

of Federal Regulations, as in effect on June 10, 1997; and

“(2) the countries listed in section 740.7(e) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

“SEC. 1213. POST-SHIPMENT VERIFICATION OF EXPORT OF HIGH PERFORMANCE COMPUTERS.

“(a) REQUIRED POST-SHIPMENT VERIFICATION.—The Secretary of Commerce shall conduct post-shipment verification of each digital computer with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) that is exported from the United States, on or after the date of the enactment of this Act [Nov. 18, 1998], to a country specified in subsection (b).

“(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as ‘Computer Tier 3’ eligible countries in section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under section 1211(e).

“(c) ANNUAL REPORT.—The Secretary of Commerce shall submit to the congressional committees specified in section 1215 an annual report on the results of post-shipment verifications conducted under this section during the preceding year. Each such report shall include a list of all such items exported from the United States to such countries during the previous year and, with respect to each such export, the following:

“(1) The destination country.

“(2) The date of export.

“(3) The intended end use and intended end user.

“(4) The results of the post-shipment verification.

“(d) EXPLANATION WHEN VERIFICATION NOT CONDUCTED.—If a post-shipment verification has not been conducted in accordance with subsection (a) with respect to any such export during the period covered by a report, the Secretary shall include in the report for that period a detailed explanation of the reasons why such a post-shipment verification was not conducted.

“(e) ADJUSTMENT OF PERFORMANCE LEVELS.—Whenever a new composite theoretical performance level is established under section 1211(d), that level shall apply for purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).

“SEC. 1214. GAO STUDY ON CERTAIN COMPUTERS; END USER INFORMATION ASSISTANCE.

“(a) IN GENERAL.—The Comptroller General of the United States shall submit to the congressional committees specified in section 1215 a study of the national security risks relating to the sale of computers with a composite theoretical performance of between 2,000 and 7,000 millions of theoretical operations per second (MTOPS) to end users in countries specified in subsection (c). The study shall also analyze any foreign availability of computers described in the preceding sentence and the impact of such sales on United States exporters.

“(b) END USER INFORMATION ASSISTANCE TO EXPORTERS.—The Secretary of Commerce shall establish a procedure by which exporters may seek information on questionable end users in countries specified in subsection (c) who are seeking to obtain computers described in subsection (a).

“(c) COVERED COUNTRIES.—For purposes of subsections (a) and (b), the countries specified in this subsection are the countries listed as ‘Computer Tier 3’ eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

“SEC. 1215. CONGRESSIONAL COMMITTEES.

“For purposes of sections 1211(d), 1212(a), 1213(c), and 1214(a) the congressional committees specified in those sections are the following:

“(1) The Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

“(2) The Committee on International Relations [now Committee on Foreign Affairs] and the Com-

mittee on Armed Services of the House of Representatives.”

[Pub. L. 106-398, § 1 [div. A], title XII, § 1234(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-331, provided that: “The amendments made by subsection (a) [amending section 1211 of Pub. L. 105-85, set out above] shall apply to any new composite theoretical performance level established for purposes of section 1211(a) of the National Defense Authorization Act for Fiscal Year 1998 [Pub. L. 105-85] that is submitted by the President pursuant to section 1211(d) of that Act on or after the date of the enactment of this Act [Oct. 30, 2000].”

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

Executive Documents

DELEGATION OF AUTHORITY UNDER THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Memorandum of President of the United States, June 29, 2017, 82 F.R. 31239, provided:

Memorandum for the Secretary of Commerce

By 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 the Secretary of Commerce the functions and authorities vested in the President under section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) (the “Act”) [set out in a note above], to prepare and submit required reports and justifications to appropriate congressional committees on changes to levels governing prior notification for exports to Computer Tier 3 countries, or removal of a country from Computer Tier 3 status, in the Department of Commerce’s Export Administration Regulations.

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as section 1211 of the Act.

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

DONALD J. TRUMP.

§§ 4605 to 4610. Repealed. Pub. L. 115-232, div. A, title XVII, § 1766(a), Aug. 13, 2018, 132 Stat. 2232

Section 4605, Pub. L. 96-72, § 6, Sept. 29, 1979, 93 Stat. 513; Pub. L. 96-533, title I, § 111, Dec. 16, 1980, 94 Stat. 3138; Pub. L. 97-145, § 6, Dec. 29, 1981, 95 Stat. 1728; Pub. L. 99-64, title I, § 108(a)-(g)(1), (h)-(j)(1), (k), (l)(1), July 12, 1985, 99 Stat. 131-136; Pub. L. 99-399, title V, § 509(b), Aug. 27, 1986, 100 Stat. 874; Pub. L. 100-418, title II, § 2423, Aug. 23, 1988, 102 Stat. 1358; Pub. L. 101-222, § 4, Dec. 12, 1989, 103 Stat. 1897; Pub. L. 101-510, div. A, title XVII, § 1702(a), Nov. 5, 1990, 104 Stat. 1739; Pub. L. 102-138, title V, § 504(b), Oct. 28, 1991, 105 Stat. 724; Pub. L. 102-182, title III, §§ 304(b), 309(a), Dec. 4, 1991, 105 Stat. 1246, 1258; Pub. L. 103-236, title VII, § 736, Apr. 30, 1994, 108 Stat. 506; Pub. L. 104-316, title I, § 128(c), Oct. 19, 1996, 110 Stat. 3841; Pub. L. 105-277, div. G, title XIV, § 1422(b)(7), Oct. 21, 1998, 112 Stat. 2681-793; Pub. L. 108-458, title VII, § 7102(c)(1), Dec. 17, 2004, 118 Stat. 3776, related to prohibition or curtailment of exports to further United States foreign policy or to fulfill its international obligations.

