

tive Order Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, 12791, 12840, and 12903 [see notes above], failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to December 31, 1995. Executive Order No. 12903 shall be superseded on the effective date of this Executive order.

WILLIAM J. CLINTON.

DELEGATION OF FUNCTIONS REGARDING DETERMINATION OF TIME, TERMS AND CONDITIONS OF NUCLEAR EXPORTS

Memorandum of the President of the United States, dated Oct. 3, 1980, provided:

By the authority vested in me by Title 3, United States Code, Section 301, you are hereby authorized to perform the following functions on my behalf:

1. Determination of the time, terms and conditions of exports made pursuant to any Executive Order heretofore or hereafter issued under Section 126(b)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. §2155(b)(2)).

2. Issuance of such rules, regulations and procedures as you may from time to time deem necessary or desirable for the exercise of functions delegated by paragraph 1.

This memorandum shall be published in the Federal Register.

JIMMY CARTER.

§ 2155a. Regulations establishing Commission procedures covering grant, suspension, revocation, or amendment of nuclear export licenses or exemptions

(a) Omitted

(b) Within one hundred and twenty days of March 10, 1978, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act [42

U.S.C. 2239(a)], shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

(Pub. L. 95-242, title III, §304(b), (c), Mar. 10, 1978, 92 Stat. 135.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is based on subsecs. (b) and (c) of Pub. L. 95-242. Subsecs. (a) and (d) of Pub. L. 95-242 enacted sections 2155 and 2156a, respectively, of this title.

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.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under 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.

DEFINITIONS

For definitions of terms used in this section, see section 3203 of Title 22, Foreign Relations and Intercourse.

§ 2156. Criteria governing United States nuclear exports

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to