

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.

(b) Reimbursement of consumed materials, etc.

The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) Prohibitions

The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 98b of title 50) is less than the quantity of such material to be stockpiled, as determined by the President under section 98b(a) of title 50.

(d) “NATO ally” defined

For purposes of this section, the term “NATO ally” means a member country of the North Atlantic Treaty Organization (other than the United States).

(Pub. L. 90-629, ch. 6, §65, as added Pub. L. 100-456, div. A, title X, §1003(a), Sept. 29, 1988, 102 Stat. 2038; amended Pub. L. 102-25, title VII, §705(d)(2), Apr. 6, 1991, 105 Stat. 120; Pub. L. 104-164, title I, §147(a)(3)(B), July 21, 1996, 110 Stat. 1435.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-164 struck out “or major non-NATO” after “NATO” and “or a foreign country

other than a member nation of NATO designated as a major non-NATO ally under section 2350a(i)(3) of title 10” after “(other than the United States)”.

1991—Subsec. (d). Pub. L. 102-25 substituted “section 2350a(i)(3) of title 10” for “section 2767a of this title”.

SUBCHAPTER VII—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

§ 2797. Licensing

(a) Establishment of list of controlled items

The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 2405(l) of title 50, Appendix.

(b) Referral of license applications

(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) of this section may be made only after the license application is referred to the Secretary of Defense.

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a) of this section, the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

(c) Information sharing

The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(d) Exports to space launch vehicle programs

Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than \$50,000,000 that are controlled under this chapter pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

(Pub. L. 90-629, ch. 7, §71, as added Pub. L. 101-510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1745; amended Pub. L. 103-236, title VII, §§714(a)(3)-(6), 735(c), Apr. 30, 1994, 108 Stat. 497, 506; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(a)(4)-(7), Oct. 21, 1998, 112 Stat. 2681-773; Pub. L. 106-280, title VII, §708(c), Oct. 6, 2000, 114 Stat. 863.)