

quired of a notification submitted pursuant to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)).

“(c) COUNTRIES DEFINED.—This section shall apply to any country that is—

“(1) identified in section 520 of this Act [Pub. L. 105-277, 112 Stat. 2681-176], or a comparable provision in a subsequent appropriations Act; or

“(2) currently ineligible, in whole or in part, under an annual appropriations Act to receive funds for International Military Education and Training or under the Foreign Military Financing Program, excluding high-income countries as defined pursuant to section 546(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2347e(b)].

“(d) EXCLUSIONS.—Information reportable under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.] is excluded from the requirements of this section.”

[For delegation of functions of President under section 101(d) [title V, § 594] of div. A of Pub. L. 105-277, set out above, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

#### ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES

Pub. L. 102-511, title IX, § 906, Oct. 24, 1992, 106 Stat. 3356, provided that:

“(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

“(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

“(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act [22 U.S.C. 2753(a)(1)], or

“(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

“(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘defense article’ has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

“(2) the term ‘excess defense article’ has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).”

#### § 2754. Purposes for which military sales or leases by the United States are authorized; report to Congress

Defense articles and defense services shall be sold or leased by the United States Government under this chapter to friendly countries solely for internal security, for legitimate self-defense, for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action ac-

tivities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided*, That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

(Pub. L. 90-629, ch. 1, § 4, Oct. 22, 1968, 82 Stat. 1322; Pub. L. 97-113, title I, § 109(b)(3), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 107-228, div. B, title XII, § 1202(a), Sept. 30, 2002, 116 Stat. 1427.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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.

#### AMENDMENTS

2002—Pub. L. 107-228 inserted “for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons,” after “legitimate self-defense,” in first sentence.

1981—Pub. L. 97-113 substituted “sold or leased” for “sold” in first sentence.

#### EFFECTIVE DATE

Section effective July 1, 1968, see section 41 of Pub. L. 90-629, set out as a note under section 2751 of this title.

#### § 2755. Discrimination prohibited if based on race, religion, national origin, or sex

##### (a) Congressional declaration of policy

It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of title 26) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

##### (b) Employment of personnel; required contractual provision

(1) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(2) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pur-

suant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

**(c) Report by President; contents**

The President shall promptly transmit reports to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a)(30) of title 26) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this chapter or any import or export under a treaty referred to in section 2778(j)(1)(C)(i) of this title. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

**(d) Congressional request for information from President; information required; 60 day period; failure to supply information; termination or restriction of sale**

(1) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Secretary of State, with respect to the country designated in such request, setting forth—

(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this chapter;

(B) the response of the United States thereto and the results of such response;

(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

(D) such other information as such committee may request.

(2) In the event a statement with respect to a sale or licensed transaction is requested pursu-

ant to paragraph (1) of this subsection but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

(3)(A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term “certification”, as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(Pub. L. 90-629, ch. 1, §5, as added Pub. L. 94-329, title III, §302(b), June 30, 1976, 90 Stat. 752; amended Pub. L. 95-105, title I, §109(a)(5), Aug. 17, 1977, 91 Stat. 846; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-236, title I, §162(f), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103-437, §9(a)(7), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 111-266, title I, §104(b), Oct. 8, 2010, 124 Stat. 2799; Pub. L. 113-276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1321, as amended, 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.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (d)(3)(B), (C), is section 601(b) of Pub. L. 94-329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and was not classified to the Code.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-276 substituted “the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and” for “the Speaker of the House of Representatives and”.

2010—Subsec. (c). Pub. L. 111-266 inserted “or any import or export under a treaty referred to in section 2778(j)(1)(C)(i) of this title” after “under this chapter”.

1994—Subsec. (d)(1). Pub. L. 103-437 substituted “Foreign Affairs” for “International Relations” in introductory provisions.

Pub. L. 103-236 substituted “Secretary of State” for “Assistant Secretary of State for Human Rights and Humanitarian Affairs” in introductory provisions.

1986—Subsecs. (a), (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1977—Subsec. (d)(1). Pub. L. 95-105 substituted “Assistant Secretary of State” for “Coordinator” in introductory provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier,

see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

#### DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(b) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note 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.

#### § 2756. Foreign intimidation and harassment of individuals in United States

No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this chapter with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate.

(Pub. L. 90-629, ch. 1, § 6, as added Pub. L. 97-113, title I, § 115, Dec. 29, 1981, 95 Stat. 1528; amended Pub. L. 113-276, title II, § 208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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.

#### AMENDMENTS

2014—Pub. L. 113-276 substituted “the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and” for “the Speaker of the House of Representatives and”.

#### SUBCHAPTER II—FOREIGN MILITARY SALES AUTHORIZATIONS

#### § 2761. Sales from stocks

##### (a) Eligible countries or international organizations; basis of payment; valuation of certain defense articles

(1) The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A) in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;

(B) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

(C) in the case of the sale of a defense service, the full cost to the United States Govern-

ment of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2347 et seq.] or to any high-income foreign country (as described in that chapter), only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2) For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

##### (b) Time of payment

Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

##### (c) Personnel performing defense services sold as prohibited from performing combat activities

(1) Personnel performing defense services sold under this chapter may not perform any duties of a combatant nature, including any duties related to training and advising that may engage United States personnel in combat activities, outside the United States in connection with the performance of those defense services.

(2) Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this chapter or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

##### (d) Billings; interest after due date, rates of interest and extension of due date

If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after June 30, 1976, may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstand-