

placement cost less any depreciation in its value) at \$14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within the 15-day or 30-day period specified in section 2796a(c)(1) or (2) of this title, as the case may be, enacts a joint resolution prohibiting the proposed lease or loan.

(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

- (A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at \$25,000,000 or more; or
 (B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$100,000,000 or more.

(b) Consideration of resolution

Any joint resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) Highly privileged nature of resolution

For the purpose of expediting the consideration and enactment of joint resolutions under subsection (a), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(Pub. L. 90-629, ch. 6, § 63, as added Pub. L. 97-113, title I, § 109(a), Dec. 29, 1981, 95 Stat. 1525; amended Pub. L. 99-247, § 1(d), Feb. 12, 1986, 100 Stat. 9; Pub. L. 104-164, title I, § 141(e)(2), July 21, 1996, 110 Stat. 1433; Pub. L. 107-228, div. B, title XIV, § 1405(a)(3), Sept. 30, 2002, 116 Stat. 1457; Pub. L. 110-429, title II, § 203(b)(1), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111-266, title III, § 301(1), Oct. 8, 2010, 124 Stat. 2804.)

Editorial Notes

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 2 of part II of that Act is classified generally to part II (§ 2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b), is section 601(b) of Pub. L. 94-329, June 30, 1976, 90 Stat. 765, which made provision for expedited procedures in the Senate, and was not classified to the Code.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-266 inserted “Israel,” before “or New Zealand” in introductory provisions.

2008—Subsec. (a)(2). Pub. L. 110-429 inserted “the Republic of Korea,” before “or New Zealand”.

2002—Subsec. (a). Pub. L. 107-228 designated existing provisions as par. (1), substituted “Subject to para-

graph (2), in the case of” for “In the case of”, and added par. (2).

1996—Subsec. (a). Pub. L. 104-164 redesignated par. (1) as entire subsec. (a), substituted “the 15-day or 30-day period specified in section 2796a(c)(1) or (2) of this title, as the case may be” for “30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 2796a(a) of this title”, and struck out par. (2) which read as follows: “This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.”

1986—Subsec. (a)(1). Pub. L. 99-247, § 1(d)(1), substituted “enacts a joint resolution prohibiting” for “adopts a concurrent resolution stating that it objects to”.

Subsec. (b). Pub. L. 99-247, § 1(d)(2), inserted “joint” before “resolution”.

Subsec. (c). Pub. L. 99-247, § 1(d)(3), substituted “enactment of joint resolutions” for “adoption of concurrent resolutions” and “such joint resolution” for “such resolution”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-164 applicable with respect to certifications required to be submitted on or after July 21, 1996, see section 141(f) of Pub. L. 104-164, set out as a note under section 2753 of this title.

§ 2796c. Applicability of other statutory provisions

Any reference to sales of defense articles under this chapter in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this subchapter.

(Pub. L. 90-629, ch. 6, § 64, as added Pub. L. 97-113, title I, § 109(a), Dec. 29, 1981, 95 Stat. 1526.)

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.

§ 2796d. Loan of materials, supplies, and equipment for research and development purposes

(a) Loan or gift transactions; written agreement; covered programs

(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, sup-

plies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

(b) Reimbursement of consumed materials, etc.

The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) Prohibitions

The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 98b of title 50) is less than the quantity of such material to be stockpiled, as determined by the President under section 98b(a) of title 50.

(d) “NATO ally” defined

For purposes of this section, the term “NATO ally” means a member country of the North Atlantic Treaty Organization (other than the United States).

(Pub. L. 90-629, ch. 6, §65, as added Pub. L. 100-456, div. A, title X, §1003(a), Sept. 29, 1988, 102 Stat. 2038; amended Pub. L. 102-25, title VII, §705(d)(2), Apr. 6, 1991, 105 Stat. 120; Pub. L. 104-164, title I, §147(a)(3)(B), July 21, 1996, 110 Stat. 1435.)

Editorial Notes

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-164 struck out “or major non-NATO” after “NATO” and “or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 2350a(i)(3) of title 10” after “(other than the United States)”.

1991—Subsec. (d). Pub. L. 102-25 substituted “section 2350a(i)(3) of title 10” for “section 2767a of this title”.

SUBCHAPTER VII—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

§ 2797. Licensing

(a) Establishment of list of controlled items

The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 4605(l)¹ of title 50.

¹ See References in Text note below.

(b) Referral of license applications

(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

(c) Information sharing

The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(d) Exports to space launch vehicle programs

Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than \$50,000,000 that are controlled under this chapter pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

(Pub. L. 90-629, ch. 7, §71, as added Pub. L. 101-510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1745; amended Pub. L. 103-236, title VII, §§714(a)(3)-(6), 735(c), Apr. 30, 1994, 108 Stat. 497, 506; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(a)(4)-(7), Oct. 21, 1998, 112 Stat. 2681-773; Pub. L. 106-280, title VII, §708(c), Oct. 6, 2000, 114 Stat. 863.)

Editorial Notes

REFERENCES IN TEXT

Section 4605(l) of title 50, referred to in subsec. (a), was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

This chapter, referred to in subsec. (d), 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.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106-280 substituted “Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than \$50,000,000 that are controlled under this chapter