

SUBCHAPTER VIII—CHEMICAL OR  
BIOLOGICAL WEAPONS PROLIFERATION

§ 2798. Sanctions against certain foreign persons

(a) Imposition of sanctions

(1) Determination by the President

Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after October 28, 1991, has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979 [50 U.S.C. App. 2401 et seq.],

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) Countries, projects, or entities receiving assistance

Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after January 1, 1980—

- (i) used chemical or biological weapons in violation of international law;
- (ii) used lethal chemical or biological weapons against its own nationals; or
- (iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 [50 U.S.C. App. 2405(j)] to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) Persons against whom sanctions are to be imposed

Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were

the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) Consultations with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) Actions by government of jurisdiction

In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress

The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanctions

(1) Description of sanctions

The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) Procurement sanction

The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) Import sanctions

The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) Exceptions

The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

- (i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;
- (ii) if the President determines that the person or other entity to which the sanc-

tions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense cooperation agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,  
(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

**(d) Termination of sanctions**

The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

**(e) Waiver**

**(1) Criterion for waiver**

The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

**(2) Notification of and report to Congress**

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

**(f) “Foreign person” defined**

For the purposes of this section, the term “foreign person” means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the

laws of a foreign country or which has its principal place of business outside the United States.

(Pub. L. 90–629, ch. 8, §81, as added and amended Pub. L. 102–182, title III, §§305(b), 309(b)(2), Dec. 4, 1991, 105 Stat. 1250, 1258.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(1)(C), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

PRIOR PROVISIONS

A prior subchapter VIII, consisting of former section 2798, as added by Pub. L. 102–138, title V, §505(b), Oct. 28, 1991, 105 Stat. 727, was substantially identical to subchapter VIII, as added by section 305(b) of Pub. L. 102–182, prior to repeal by Pub. L. 102–182, title III, §309(a), Dec. 4, 1991, 105 Stat. 1258.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 101–182, §309(b)(2), substituted “October 28, 1991” for reference to the “date of the enactment of this section” which was enacted Dec. 4, 1991.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 12851, §1(a), June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

SUBCHAPTER IX—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

**§ 2799. Purpose**

The purpose of this subchapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

- (1) enhance NATO’s forces,
- (2) increase NATO standardization and interoperability, and
- (3) better distribute defense burdens within the NATO alliance.

(Pub. L. 90–629, ch. 9, §91, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

**§ 2799a. CFE Treaty obligations**

The authorities provided in this subchapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

(Pub. L. 90–629, ch. 9, §92, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

**§ 2799b. Authorities**

**(a) General authority**

The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

- (1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty’s definition of “conventional armaments and equipment limited by the Treaty”;
- (2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Depart-