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110TH CONGRESS
2^D SESSION

H. R. 5916

[Report No. 110-626]

To reform the administration of the Arms Export Control Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2008

Mr. BERMAN (for himself, Ms. ROS-LEHTINEN, Mr. SHERMAN, and Mr. MANZULLO) introduced the following bill; which was referred to the Committee on Foreign Affairs

MAY 12, 2008

Additional sponsor: Mr. CROWLEY

MAY 12, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on April 29, 2008]

A BILL

To reform the administration of the Arms Export Control Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Security Assistance and Arms Export Control Reform Act of*
 3 *2008”.*

5 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 6 *this Act is as follows:*

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF ARMS EXPORT CONTROL PROCEDURES

Subtitle A—Defense Trade Controls Performance Improvement Act of 2008

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Strategic review and assessment of the United States export controls system.

Sec. 104. Performance goals for processing of applications for licenses to export items on USML.

Sec. 105. Requirement to ensure adequate staff and resources for DDTC of the Department of State.

Sec. 106. Audit by Inspector General of the Department of State.

Sec. 107. Increased flexibility for use of defense trade controls registration fees.

Sec. 108. Review of ITAR and USML.

Sec. 109. Special licensing authorization for certain exports to NATO member states, Australia, Japan, and New Zealand.

Sec. 110. Availability of information on the status of license applications under chapter 3 of the Arms Export Control Act.

Sec. 111. Sense of Congress.

Sec. 112. Definitions.

Sec. 113. Authorization of appropriations.

Subtitle B—Miscellaneous Provisions

Sec. 121. Report on self-financing options for export licensing functions of DDTC of the Department of State.

Sec. 122. Expediting congressional defense export review period for South Korea and Israel.

Sec. 123. Availability to Congress of Presidential directives regarding United States arms export policies, practices, and regulations.

Sec. 124. Increase in congressional notification thresholds and expediting congressional review for South Korea and Israel.

Sec. 125. Diplomatic efforts to strengthen national and international arms export controls.

Sec. 126. Reporting requirement for unlicensed exports.

Sec. 127. Report on value of major defense equipment and defense articles exported under section 38 of the Arms Export Control Act.

Sec. 128. Report on satellite export controls.

Sec. 129. Definition.

*TITLE II—SECURITY ASSISTANCE AND RELATED SUPPORT FOR
ISRAEL*

- Sec. 201. Assessment of Israel’s qualitative military edge over military threats.*
Sec. 202. Report on United States’ commitments to the security of Israel.
Sec. 203. War Reserves Stockpile.
Sec. 204. Implementation of Memorandum of Understanding with Israel.
Sec. 205. Definitions.

*TITLE III—WAIVER OF CERTAIN SANCTIONS TO FACILITATE
DENUCLEARIZATION ACTIVITIES IN NORTH KOREA*

- Sec. 301. Waiver authority and exceptions.*
Sec. 302. Certification regarding waiver of certain sanctions.
Sec. 303. Congressional notification and report.
Sec. 304. Termination of waiver authority.
Sec. 305. Expiration of waiver authority.
Sec. 306. Continuation of restrictions against the Government of North Korea.
*Sec. 307. Report on verification measures relating to North Korea’s nuclear pro-
grams.*
Sec. 308. Definitions.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Authority to build the capacity of foreign military forces.*
Sec. 402. Maintenance of European Union arms embargo against China.
*Sec. 403. Reimbursement of salaries of members of the reserve components in sup-
port of security cooperation missions.*
Sec. 404. Foreign Military Sales Stockpile Fund.
*Sec. 405. Congressional notification requirements under the Arms Export Control
Act.*
Sec. 406. Sense of Congress.

