

**§ 8542. Identification of countries of concern with respect to the diversion of certain goods, services, and technologies to or through Iran**

**(a) In general**

Not later than 180 days after July 1, 2010, the Director of National Intelligence shall submit to the President, the Secretary of Defense, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the appropriate congressional committees a report that identifies each country the government of which the Director believes, based on all information available to the Director, is allowing the diversion through the country of goods, services, or technologies described in subsection (b) to Iranian end-users or Iranian intermediaries.

**(b) Goods, services, and technologies described**

Goods, services, or technologies described in this subsection are goods, services, or technologies—

(1) that—

- (A) originated in the United States;
- (B) would make a material contribution to Iran's—

- (i) development of nuclear, chemical, or biological weapons;
- (ii) ballistic missile or advanced conventional weapons capabilities; or
- (iii) support for international terrorism; and

(C) are—

- (i) items on the Commerce Control List or services related to those items; or
- (ii) defense articles or defense services on the United States Munitions List; or

- (2) that are prohibited for export to Iran under a resolution of the United Nations Security Council.

**(c) Updates**

The Director of National Intelligence shall update the report required by subsection (a)—

- (1) as new information becomes available; and
- (2) not less frequently than annually.

**(d) Form**

The report required by subsection (a) and the updates required by subsection (c) may be submitted in classified form.

(Pub. L. 111-195, title III, § 302, July 1, 2010, 124 Stat. 1346.)

TERMINATION OF SECTION

*For termination of section, see section 8551(a) of this title.*

**§ 8543. Destinations of Diversion Concern**

**(a) Designation**

**(1) In general**

The President shall designate a country as a Destination of Diversion Concern if the President determines that the government of the country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries.

**(2) Determination of substantial**

For purposes of paragraph (1), the President shall determine whether the government of a country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries based on criteria that include—

- (A) the volume of such goods, services, and technologies that are diverted through the country to such end-users or intermediaries;
- (B) the inadequacy of the export controls of the country;

- (C) the unwillingness or demonstrated inability of the government of the country to control the diversion of such goods, services, and technologies to such end-users or intermediaries; and

- (D) the unwillingness or inability of the government of the country to cooperate with the United States in efforts to interdict the diversion of such goods, services, or technologies to such end-users or intermediaries.

**(b) Report on designation**

Upon designating a country as a Destination of Diversion Concern under subsection (a), the President shall submit to the appropriate congressional committees a report—

- (1) notifying those committees of the designation of the country; and

- (2) containing a list of the goods, services, and technologies described in section 8542(b) of this title that the President determines are diverted through the country to Iranian end-users or Iranian intermediaries.

**(c) Licensing requirement**

Not later than 45 days after submitting a report required by subsection (b) with respect to a country designated as a Destination of Diversion Concern under subsection (a), the President shall require a license under the Export Administration Regulations or the International Traffic in Arms Regulations (whichever is applicable) to export to that country a good, service, or technology on the list required under subsection (b)(2), with the presumption that any application for such a license will be denied.

**(d) Delay of imposition of licensing requirement**

**(1) In general**

The President may delay the imposition of the licensing requirement under subsection (c) with respect to a country designated as a Destination of Diversion Concern under subsection (a) for a 12-month period if the President—

- (A) determines that the government of the country is taking steps—

- (i) to institute an export control system or strengthen the export control system of the country;

- (ii) to interdict the diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries; and

- (iii) to comply with and enforce United Nations Security Council Resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), and

1929 (2010), and any other resolution that is agreed to by the Security Council and imposes sanctions with respect to Iran;

(B) determines that it is appropriate to carry out government-to-government activities to strengthen the export control system of the country; and

(C) submits to the appropriate congressional committees a report describing the steps specified in subparagraph (A) being taken by the government of the country.

**(2) Additional 12-month periods**

The President may delay the imposition of the licensing requirement under subsection (c) with respect to a country designated as a Destination of Diversion Concern under subsection (a) for additional 12-month periods after the 12-month period referred to in paragraph (1) if the President, for each such 12-month period—

(A) makes the determinations described in subparagraphs (A) and (B) of paragraph (1) with respect to the country; and

(B) submits to the appropriate congressional committees an updated version of the report required by subparagraph (C) of paragraph (1).

**(3) Strengthening export control systems**

If the President determines under paragraph (1)(B) that it is appropriate to carry out government-to-government activities to strengthen the export control system of a country designated as a Destination of Diversion Concern under subsection (a), the United States shall initiate government-to-government activities that may include—

(A) cooperation by agencies and departments of the United States with counterpart agencies and departments in the country—

(i) to develop or strengthen the export control system of the country;

(ii) to strengthen cooperation among agencies of the country and with the United States and facilitate enforcement of the export control system of the country; and

(iii) to promote information and data exchanges among agencies of the country and with the United States;

(B) training officials of the country to strengthen the export control systems of the country—

(i) to facilitate legitimate trade in goods, services, and technologies; and

(ii) to prevent terrorists and state sponsors of terrorism, including Iran, from obtaining nuclear, biological, and chemical weapons, defense technologies, components for improvised explosive devices, and other defense articles; and

(C) encouraging the government of the country to participate in the Proliferation Security Initiative, such as by entering into a ship boarding agreement pursuant to the Initiative.

**(e) Termination of designation**

The designation of a country as a Destination of Diversion Concern under subsection (a) shall

terminate on the date on which the President determines, and certifies to the appropriate congressional committees, that the country has adequately strengthened the export control system of the country to prevent the diversion of goods, services, and technologies described in section 8542(b) of this title to Iranian end-users or Iranian intermediaries.

**(f) Form of reports**

A report required by subsection (b) or (d) may be submitted in classified form.

(Pub. L. 111-195, title III, §303, July 1, 2010, 124 Stat. 1347.)

TERMINATION OF SECTION

*For termination of section, see section 8551(a) of this title.*

**Executive Documents**

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

**§ 8544. Enforcement authority**

The Secretary of Commerce may designate any employee of the Office of Export Enforcement of the Department of Commerce to conduct activities specified in clauses (i), (ii), and (iii) of section 12(a)(3)(B) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(a)(3)(B))<sup>1</sup> when the employee is carrying out activities to enforce—

(1) the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.)<sup>1</sup> (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) the provisions of this subchapter, or any other provision of law relating to export controls, with respect to which the Secretary of Commerce has enforcement responsibility; or

(3) any license, order, or regulation issued under—

(A) the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.)<sup>1</sup> (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)); or

(B) a provision of law referred to in paragraph (2).

(Pub. L. 111-195, title III, §305, July 1, 2010, 124 Stat. 1349.)

**Editorial Notes**

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in text, is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to section 2401 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 56 (§4601 et seq.) of Title 50, and was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613). Section 12 of the Act was classified to section 4614 of Title 50 prior to repeal.

The International Emergency Economic Powers Act, referred to in pars. (1) and (3)(A), is title II of Pub. L.

<sup>1</sup> See References in Text note below.