

§ 2797c. Definitions**(a) In general**

For purposes of this subchapter—

(1) the term “missile” means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(2) the term “Missile Technology Control Regime” or “MTCR” means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(3) the term “MTCR adherent” means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(4) the term “MTCR Annex” means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

(5) the terms “missile equipment or technology” and “MTCR equipment or technology” mean those items listed in category I or category II of the MTCR Annex;

(6) the term “United States person” has the meaning given that term in section 4618(2) of title 50;

(7) the term “foreign person” means any person other than a United States person;

(8)(A) the term “person” means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

(B) in the case of countries with non-market economies (excluding former members of the Warsaw Pact), the term “person” means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of electronics, space systems or equipment, and military aircraft; and

(9) the term “otherwise engaged in the trade of” means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

(b) International understanding defined

For purposes of subsection (a)(3), as it relates to any international understanding concluded with the United States after January 1, 2000, the term “international understanding” means—

(1) any specific agreement by a country not to export, transfer, or otherwise engage in the trade of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and

would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this chapter; or

(2) any specific understanding by a country that, notwithstanding section 2797b(b) of this title, the United States retains the right to take the actions under section 2797b(a)(2) of this title in the case of any export or transfer of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this chapter.

(Pub. L. 90-629, ch. 7, §74, as added Pub. L. 101-510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1748; amended Pub. L. 102-138, title III, §323(b), (c), Oct. 28, 1991, 105 Stat. 711; Pub. L. 106-113, div. B, §1000(a)(7) [div. B, title XI, §1136(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-495.)

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

1999—Pub. L. 106-113 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1991—Par. (8)(B). Pub. L. 102-138, §323(b), substituted “countries with non-market economies (excluding former members of the Warsaw Pact)” for “countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A)”.

Par. (8)(B)(ii). Pub. L. 102-138, §323(c), substituted “electronics, space systems or equipment, and military aircraft” for “aircraft, electronics, and space systems or equipment”.

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. 4601 et seq.],

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, de-