

escalation processes for dual-use items and munitions under the licensing jurisdiction of the Department of Commerce or any other Federal agency, as appropriate, to determine whether current practices and procedures are consistent with established national security and foreign policy objectives.

(b) Report

Not later than 180 days after August 13, 2018, the President shall submit to the appropriate congressional committees a report that contains the results of the review carried out under subsection (a).

(c) Operating Committee for Export Policy

In any case in which the Operating Committee for Export Policy established by Executive Order 12981 (December 5, 1995; relating to Administration of Export Controls) is meeting to conduct an interagency dispute resolution relating to applications for export licenses under the Export Administration Regulations, matters relating to jet engine hot section technology, commercial communication satellites, and emerging or foundational technology may be decided by majority vote.

(d) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

- (1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and
- (2) the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(Pub. L. 115–232, div. A, title XVII, §1763, Aug. 13, 2018, 132 Stat. 2231; Pub. L. 116–283, div. A, title X, §1081(d)(9), Jan. 1, 2021, 134 Stat. 3874.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 12981, referred to in subsec. (c), is Ex. Ord. No. 12981, Dec. 5, 1995, 60 F.R. 62981, which is set out as a note under former section 4603 of this title.

AMENDMENTS

2021—Subsec. (c). Pub. L. 116–283 substituted “December 5, 1995” for “December 5, 1991”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title X, §1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(9) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115–232.

Executive Documents

DELEGATION OF AUTHORITIES AND RESPONSIBILITIES UNDER SECTION 1763 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2019

Memorandum of President of the United States, Jan. 15, 2019, 84 F.R. 197, 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, in coordination with executive departments and agen-

cies through the National Security Presidential Memorandum–4 [50 U.S.C. 3021 note] process, the functions and authorities vested in the President by section 1763 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) [50 U.S.C. 4822].

The delegation of authorities and responsibilities in this memorandum shall apply to any provision of any future public law that are the same or substantially the same as the provision referenced in this memorandum.

The Secretary of Commerce is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 4823. Consultation with other agencies on commodity classification

Notwithstanding any other provision of law, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and the Secretary of Energy, as appropriate, regarding commodity classifications for any item the Secretary and the Secretary of Defense, the Secretary of State, and the Secretary of Energy identify and mutually determine is materially significant enough to warrant interagency consultation.

(Pub. L. 115–232, div. A, title XVII, §1764, Aug. 13, 2018, 132 Stat. 2232.)

§ 4824. Annual report to Congress

(a) In general

The Secretary shall submit to Congress, by December 31 of each year, a report on the implementation of this subchapter during the preceding fiscal year. The report shall include a review of—

(1) the effect of controls imposed under this subchapter on exports, reexports, and in-country transfers of items in addressing threats to the national security or foreign policy of the United States, including a description of licensing processing times;

(2) the impact of such controls on the scientific and technological leadership of the United States;

(3) the consistency with such controls of export controls imposed by other countries;

(4) efforts to provide exporters with compliance assistance, including specific actions to assist small- and medium-sized businesses;

(5) a summary of regulatory changes from the prior fiscal year;

(6) a summary of export enforcement actions, including of actions taken to implement end-use monitoring of dual-use, military, and other items subject to the Export Administration Regulations;

(7) a summary of approved license applications to proscribed persons;

(8) efforts undertaken within the previous year to comply with the requirements of section 4817¹ of this title, including any critical technologies identified under such section and how or whether such critical technologies were controlled for export; and

(9) a summary of industrial base assessments conducted during the previous year by the Department of Commerce, including with respect

¹ See References in Text note below.

to counterfeit electronics, foundational technologies, and other research and analysis of critical technologies and industrial capabilities of key defense-related sectors.

(b) Form

The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

(Pub. L. 115-232, div. A, title XVII, §1765, Aug. 13, 2018, 132 Stat. 2232.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), 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.

Section 4817 of this title, referred to in subsec. (a)(8), was in the original “section 1759”, and was translated as meaning section 1758 of Pub. L. 115-232, which relates to requirements to identify and control the export of emerging and foundational technologies and is classified to section 4817 of this title, to reflect the probable intent of Congress.

§ 4825. Effect on other acts

(a) In general

Except as otherwise provided in this subchapter, nothing contained in this subchapter shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over the export or reexport of any item.

(b) Coordination of controls

(1) In general

The authority granted to the President under this subchapter shall be exercised in such manner so as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778) and all other export control and sanctions authorities exercised by Federal departments and agencies, particularly the Department of State, the Department of the Treasury, and the Department of Energy.

(2) Sense of Congress

It is the sense of Congress that in order to achieve effective coordination described in paragraph (1), such Federal departments and agencies—

(A) should continuously work to create enforceable regulations with respect to the export, reexport, and in-country transfer by United States and foreign persons of commodities, software, technology, and services to various end uses and end users for foreign policy and national security reasons;

(B) should regularly work to reduce complexity in the system, including complexity caused merely by the existence of structural, definitional, and other non-policy based differences between and among different export control and sanctions systems; and

(C) should coordinate controls on items exported, reexported, or in-country transferred in connection with a foreign military sale under chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.) or a commercial sale under section 38 of the Arms Export Control Act [22 U.S.C. 2778] to reduce as much unnecessary administrative burden as possible that is a result of differences between the exercise of those two authorities.

(c) Nonproliferation controls

Nothing in this subchapter shall be construed to supersede the procedures published by the President pursuant to section 2139a(c) of title 42.

(Pub. L. 115-232, div. A, title XVII, §1767, Aug. 13, 2018, 132 Stat. 2233.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, 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.

The Arms Export Control Act, referred to in subsec. (b)(2)(C), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320. Chapter 2 of the Act is classified generally to subchapter II (§2761 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

§ 4826. Transition provisions

(a) In general

All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that have been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as in effect on the day before August 13, 2018, and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)), or the Export Administration Regulations, and are in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of this subchapter.

(b) Administrative and judicial proceedings

This subchapter shall not affect any administrative or judicial proceedings commenced, or any applications for licenses made, under the Export Administration Act of 1979 (as in effect on the day before August 13, 2018, and as continued in effect pursuant to the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.]), or the Export Administration Regulations.

(c) Certain determinations and references

(1) State sponsors of terrorism

Any determination that was made under section 6(j) of the Export Administration Act of 1979 (as in effect on the day before August 13, 2018, and as continued in effect pursuant to the International Emergency Economic Powers