

(A) to respond rapidly to internet shut-downs in closed societies; and

(B) to provide internet connectivity to foreign locations where the provision of additional internet access service would promote freedom from repressive regimes.

**(g) Security audits**

Before providing any support for open source technologies under this section, such technologies must undergo comprehensive security audits to ensure that such technologies are secure and have not been compromised in a manner that is detrimental to the interest of the United States or to the interests of individuals and organizations benefitting from programs supported by such funding.

**(h) Surge**

**(1) Authorization of appropriations**

Subject to paragraph (2), there is authorized to be appropriated, in addition to amounts otherwise made available for such purposes, up to \$2,500,000 to support internet freedom programs in closed societies, including programs that—

(A) are carried out in crisis situations by vetted entities that are already engaged in internet freedom programs;

(B) involve circumvention tools; or

(C) increase the overseas bandwidth for companies that received Federal funding during the previous fiscal year.

**(2) Certification**

Amounts authorized to be appropriated pursuant to paragraph (1) may not be expended until the Secretary has certified to the appropriate congressional committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives that the use of such funds is in the national interest of the United States.

**(i) Defined term**

In this section, the term “internet censorship circumvention tool” means a software application or other tool that an individual can use to evade foreign government restrictions on internet access.

(Pub. L. 117–263, div. I, title XCVII, §9707, Dec. 23, 2022, 136 Stat. 3915.)

**Editorial Notes**

**CODIFICATION**

Section was enacted as part of the Department of State Authorization Act of 2022, and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the United States International Broadcasting Act of 1994 which comprises this chapter.

**Statutory Notes and Related Subsidiaries**

**DEFINITIONS**

For definitions of terms used in this section, see section 9002 of Pub. L. 117–263, set out as a note under section 2651 of this title.

**CHAPTER 72—NUCLEAR PROLIFERATION PREVENTION**

**SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION**

Sec.

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**SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION**

**§ 6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation**

**(a) Determination by President**

**(1) In general**

Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this subchapter, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 6305(2) of this title), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

**(2) Persons against which the sanction is to be imposed**

The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

**(3) Other sanctions available**

The sanction which is required to be imposed for activities described in this sub-

section is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

**(4) Definition**

For purposes of this subsection, the term “requisite knowledge” means situations in which a person “knows”, as “knowing” is defined in section 78dd-2 of title 15.

**(b) Consultation with and actions by foreign government of jurisdiction**

**(1) Consultations**

If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

**(2) Actions by government of jurisdiction**

In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

**(3) Report to Congress**

Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

**(c) Sanction**

**(1) Description of sanction**

The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

**(2) Exceptions**

The President shall not be required to apply or maintain the sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of op-

tions for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

**(d) Advisory opinions**

Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

**(e) Termination of sanction**

The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nu-

clear material or any nuclear explosive device, as described in subsection (a)(1).

**(f) Waiver**

**(1) Criterion for waiver**

The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

**(2) Notification of and report to Congress**

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(Pub. L. 103-236, title VIII, §821, Apr. 30, 1994, 108 Stat. 508.)

**Editorial Notes**

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (a)(1), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note below.

**Statutory Notes and Related Subsidiaries**

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE

Pub. L. 103-236, title VIII, §831, Apr. 30, 1994, 108 Stat. 522, provided that: "The provisions of this part [part B (§§821-831) of title VIII of Pub. L. 103-236, enacting this subchapter and sections 2799aa-2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a-1, 2593a, 2708, 2753, and 2780 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as a note under section 2799aa of this title], and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act [Apr. 30, 1994]."

SHORT TITLE

Pub. L. 103-236, title VIII, §801, Apr. 30, 1994, 108 Stat. 507, provided that: "This title [enacting this chapter and sections 2799aa to 2799aa-2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a-1, 2593a, 2708, 2753, 2780, and 3281 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as notes under this section and section 2799aa of this title] may be cited as the 'Nuclear Proliferation Prevention Act of 1994'."

TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT

Pub. L. 103-236, title VIII, §851, Apr. 30, 1994, 108 Stat. 525, which provided that on date of enactment of first

Foreign Relations Authorization Act that was enacted after enactment of Pub. L. 103-236, the provisions of parts A (amending section 3281 of this title) and B (see Effective Date note above) of title VIII of Pub. L. 103-236 were to cease to be effective, the amendments made by those parts were to be repealed, and any provision of law repealed by those parts was to be reenacted, was itself repealed by Pub. L. 104-164, title I, §157(a), July 21, 1996, 110 Stat. 1440.

**Executive Documents**

ASSIGNMENT OF CERTAIN FUNCTIONS RELATING TO PROCUREMENT SANCTIONS ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION

Memorandum of President of the United States, Mar. 5, 2007, 72 F.R. 11283, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Secretary of Commerce[, and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the functions of the President under section 821 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6301) are assigned to the Secretary of State, except that the function of the President under section 821(c)(2)(A) is assigned to the Secretary of Defense.

In the performance of their respective functions under this memorandum, the Secretaries of State and Defense shall, as appropriate, consult each other, the Secretaries of the Treasury and Commerce, and the heads of other departments and agencies.

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

GEORGE W. BUSH.

**§ 6302. Role of international financial institutions**

The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 262d(a) of this title to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(Pub. L. 103-236, title VIII, §823(a), Apr. 30, 1994, 108 Stat. 512.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as a note under section 6301 of this title.

**§ 6303. Prohibition on assisting nuclear proliferation through provision of financing**

**(a) "Prohibited activity" defined**

For purposes of this section, the term "prohibited activity" means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

- (1) the acquisition of unsafeguarded special nuclear material; or
- (2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.