

mum, the Secretary shall ensure that the board is assisted at meetings by military resale and legal advisors.

(4) The recommendations made by the board under paragraph (1) shall be made available to the public. The Secretary of Defense shall publicize the availability of such recommendations by such means as the Secretary considers appropriate.

(5) Members of the board shall be allowed travel expense, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the board.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(e) DEFINITIONS.—In this section:

(1) The term “sexually explicit material” means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

(2) The term “property under the jurisdiction of the Department of Defense” includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships’ stores.

(Added Pub. L. 104-201, div. A, title III, §343(a)(1), Sept. 23, 1996, 110 Stat. 2489, §2489a; renumbered §2495b, Pub. L. 108-375, div. A, title VI, §651(b)(2), (c)(5), Oct. 28, 2004, 118 Stat. 1971, 1972; amended Pub. L. 110-417, [div. A], title VI, §642(a), Oct. 14, 2008, 122 Stat. 4493.)

AMENDMENTS

2008—Subsecs. (c) to (e). Pub. L. 110-417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2004—Pub. L. 108-375 renumbered section 2489a of this title as this section.

EFFECTIVE DATE

Pub. L. 104-201, div. A, title III, §343(b), Sept. 23, 1996, 110 Stat. 2490, provided that: “Subsection (a) of section 2489a [now 2495b] of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act [Sept. 23, 1996].”

RESALE ACTIVITIES REVIEW BOARD: ESTABLISHMENT AND INITIAL MEETING

Pub. L. 110-417, [div. A], title VI, §642(b), Oct. 14, 2008, 122 Stat. 4494, provided that:

“(1) ESTABLISHMENT.—The board required by subsection (c) of section 2495b of title 10, United States Code, as added by subsection (a), shall be established, and its initial nine members appointed, not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008].

“(2) MEETINGS.—The board shall conduct an initial meeting within one year after the date of the appointment of the initial members of the board. At the discretion of the board, the board may consider all materials previously reviewed under such section as available for reconsideration for a minimum of 180 days following the initial meeting of the board.”

**CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION**

Subchapter		Sec.
I.	Definitions .....	2500
II.	Policies and Planning .....	2501
III.	Programs for Development, Application, and Support of Dual-Use Technologies .....	2511
IV.	Manufacturing Technology .....	2521
V.	Miscellaneous Technology Base Policies and Programs .....	2531
VI.	Defense Export Loan Guarantees .....	2540
VII.	Critical Infrastructure Protection Loan Guarantees .....	2541

PRIOR PROVISIONS

A prior chapter 148, comprised of section 2501 et seq., relating to defense industrial base, was repealed, except for sections 2504 to 2507, by Pub. L. 102-484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2504 to 2507 of that chapter were renumbered sections 2531 to 2534, respectively, of this chapter by Pub. L. 102-484, §4202(a).

AMENDMENTS

2000—Pub. L. 106-398, §1 [[div. A], title X, §1033(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-260, added item for subchapter VII.

1998—Pub. L. 105-261, div. A, title X, §1069(a)(4), Oct. 17, 1998, 112 Stat. 2136, substituted “2500” for “2491” in item for subchapter I and struck out “and Dual-Use Assistance Extension Programs” after “Technology” in item for subchapter IV.

1996—Pub. L. 104-106, div. A, title XIII, §1321(a)(2), Feb. 10, 1996, 110 Stat. 477, added item for subchapter VI.

SUBCHAPTER I—DEFINITIONS

Sec.	
2500.	Definitions.

AMENDMENTS

1997—Pub. L. 105-85, div. A, title III, §371(c)(4), Nov. 18, 1997, 111 Stat. 1705, renumbered item 2491 as 2500.

**§ 2500. Definitions**

In this chapter:

(1) The term “national technology and industrial base” means the persons and organizations that are engaged in research, development, production, integration, services, or information technology activities conducted within the United States, the United Kingdom of Great Britain and Northern Ireland, Australia, and Canada.

(2) The term “dual-use” with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for military and nonmilitary applications.

(3) The term “dual-use critical technology” means a critical technology that has military applications and nonmilitary applications.

(4) The term “technology and industrial base sector” means a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, production, integration, services, or information technology activities.

(5) The terms “Federal laboratory” and “laboratory” have the meaning given the term “laboratory” in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)), except that such terms include a federally funded research and development center sponsored by a Federal agency.

(6) The term “critical technology” means a technology that is—

- (A) a national critical technology; or
- (B) a defense critical technology.

