

the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection (a) shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection (a) shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection (a) to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

(Aug. 1, 1946, ch. 724, title I, §128, as added Pub. L. 95-242, title III, §306, Mar. 10, 1978, 92 Stat. 137; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592.)

#### AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-437 substituted "Foreign Affairs" for "International Relations".

#### EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

#### DELEGATION OF FUNCTIONS

Secretary of State responsible for performing function vested in President under subsec. (a)(2) of this section and responsible for preparation of timely information and recommendations related to functions vested in President under subsec. (b) of this section, see section 2(b), (d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

#### PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

#### § 2158. Conduct resulting in termination of nuclear exports

(a) No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after March 10, 1978,

(A) detonated a nuclear explosive device;

or

(B) terminated or abrogated IAEA safeguards; or

(C) materially violated an IAEA safeguards agreement; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities;

or

(2) any nation or group of nations that is found by the President to have, at any time after March 10, 1978,

(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 2153a(a) of this title; or

(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(C) entered into an agreement after March 10, 1978, for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior

to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in section 2159(g) of this title), but any such determination shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(b)(1) Notwithstanding any other provision of law, including specifically section 2151 of this title, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 2077(b) of this title and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 2371(a) of title 22, section 4605(j)(1) of title 50, or section 2780(d) of title 22 to have repeatedly provided support for acts of international terrorism).

(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(Aug. 1, 1946, ch. 724, title I, § 129, as added Pub. L. 95-242, title III, § 307, Mar. 10, 1978, 92 Stat. 138; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 109-58, title VI, § 632(a), Aug. 8, 2005, 119 Stat. 788; Pub. L. 110-369, title II, § 203, Oct. 8, 2008, 122 Stat. 4033.)

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-369 substituted “Congress adopts, and there is enacted, a joint resolution” for “Congress adopts a concurrent resolution” in concluding provisions.

2005—Pub. L. 109-58 designated existing provisions as subsec. (a) and added subsec. (b).

1994—Pub. L. 103-437 substituted “Foreign Affairs” for “International Relations” in closing provisions.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-58, title VI, § 632(b), Aug. 8, 2005, 119 Stat. 789, provided that: “Subsection b. of section 129 of Atomic Energy Act of 1954 [42 U.S.C. 2158(b)], as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act [Aug. 8, 2005] but have not yet been transferred as of that date.”

#### EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

#### DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

#### PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

### § 2159. Congressional review procedures

#### (a) Committee consideration of Presidential submissions; reports

Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by section 2155(a)(2), 2155(b)(2), 2157(b), 2158, 2160(a)(3), or 2160(f)(1)(A) of this