

SUBCHAPTER IX—TRANSFER OF CERTAIN
CFE TREATY-LIMITED EQUIPMENT TO
NATO MEMBERS

§ 2799. Purpose

The purpose of this subchapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

- (1) enhance NATO's forces,
- (2) increase NATO standardization and interoperability, and
- (3) better distribute defense burdens within the NATO alliance.

(Pub. L. 90-629, ch. 9, §91, as added Pub. L. 102-228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§ 2799a. CFE Treaty obligations

The authorities provided in this subchapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

(Pub. L. 90-629, ch. 9, §92, as added Pub. L. 102-228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§ 2799b. Authorities

(a) General authority

The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

- (1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty's definition of "conventional armaments and equipment limited by the Treaty";
- (2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty's area of application; and
- (3) that the President determines are not needed by United States military forces within the CFE Treaty's area of application.

(b) Acceptance of NATO assistance in eliminating direct costs of transfers

In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

(c) Acceptance of NATO assistance in meeting certain United States obligations

In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

(d) Authority to transfer on grant basis

Defense articles may be transferred under subsection (a) without cost to the recipient country.

(e) Third country transfers restrictions

For purposes of sections 2753(a)(2), 2753(a)(3), 2753(c), and 2753(d) of this title, defense articles transferred under subsection (a) shall be deemed to have been sold under this chapter.

(f) Maintenance of military balance in Eastern Mediterranean

The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 2373 of this title, of maintaining the military balance in the Eastern Mediterranean.

(g) Expiration of authority

(1) In general

Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40-month period beginning on the date on which the CFE Treaty enters into force.

(2) Transition rule

Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 2799c(a) of this title is submitted before the end of the period described in that paragraph.

(Pub. L. 90-629, ch. 9, §93, as added Pub. L. 102-228, §2, Dec. 12, 1991, 105 Stat. 1691.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), 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.

DELEGATION OF FUNCTIONS

Memorandum of President of the United States, Feb. 13, 1992, 57 F.R. 6663, provided:

Memorandum for the Secretary of State and the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Defense the functions vested in me by section 93(a) and section 94 of the Arms Export Control Act, as amended (the "Act") [22 U.S.C. 2799b(a), 2799c], and to the Secretary of State the functions vested in me by section 93(f) of the Act. Consistent with section 2 of the Act [22 U.S.C. 2752], transfers of defense articles under section 93(a) shall be subject to the policy direction of the Secretary of State, including the determination of whether such transfers shall occur.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§ 2799c. Notifications and reports to Congress

(a) Notifications

Not less than 15 days before transferring any defense articles pursuant to section 2799b(a) of this title, the President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 2394-1 of this title.

(b) Annual reports

Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the

Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 2799b(a) of this title during the preceding calendar year;

(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of section 2799 of this title; and

(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

(B) by each country of the Eastern Group of States Parties in implementing the CFE Treaty.

(Pub. L. 90-629, ch. 9, §94, as added Pub. L. 102-228, §2, Dec. 12, 1991, 105 Stat. 1692; amended Pub. L. 103-199, title IV, §402(1), Dec. 17, 1993, 107 Stat. 2324.)

AMENDMENTS

1993—Subsec. (b)(3)(B). Pub. L. 103-199 substituted “country of the Eastern Group of States Parties” for “Warsaw Pact country”.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by Memorandum of President of the United States, Feb. 13, 1992, 57 F.R. 6663, set out as a note under section 2799b of this title.

§ 2799d. Definitions

As used in this subchapter—

(1) the term “CFE Treaty” means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

(2) the term “conventional armaments and equipment limited by the CFE Treaty” has the same meaning as the term “conventional armaments and equipment limited by the Treaty” does under paragraph 1(J) of article II of the CFE Treaty;

(3) the term “NATO” means the North Atlantic Treaty Organization;

(4) the term “NATO/CFE country” means a member country of NATO that is a party to the CFE Treaty and is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

(5) the term “country of the Eastern Group of States Parties” means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 or a successor state to such a country.

(Pub. L. 90-629, ch. 9, §95, as added Pub. L. 102-228, §2, Dec. 12, 1991, 105 Stat. 1693; amended Pub. L. 103-199, title IV, §402(2), Dec. 17, 1993, 107 Stat. 2324.)

AMENDMENTS

1993—Par. (5). Pub. L. 103-199 substituted “country of the Eastern Group of States Parties” for “Warsaw Pact

country” and inserted before period at end “or a successor state to such a country”.

SUBCHAPTER X—NUCLEAR NONPROLIFERATION CONTROLS

§ 2799aa. Nuclear enrichment transfers

(a) Prohibitions; safeguards and management

Except as provided in subsection (b) of this section, no funds made available to carry out the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or this chapter may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.]), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act [22 U.S.C. 2348 et seq.], or extending military credits or making guarantees, to any country which the President determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b) Certification by President of necessity of continued assistance; disapproval by Congress

(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.