TITLE V—AUTHORITY TO TRANSFER NAVAL VESSELS

- Sec. 501. Authority to transfer naval vessels to certain foreign recipients.*

1 ***TITLE I—REFORM OF ARMS***
2 ***EXPORT CONTROL PROCEDURES***
3 ***Subtitle A—Defense Trade Controls***
4 ***Performance Improvement Act of***
5 ***2008***

6 ***SEC. 101. SHORT TITLE.***

- 7 *This subtitle may be cited as the “Defense Trade Con-*
8 *trols Performance Improvement Act of 2008”.*

1 **SEC. 102. FINDINGS.**

2 *Congress finds the following:*

3 *(1) In a time of international terrorist threats*
4 *and a dynamic global economic and security environ-*
5 *ment, United States policy with regard to export con-*
6 *trols is in urgent need of a comprehensive review in*
7 *order to ensure such controls are protecting the na-*
8 *tional security and foreign policy interests of the*
9 *United States.*

10 *(2) In January 2007, the Government Account-*
11 *ability Office designated the effective identification*
12 *and protection of critical technologies as a govern-*
13 *ment-wide, high-risk area, warranting a strategic re-*
14 *examination of existing programs, including pro-*
15 *grams relating to arms export controls.*

16 *(3) Federal Government agencies must review li-*
17 *censes for export of munitions in a thorough and*
18 *timely manner to ensure that the United States is*
19 *able to assist United States allies and to prevent nu-*
20 *clear and conventional weapons from getting into the*
21 *hands of enemies of the United States.*

22 *(4) Both staffing and funding that relate to the*
23 *Department of State's arms export control respon-*
24 *sibilities have not kept pace with the increased work-*
25 *load relating to such responsibilities, especially over*
26 *the last five years.*

1 (5) *Outsourcing and off-shoring of defense pro-*
2 *duction and the policy of many United States trading*
3 *partners to require offsets for major sales of defense*
4 *and aerospace articles present a potential threat to*
5 *United States national security and economic well-*
6 *being and serve to weaken the defense industrial base.*

7 (6) *Export control policies can have a negative*
8 *impact on United States employment, nonprolifera-*
9 *tion goals, and the health of the defense industrial*
10 *base, particularly when facilitating the overseas*
11 *transfer of technology or production and other forms*
12 *of outsourcing, such as offsets (direct and indirect),*
13 *co-production, subcontracts, overseas investment and*
14 *joint ventures in defense and commercial industries.*
15 *Federal Government agencies must develop new and*
16 *effective procedures for ensuring that export control*
17 *systems address these problems and the threat they*
18 *pose to national security.*

19 (7) *In the report to Congress required by the*
20 *Conference Report (Report 109–272) accompanying*
21 *the bill, H.R. 2862 (the Science, State, Justice, Com-*
22 *merce and Related Agencies Appropriations Act,*
23 *2006; Public Law 109–108), the Department of State*
24 *concluded that—*

1 (A) *defense trade licensing has become much*
2 *more complex in recent years as a consequence of*
3 *the increasing globalization of the defense indus-*
4 *try;*

5 (B) *the most important challenge to the De-*
6 *partment of State's licensing process has been the*
7 *sheer growth in volume of applicants for licenses*
8 *and agreements, without the corresponding in-*
9 *crease in licensing officers;*

10 (C) *fiscal year 2005 marked the third*
11 *straight year of roughly 8 percent annual in-*
12 *creases in licensing volume;*

13 (D) *although an 8 percent increase in work-*
14 *load equates to a requirement for three addi-*
15 *tional licensing officers per year, there has been*
16 *no increase in licensing officers during this pe-*
17 *riod; and*

18 (E) *the increase in licensing volume without*
19 *a corresponding increase in trained and experi-*
20 *enced personnel has resulted in delays and in-*
21 *creased processing times.*

22 (8) *In 2006, the Department of State processed*
23 *over three times as many licensing applications as the*
24 *Department of Commerce with about a fifth of the*
25 *staff of the Department of Commerce.*

1 (9) *On July 27, 2007, in testimony delivered to*
2 *the Subcommittee on Terrorism, Nonproliferation and*
3 *Trade of the House Committee on Foreign Affairs to*
4 *examine the effectiveness of the United States export*
5 *control regime, the Government Accountability Office*
6 *found that—*

7 (A) *the United States Government needs to*
8 *conduct assessments to determine its overall effec-*
9 *tiveness in the area of arms export control; and*

10 (B) *the processing times of the Department*
11 *of State doubled over the period from 2002 to*
12 *2006.*

