

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