classified form and unclassified form.

''SEC. 1410. TIMELY NOTIFICATION OF LICENSING DECISIONS BY THE DEPARTMENT OF STATE

''Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of State shall prescribe regulations to provide timely notice to the manufacturer of a commercial satellite of United States origin of the final determination of the decision on the application for a license involving the overseas launch of such satellite.

''SEC. 1411. ENHANCED INTELLIGENCE CONSULTATION ON SATELLITE LICENSE APPLICATIONS

''(a) CONSULTATION DURING REVIEW OF APPLICATIONS.—The Secretary of State and Secretary of Defense, as appropriate, shall consult with the Director of Central Intelligence during the review of any application for a license involving the overseas launch of a commercial satellite of United States origin. The purpose of the consultation is to assure that the launch of the satellite, if the license is approved, will meet the requirements necessary to protect the national security interests of the United States.

''(b) ADVISORY GROUP.—(1) The Director of Central Intelligence shall establish within the intelligence com-

munity an advisory group to provide information and analysis to Congress, and to appropriate departments and agencies of the Federal Government, on the national security implications of granting licenses involving the overseas launch of commercial satellites of United States origin.

''(2) The advisory group shall include technically-qualified representatives of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the National Air Intelligence Center, and the Department of State Bureau of Intelligence and Research and representatives of other elements of the intelligence community with appropriate expertise.

''(3) In addition to the duties under paragraph (1), the advisory group shall—

''(A) review, on a continuing basis, information relating to transfers of satellite, launch vehicle, or other technology or knowledge with respect to the course of the overseas launch of commercial satellites of United States origin; and

''(B) analyze the potential impact of such transfers on the space and military systems, programs, or activities of foreign countries.

''(4) The Director of the Nonproliferation Center of the Central Intelligence Agency shall serve as chairman of the advisory group.

''(5)(A) The advisory group shall, upon request (but not less often than annually), submit reports on the matters referred to in paragraphs (1) and (3) to the appropriate committees of Congress and to appropriate departments and agencies of the Federal Government.

''(B) The first annual report under subparagraph (A) shall be submitted not later than one year after the date of the enactment of this Act [Oct. 5, 1999].

''(c) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].

''SEC. 1412. INVESTIGATIONS OF VIOLATIONS OF EXPORT CONTROLS BY UNITED STATES SATELLITE MANUFACTURERS

''(a) NOTICE TO CONGRESS OF INVESTIGATIONS.—The President shall promptly notify the appropriate committees of Congress whenever an investigation is undertaken by the Department of Justice of—

''(1) an alleged violation of United States export control laws in connection with a commercial satellite of United States origin; or

''(2) an alleged violation of United States export control laws in connection with an item controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778) that is likely to cause significant harm or damage to the national security interests of the United States.

''(b) NOTICE TO CONGRESS OF CERTAIN EXPORT WAIVERS.—The President shall promptly notify the appropriate committees of Congress whenever an export waiver pursuant to section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 [Pub. L. 101–246] (22 U.S.C. 2151 note) is granted on behalf of any United States person that is the subject of an investigation described in subsection (a). The notice shall include a justification for the waiver.

''(c) EXCEPTION.—The requirements in subsections (a) and (b) shall not apply if the President determines that notification of the appropriate committees of Congress under such subsections would jeopardize an on-going criminal investigation. If the President makes such a determination, the President shall provide written notification of such determination to the Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate. The notification shall include a justification for the determination.

''(d) IDENTIFICATION OF PERSONS SUBJECT TO INVESTIGATION.—The Secretary of State and the Attorney General shall develop appropriate mechanisms to identify, for the purposes of processing export licenses for commercial satellites, persons who are the subject of an investigation described in subsection (a).

''(e) PROTECTION OF CLASSIFIED AND OTHER SENSITIVE INFORMATION.—The appropriate committees of Congress shall ensure that appropriate procedures are in place to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is furnished to those committees pursuant to this section.

''(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 413) [now 50 U.S.C. 3091].