13 (10) *Although the current number of unprocessed*
14 *applications for licenses to export defense items is less*
15 *than 3,800 applications, due to the extraordinary ef-*
16 *forts of the personnel and management of the Depart-*
17 *ment of State’s Directorate of Defense Trade Controls,*
18 *at the end of 2006, the Department of State’s backlog*
19 *of such unprocessed applications reached its highest*
20 *level at more than 10,000 unprocessed applications.*
21 *This resulted in major management and personnel*
22 *challenges for the Directorate of Defense Trade Con-*
23 *trols.*

24 (11)(A) *Allowing a continuation of the status*
25 *quo in resources for defense trade licensing could ulti-*

1 *mately harm the United States defense industrial*
2 *base. The 2007 Institute for Defense Analysis report*
3 *entitled “Export Controls and the U.S. Defense Indus-*
4 *trial Base” found that the large backlog and long*
5 *processing times by the Department of State for ap-*
6 *plications for licenses to export defense items led to an*
7 *impairment of United States firms in some sectors to*
8 *conduct global business relative to foreign competitors.*

9 *(B) Additionally, the report found that United*
10 *States commercial firms have been reluctant to engage*
11 *in research and development activities for the Depart-*
12 *ment of Defense because this raises the future pros-*
13 *pects that the products based on this research and de-*
14 *velopment, even if intrinsically commercial, will be*
15 *saddled by Department of State munitions controls*
16 *due to the link to that research.*

17 *(12) According to the Department of State’s fis-*
18 *cal year 2008 budget justification to Congress, com-*
19 *mercial exports licensed or approved under the Arms*
20 *Export Control Act exceeded \$30,000,000,000, with*
21 *nearly eighty percent of these items exported to*
22 *United States NATO allies and other major non-*
23 *NATO allies.*

24 *(13) A Government Accountability Office report*
25 *of October 9, 2001 (GAO-02-120), documented am-*

1 *biguous export control jurisdiction affecting 25 per-*
2 *cent of the items that the United States Government*
3 *agreed to control as part of its commitments to the*
4 *Missile Technology Control Regime. The United*
5 *States Government has not clearly determined which*
6 *department has jurisdiction over these items, which*
7 *increases the risk that these items will fall into the*
8 *wrong hands. During both the 108th and 109th Con-*
9 *gresses, the House of Representatives passed legisla-*
10 *tion mandating that the Administration clarify this*
11 *issue.*

12 **SEC. 103. STRATEGIC REVIEW AND ASSESSMENT OF THE**
13 **UNITED STATES EXPORT CONTROLS SYSTEM.**

14 *(a) REVIEW AND ASSESSMENT.—*

15 *(1) IN GENERAL.—Not later than March 31,*
16 *2009, the President shall conduct a comprehensive*
17 *and systematic review and assessment of the United*
18 *States arms export controls system in the context of*
19 *the national security interests and strategic foreign*
20 *policy objectives of the United States.*

21 *(2) ELEMENTS.—The review and assessment re-*
22 *quired under paragraph (1) shall—*

23 *(A) determine the overall effectiveness of the*
24 *United States arms export controls system in*
25 *order to, where appropriate, strengthen controls,*

1 *improve efficiency, and reduce unnecessary*
2 *redundancies across Federal Government agen-*
3 *cies, through administrative actions, including*
4 *regulations, and to formulate legislative pro-*
5 *posals for new authorities that are needed;*

6 *(B) develop processes to ensure better co-*
7 *ordination of arms export control activities of*
8 *the Department of State with activities of other*
9 *departments and agencies of the United States*
10 *that are responsible for enforcing United States*
11 *arms export control laws;*

12 *(C) ensure that all items on the Missile*
13 *Technology Control Regime Annex are subject to*
14 *stringent control by the United States Govern-*
15 *ment;*

16 *(D) determine the overall effect of arms ex-*
17 *port controls on counterterrorism, law enforce-*
18 *ment, and infrastructure protection missions of*
19 *the Department of Homeland Security;*

20 *(E) contain a detailed summary of known*
21 *attempts by unauthorized end-users (such as*
22 *international arms traffickers, foreign intel-*
23 *ligence agencies, and foreign terrorist organiza-*
24 *tions) to acquire items on the United States Mu-*
25 *nitions List, including—*

