

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1869(d)(1), as added by Pub. L. 117-81, §1701(p)(1)(A), (B), renumbered section 2522 of this title as this section.

2018—Pub. L. 115-232 substituted “chapter 764” for “chapter 434”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

CHAPTER 385—OTHER TECHNOLOGY BASE POLICIES AND PROGRAMS

Table with 2 columns: Subchapter and Sec. Rows include I. Defense Trade Reciprocity and Offset Policy (4851), II. Limitations on Procurement of Certain Items from Foreign Sources (4861), III. Limitations on Procurement from Certain Foreign Sources (4871), IV. Defense Industrial Reserve and Industrial Mobilization (4881), V. Other Matters (4891)

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PRIOR PROVISIONS

A prior chapter 385 “PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM”, consisting of reserved section 4881, was repealed by Pub. L. 116-283, div. A, title XVIII, §1872(a)(1)(A), Jan. 1, 2021, 134 Stat. 4287.

SUBCHAPTER I—DEFENSE TRADE RECIPROCITY AND OFFSET POLICY

Table with 2 columns: Sec. and Description. Rows include 4851. Defense memoranda of understanding and related agreements. 4852. Offset policy; notification.

§ 4851. Defense memoranda of understanding and related agreements

(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUS AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, or to the reciprocal procurement of defense items, the Secretary of Defense shall—

(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense technology and industrial base of the United States; and

(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

(c) LIMITATION ON ENTERING INTO MOUS AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.

(Added Pub. L. 100-456, div. A, title VIII, §824, Sept. 29, 1988, 102 Stat. 2019, §2504; amended Pub. L. 101-189, div. A, title VIII, §815(a), Nov. 29, 1989, 103 Stat. 1500; Pub. L. 101-510, div. A, title XIV, §1453, Nov. 5, 1990, 104 Stat. 1694; renumbered §2531 and amended Pub. L. 102-484, div. D, title XLII, §§ 4202(a), 4271(c), Oct. 23, 1992, 106 Stat. 2659, 2696; renumbered §4851, Pub. L. 116-283, div. A, title XVIII, §1870(b), Jan. 1, 2021, 134 Stat. 4284.)

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AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2531 of this title as this section.

1992—Pub. L. 102-484, §4202(a), renumbered section 2504 of this title as section 2531.

Subsec. (a)(1). Pub. L. 102-484, §4271(c), substituted “defense technology and industrial base” for “defense industrial base”.

1990—Subsec. (a). Pub. L. 101-510 inserted “or to the reciprocal procurement of defense items,” after “defense equipment,” in introductory provisions.