''(g) DEFINITIONS.—As used in this section:

''(1) The term 'appropriate committees of Congress' means the following:

''(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

''(B) The Committee on Armed Services, the Committee on International Relations [now Committee on Foreign Affairs], and the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) The term 'United States person' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.''

[Memorandum of President of the United States, Jan. 5, 2000, 65 F.R. 2279, delegated to Secretary of Defense the duties and responsibilities of the President under section 1402 of Public Law 106–65 and directed Department of Defense to prepare the report required by section 1402 with the assistance of Department of State, Department of Commerce, Department of Energy, Department of the Treasury, Director of Central Intelligence, and Federal Bureau of Investigation and to obtain concurrence on the report from Department of State, Department of Commerce, Director of Central Intelligence on behalf of Intelligence Community, Department of the Treasury, and Federal Bureau of Investigation prior to submission to Congress.]

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

SATELLITE EXPORT CONTROLS

Pub. L. 105–261, div. A, title XV, subtitle B, Oct. 17, 1998, 112 Stat. 2173, as amended by Pub. L. 105–277, div. C, title I, §146(a), Oct. 21, 1998, 112 Stat. 2681–610; Pub. L. 112–239, div. A, title XII, §1261(a), Jan. 2, 2013, 126 Stat. 2018, provided that:

''SEC. 1511. SENSE OF CONGRESS.

''It is the sense of Congress that—

''(1) United States business interests must not be placed above United States national security interests;

''(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of

observing and adhering to the Missile Technology Control Regime (MTCR);

''(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

''(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

''(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

''(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) [22 U.S.C. 2151 note], regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

''(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

''(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

''SEC. 1512. CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.

''(a) CERTIFICATION.—The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that—

''(1) such export is not detrimental to the United States space launch industry; and

''(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

''(b) EXCEPTION.—The certification requirement contained in subsection (a) shall not apply to the export of inertial reference units and components in manned civilian aircraft or supplied as spare or replacement parts for such aircraft.

[For delegation of functions of the President under section 1512 of Pub. L. 105–261, set out above, see Determination of President of the United States, No. 2009–31, Sept. 29, 2009, 74 F.R. 50913, set out below.]

''SEC. 1513. SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

''[(a) Repealed. Pub. L. 112–239, div. A, title XII, § 1261(a)(1), Jan. 2, 2013, 126 Stat. 2018.]

''(b) DEFENSE TRADE CONTROLS REGISTRATION FEES.—[Amended section 2717 of this title.]

''(c) EFFECTIVE DATE.—The amendments made by subsection (b) [amending section 2717 of this title] shall be effective as of October 1, 1998.

''(d) REPORT.—Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing—

''(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

''(2) an identification and explanation of any steps that should be taken to improve the license review process for exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

''(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

''(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act [22 U.S.C. 2751 et seq.] for the satellites and related items described in subsection (a).

''SEC. 1514. NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

''(a) ACTIONS BY THE PRESIDENT.—Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

''(1) MANDATORY TECHNOLOGY CONTROL PLANS.—All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

''(2) MANDATORY MONITORS AND REIMBURSEMENT.—

''(A) MONITORING OF PROPOSED FOREIGN LAUNCH OF SATELLITES.—In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

''(B) CONTENTS OF MONITORING.—The monitoring under subparagraph (A) shall cover, but not be limited to—

''(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

''(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

''(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

''(iv) all other aspects of the launch.

''(3) MANDATORY LICENSES FOR CRASH-INVESTIGATIONS.—In the event of the failure of a launch from a foreign country of a satellite of United States origin—

''(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act [22 U.S.C. 2778], including requirements for licenses issued by the Secretary of State for participation in that investigation;

''(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

''(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

''(4) MANDATORY NOTIFICATION AND CERTIFICATION.—All technology transfer control plans for satellites or

related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

''(5) MANDATORY INTELLIGENCE COMMUNITY REVIEW.—The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

''(6) MANDATORY SHARING OF APPROVED LICENSES AND AGREEMENTS.—The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

''(7) MANDATORY NOTIFICATION TO CONGRESS ON LICENSES.—Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

''(8) MANDATORY REPORTING ON MONITORING ACTIVITIES.—The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

''(9) ESTABLISHING SAFEGUARDS PROGRAM.—The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

''(b) EXCEPTION.—This section shall not apply to the export of a satellite or related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

''(c) EFFECTIVE DATE.—The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act [Oct. 17, 1998].