(7) The term “national critical technology” means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d)<sup>1</sup> of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

(8) The term “defense critical technology” means a technology that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title.

(9) The term “eligible firm” means a company or other business entity that, as determined by the Secretary of Commerce—

(A) conducts a significant level of its research, development, engineering, manufacturing, integration, services, and information technology activities in the United States; and

(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

(10) The term “manufacturing technology” means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

(11) The term “Small Business Innovation Research Program” means the program established under the following provisions of section 9 of the Small Business Act (15 U.S.C. 638):

- (A) Paragraphs (4) through (7) of subsection (b).
- (B) Subsections (e) through (l).

(12) The term “Small Business Technology Transfer Program” means the program established under the following provisions of such section:

(A) Paragraphs (4) through (7) of subsection (b).

(B) Subsections (e) and (n) through (p).

(13) The term “significant equity percentage” means—

(A) a level of contribution and participation sufficient, when compared to the other non-Federal participants in the partnership or other cooperative arrangement involved, to demonstrate a comparable long-term financial commitment to the product or process development involved; and

(B) any other criteria the Secretary may consider necessary to ensure an appropriate equity mix among the participants.

(14) The term “person of a foreign country” has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).

(15) The term “integration” means the process of providing systems engineering and technical direction for a system for the purpose of achieving capabilities that satisfy program requirements.

(Added Pub. L. 102-484, div. D, title XLII, §4203(a), Oct. 23, 1992, 106 Stat. 2661, §2491; amended Pub. L. 103-160, div. A, title XI, §1182(a)(9), title XIII, §1315(f), Nov. 30, 1993, 107 Stat. 1771, 1788; Pub. L. 103-337, div. A, title XI, §§1113(d), 1115(e), Oct. 5, 1994, 108 Stat. 2866, 2869; Pub. L. 104-106, div. A, title X, §1081(h), Feb. 10, 1996, 110 Stat. 455; renumbered §2500 and amended Pub. L. 105-85, div. A, title III, §371(b)(3), title X, §1073(a)(53), Nov. 18, 1997, 111 Stat. 1705, 1903; Pub. L. 111-383, div. A, title VIII, §895(a), Jan. 7, 2011, 124 Stat. 4313; Pub. L. 114-328, div. A, title VIII, §881(b), Dec. 23, 2016, 130 Stat. 2316.)

#### REFERENCES IN TEXT

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, referred to in par. (7), was classified to section 6683 of Title 42, The Public Health and Welfare, and was omitted from the Code.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in former sections 2511 and 2521 of this title prior to repeal by Pub. L. 102-484, §4202(a).

#### AMENDMENTS

2016—Par. (1). Pub. L. 114-328 inserted “, the United Kingdom of Great Britain and Northern Ireland, Australia,” after “United States”.

2011—Par. (1). Pub. L. 111-383, §895(a)(1), substituted “integration, services, or information technology” for “or maintenance”.

Par. (4). Pub. L. 111-383, §895(a)(2), substituted “production, integration, services, or information technology” for “or production”.

Par. (9)(A). Pub. L. 111-383, §895(a)(3), substituted “manufacturing, integration, services, and information technology” for “and manufacturing”.

Par. (15). Pub. L. 111-383, §895(a)(4), added par. (15).

1997—Pub. L. 105-85, §371(b)(3), renumbered section 2491 of this title as this section.

Par. (8). Pub. L. 105-85, §1073(a)(53), substituted “that is identified under section 2505 of this title as critical

<sup>1</sup> See References in Text note below.

for attaining the national security objectives set forth in section 2501(a) of this title.” for “that appears on the list of critical technologies contained, pursuant to subsection (b)(4) of section 2505 of this title, in the most recent national technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of this title.”

1996—Pars. (11) to (16). Pub. L. 104-106 redesignated pars. (13) to (16) as (11) to (14), respectively, and struck out former pars. (11) and (12) which read as follows:

“(11) The term ‘manufacturing extension program’ means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

“(12) The term ‘United States-based small manufacturing firm’ means a company or other business entity that, as determined by the Secretary of Commerce—

“(A) engages in manufacturing;

“(B) has less than 500 employees; and

“(C) is an eligible firm.”

1994—Par. (5). Pub. L. 103-337, § 1113(d), inserted before period at end “, except that such terms include a federally funded research and development center sponsored by a Federal agency”.