Section 4606, Pub. L. 96-72, § 7, Sept. 29, 1979, 93 Stat. 515; Pub. L. 99-64, title I, §§ 109, 110, July 12, 1985, 99 Stat. 137, 139; Pub. L. 100-180, div. A, title XII, § 1246, Dec. 4, 1987, 101 Stat. 1165; Pub. L. 100-418, title II, § 2424(a), Aug. 23, 1988, 102 Stat. 1359; Pub. L. 100-449, title III, § 305(a), Sept. 28, 1988, 102 Stat. 1876, related to quantitative restrictions on exports of goods in order to carry out policy declaration in former section 4602 of this title.

Section 4607, Pub. L. 96-72, § 8, Sept. 29, 1979, 93 Stat. 521, related to issuance of regulations prohibiting in-

tentional boycotting of friendly countries. See section 4842 of this title.

Section 4608, Pub. L. 96-72, § 9, Sept. 29, 1979, 93 Stat. 524, related to procedures for hardship relief from export controls.

Section 4609, Pub. L. 96-72, § 10, Sept. 29, 1979, 93 Stat. 525; Pub. L. 99-64, title I, § 111, July 12, 1985, 99 Stat. 142; Pub. L. 100-418, title II, § 2425(a), (c), Aug. 23, 1988, 102 Stat. 1360, 1361, related to processing of export license applications. See section 4815 of this title.

Section 4610, Pub. L. 96-72, § 11, Sept. 29, 1979, 93 Stat. 529; Pub. L. 97-145, § 4(a)-(c), Dec. 29, 1981, 95 Stat. 1727; Pub. L. 99-64, title I, § 112, July 12, 1985, 99 Stat. 146; Pub. L. 100-418, title II, § 2426, Aug. 23, 1988, 102 Stat. 1361, related to penalties for violations. See section 4819 of this title.

Sections 4605 to 4610 were formerly classified to sections 2405 to 2410, respectively, of the former Appendix to this title prior to editorial reclassification and renumbering.

Prior sections 2405 to 2410 of the former Appendix to this title expired with the expiration of Pub. L. 91-184 on Sept. 30, 1979.

Section 2405, Pub. L. 91-184, § 6, Dec. 30, 1969, 83 Stat. 844; Pub. L. 95-52, title I, §§ 103(d), 112, title II, § 203(a), June 22, 1977, 91 Stat. 237, 240, 247; Pub. L. 95-223, title III, § 301(b)(2), Dec. 28, 1977, 91 Stat. 1629, set forth provisions respecting violations and penalties.

Section 2406, Pub. L. 91-184, § 7, Dec. 30, 1969, 83 Stat. 845; Pub. L. 95-52, title I, §§ 113(a), 114, title II, § 201(c), June 22, 1977, 91 Stat. 241, 246, set forth enforcement procedures applicable to the Export Administration Act of 1969.

Section 2407, Pub. L. 91-184, § 8, Dec. 30, 1969, 83 Stat. 846; Pub. L. 95-52, title II, § 203(b), June 22, 1977, 91 Stat. 247, related to exemption from administrative procedure and judicial review provisions.

Section 2408, Pub. L. 91-184, § 9, Dec. 30, 1969, 83 Stat. 846, related to providing information to exporters.

Section 2409, Pub. L. 91-184, § 10, Dec. 30, 1969, 83 Stat. 846; Pub. L. 93-500, § 3(b), Oct. 29, 1974, 88 Stat. 1552; Pub. L. 93-608, § 2(1), Jan. 2, 1975, 88 Stat. 1971; Pub. L. 95-52, title I, § 116(a), (b)(2), June 22, 1977, 91 Stat. 241, 242, set forth requirements respecting semiannual reports to President and Congress.

Section 2410, Pub. L. 91-184, § 11, Dec. 30, 1969, 83 Stat. 846; Pub. L. 95-52, title II, § 204, June 22, 1977, 91 Stat. 247, defined "person" and "United States person" for purposes of the Export Administration Act of 1969.

§ 4611. Multilateral export control violations

(a) Determination by the President

The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after August 23, 1988.

(b) Sanctions

The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

(c) Exceptions

The President shall not apply sanctions under this section—

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

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

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

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

(B) spare parts;

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

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) Exclusion

The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

(B) a program to evaluate export license applications that includes sufficient tech-