''SEC. 1515. REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

''(a) REQUIREMENT FOR REPORT.—Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101–246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

''(1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.

''(2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.

''(3)(A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and

''(B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.

''(4) The reasons why the proposed satellite launch is in the national security interest of the United States.

''(5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export.

''(6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.

''(7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.

''(8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.

''(9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not directly related to the proposed export.

''(10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

''(11) The increase that will result from the proposed export in the overall market share of the United States for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia.

''(12) The impact of the proposed export on the willingness of the People's Republic of China to modify its commercial and trade laws, practices, and regulations to make United States-made goods and services more accessible to that market.

''(13) The impact of the proposed export on the willingness of the People's Republic of China to reduce formal and informal trade barriers and tariffs, duties, and other fees on United States-made goods and services entering that country.

''(b) MILITARILY SENSITIVE CHARACTERISTICS DEFINED.—In this section, the term 'militarily sensitive characteristics' includes antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, kick motors, and other such characteristics as are specified by the Secretary of Defense.

''SEC. 1516. RELATED ITEMS DEFINED.

''In this subtitle, the term 'related items' means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).''

[Pub. L. 105–277, div. C, title I, § 146(b), Oct. 21, 1998, 112 Stat. 2681–610, provided that: ''The amendments made by this section [amending Pub. L. 105–261, § 1512, set out above] shall take effect on the later of—

[''(1) the enactment of this Act [Oct. 21, 1998]; or

[''(2) the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261; Oct. 17, 1998].'']

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as

a note under section 3001 of Title 50, War and National Defense.]

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

LANDMINE EXPORT MORATORIUM

Pub. L. 102–484, div. A, title XIII, §1365, Oct. 23, 1992, 106 Stat. 2561, as amended by Pub. L. 103–160, div. A, title XI, §1182(c)(3), title XIV, §1423(c), Nov. 30, 1993, 107 Stat. 1772, 1832; Pub. L. 104–107, title V, §558, Feb. 12, 1996, 110 Stat. 743; Pub. L. 104–208, div. A, title I, §101(c) [title V, §556], Sept. 30, 1996, 110 Stat. 3009–121, 3009–161; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §553], Nov. 29, 1999, 113 Stat. 1535, 1501A–99; Pub. L. 107–115, title V, §548, Jan. 10, 2002, 115 Stat. 2156; Pub. L. 110–161, div. J, title VI, §634(j), Dec. 26, 2007, 121 Stat. 2329, provided that:

''(a) FINDINGS.—The Congress makes the following findings:

''(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

''(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

''(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

''(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

''(5) When it signed the Convention, the United States stated: 'We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.'.

''(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

''(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

''(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

''(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

''(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the 22 year period beginning on October 23, 1992—

''(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act [22 U.S.C. 2751 et seq.], with respect to any anti-personnel landmine; and

''(2) no assistance may be provided under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], with respect to the provision of any anti-personnel landmine.

''(d) DEFINITION.—For purposes of this section, the term 'anti-personnel landmine' means—

''(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

''(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

''(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.''

[Section 634(j) of title VI of div. J of Pub. L. 110–161, which directed the amendment of section 1365(c) of Pub. L. 102–484, set out above, by substituting ''During the 22 year period beginning on October 23, 1992'' for ''During the 16 year period beginning on October 23, 1992'' before the period at the end, was executed by making the substitution in the introductory provisions, to reflect the probable intent of Congress.]

[Section 1000(a)(2) [title V, §553] of div. B of Pub. L. 106–113, which directed the amendment of section 1365(c) of Pub. L. 102–484, set out above, by substituting ''During the 11-year'' for ''During the five-year'', was executed by making the substitution for ''During the eight-year''.]

ARMS TRANSFERS RESTRAINT POLICY FOR MIDDLE EAST AND PERSIAN GULF REGION

Pub. L. 102–138, title IV, Oct. 28, 1991, 105 Stat. 718, as amended by Pub. L. 114–323, title VII, §715(a)(2), Dec. 16, 2016, 130 Stat. 1946, provided that:

''SEC. 401. FINDINGS.