1 (i) data on—

2 (I) commodities sought, such as
3 M-4 rifles, night vision devices, F-14
4 spare parts;

5 (II) parties involved, such as the
6 intended end-users, brokers, consignees,
7 and shippers;

8 (III) destination countries and
9 transit countries;

10 (IV) modes of transport;

11 (V) trafficking methods, such as
12 use of false documentation and front
13 companies registered under flags of
14 convenience;

15 (VI) whether the attempted illicit
16 transfer was successful; and

17 (VII) any administrative or
18 criminal enforcement actions taken by
19 the United States and any other gov-
20 ernment in relation to the attempted
21 illicit transfer;

22 (ii) a thorough evaluation of the Blue
23 Lantern Program, including the adequacy
24 of current staffing and funding levels;

1 (iii) a detailed analysis of licensing ex-
2 emptions and their successful exploitation
3 by unauthorized end-users; and

4 (iv) an examination of the extent to
5 which the increased tendency toward
6 outsourcing and off-shoring of defense pro-
7 duction harm United States national secu-
8 rity and weaken the defense industrial base,
9 including direct and indirect impact on em-
10 ployment, and formulate policies to address
11 these trends as well as the policy of some
12 United States trading partners to require
13 offsets for major sales of defense articles;
14 and

15 (F) assess the extent to which export control
16 policies and practices under the Arms Export
17 Control Act promote the protection of basic
18 human rights.

19 (b) CONGRESSIONAL BRIEFINGS.—The President shall
20 provide periodic briefings to the appropriate congressional
21 committees on the progress of the review and assessment
22 conducted under subsection (a). The requirement to provide
23 congressional briefings under this subsection shall terminate
24 on the date on which the President transmits to the appro-

1 *priate congressional committees the report required under*
2 *subsection (c).*

3 *(c) REPORT.—Not later than 18 months after the date*
4 *of the enactment of this Act, the President shall transmit*
5 *to the appropriate congressional committees a report that*
6 *contains the results of the review and assessment conducted*
7 *under subsection (a). The report required by this subsection*
8 *shall contain a certification that the requirement of sub-*
9 *section (a)(2)(C) has been met, or if the requirement has*
10 *not been met, the reasons therefor. The report required by*
11 *this subsection shall be submitted in unclassified form, but*
12 *may contain a classified annex, if necessary.*

13 **SEC. 104. PERFORMANCE GOALS FOR PROCESSING OF AP-**
14 **PLICATIONS FOR LICENSES TO EXPORT**
15 **ITEMS ON USML.**

16 *(a) IN GENERAL.—The Secretary of State, acting*
17 *through the head of the Directorate of Defense Trade Con-*
18 *trols of the Department of State, shall establish the following*
19 *goals:*

20 *(1) The processing time for review of each appli-*
21 *cation for a license to export items on the United*
22 *States Munitions List (other than applications for*
23 *approval of agreements under part 124 of title 22,*
24 *Code of Federal Regulations (or successor regula-*

1 *tions)) shall be not more than 60 days from the date*
2 *of receipt of the application.*

3 *(2) The processing time for review of each appli-*
4 *cation for a commodity jurisdiction determination*
5 *shall be not more than 60 days from the date of re-*
6 *ceipt of the application.*

7 *(3) The total number of applications described in*
8 *paragraph (1) that are unprocessed shall be not more*
9 *than 7 percent of the total number of such applica-*
10 *tions submitted in the preceding calendar year.*

11 *(b) ADDITIONAL REVIEW.—(1) If an application de-*
12 *scribed in paragraph (1) or (2) of subsection (a) is not proc-*
13 *essed within the time period described in the respective*
14 *paragraph of such subsection, then the Managing Director*
15 *of the Directorate of Defense Trade Controls or the Deputy*
16 *Assistant Secretary for Defense Trade and Regional Secu-*
17 *rity of the Department of State, as appropriate, shall re-*
18 *view the status of the application to determine if further*
19 *action is required to process the application.*

20 *(2) If an application described in paragraph (1) or*
21 *(2) of subsection (a) is not processed within 90 days from*
22 *the date of receipt of the application, then the Assistant Sec-*
23 *retary for Political-Military Affairs of the Department of*
24 *State shall—*

1 (A) review the status of the application to deter-
2 mine if further action is required to process the appli-
3 cation; and

4 (B) submit to the appropriate congressional com-
5 mittees a notification of the review conducted under
6 subparagraph (A), including a description of the ap-
7 plication, the reason for delay in processing the ap-
8 plication, and a proposal for further action to process
9 the application.

