

ological weapons and delivery systems for such weapons.

(Pub. L. 115-232, div. A, title XVII, § 1742, Aug. 13, 2018, 132 Stat. 2208.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§ 1741–1781) of title XVII of div. A of Pub. L. 115-232, Aug. 13, 2018, 132 Stat. 2208, known as the Export Control Reform Act of 2018, which is classified principally to this chapter. For complete classification of subtitle B to the Code, see section 1741 of Pub. L. 115-232, set out as a Short Title note below and Tables.

Subchapter I, referred to in pars. (1), (3), (4)(B), (6), (9), and (13)(A), was in the original “part I”, meaning part I (§§ 1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to subchapter I of this chapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note below and Tables.

The International Emergency Economic Powers Act, referred to in par. (4)(A), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 115-232, div. A, title XVII, § 1741, Aug. 13, 2018, 132 Stat. 2208, provided that: “This subtitle [subtitle B (§§ 1741–1781) of title XVII of div. A of Pub. L. 115-232, enacting this chapter, amending section 5314 of Title 5, Government Organization and Employees, and section 2516 of Title 18, Crimes and Criminal Procedure, repealing sections 4601 to 4610 and 4614 to 4623 of this title, enacting provisions set out as notes under this section and section 4601 of this title, and repealing provisions set out as notes under sections 4601, 4606, and 4609 of this title and section 3108 of Title 22, Foreign Relations and Intercourse] may be cited as the ‘Export Control Reform Act of 2018’.”

Pub. L. 115-232, div. A, title XVII, § 1751, Aug. 13, 2018, 132 Stat. 2209, provided that: “This part [part I (§§ 1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, enacting subchapter I of this chapter, amending section 2516 of Title 18, Crimes and Criminal Procedure, repealing sections 4601 to 4610 and 4614 to 4623 of this title, enacting provisions set out as notes under section 4601 of this title, and repealing provisions set out as notes under sections 4601, 4606, and 4609 of this title and section 3108 of Title 22, Foreign Relations and Intercourse] may be cited as the ‘Export Controls Act of 2018’.”

Pub. L. 115-232, div. A, title XVII, § 1771, Aug. 13, 2018, 132 Stat. 2234, provided that: “This part [part II (§§ 1771–1774) of subtitle B of title XVII of div. A of Pub. L. 115-232, enacting subchapter II of this chapter] may be cited as the ‘Anti-Boycott Act of 2018’.”

#### SUBCHAPTER I—AUTHORITY AND ADMINISTRATION OF CONTROLS

#### § 4811. Statement of policy

The following is the policy of the United States:

(1) To use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to restrict the export of items which would make a significant contribution to

the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States; and

(B) to restrict the export of items if necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations.

(2) The national security and foreign policy of the United States require that the export, reexport, and in-country transfer of items, and specific activities of United States persons, wherever located, be controlled for the following purposes:

(A) To control the release of items for use in—

(i) the proliferation of weapons of mass destruction or of conventional weapons;

(ii) the acquisition of destabilizing numbers or types of conventional weapons;

(iii) acts of terrorism;

(iv) military programs that could pose a threat to the security of the United States or its allies; or

(v) activities undertaken specifically to cause significant interference with or disruption of critical infrastructure.

(B) To preserve the qualitative military superiority of the United States.

(C) To strengthen the United States defense industrial base.

(D) To carry out the foreign policy of the United States, including the protection of human rights and the promotion of democracy.

(E) To carry out obligations and commitments under international agreements and arrangements, including multilateral export control regimes.

(F) To facilitate military interoperability between the United States and its North Atlantic Treaty Organization (NATO) and other close allies.

(G) To ensure national security controls are tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States.

(3) The national security of the United States requires that the United States maintain its leadership in the science, technology, engineering, and manufacturing sectors, including foundational technology that is essential to innovation. Such leadership requires that United States persons are competitive in global markets. The impact of the implementation of this subchapter on such leadership and competitiveness must be evaluated on an ongoing basis and applied in imposing controls under sections 4812 and 4813 of this title to avoid negatively affecting such leadership.

(4) The national security and foreign policy of the United States require that the United States participate in multilateral organizations and agreements regarding export controls on items that are consistent with the policy of the United States, and take all the necessary steps to secure the adoption and consistent enforcement, by the governments of such countries, of export controls on items that are consistent with such policy.

(5) Export controls should be coordinated with the multilateral export control regimes. Export controls that are multilateral are most effective, and should be tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States and its allies.