''The Congress finds that—

''(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

''(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

''(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

''(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

''(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are

capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

''(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

''(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are important to the welfare of the international economy and to the national security interests of the United States;

''(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

''(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

''(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, greater multinational transparency on the transfer of defense articles and services prior to agreement or transfer, cooperative verification measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are important to implement an effective multilateral arms transfer and control regime;

''(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE) [now the Organization for Security and Cooperation in Europe], a proposal regarding the international exchange of information, on an annual basis, on the sale and transfer of major military equipment, particularly to the Middle East and Persian Gulf region; and

''(12) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council, that—

''(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

''(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

''SEC. 402. MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.

''(a) IMPLEMENTATION OF THE REGIME.—

''(1) CONTINUING NEGOTIATIONS.—The President shall continue negotiations among the 5 permanent members of the United Nations Security Council and commit the United States to a multilateral arms transfer and control regime for the Middle East and Persian Gulf region.

''(2) PROPOSING A TEMPORARY MORATORIUM DURING NEGOTIATIONS.—In the context of these negotiations, the President should propose to the 5 permanent members of the United Nations Security Council a temporary moratorium on the sale and transfer of major military equipment to nations in the Middle East and Persian Gulf region until such time as the 5 permanent members agree to a multilateral arms transfer and control regime.

''(b) PURPOSE OF THE REGIME.—The purpose of the multilateral arms transfer and control regime should be—

''(1) to slow and limit the proliferation of conventional weapons in the Middle East and Persian Gulf region with the aim of preventing destabilizing transfers by—

''(A) controlling the transfer of conventional major military equipment;

''(B) achieving transparency among arms suppliers nations through advanced notification of agreement to, or transfer of, conventional major military equipment; and

''(C) developing and adopting common and comprehensive control guidelines on the sale and transfer of conventional major military equipment to the region;

''(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons and the technologies necessary to produce or assemble such weapons;

''(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

''(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

''(5) to promote regional arms control in the Middle East and Persian Gulf region.

''(c) ACHIEVING THE PURPOSES OF THE REGIME.—

''(1) CONTROLLING PROLIFERATION OF CONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsection (b)(1), the United States should pursue the development of a multilateral arms transfer and control regime which includes—

''(A) greater information-sharing practices among supplier nations regarding potential arms sales to all nations of the Middle East and Persian Gulf region;

''(B) applying, for the control of conventional major military equipment, procedures already developed by the International Atomic Energy Agency, the Multilateral Coordinating Committee on Export Controls (COCOM), and the Missile Technology Control Regime (MTCR); and

''(C) other strict controls on the proliferation of conventional major military equipment to the Middle East and Persian Gulf region.

''(2) HALTING PROLIFERATION OF UNCONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsections (b)(2) and (3), the United States should build on existing and future agreements among supplier nations by pursuing the development of a multilateral arms transfer and control regime which includes—

''(A) limitations and controls contained in the Enhanced Proliferation Control Initiative;

''(B) limitations and controls contained in the Missile Technology Control Regime (MTCR);

''(C) guidelines followed by the Australia Group on chemical and biological arms proliferation;

''(D) guidelines adopted by the Nuclear Suppliers Group (the London Group); and

''(E) other appropriate controls that serve to halt the flow of unconditional [unconventional] weapons to the Middle East and Persian Gulf region.

''(3) PROMOTION OF REGIONAL ARMS CONTROL AGREEMENTS.—In order to achieve the purposes described in subsections (b)(4) and (5), the United States should pursue with nations in the Middle East and Persian Gulf region—

''(A) the maintenance of the military balance within the region, while eliminating nuclear, biological, and chemical weapons and associated delivery systems, and ballistic missiles;

''(B) the implementation of confidence-building and security-building measures, including advance

notification of certain ground and aerial military exercises in the Middle East and the Persian Gulf; and

''(C) other useful arms control measures.

