

under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

**§ 2795b. Repealed. Pub. L. 104-164, title I, § 145(a), July 21, 1996, 110 Stat. 1434**

Section, Pub. L. 90-629, ch. 5, § 53, as added Pub. L. 97-113, title I, § 108(a), Dec. 29, 1981, 95 Stat. 1524; amended Pub. L. 99-433, title I, § 110(h)(2), Oct. 1, 1986, 100 Stat. 1004, directed President to submit annual report to Congress on acquisitions of defense articles and services under this subchapter and required report to include estimate of likely procurements to be made through Special Defense Acquisition Fund.

**SUBCHAPTER VI—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES**

**§ 2796. Leasing authority**

**(a) Preconditions**

The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this chapter;

(2) he determines that the articles are not for the time needed for public use;

(3) the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and

(4) the country or international organization has agreed to pay in United States dollars all costs incurred by the United States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the costs of restoration or replacement if the articles are damaged while leased, and, if the articles are lost or destroyed while leased—

(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.

The requirement of paragraph (4) shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects. The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the

United States. The President may waive the requirement of paragraph (4) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the fiscal year<sup>1</sup> the current fiscal year and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

**(b) Duration; termination**

(1) Each lease agreement under this section shall be for a fixed duration which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles, and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles.

(2) In this subsection, the term “major refurbishment work” means work for which the period of performance is 6 months or more.

**(c) Applicable statutory authorities**

Defense articles in the stocks of the Department of Defense may be leased or loaned to a foreign country or international organization only under the authority of this subchapter or chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], and may not be leased to a foreign country or international organization under the authority of section 2667 of title 10.

(Pub. L. 90-629, ch. 6, § 61, as added Pub. L. 97-113, title I, § 109(a), Dec. 29, 1981, 95 Stat. 1524; amended Pub. L. 99-500, § 147, Oct. 18, 1986, 100 Stat. 1783-351, and Pub. L. 99-591, § 147, Oct. 30, 1986, 100 Stat. 3341-354; Pub. L. 100-202, § 101(e) [title V, § 556], Dec. 22, 1987, 101 Stat. 1329-131, 1329-170; Pub. L. 100-461, title V, § 552, Oct. 1, 1988, 102 Stat. 2268-35; Pub. L. 101-167, title V, § 550, Nov. 21, 1989, 103 Stat. 1235; Pub. L. 101-513, title V, § 546, Nov. 5, 1990, 104 Stat. 2019; Pub. L. 102-145, § 118, as added Pub. L. 102-266, § 102, Apr. 1, 1992, 106 Stat. 93; Pub. L. 102-391, title V, § 544, Oct. 6, 1992, 106 Stat. 1672; Pub. L. 103-87, title V, § 524, Sept. 30, 1993, 107 Stat. 952; Pub. L. 103-236, title VII, § 731(e), Apr. 30, 1994, 108 Stat. 503; Pub. L. 103-306, title V, § 524, Aug. 23, 1994, 108 Stat. 1632; Pub. L. 104-107, title V, § 524, Feb. 12, 1996, 110 Stat. 729; Pub. L. 104-164, title I, §§ 146, 153(a), July 21, 1996, 110 Stat. 1434, 1440; Pub. L. 104-208,

<sup>1</sup> So in original. The words “the fiscal year” probably should not appear.