

graph entered into before the date of the enactment of this Act [Sept. 23, 1996].”

Amendment by section 141(c), (d) of Pub. L. 104-164 applicable with respect to certifications required to be submitted on or after July 21, 1996, see section 141(f) of Pub. L. 104-164, set out as a note under section 2753 of this title.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-329, title II, §211(b), June 30, 1976, 90 Stat. 744, provided that: “The amendment made by subsection (a) of this section [amending this section] shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act [subsec. (b) of this section] on or after the date of enactment of this Act [June 30, 1976] and to export licenses for which an application is filed under section 38 of such Act [section 2778 of this title] on or after such date.”

Pub. L. 94-329, title VI, §604(c), June 30, 1976, 90 Stat. 768, provided that: “The amendments made by this section [amending this section and enacting section 2779 of this title] shall take effect sixty days after the date of enactment of this Act [June 30, 1976].”

#### DELEGATION OF FUNCTIONS

Functions of President under subssecs. (a) and (b)(1) of this section, except with respect to certification of an emergency under subsec. (b)(1), delegated to Secretary of Defense, with Secretary of Defense required to consult with other specific agencies in implementing certain delegated functions, by section 1(j) of Ex. Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, as amended, set out as a note under section 2751 of this title.

Functions of President under subssecs. (c) and (d) of this section delegated to Secretary of State, and functions of President under subsec. (e) of this section with respect to transmittals pursuant to subsec. (b) of this section delegated to Secretary of Defense and with respect to transmittals pursuant to subsec. (c) of this section delegated to Secretary of State, by section 1(k) of Ex. Ord. No. 11958.

#### ASSESSMENT OF ISRAEL'S QUALITATIVE MILITARY EDGE OVER MILITARY THREATS

Pub. L. 110-429, title II, §201, Oct. 15, 2008, 122 Stat. 4843, provided that:

“(a) ASSESSMENT REQUIRED.—The President shall carry out an empirical and qualitative assessment on an ongoing basis of the extent to which Israel possesses a qualitative military edge over military threats to Israel. The assessment required under this subsection shall be sufficiently robust so as to facilitate comparability of data over concurrent years.

“(b) USE OF ASSESSMENT.—The President shall ensure that the assessment required under subsection (a) is used to inform the review by the United States of applications to sell defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to countries in the Middle East.

#### “(c) REPORTS.—

“(1) INITIAL REPORT.—Not later than June 30, 2009, the President shall transmit to the appropriate congressional committees a report on the initial assessment required under subsection (a).

“(2) QUADRENNIAL REPORT.—Not later than four years after the date on which the President transmits the initial report under paragraph (1), and every four years thereafter, the President shall transmit to the appropriate congressional committees a report on the most recent assessment required under subsection (a).

“(d) CERTIFICATION.—[Amended this section.]

“(e) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(2) QUALITATIVE MILITARY EDGE.—The term ‘qualitative military edge’ has the meaning given the term in section 36(h) of the Arms Export Control Act, as added by subsection (d) of this section [22 U.S.C. 2776(h)].”

[Memorandum of President of the United States, June 8, 2009, 74 F.R. 28863, provided that the functions of the President in section 201(a) to (c) of Pub. L. 110-429, set out above, are delegated to the Secretary of State, in coordination with the Secretary of Defense.]

#### NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY; REPORT TO CONGRESS

Pub. L. 96-92, §20(a), Oct. 29, 1979, 93 Stat. 710, directed President to undertake a thorough review of interagency procedures and disclosure criteria used by United States in determining whether sensitive weapons technology will be transferred to other countries, and not later than Feb. 15, 1980 to transmit a report to Congress setting forth the results of such review, together with such recommendations as are necessary to improve the current disclosure system, prior to repeal by Pub. L. 97-113, title VII, §734(a)(11), Dec. 29, 1981, 95 Stat. 1560.

#### § 2776a. Repealed. Pub. L. 112-81, div. A, title X, § 1062(d)(4), Dec. 31, 2011, 125 Stat. 1585

Section, Pub. L. 109-364, div. A, title XII, §1231, Oct. 17, 2006, 120 Stat. 2430; Pub. L. 110-181, div. A, title X, §1063(c)(11), Jan. 28, 2008, 122 Stat. 323, required annual report on foreign sales of significant military equipment manufactured in the United States.

#### § 2777. Fiscal provisions relating to foreign military sales credits

##### (a) Permissible uses of cash payments under sections 2761, 2762, 2763, and 2769

Cash payments received under sections 2761, 2762, and 2769 of this title and advances received under section 2763 of this title shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

##### (b) Transfer of funds to miscellaneous receipts of Treasury

Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 2763 of this title, amounts received from the disposition of instruments evidencing indebtedness under section 2764(b) of this title (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 2764(b) of this title, which sums are made available for such obligations), and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

##### (c) Credit of funds to reserve under section 2764(c)

Notwithstanding the provisions of subsection (b) of this section, to the extent that any of the funds constituting the reserve under section 2764(c) of this title are paid out for a claim arising out of a loan guaranteed under section 2764

of this title, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

(Pub. L. 90-629, ch. 3, §37, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93-189, §25(11), Dec. 17, 1973, 87 Stat. 731; Pub. L. 96-533, title I, §§104(b), 105(e)(1), Dec. 16, 1980, 94 Stat. 3133, 3135.)

#### AMENDMENTS

1980—Subsec. (a). Pub. L. 96-533, §105(e)(1), inserted reference to section 2769 of this title.

Subsec. (c). Pub. L. 96-533, §104(b), added subsec. (c).

1973—Subsec. (b). Pub. L. 93-189 inserted provisions relating to indebtedness under section 2764(b) of this title and exclusions of portions of the sales proceeds required at the time of disposition as a reserve for payment of claims under guaranties issued under section 2764(b) of this title.

### § 2778. Control of arms exports and imports

#### (a) Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; issuance of export licenses; negotiations information

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or non-proliferation agreements or other arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

#### (b) Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services

(1)(A)(i) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or

importing any defense articles or defense services designated by the President under subsection (a)(1) of this section shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1) of this section, or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this chapter, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term “foreign defense article or defense service” includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

(B)<sup>1</sup> The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United

<sup>1</sup> So in original. There are two subpars. designated “(B)”.