''(d) MAJOR MILITARY EQUIPMENT.—As used in this title, the term 'major military equipment' means—

''(1) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

''(2) turbine-powered military aircraft;

''(3) attack helicopters;

''(4) main battle tanks;

''(5) submarines and major naval surface combatants;

''(6) nuclear, biological, and chemical weapons; and

''(7) such other defense articles and defense services as the President may determine.

''SEC. 403. LIMITATION ON UNITED STATES ARMS SALES TO THE REGION.

''Beginning 60 days after the date of enactment of the International Cooperation Act of 1991 [probably means H.R. 2508, which had not been enacted into law by the end of the first session of the 102d Congress] or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 [Oct. 28, 1991], whichever is enacted first, no sale of any defense article or defense service may be made to any nation in the Middle East and Persian Gulf region, and no license may be issued for the export of any defense article or defense service to any nation in the Middle East and Persian Gulf region, unless the President—

''(1) certifies in writing to the relevant congressional committees that the President has undertaken good faith efforts to convene a conference for the establishment of an arms suppliers regime having elements described in section 402; and

''(2) submits to the relevant congressional committees a report setting forth a United States plan for leading the world community in establishing such a multilateral regime to restrict transfers of advanced conventional and unconventional arms to the Middle East and Persian Gulf region.

''[SEC. 404. Repealed. Pub. L. 114–323, title VII, §715(a)(2), Dec. 16, 2016, 130 Stat. 1946.]

''SEC. 405. RELEVANT CONGRESSIONAL COMMITTEES DEFINED.

''As used in this title, the term 'relevant congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.''

[Ex. Ord. No. 12851, §3, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title, delegated to Secretary of State, in consultation with Secretary of Defense and other agencies, certification and reporting functions of the President under section 403 and former section 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138, set out above.]

[Memorandum of President of the United States, Dec. 27, 1991, 56 F.R. 1069, delegated to Secretary of State, in consultation with heads of other executive agencies and departments, certification and reporting obligations of the President under section 403 and former section 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138, set out above.]

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(n) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

DELEGATION OF CERTIFICATIONS UNDER SECTION 1512 OF PUBLIC LAW 105–261

Determination of President of the United States, No. 2009–31, Sept. 29, 2009, 74 F.R. 50913, provided:

Memorandum for the Secretary of Commerce

By virtue of 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, I hereby delegate to you the functions of the President under section 1512 of the National Defense Authorization Act for Fiscal Year 1999 (NDAA).

In the performance of your responsibility under this memorandum, you shall consult, as appropriate, the heads of other executive departments and agencies.

You are authorized and directed to publish this determination in the Federal Register.

BARACK OBAMA.

CONTINUATION OF EXPORT CONTROL REGULATIONS

Ex. Ord. No. 13222, §3, Aug. 17, 2001, 66 F.R. 44025, listed in a table under section 1701 of Title 50, War and National Defense, provided that: ''Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).''

Prior provisions relating to issuance and continued effect of rules, regulations, orders, licenses, and other forms of administrative action relating to administration of subsec. (e) of this section were contained in the following:

Ex. Ord. No. 12924, §3, Aug. 19, 1994, 59 F.R. 43437, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 13206, §1, Apr. 4, 2001, 66 F.R. 18397.

Ex. Ord. No. 12923, §3, June 30, 1994, 59 F.R. 34551, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12924, §4, Aug. 19, 1994, 59 F.R. 43438.

Ex. Ord. No. 12867, §3, Sept. 30, 1993, 58 F.R. 51747, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12730, §3, Sept. 30, 1990, 55 F.R. 40373, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747.

Ex. Ord. No. 12525, §3, July 12, 1985, 50 F.R. 28757, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12470, §3, Mar. 30, 1984, 49 F.R. 13099, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757.

Ex. Ord. No. 12451, §3, Dec. 20, 1983, 48 F.R. 56563, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12444, §3, Oct. 14, 1983, 48 F.R. 48215, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563.

§ 2778a. Exportation of uranium depleted in the isotope 235

Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] and of the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.] when such exports are subject to the controls established under the Arms Export Control Act [22 U.S.C. 2751 et seq.] or the Export Administration Act of 1979.