Par. (16). Pub. L. 103-337, § 1115(e), added par. (16).

1993—Par. (2). Pub. L. 103-160, § 1182(a)(9)(A), substituted “nonmilitary applications” for “nonmilitary application”.

Par. (8). Pub. L. 103-160, § 1182(a)(9)(B), substituted “subsection (b)(4)” for “subsection (f)”.

Pars. (13) to (15). Pub. L. 103-160, § 1315(f), added pars. (13) to (15).

#### SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title XI, § 1101, Oct. 5, 1994, 108 Stat. 2862, provided that: “This title [enacting sections 2519 and 2520 of this title, amending this section, sections 1151, 1152, 2391, 2511 to 2513, and 2524 of this title, and sections 1662d and 1662d-1 of Title 29, Labor, and enacting and amending provisions set out as notes under section 2501 of this title] may be cited as the ‘Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994.’”

#### SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title XIII, § 1301, Nov. 30, 1993, 107 Stat. 1783, provided that: “This title [enacting sections 1152 and 1153 of this title and sections 1279d, 1279e, and 1280a of the Appendix to Title 46, Shipping, amending this section, sections 1142, 1151, 1598, 2410j, 2501, 2502, 2511 to 2513, 2523, and 2524 of this title, sections 1551 and 1662d-1 of Title 29, Labor, section 31326 of Title 46, and sections 1271, 1273, 1274, and 1274a of the Appendix to Title 46, repealing section 2504 of this title, enacting provisions set out as notes under sections 1143, 1151, 2501, 2511, 2701, and 5013 of this title, section 1662d-1 of Title 29, and sections 1279b and 1279d of the Appendix to Title 46, amending provisions set out as notes under sections 1143, 2391, and 2501 of this title, and repealing provisions set out as a note under section 2701 of this title] may be cited as the ‘Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993.’”

#### SHORT TITLE

Pub. L. 102-484, div. D, § 4001, Oct. 23, 1992, 106 Stat. 2658, provided that: “This division [div. D (§§ 4001-4501) of Pub. L. 102-484, see Tables for classification] may be cited as the ‘Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.’”

#### TREATMENT OF INTERAGENCY AND STATE AND LOCAL PURCHASES WHEN THE DEPARTMENT OF DEFENSE ACTS AS CONTRACT INTERMEDIARY FOR THE GENERAL SERVICES ADMINISTRATION

Pub. L. 114-92, div. A, title VIII, § 897, Nov. 25, 2015, 129 Stat. 954, provided that: “Contracts executed by the Department of Defense as a result of the transfer of

contracts from the General Services Administration or for which the Department serves as an item manager for products on behalf of the General Services Administration shall not be subject to requirements under chapter 148 of title 10, United States Code, to the extent such contracts are for purchases of products by other Federal agencies or State or local governments.”

#### APPLICATION OF 1993 AMENDMENTS TO EXISTING TECHNOLOGY REINVESTMENT PROJECTS

Amendment by section 1315(f) of Pub. L. 103-160 not to alter financial commitment requirements in effect on the day before Nov. 30, 1993, for non-Federal Government participants in a project funded under section 2511, 2512, 2513, 2523, or 2524 of this title, using funds appropriated for a fiscal year beginning before Oct. 1, 1993, see section 1315(g) of Pub. L. 103-160, set out as a note under section 2511 of this title.

#### CONGRESSIONAL FINDINGS

Pub. L. 102-484, div. D, title XLI, § 4101, Oct. 23, 1992, 106 Stat. 2658, provided that: “Congress makes the following findings:

“(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

“(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

“(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

“(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

“(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

“(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national technology and industrial base.

“(7) Prompt and vigorous implementation of defense conversion, reinvestment, and transition assistance programs is essential to ensure that the defense build down is structured in a manner that—

“(A) enhances the long-term ability of the United States to maintain a strong and vibrant national technology and industrial base; and

“(B) promotes economic growth.”

#### PURPOSES OF TITLE XLII OF PUB. L. 102-484

Pub. L. 102-484, div. D, title XLII, § 4201, Oct. 23, 1992, 106 Stat. 2659, provided that: “The purposes of this title [see Tables for classification] are to consolidate, revise, clarify, and reenact policies and requirements, and to enact additional policies and requirements, relating to the national technology and industrial base, defense reinvestment, and defense conversion programs that further national security objectives.”