(6) Export controls applied unilaterally to items widely available from foreign sources generally are less effective in preventing end-users from acquiring those items. Application of unilateral export controls should be limited for purposes of protecting specific United States national security and foreign policy interests.

(7) The effective administration of export controls requires a clear understanding both inside and outside the United States Government of which items are controlled and an efficient process should be created to regularly update the controls, such as by adding or removing such items.

(8) The export control system must ensure that it is transparent, predictable, and timely, has the flexibility to be adapted to address new threats in the future, and allows seamless access to and sharing of export control information among all relevant United States national security and foreign policy agencies.

(9) Implementation and enforcement of United States export controls require robust capabilities in monitoring, intelligence, and investigation, appropriate penalties for violations, and the ability to swiftly interdict unapproved transfers.

(10) Export controls complement and are a critical element of the national security policies underlying the laws and regulations governing foreign direct investment in the United States, including controlling the transfer of critical technologies to certain foreign persons. Thus, the President, in coordination with the Secretary, the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the heads of other Federal agencies, as appropriate, should have a regular and robust process to identify the emerging and other types of critical technologies of concern and regulate their release to foreign persons as warranted regardless of the nature of the underlying transaction. Such identification efforts should draw upon the resources and expertise of all relevant parts of the United States Government, industry, and academia. These efforts should be in addition to traditional efforts to modernize and update the lists of controlled items under the multilateral export control regimes.

(11) The authority under this subchapter may be exercised only in furtherance of all of the objectives set forth in paragraphs (1) through (10).

(Pub. L. 115-232, div. A, title XVII, §1752, Aug. 13, 2018, 132 Stat. 2210.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in pars. (3) and (11), was in the original “this part”, meaning part I (§§1751-1768)

of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### NO TECHNOLOGY FOR TERROR

Pub. L. 118-50, div. N, Apr. 24, 2024, 138 Stat. 986, provided that:

“SEC. 1. SHORT TITLE.

“This division may be cited as the ‘No Technology for Terror Act’.

“SEC. 2. APPLICATION OF FOREIGN-DIRECT PRODUCT RULES TO IRAN.

“(a) IN GENERAL.—Beginning on the date that is 90 days after the date of the enactment of this division [Apr. 24, 2024], a foreign-produced item shall be subject to the Export Administration Regulations (pursuant to the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.)) if the item—

“(1) meets—

“(A) the product scope requirements described in subsection (b); and

“(B) the destination scope requirements described in subsection (c); and

“(2) is exported, reexported, or in-country transferred to Iran from abroad or involves the Government of Iran.

“(b) PRODUCT SCOPE REQUIREMENTS.—A foreign-produced item meets the product scope requirements of this subsection if the item—

“(1) is a direct product of United States-origin technology or software subject to the Export Administration Regulations that is specified in a covered Export Control Classification Number or is identified in supplement no. 7 to part 746 of the Export Administration Regulations; or

“(2) is produced by any plant or major component of a plant that is located outside the United States, if the plant or major component of a plant, whether made in the United States or a foreign country, itself is a direct product of United States-origin technology or software subject to the Export Administration Regulations that is specified in a covered Export Control Classification Number.

“(c) DESTINATION SCOPE REQUIREMENTS.—A foreign-produced item meets the destination scope requirements of this subsection if there is knowledge that the foreign-produced item is destined to Iran or will be incorporated into or used in the production or development of any part, component, or equipment subject to the Export Administration Regulations and produced in or destined to Iran.

“(d) LICENSE REQUIREMENTS.—

“(1) IN GENERAL.—A license shall be required to export, reexport, or in-country transfer a foreign-produced item from abroad that meets the product scope requirements described in subsection (b) and the destination scope requirements described in subsection (c) and is subject to the Export Administration Regulations pursuant to this section.

“(2) EXCEPTIONS.—The license requirements of paragraph (1) shall not apply to—

“(A) food, medicine, or medical devices that are—

“(i) designated as EAR99; or

“(ii) not designated under or listed on the Commerce Control List; or

“(B) services, software, or hardware (other than services, software, or hardware for end-users owned or controlled by the Government of Iran) that are—

“(i) necessarily and ordinarily incident to communications; or

“(ii) designated as—

“(I) EAR99; or

“(II) Export Control Classification Number 5A992.c or 5D992.c, and classified in accordance

with section 740.17 of title 15[,] Code of Federal Regulations; and

“(iii) subject to a general license issued by the Department of Commerce or Department of Treasury.

