

any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term “good” means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

(4) the term “technology” means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;

(5) the term “export” means—

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term “controlled country” means a controlled country under section 5(b)(1) of this Act [section 2404(b)(1) of this Appendix];

(7) the term “United States” means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(8) the term “Secretary” means the Secretary of Commerce.

(Pub. L. 96-72, §16, Sept. 29, 1979, 93 Stat. 533; Pub. L. 99-64, title I, §117, July 12, 1985, 99 Stat. 153.)

#### AMENDMENTS

1985—Par. (3). Pub. L. 99-64, §117(1), inserted “natural or manmade substance.”

Par. (4). Pub. L. 99-64, §117(2), amended par. (4) generally, substituting “the term ‘technology’ means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;” for “the information and knowhow that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and”.

Pars. (5) to (8). Pub. L. 99-64, §117(3), (4), added pars. (5) to (7) and redesignated former par. (5) as (8).

#### DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

## § 2416. Effect on other Acts

### (a) In general

Except as otherwise provided in this Act [sections 2401 to 2420 of this Appendix], nothing contained in this Act [sections 2401 to 2420 of this Appendix] shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

### (b) Coordination of controls

The authority granted to the President under this Act [sections 2401 to 2420 of this Appendix] shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

### (c) Civil aircraft equipment

Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act [sections 2401 to 2420 of this Appendix]. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act [22 U.S.C. 2778(b)(2)].

### (d) Nonproliferation controls

(1) Nothing in section 5 or 6 of this Act [section 2404 or 2405 of this Appendix] shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)].

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)], is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of this Act [section 2409 of this Appendix] shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Secretary, the applicant shall have the rights of appeal and court action provided in section 10(j) of this Act [section 2409(j) of this Appendix].

### (e) Termination of other authority

On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611-1613d), is superseded.

### (f) Agricultural Act of 1970

Nothing in this Act [sections 2401 to 2420 of this Appendix] shall affect the provisions of the last sentence of section 812<sup>1</sup> of the Agricultural Act of 1970 (7 U.S.C. 612c-3).

(Pub. L. 96-72, §17, Sept. 29, 1979, 93 Stat. 534; Pub. L. 99-64, title I, §118, July 12, 1985, 99 Stat. 154.)

<sup>1</sup> See References in Text note below.

## REFERENCES IN TEXT

The Mutual Defense Assistance Control Act of 1951, referred to in subsec. (e), is act Oct. 26, 1951, ch. 575, 65 Stat. 644, as amended, which was classified generally to chapter 20A (§1611 et seq.) of Title 22, Foreign Relations and Intercourse, prior to its supersedure by subsec. (e) of this section. For complete classification of this Act to the Code, see Tables.

Section 812 of the Agricultural Act of 1970, referred to in subsec. (f), which was classified to section 612c-3 of Title 7, Agriculture, was repealed by Pub. L. 101-624, title XV, §1578, Nov. 28, 1990, 104 Stat. 3702.

## AMENDMENTS

1985—Subsec. (a). Pub. L. 99-64, §118(a)(1), substituted “Except as otherwise provided in this Act, nothing” for “Nothing”.

Subsec. (c). Pub. L. 99-64, §118(a)(2), struck out sentence which provided that for purposes of this subsection “controlled country” means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Subsec. (f). Pub. L. 99-64, §118(b), added subsec. (f).

## DELEGATION OF FUNCTIONS

Functions conferred upon President under sections 2401 to 2420 of this Appendix delegated to Secretary of Commerce, with certain exceptions, by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

**§ 2417. Authorization of appropriations****(a) Requirement of authorizing legislation**

(1) Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix] may be obligated or expended only if—

(A) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985]; or

(B) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix] authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985] which specifically repeals, modifies, or supersedes the provisions of this subsection.

**(b) Authorization**

There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix]—

(1) \$42,813,000 for the fiscal year 1993;

(2) such sums as may be necessary for the fiscal year 1994; and

(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs.

(Pub. L. 96-72, §18, Sept. 29, 1979, 93 Stat. 534; Pub. L. 97-145, §2(a), Dec. 29, 1981, 95 Stat. 1727; Pub. L. 99-64, title I, §119, July 12, 1985, 99 Stat. 154; Pub. L. 99-633, §1, Nov. 7, 1986, 100 Stat. 3522; Pub. L. 100-418, title II, §2430, Aug. 23, 1988, 102 Stat. 1362; Pub. L. 103-10, §1, Mar. 27, 1993, 107 Stat. 40.)

## AMENDMENTS

1993—Subsec. (b)(1) to (3). Pub. L. 103-10 added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) \$35,935,000 for the fiscal year 1988, of which \$12,746,000 shall be available only for enforcement, \$2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and \$21,189,000 shall be available for all other activities under this Act;

“(2) \$46,913,000 for the fiscal year 1989, of which \$15,000,000 shall be available only for enforcement, \$5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, \$4,000,000 shall be available only for regional export control assistance centers, and \$22,913,000 shall be available for all other activities under this Act; and

“(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.”

1988—Subsec. (b)(1). Pub. L. 100-418, §2430(1), substituted “the fiscal year 1988” for “each of the fiscal years 1987 and 1988” and struck out “for each such year” after “available” in three places and “and” after semicolon at end.

Subsec. (b)(2), (3). Pub. L. 100-418, §2430(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: “such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.”

1986—Subsec. (b). Pub. L. 99-633 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

“(1) \$24,600,000 for the fiscal year 1985, of which \$8,712,000 shall be available only for enforcement, \$1,851,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and \$14,037,000 shall be available for all other activities under this Act;

“(2) \$29,382,000 for the fiscal year 1986, of which \$9,243,000 shall be available only for enforcement, \$2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and \$18,139,000 shall be available for all other activities under this Act; and

“(3) such additional amounts for each of the fiscal years 1985 and 1986 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.”

1985—Subsec. (a). Pub. L. 99-64, §119, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.”

Subsec. (b). Pub. L. 99-64, §119, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

“(1) \$9,659,000 for each of the fiscal years 1982 and 1983; and

“(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.”