

sensitive nuclear technology, including items and assistance authorized by section 2077(b) of this title and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 2371(a) of title 22, section 4605(j)(1)¹ of title 50, or section 2780(d) of title 22 to have repeatedly provided support for acts of international terrorism).

(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(Aug. 1, 1946, ch. 724, title I, §129, as added Pub. L. 95-242, title III, §307, Mar. 10, 1978, 92 Stat. 138; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 109-58, title VI, §632(a), Aug. 8, 2005, 119 Stat. 788; Pub. L. 110-369, title II, §203, Oct. 8, 2008, 122 Stat. 4033.)

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 4605(j)(1) of title 50, referred to in subsec. (b)(1), was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-369 substituted “Congress adopts, and there is enacted, a joint resolution” for “Congress adopts a concurrent resolution” in concluding provisions.

2005—Pub. L. 109-58 designated existing provisions as subsec. (a) and added subsec. (b).

1994—Pub. L. 103-437 substituted “Foreign Affairs” for “International Relations” in closing provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-58, title VI, §632(b), Aug. 8, 2005, 119 Stat. 789, provided that: “Subsection b. of section 129 of Atomic Energy Act of 1954 [42 U.S.C. 2158(b)], as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act [Aug. 8, 2005] but have not yet been transferred as of that date.”

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

Executive Documents

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2159. Congressional review procedures

(a) Committee consideration of Presidential submissions; reports

Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by section 2155(a)(2), 2155(b)(2), 2157(b), 2158, 2160(a)(3), or 2160(f)(1)(A) of this title, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection (f), stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a res-

olution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection (f), which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

(b) Consideration of resolution by respective Houses of Congress

When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection (a)) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection (a), as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(c) Debate

Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (d).

(d) Vote on final approval

Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, "does not" in lieu of the word "does" if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

(e) Appeals from decisions of Chair

Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

(f) Resolution

For the purposes of subsections (a) through (e) of this section, the term "resolution" means a

concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the _____ transmitted to the Congress by the President on _____," the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

(g) Continuity of Congressional sessions; computation of time

(1) Except as provided in paragraph (2), for the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(2) For purposes of this section insofar as it applies to section 2153 of this title—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.

(h) Supersedure or change in rules

This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (f) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(i) Joint resolutions

(1) For the purposes of this subsection, the term "joint resolution" means—

(A) for an agreement for cooperation pursuant to section 2153 of this title, a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on _____,"

(B) for a determination under section 2158 of this title, a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress does not favor the determination transmitted to the Congress by the President on _____," or

(C) for a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as fol-

laws: "That the Congress does not favor the subsequent arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008."

with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 2153(d) of this title, a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction), the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period) one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of ex-

pediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(Aug. 1, 1946, ch. 724, title I, § 130, as added Pub. L. 95-242, title III, § 308, Mar. 10, 1978, 92 Stat. 139; amended Pub. L. 99-64, title III, § 301(c), July 12, 1985, 99 Stat. 160; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103-437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 110-369, title II, § 205, Oct. 8, 2008, 122 Stat. 4033.)

Editorial Notes

REFERENCES IN TEXT

Section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, referred to in subsec. (i)(1)(C), (4), is section 201 of Pub. L. 110-369, which is set out in a note under section 8001 of Title 22, Foreign Relations and Intercourse.

Section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (i)(5), is section 601(b)(4) of Pub. L. 94-329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and is not classified to the Code.

AMENDMENTS

2008—Subsec. (i)(1). Pub. L. 110-369, § 205(1), substituted "means—" for "means a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .,'" and added subpars. (A) to (C).

Subsec. (i)(4). Pub. L. 110-369, § 205(2), inserted "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction)" after "45 days after its introduction" and "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)" after "45-day period".

1994—Subsecs. (a), (i)(2). Pub. L. 103-437 substituted "Foreign Affairs" for "International Relations".

1985—Subsec. (a). Pub. L. 99-64, § 301(c)(1), struck out "2153(d)," after "submission of the President required by section", struck out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate," after "Committee on Foreign Affairs of

the House of Representatives”, and struck out in proviso “and if, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution” after “consideration of such submission”.

Subsec. (g). Pub. L. 99-64, §301(c)(2), designated existing provisions of subsec. (g) as par. (1), substituted “Except as provided in paragraph (2), for” for “For”, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (i). Pub. L. 99-64, §301(c)(2)(B), added subsec. (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-64 applicable to any agreement for cooperation entered into after July 12, 1985, see section 301(d) of Pub. L. 99-64, set out as a note under section 2153 of this title.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2160. Subsequent arrangements

(a) Consultation and concurrence; negotiations of a policy nature; notice of proposed subsequent arrangements; Nuclear Proliferation Assessment Statement; reprocessing of material

(1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Secretary of State is required to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the requirement to prepare a Nuclear Proliferation Assessment Statement shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection (c) for the preparation of such Statement, whichever occurs first.

(2) If in the view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission a proposed subsequent arrangement might significantly contribute to proliferation, the Secretary of State, in consultation with such Secretary or the Commission, shall prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term “subsequent arrangements” means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

(A) contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to this chapter which is not subject to the procedures set forth in section 2141(b), section 2155, or section 2139(b) of this title;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to all requests for prior approval, when required by this chapter, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 2153 of this title.

(4) All other statutory requirements under other sections of this chapter for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to paragraph (1).