“(e) NATIONAL INTEREST WAIVER.—The Secretary of Commerce may waive the requirements imposed under this section if the Secretary—

“(1) determines that the waiver is in the national interests of the United States; and

“(2) submits to the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining which requirements are being waived and the reasons for the waiver.

“(f) SUNSET.—The authority provided under this section shall terminate on the date that is 7 years after the date of the enactment of this division.

“(g) DEFINITIONS.—In this section—

“(1) the term ‘Commerce Control List’ means the list maintained pursuant to part 744 of the Export Administration Regulations;

“(2) the term ‘covered Export Control Classification Number’ means an Export Control Classification Number in product group D or E of Category 3, 4, 5, 6, 7, 8, or 9 of the Commerce Control List;

“(3) the terms ‘Export Administration Regulations’, ‘export’, ‘reexport’, and ‘in-country transfer’ have the meanings given those terms in section 1742 of the Export Control Reform Act of 2018 (50 U.S.C. 4801); and

“(4) the terms ‘direct product’, ‘technology’, ‘software’, ‘major component’, ‘knowledge’, ‘production’, ‘development’, ‘part’, ‘component’, ‘equipment’, and ‘government end users’ have the meanings given those terms in section 734.9 or part 772 of the Export Administration Regulations, as the case may be.”

[Memorandum of President of the United States, §5, Sept. 13, 2024, 89 F.R. 77758, provided:

[In exercising the functions and authorities described in section 2(d) of the No Technology for Terror Act (Division N of Public Law 118-50) [set out above], I hereby direct the Secretary of Commerce to consult with the Secretary of State and the Secretary of the Treasury. [J.R. Biden, Jr.]

## § 4812. Authority of the President

### (a) Authority

In order to carry out the policy set forth in paragraphs (1) through (10) of section 4811 of this title, the President shall control—

(1) the export, reexport, and in-country transfer of items subject to the jurisdiction of the United States, whether by United States persons or by foreign persons; and

(2) the activities of United States persons, wherever located, relating to specific—

- (A) nuclear explosive devices;
- (B) missiles;
- (C) chemical or biological weapons;
- (D) whole plants for chemical weapons precursors;
- (E) foreign maritime nuclear projects; and
- (F) foreign military, security, or intelligence services.

### (b) Requirements

In exercising authority under this subchapter to carry out the policy set forth in paragraphs (1) through (10) of section 4811 of this title, the President shall—

(1) regulate the export, reexport, and in-country transfer of items described in subsection (a)(1) of United States persons or foreign persons;

(2) regulate the activities described in subsection (a)(2) of United States persons, wherever located;

(3) seek to secure the cooperation of other governments and multilateral organizations to impose control systems that are consistent, to the extent possible, with the controls imposed under subsection (a);

(4) maintain the leadership of the United States in science, engineering, technology research and development, manufacturing, and foundational technology that is essential to innovation;

(5) protect United States technological advances by prohibiting unauthorized technology transfers to foreign persons in the United States or outside the United States, particularly with respect to countries that may pose a significant threat to the national security of the United States;

(6) strengthen the United States industrial base, both with respect to current and future defense requirements; and

(7) enforce the controls through means such as regulations, requirements for compliance, lists of controlled items, lists of foreign persons who threaten the national security or foreign policy of the United States, and guidance in a form that facilitates compliance by United States persons and foreign persons, in particular academic institutions, scientific and research establishments, and small- and medium-sized businesses.

### (c) Application of controls

The President shall impose controls over the export, reexport, or in-country transfer of items for purposes of the objectives described in subsections (b)(1) or (b)(2) without regard to the nature of the underlying transaction or any circumstances pertaining to the activity, including whether such export, reexport, or in-country transfer occurs pursuant to a purchase order or other contract requirement, voluntary decision, inter-company arrangement, marketing effort, or during a joint venture, joint development agreement, or similar collaborative agreement.

(Pub. L. 115-232, div. A, title XVII, §1753, Aug. 13, 2018, 132 Stat. 2211; Pub. L. 117-263, div. E, title LV, §5589(b), Dec. 23, 2022, 136 Stat. 3380.)

### Editorial Notes

#### REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original “this part”, meaning part I (§§1751-1768) of sub-title B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

#### AMENDMENTS

2022—Subsec. (a)(2)(F). Pub. L. 117-263 inserted “, security, or” before “intelligence”.

## § 4813. Additional authorities

### (a) In general

In carrying out this subchapter on behalf of the President, the Secretary, in consultation