

1987—Subsec. (a). Pub. L. 100-202 substituted “1988” for “1987” in par. (B).

1986—Subsec. (a). Pub. L. 99-500 and Pub. L. 99-591 inserted provision authorizing the President to waive the requirements of par. (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense and providing exceptions to such waiver authority.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-164, title I, §153(b), July 21, 1996, 110 Stat. 1440, provided that: “The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2) [22 U.S.C. 2796(a)], shall apply only with respect to a defense article leased on or after the date of the enactment of this Act [July 21, 1996].”

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by section 1(r) 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.

§ 2796a. Reports to Congress

(a) Written certification to Speaker of the House and chairmen of Congressional committees

Before entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this subchapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

- (1) the country or international organization to which the defense article is to be leased or loaned;
- (2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;
- (3) the terms and duration of the lease or loan; and
- (4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this chapter.

(b) Waiver; determination of emergency

The President may waive the requirements of this section (and in the case of an agreement described in section 2796b of this title, may waive the provisions of that section) if he states in his certification, that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.

(c) Transmission of certification

The certification required by subsection (a) of this section shall be transmitted—

(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand; and

(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.

(Pub. L. 90-629, ch. 6, §62, as added Pub. L. 97-113, title I, §109(a), Dec. 29, 1981, 95 Stat. 1525; amended Pub. L. 104-164, title I, §141(e)(1), July 21, 1996, 110 Stat. 1432; Pub. L. 110-429, title II, §203(b)(1), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111-266, title III, §301(1), Oct. 8, 2010, 124 Stat. 2804.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (a)(4), 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

2010—Subsec. (c)(1). Pub. L. 111-266 inserted “Israel,” before “or New Zealand”.

2008—Subsec. (c)(1). Pub. L. 110-429 inserted “the Republic of Korea,” before “or New Zealand”.

1996—Subsec. (a). Pub. L. 104-164, §141(e)(1)(A), substituted “Before” for “Not less than 30 days before”.

Subsec. (b). Pub. L. 104-164, §141(e)(1)(B), substituted “states in his certification” for “determines, and immediately reports to the Congress” and inserted at end “If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.”

Subsec. (c). Pub. L. 104-164, §141(e)(1)(C), added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) of this section delegated to Secretary of Defense by section 1(r) 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.

§ 2796b. Legislative review procedures

(a) Applicability

(1) Subject to paragraph (2), in the case of any agreement involving the lease under this subchapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its re-

placement cost less any depreciation in its value) at \$14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within the 15-day or 30-day period specified in section 2796a(c)(1) or (2) of this title, as the case may be, enacts a joint resolution prohibiting the proposed lease or loan.

(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at \$25,000,000 or more; or

(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$100,000,000 or more.

(b) Consideration of resolution

Any joint resolution under subsection (a) of this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) Highly privileged nature of resolution

For the purpose of expediting the consideration and enactment of joint resolutions under subsection (a) of this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(Pub. L. 90-629, ch. 6, § 63, as added Pub. L. 97-113, title I, § 109(a), Dec. 29, 1981, 95 Stat. 1525; amended Pub. L. 99-247, § 1(d), Feb. 12, 1986, 100 Stat. 9; Pub. L. 104-164, title I, § 141(e)(2), July 21, 1996, 110 Stat. 1433; Pub. L. 107-228, div. B, title XIV, § 1405(a)(3), Sept. 30, 2002, 116 Stat. 1457; Pub. L. 110-429, title II, § 203(b)(1), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111-266, title III, § 301(1), Oct. 8, 2010, 124 Stat. 2804.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b), is section 601(b) of Pub. L. 94-329, June 30, 1976, 90 Stat. 765, which made provision for expedited procedures in the Senate, and was not classified to the Code.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-266 inserted “Israel,” before “or New Zealand” in introductory provisions.

2008—Subsec. (a)(2). Pub. L. 110-429 inserted “the Republic of Korea,” before “or New Zealand”.

2002—Subsec. (a). Pub. L. 107-228 designated existing provisions as par. (1), substituted “Subject to paragraph (2), in the case of” for “In the case of”, and added par. (2).

1996—Subsec. (a). Pub. L. 104-164 redesignated par. (1) as entire subsec. (a), substituted “the 15-day or 30-day

period specified in section 2796a(c)(1) or (2) of this title, as the case may be” for “30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 2796a(a) of this title”, and struck out par. (2) which read as follows: “This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.”

1986—Subsec. (a)(1). Pub. L. 99-247, § 1(d)(1), substituted “enacts a joint resolution prohibiting” for “adopts a concurrent resolution stating that it objects to”.

Subsec. (b). Pub. L. 99-247, § 1(d)(2), inserted “joint” before “resolution”.

Subsec. (c). Pub. L. 99-247, § 1(d)(3), substituted “enactment of joint resolutions” for “adoption of concurrent resolutions” and “such joint resolution” for “such resolution”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

§ 2796c. Applicability of other statutory provisions

Any reference to sales of defense articles under this chapter in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this subchapter.

(Pub. L. 90-629, ch. 6, § 64, as added Pub. L. 97-113, title I, § 109(a), Dec. 29, 1981, 95 Stat. 1526.)

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.

§ 2796d. Loan of materials, supplies, and equipment for research and development purposes

(a) Loan or gift transactions; written agreement; covered programs

(1) Except as provided in subsection (c) of this section, the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.