

in subsections (b)(2) and (3), the United States should build on existing and future agreements among supplier nations by pursuing the development of a multilateral arms transfer and control regime which includes—

“(A) limitations and controls contained in the Enhanced Proliferation Control Initiative;

“(B) limitations and controls contained in the Missile Technology Control Regime (MTCR);

“(C) guidelines followed by the Australia Group on chemical and biological arms proliferation;

“(D) guidelines adopted by the Nuclear Suppliers Group (the London Group); and

“(E) other appropriate controls that serve to halt the flow of unconditional [unconventional] weapons to the Middle East and Persian Gulf region.

“(3) PROMOTION OF REGIONAL ARMS CONTROL AGREEMENTS.—In order to achieve the purposes described in subsections (b)(4) and (5), the United States should pursue with nations in the Middle East and Persian Gulf region—

“(A) the maintenance of the military balance within the region, while eliminating nuclear, biological, and chemical weapons and associated delivery systems, and ballistic missiles;

“(B) the implementation of confidence-building and security-building measures, including advance notification of certain ground and aerial military exercises in the Middle East and the Persian Gulf; and

“(C) other useful arms control measures.

“(d) MAJOR MILITARY EQUIPMENT.—As used in this title, the term ‘major military equipment’ means—

“(1) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

“(2) turbine-powered military aircraft;

“(3) attack helicopters;

“(4) main battle tanks;

“(5) submarines and major naval surface combatants;

“(6) nuclear, biological, and chemical weapons; and

“(7) such other defense articles and defense services as the President may determine.

“SEC. 403. LIMITATION ON UNITED STATES ARMS SALES TO THE REGION.

“Beginning 60 days after the date of enactment of the International Cooperation Act of 1991 [probably means H.R. 2508, which had not been enacted into law by the end of the first session of the 102d Congress] or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 [Oct. 28, 1991], whichever is enacted first, no sale of any defense article or defense service may be made to any nation in the Middle East and Persian Gulf region, and no license may be issued for the export of any defense article or defense service to any nation in the Middle East and Persian Gulf region, unless the President—

“(1) certifies in writing to the relevant congressional committees that the President has undertaken good faith efforts to convene a conference for the establishment of an arms suppliers regime having elements described in section 402; and

“(2) submits to the relevant congressional committees a report setting forth a United States plan for leading the world community in establishing such a multilateral regime to restrict transfers of advanced conventional and unconventional arms to the Middle East and Persian Gulf region.

“[SEC. 404. Repealed. Pub. L. 114-323, title VII, §715(a)(2), Dec. 16, 2016, 130 Stat. 1946.]

“SEC. 405. RELEVANT CONGRESSIONAL COMMITTEES DEFINED.

“As used in this title, the term ‘relevant congressional committees’ means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.”

[Ex. Ord. No. 12851, §3, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title, delegated

to Secretary of State, in consultation with Secretary of Defense and other agencies, certification and reporting functions of the President under section 403 and former section 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102-138, set out above.]

[Memorandum of President of the United States, Dec. 27, 1991, 56 F.R. 1069, delegated to Secretary of State, in consultation with heads of other executive agencies and departments, certification and reporting obligations of the President under section 403 and former section 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102-138, set out above.]

#### CONTINUATION OF EXPORT CONTROL REGULATIONS

Section 3 of Ex. Ord. No. 13222, Aug. 17, 2001, 66 F.R. 44025, listed in a table under section 1701 of Title 50, War and National Defense, provided that: “Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).”

Prior provisions relating to issuance and continued effect of rules, regulations, orders, licenses, and other forms of administrative action relating to administration of subsec. (e) of this section were contained in the following:

Ex. Ord. No. 12924, §3, Aug. 19, 1994, 59 F.R. 43437, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 13206, §1, Apr. 4, 2001, 66 F.R. 18397.

Ex. Ord. No. 12923, §3, June 30, 1994, 59 F.R. 34551, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12924, §4, Aug. 19, 1994, 59 F.R. 43438.

Ex. Ord. No. 12867, §3, Sept. 30, 1993, 58 F.R. 51747, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12730, §3, Sept. 30, 1990, 55 F.R. 40373, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747.

Ex. Ord. No. 12525, §3, July 12, 1985, 50 F.R. 28757, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12470, §3, Mar. 30, 1984, 49 F.R. 13099, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757.

Ex. Ord. No. 12451, §3, Dec. 20, 1983, 48 F.R. 56563, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12444, §3, Oct. 14, 1983, 48 F.R. 48215, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563.

#### § 2778a. Exportation of uranium depleted in the isotope 235

Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] and of the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.] when such exports are subject to the controls established under the Arms Export Control Act [22 U.S.C. 2751 et seq.] or the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.].

(Pub. L. 96-533, title I, § 110, Dec. 16, 1980, 94 Stat. 3138.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, 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.

The Nuclear Non-Proliferation Act of 1978, referred to in text, is Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, as amended, which is classified principally to chapter 47 (§ 3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Arms Export Control Act, referred to in text, is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to this chapter (§ 2751 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in text, is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§ 4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1980, and not as part of the Arms Export Control Act which comprises this chapter.

### § 2779. Fees of military sales agents

#### (a) Adequate and timely reports to Secretary of State; maintenance of records

In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

- (1) sales of defense articles or defense services under section 2762 of this title, or of design and construction services under section 2769 of this title;
- (2) commercial sales of defense articles or defense services licensed or approved under section 2778 of this title; or
- (3) exports of defense articles or defense services pursuant to a treaty referenced in section 2778(j)(1)(C)(i) of this title;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

#### (b) Presidential regulation

The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this chapter.

#### (c) Allocation to contract; improper influence

No such contribution, gift, commission, or fee may be included, in whole or in part, in the

amount paid under any procurement contract entered into under section 2762 or section 2769 of this title, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, “improper influence” means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

#### (d) Availability of records to Congress and Federal agencies

(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

(Pub. L. 90-629, ch. 3, § 39, as added Pub. L. 94-329, title VI, § 604(b), June 30, 1976, 90 Stat. 767; amended Pub. L. 96-533, title I, § 105(e)(2), Dec. 16, 1980, 94 Stat. 3135; Pub. L. 111-266, title I, § 104(e), Oct. 8, 2010, 124 Stat. 2800.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (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

2010—Subsec. (a)(3). Pub. L. 111-266, which directed amendment of subsec. (a) by adding par. (3) at the end, was executed by adding par. (3) after par. (2) to reflect the probable intent of Congress.

1980—Subsec. (a)(1). Pub. L. 96-533, § 105(e)(2)(A), inserted reference to sales of design and construction services under section 2769 of this title.

Subsec. (c). Pub. L. 96-533, § 105(e)(2)(B), inserted reference to section 2769 of this title.

#### EFFECTIVE DATE

Section effective 60 days after June 30, 1976, see section 604(c) of Pub. L. 94-329, set out as note under section 2776 of this title.

#### DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (b) of this section, with certain conditions, see section 1(o) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.