#### TRANSITION PROVISION; “DEFENSE CRITICAL TECHNOLOGY” DEFINED

Pub. L. 102-484, div. D, title XLII, § 4203(b), Oct. 23, 1992, 106 Stat. 2662, provided that until first national technology and industrial base assessment was submitted to Congress by Secretary of Defense pursuant to former section 2506(e) of this title, the term “defense

critical technology” for purposes of this chapter, would have meaning given such term in section 2521 of this title, as in effect on day before Oct. 23, 1992.

#### SUBCHAPTER II—POLICIES AND PLANNING

Sec.	
2501.	National security strategy for national technology and industrial base.
2502.	National Defense Technology and Industrial Base Council.
2503.	National defense program for analysis of the technology and industrial base.
2504.	Annual report to Congress.
2505.	National technology and industrial base: periodic defense capability assessments.
2506.	Department of Defense technology and industrial base policy guidance.
2507.	Data collection authority of President.
2508.	Industrial Base Fund

#### AMENDMENTS

2017—Pub. L. 115–91, div. A, title X, §1081(g)(2), Dec. 12, 2017, 131 Stat. 1601, amended directory language of Pub. L. 111–383, §896(b)(2). See 2011 Amendment note below.

2013—Pub. L. 112–239, div. A, title XVI, §1603(a)(2), Jan. 2, 2013, 126 Stat. 2063, substituted “National security strategy for national technology and industrial base” for “National security objectives concerning national technology and industrial base” in item 2501.

2011—Pub. L. 111–383, div. A, title VIII, §896(b)(2), Jan. 7, 2011, 124 Stat. 4316, as amended by Pub. L. 115–91, div. A, title X, §1081(g)(2), Dec. 12, 2017, 131 Stat. 1601, added item 2508.

1996—Pub. L. 104–201, div. A, title VIII, §829(g), Sept. 23, 1996, 110 Stat. 2614, added item 2504 and substituted “Department of Defense technology and industrial base policy guidance” for “National technology and industrial base: periodic defense capability plan” in item 2506.

Pub. L. 104–106, div. A, title X, §1081(i)(1), Feb. 10, 1996, 110 Stat. 455, substituted “National security objectives concerning national technology and industrial base” for “Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion” in item 2501.

1993—Pub. L. 103–160, div. A, title XIII, §1312(a)(2), Nov. 30, 1993, 107 Stat. 1786, struck out item 2504 “Center for the Study of Defense Economic Adjustment”.

#### § 2501. National security strategy for national technology and industrial base

(a) NATIONAL SECURITY STRATEGY FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:

(1) Supplying, equipping, and supporting the force structure of the armed forces that is necessary to achieve—

(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title; and

(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of this title.

(2) Sustaining production, maintenance, repair, logistics, and other activities in support of military operations of various durations and intensity.

(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

(4) Reconstituting within a reasonable period the capability to develop, produce, and support supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency, or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

(5) Providing for the development, manufacture, and supply of items and technologies critical to the production and sustainment of advanced military weapon systems within the national technology and industrial base.

(6) Providing for the generation of services capabilities that are not core functions of the armed forces and that are critical to military operations within the national technology and industrial base.

(7) Providing for the development, production, and integration of information technology within the national technology and industrial base.

(8) Maintaining critical design skills to ensure that the armed forces are provided with systems capable of ensuring technological superiority over potential adversaries.

(9) Ensuring reliable sources of materials that are critical to national security, such as specialty metals, essential minerals, armor plate, and rare earth elements.

(10) Reducing, to the maximum extent practicable, the presence of counterfeit parts in the supply chain and the risk associated with such parts.

(b) CIVIL-MILITARY INTEGRATION POLICY.—The Secretary of Defense shall ensure that the United States attains the national technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

(1) Relying, to the maximum extent practicable, upon the commercial national technology and industrial base that is required to meet the national security needs of the United States.

(2) Reducing the reliance of the Department of Defense on technology and industrial base sectors that are economically dependent on Department of Defense business.

(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

(Added Pub. L. 102–484, div. D, title XLII, §4211, Oct. 23, 1992, 106 Stat. 2662; amended Pub. L. 103–35, title II, §201(c)(7), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title XI, §1182(a)(10), title XIII, §1313, Nov. 30, 1993, 107 Stat. 1771, 1786; Pub. L. 104–106, div. A, title X, §1081(a), Feb. 10, 1996, 110 Stat. 452; Pub. L. 104–201, div. A, title VIII, §829(a), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111–23, title III, §303(a), May 22, 2009, 123 Stat.