10 (3) For each calendar year, the Managing Director of
11 the Directorate of Defense Trade Controls shall review not
12 less than 2 percent of the total number of applications de-
13 scribed in paragraphs (1) and (2) of subsection (a) to en-
14 sure that the processing of such applications, including de-
15 cisions to approve, deny, or return without action, is con-
16 sistent with both policy and regulatory requirements of the
17 Department of State.

18 (c) *UNITED STATES ALLIES*.—Congress states that—

19 (1) it shall be the policy of the Directorate of De-
20 fense Trade Controls of the Department of State to en-
21 sure that, to the maximum extent practicable, the
22 processing time for review of applications described in
23 subsection (a)(1) to export items that are not subject
24 to the requirements of section 36(b) or (c) of the Arms
25 Export Control Act (22 U.S.C. 2776(b) or (c)) to

1 *United States allies in direct support of combat oper-*
2 *ations or peacekeeping or humanitarian operations*
3 *with United States Armed Forces is not more than 7*
4 *days from the date of receipt of the application; and*

5 *(2) it shall be the goal, as appropriate, of the Di-*
6 *rectorate of Defense Trade Controls to ensure that, to*
7 *the maximum extent practicable, the processing time*
8 *for review of applications described in subsection*
9 *(a)(1) to export items that are not subject to the re-*
10 *quirements of section 36(b) or (c) of the Arms Export*
11 *Control Act to government security agencies of United*
12 *States NATO allies, Australia, New Zealand, Japan,*
13 *South Korea, Israel, and, as appropriate, other major*
14 *non-NATO allies for any purpose other than the pur-*
15 *pose described in paragraph (1) is not more than 30*
16 *days from the date of receipt of the application.*

17 *(d) REPORT.—Not later than December 31, 2010, and*
18 *December 31, 2011, the Secretary of State shall submit to*
19 *the appropriate congressional committees a report that con-*
20 *tains a detailed description of—*

21 *(1)(A) the average processing time for and num-*
22 *ber of applications described in subsection (a)(1) to—*

23 *(i) United States NATO allies, Australia,*
24 *New Zealand, Japan, South Korea, and Israel;*

25 *(ii) other major non-NATO allies; and*

1 (iii) all other countries; and

2 (B) to the extent practicable, the average proc-
3 essing time for and number of applications described
4 in subsection (b)(1) by item category;

5 (2) the average processing time for and number
6 of applications described in subsection (a)(2);

7 (3) the average processing time for and number
8 of applications for agreements described in part 124
9 of title 22, Code of Federal Regulations (relating to
10 the International Traffic in Arms Regulations);

11 (4) any management decisions of the Directorate
12 of Defense Trade Controls of the Department of State
13 that have been made in response to data contained in
14 paragraphs (1) through (3); and

15 (5) any advances in technology that will allow
16 the time-frames described in subsection (a)(1) to be
17 substantially reduced.

18 (e) CONGRESSIONAL BRIEFINGS.—If, at the end of any
19 month beginning after the date of the enactment of this Act,
20 the total number of applications described in subsection
21 (a)(1) that are unprocessed is more than 7 percent of the
22 total number of such applications submitted in the pre-
23 ceding calendar year, then the Secretary of State, acting
24 through the Under Secretary for Arms Control and Inter-
25 national Security, the Assistant Secretary for Political-

1 *Military Affairs, or the Deputy Assistant Secretary for De-*
2 *fense Trade and Regional Security of the Department of*
3 *State, as appropriate, shall brief the appropriate congres-*
4 *sional committees on such matters and the corrective meas-*
5 *ures that the Directorate of Defense Trade Controls will take*
6 *to comply with the requirements of subsection (a).*

