

## DELEGATION OF FUNCTIONS

Functions of President under subsecs. (c) and (f) of this section delegated to Secretary of Defense, with concurrence of Secretary of State and Secretary of the Treasury required for any determination proposed under subsec. (c) of this section, by section 1(p) 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.

**§ 2792. Administrative expenses****(a) Availability of funds**

Funds made available under other law for the operations of United States Government agencies carrying out functions under this chapter shall be available for the administrative expenses incurred by such agencies under this chapter.

**(b) Charges for administrative expenses and official reception and representation expenses**

Charges for administrative services calculated under section 2761(e)(1)(A) of this title shall include recovery of administrative expenses and official reception and representation expenses incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this chapter when—

(1) such functions are primarily for the benefit of any foreign country;

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 2761(a) of this title; and

(3) such expenses are neither salaries of the Armed Forces of the United States nor represent unfunded estimated costs of civilian retirement and other benefits.

**(c) Limitations on funds used for official reception and representation expenses**

Not more than \$86,500 of the funds derived from charges for administrative services pursuant to section 2761(e)(1)(A) of this title may be used each fiscal year for official reception and representation expenses.

(Pub. L. 90-629, ch. 4, § 43, Oct. 22, 1968, 82 Stat. 1327; Pub. L. 94-329, title II, § 214, June 30, 1976, 90 Stat. 746; Pub. L. 95-92, § 7(d), Aug. 4, 1977, 91 Stat. 617; Pub. L. 96-92, § 19(b), Oct. 29, 1979, 93 Stat. 709; Pub. L. 97-113, title VII, § 734(a)(10), Dec. 29, 1981, 95 Stat. 1560; Pub. L. 99-83, title I, § 120, Aug. 8, 1985, 99 Stat. 204; Pub. L. 101-165, title IX, § 9104(b)(1), Nov. 21, 1989, 103 Stat. 1152; Pub. L. 107-228, div. B, title XII, § 1203, Sept. 30, 2002, 116 Stat. 1427.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

## AMENDMENTS

2002—Subsec. (c). Pub. L. 107-228 substituted “\$86,500” for “\$72,500”.

1989—Subsec. (b)(3). Pub. L. 101-165 added par. (3).

1985—Subsec. (b). Pub. L. 99-83, § 120(1), inserted “and official reception and representation expenses”.

Subsec. (c). Pub. L. 99-83, § 120(2), added subsec. (c).

1981—Subsec. (c). Pub. L. 97-113 struck out subsec. (c) which required a Presidential report to Congress no later than Jan. 15 of each year containing analysis and description of Federal personnel arms export control services performed previous fiscal year. See section 2765(a)(6) of this title.

1979—Subsec. (c). Pub. L. 96-92 added subsec. (c).

1977—Subsec. (b). Pub. L. 95-92 substituted provisions relating to criteria for recovery of charges for administrative expenses calculated under section 2761(e)(1)(A) of this title, for provisions relating to reimbursement from amounts received for sales under sections 2761 and 2762 of this title of administrative expenses incurred by a United States government department or agency in carrying out functions under this chapter for the benefit of any foreign country.

1976—Pub. L. 94-329 designated existing provisions as subsec. (a) and added subsec. (b).

## 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.

**§ 2793. Other provisions unaffected**

No provision of this chapter shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], or section 7307 of title 10.

(Pub. L. 90-629, ch. 4, § 44, Oct. 22, 1968, 82 Stat. 1327.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

## SPECIFIC APPLICATION OF OTHER PROVISIONS TO THIS CHAPTER

Except for laws specified in this section, other provisions inapplicable to this chapter without a specific reference thereto or to sales of defense articles and defense services under any Act, see section 45(c) of Pub. L. 90-629, set out as a note under section 2751 of this title.

**§ 2794. Definitions**

For purposes of this chapter, the term—

(1) “excess defense article” has the meaning provided by section 2403(g) of this title;

(2) “value” means, in the case of an excess defense article, except as otherwise provided in section 2761(a) of this title,<sup>1</sup> not less than the greater of—

(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

(B) the market value, if ascertainable;

(3) “defense article”, except as provided in paragraph (7) of this section, includes—

<sup>1</sup> So in original.

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]) source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

(4) “defense service”, except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 2403(e) of this title), used for the purposes of making military sales, but does not include design and construction services under section 2769 of this title;

(5) “training” includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(6) “major defense equipment” means any item of significant military equipment on the United States Munitions List having a non-recurring research and development cost of more than \$50,000,000 or a total production cost of more than \$200,000,000;

(7) “defense articles and defense services” means, with respect to commercial exports subject to the provisions of section 2778 of this title, those items designated by the President pursuant to subsection (a)(1) of such section;

(8) “design and construction services” means, with respect to sales under section 2769 of this title, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency;

(9) “significant military equipment” means articles—

(A) for which special export controls are warranted because of the capacity of such

articles for substantial military utility or capability; and

(B) identified on the United States Munitions List;

(10) “weapons of mass destruction” has the meaning provided by section 2302(1) of title 50; and

(11) “Sales territory” means a country or group of countries to which a defense article or defense service is authorized to be reexported.

(Pub. L. 90-629, ch. 4, §47, as added Pub. L. 93-189, §25(12), Dec. 17, 1973, 87 Stat. 731; amended Pub. L. 94-329, title II, §215, June 30, 1976, 90 Stat. 746; Pub. L. 96-92, §22, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96-533, title I, §105(f), Dec. 16, 1980, 94 Stat. 3135; Pub. L. 99-83, title I, §107(b), title XII, §1211(b)(3), Aug. 8, 1985, 99 Stat. 197, 279; Pub. L. 104-164, title I, §144, July 21, 1996, 110 Stat. 1434; Pub. L. 107-228, div. B, title XII, §1202(b), title XIV, §1405(a)(4), Sept. 30, 2002, 116 Stat. 1427, 1458.)

#### REFERENCES IN TEXT

This chapter, referred to in introductory provisions, was in the original “this Act”, meaning Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in par. (3), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921, and amended, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

#### AMENDMENTS

2002—Par. (10). Pub. L. 107-228, §1202(b), added par. (10).

Par. (11). Pub. L. 107-228, §1405(a)(4), added par. (11).

1996—Par. (9). Pub. L. 104-164 added par. (9).

1985—Par. (2). Pub. L. 99-83, §107(b), inserted “, except as otherwise provided in section 2761(a) of this title.”.

Par. (6). Pub. L. 99-83, §1211(b)(3), substituted “military” for “combat”.

1980—Par. (4). Pub. L. 96-533, §105(f)(1), excluded from term “defense service” design and construction services under section 2769 of this title.

Par. (8). Pub. L. 96-533, §105(f)(2)-(4), added par. (8).

1979—Par. (3). Pub. L. 96-92 defined “defense article” to include uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity.

1976—Pars. (3) to (7). Pub. L. 94-329 added pars. (3) to (7).

#### 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.

#### SUBCHAPTER V—SPECIAL DEFENSE ACQUISITION FUND

##### § 2795. Fund

(a) **Establishment; purposes; special requirements and responsibilities; continuous orders for certain articles and services; articles for narcotics control purposes**

(1) Under the direction of the President and in consultation with the Secretary of State, the