

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.)

#### Editorial Notes

##### AMENDMENTS

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

#### Executive Documents

##### 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.)

#### Editorial Notes

##### 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 En-

ergy 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.

(B) Any joint resolution under this paragraph 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.

(Pub. L. 90-629, ch. 10, §101, as added Pub. L. 103-236, title VIII, §826(a), Apr. 30, 1994, 108 Stat. 515; amended Pub. L. 113-276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

**Editorial Notes**

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Chapters 4 and 6 of part II of the Act are classified generally to parts IV (§2346 et seq.) and VI (§2348 et seq.), respectively, of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

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

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b)(2)(B), is section 601(b) of Pub. L. 94-329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113-276 substituted “the Speaker of the House of Representatives, the Com-

mittee on Foreign Affairs of the House of Representatives, and” for “the Speaker of the House of Representatives and” in introductory provisions.

**Statutory Notes and Related Subsidiaries**

REFERENCES TO SECTIONS 2429 AND 2429a OF THIS TITLE DEEMED TO BE REFERENCES TO SECTIONS 2799aa AND 2799aa-1 OF THIS TITLE

Pub. L. 103-236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519, provided that: “Any reference in law as of the date of enactment of this Act [Apr. 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 [former 22 U.S.C. 2429, 2429a] shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act [22 U.S.C. 2799aa, 2799aa-1].”

EFFECTIVE DATE

Section effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as a note under section 6301 of this title.

**Executive Documents**

WAIVER OF SANCTIONS

Sanctions contained in this section waived in certain regards with respect to India by Determination of President of the United States, No. 2000-18, Mar. 16, 2000, 65 F.R. 16297, set out as a note under section 2799aa-1 of this title.

Sanctions contained in this section waived in certain regards with respect to India and Pakistan by Determination of President of the United States, No. 2000-4, Oct. 27, 1999, 64 F.R. 60649, set out as a note under section 2799aa-1 of this title.

**§ 2799aa-1. Nuclear reprocessing transfers, illegal exports for nuclear explosive devices, transfers of nuclear explosive devices, and nuclear detonations**

**(a) Prohibitions on assistance to countries involved in transfer of nuclear reprocessing equipment, materials, or technology; exceptions; procedures applicable**

(1) Except as provided in paragraph (2) of this subsection, 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—

(A) delivers nuclear reprocessing 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 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology