

(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

(4) any person engaged in a legal commercial transaction.

(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

(2) such person—

(A) is an agent of Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

(B) has been convicted of, or has entered a plea of *nolo contendere* with respect to, any offense under section 792 through 799, 831, or 2381 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of *nolo contendere*, as the case may be.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 97-462, § 6, Jan. 12, 1983, 96 Stat. 2530; Pub. L. 98-473, title II, § 1209, Oct. 12, 1984, 98 Stat. 2164; Pub. L. 99-569, title VII, § 703, Oct. 27, 1986, 100 Stat. 3205; Pub. L. 103-199, title II, § 202, Dec. 17, 1993, 107 Stat. 2321; Pub. L. 103-322, title XXXIII, § 330016(1)(R), Sept. 13, 1994, 108 Stat. 2148.)

#### HISTORICAL AND REVISION NOTES

Based on section 601 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 3, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

#### REFERENCES IN TEXT

Section 11 of the Export Administration Act of 1979, referred to in subsec. (e)(2)(B), is classified to section 4610 of Title 50, War and National Defense.

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$75,000”.

1993—Subsec. (e)(2)(A). Pub. L. 103-199 substituted “Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section” for “the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba”.

1986—Subsec. (e). Pub. L. 99-569 added subsec. (e).

1984—Pub. L. 98-473 designated existing provisions as subsec. (a), substituted “Attorney General if required

in subsection (b)” for “Secretary of State”, and added subsecs. (b) to (d).

1983—Pub. L. 97-462 increased limitation on fines to \$75,000 from \$5,000.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-462 effective 45 days after Jan. 12, 1983, see section 4 of Pub. L. 97-462, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

### § 952. Diplomatic codes and correspondence

Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, willfully publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the United States, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 135 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 10, 1933, ch. 57, 48 Stat. 122).

Minor changes of phraseology were made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

### § 953. Private correspondence with foreign governments

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined under this title or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

(June 25, 1948, ch. 645, 62 Stat. 744; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 5 (Mar. 4, 1909, ch. 321, § 5, 35 Stat. 1088; Apr. 22, 1932, ch. 126, 47 Stat. 132).

The reference to any citizen or resident within the jurisdiction of the United States not duly authorized “who counsels, advises or assists in such correspondence with such intent” was omitted as unnecessary in view of definition of principal in section 2.

Mandatory punishment provision was rephrased in the alternative.