

with the Secretary, the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the heads of other Federal agencies, as appropriate, should have a regular and robust process to identify the emerging and other types of critical technologies of concern and regulate their release to foreign persons as warranted regardless of the nature of the underlying transaction. Such identification efforts should draw upon the resources and expertise of all relevant parts of the United States Government, industry, and academia. These efforts should be in addition to traditional efforts to modernize and update the lists of controlled items under the multilateral export control regimes.

(11) The authority under this subchapter may be exercised only in furtherance of all of the objectives set forth in paragraphs (1) through (10).

(Pub. L. 115-232, div. A, title XVII, §1752, Aug. 13, 2018, 132 Stat. 2210.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in pars. (3) and (11), was in the original “this part”, meaning part I (§§1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

§ 4812. Authority of the President

(a) Authority

In order to carry out the policy set forth in paragraphs (1) through (10) of section 4811 of this title, the President shall control—

(1) the export, reexport, and in-country transfer of items subject to the jurisdiction of the United States, whether by United States persons or by foreign persons; and

(2) the activities of United States persons, wherever located, relating to specific—

(A) nuclear explosive devices;

(B) missiles;

(C) chemical or biological weapons;

(D) whole plants for chemical weapons precursors;

(E) foreign maritime nuclear projects; and

(F) foreign military intelligence services.

(b) Requirements

In exercising authority under this subchapter to carry out the policy set forth in paragraphs (1) through (10) of section 4811 of this title, the President shall—

(1) regulate the export, reexport, and in-country transfer of items described in subsection (a)(1) of United States persons or foreign persons;

(2) regulate the activities described in subsection (a)(2) of United States persons, wherever located;

(3) seek to secure the cooperation of other governments and multilateral organizations to impose control systems that are consistent, to the extent possible, with the controls imposed under subsection (a);

(4) maintain the leadership of the United States in science, engineering, technology research and development, manufacturing, and foundational technology that is essential to innovation;

(5) protect United States technological advances by prohibiting unauthorized technology transfers to foreign persons in the United States or outside the United States, particularly with respect to countries that may pose a significant threat to the national security of the United States;

(6) strengthen the United States industrial base, both with respect to current and future defense requirements; and

(7) enforce the controls through means such as regulations, requirements for compliance, lists of controlled items, lists of foreign persons who threaten the national security or foreign policy of the United States, and guidance in a form that facilitates compliance by United States persons and foreign persons, in particular academic institutions, scientific and research establishments, and small- and medium-sized businesses.

(c) Application of controls

The President shall impose controls over the export, reexport, or in-country transfer of items for purposes of the objectives described in subsections (b)(1) or (b)(2) without regard to the nature of the underlying transaction or any circumstances pertaining to the activity, including whether such export, reexport, or in-country transfer occurs pursuant to a purchase order or other contract requirement, voluntary decision, inter-company arrangement, marketing effort, or during a joint venture, joint development agreement, or similar collaborative agreement.

(Pub. L. 115-232, div. A, title XVII, §1753, Aug. 13, 2018, 132 Stat. 2211.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original “this part”, meaning part I (§§1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

§ 4813. Additional authorities

(a) In general

In carrying out this subchapter on behalf of the President, the Secretary, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the heads of other Federal agencies as appropriate, shall—

(1) establish and maintain a list of items that are controlled under this subchapter;

(2) establish and maintain a list of foreign persons and end-uses that are determined to be a threat to the national security and foreign policy of the United States pursuant to the policy set forth in section 4811(2)(A) of this title;

(3) prohibit unauthorized exports, reexports, and in-country transfers of controlled items,