7 (f) *TRANSPARENCY OF COMMODITY JURISDICTION DE-*
8 *TERMINATIONS.*—

9 (1) *DECLARATION OF POLICY.*—Congress declares
10 *that the complete confidentiality surrounding several*
11 *hundred commodity jurisdiction determinations made*
12 *each year by the Department of State pursuant to the*
13 *International Traffic in Arms Regulations is not nec-*
14 *essary to protect legitimate proprietary interests of*
15 *persons or their prices and customers, is not in the*
16 *best security and foreign policy interests of the United*
17 *States, is inconsistent with the need to ensure a level*
18 *playing field for United States exporters, and detracts*
19 *from United States efforts to promote greater trans-*
20 *parency and responsibility by other countries in their*
21 *export control systems.*

22 (2) *PUBLICATION ON INTERNET WEBSITE.*—The
23 *Secretary of State shall—*

24 (A) *upon making a commodity jurisdiction*
25 *determination referred to in paragraph (1) pub-*

1 *lish on the Internet website of the Department of*
2 *State not later than 30 days after the date of the*
3 *determination—*

4 *(i) the name of the manufacturer of the*
5 *item;*

6 *(ii) a brief general description of the*
7 *item;*

8 *(iii) the model or part number of the*
9 *item; and*

10 *(iv) the United States Munitions List*
11 *designation under which the item has been*
12 *designated, except that—*

13 *(I) the name of the person or busi-*
14 *ness organization that sought the com-*
15 *modity jurisdiction determination*
16 *shall not be published if the person or*
17 *business organization is not the manu-*
18 *facturer of the item; and*

19 *(II) the names of the customers,*
20 *the price of the item, and any propri-*
21 *etary information relating to the item*
22 *indicated by the person or business or-*
23 *ganization that sought the commodity*
24 *jurisdiction determination shall not be*
25 *published; and*

1 (B) maintain on the Internet website of the
2 Department of State an archive, that is acces-
3 sible to the general public and other departments
4 and agencies of the United States, of the infor-
5 mation published under subparagraph (A).

6 (g) *RULE OF CONSTRUCTION.*—Nothing in this section
7 shall be construed to prohibit the President or Congress
8 from undertaking a thorough review of the national security
9 and foreign policy implications of a proposed export of
10 items on the United States Munitions List.

11 **SEC. 105. REQUIREMENT TO ENSURE ADEQUATE STAFF AND**
12 **RESOURCES FOR DDTC OF THE DEPARTMENT**
13 **OF STATE.**

14 (a) *REQUIREMENT.*—The Secretary of State shall en-
15 sure that the Directorate of Defense Trade Controls of the
16 Department of State has the necessary staff and resources
17 to carry out this subtitle and the amendments made by this
18 subtitle.

19 (b) *MINIMUM NUMBER OF LICENSING OFFICERS.*—For
20 fiscal year 2010 and each subsequent fiscal year, the Sec-
21 retary of State shall ensure that the Directorate of Defense
22 Trade Controls has at least 1 licensing officer for every
23 1,250 applications for licenses and other authorizations to
24 export items on the United States Munitions List by not
25 later than the third quarter of such fiscal year, based on

1 *the number of licenses and other authorizations expected to*
2 *be received during such fiscal year. The Secretary shall en-*
3 *sure that in meeting the requirement of this subsection, the*
4 *performance of other functions of the Directorate of Defense*
5 *Trade Controls is maintained and adequate staff is pro-*
6 *vided for those functions.*

7 (c) *MINIMUM NUMBER OF STAFF FOR COMMODITY JU-*
8 *RISDICTION DETERMINATIONS.—For each of the fiscal years*
9 *2009 through 2011, the Secretary of State shall ensure that*
10 *the Directorate of Defense Trade Controls has, to the extent*
11 *practicable, not less than three individuals assigned to re-*
12 *view applications for commodity jurisdiction determina-*
13 *tions.*

14 (d) *ENFORCEMENT RESOURCES.—In accordance with*
15 *section 127.4 of title 22, Code of Federal Regulations, U.S.*
16 *Immigration and Customs Enforcement is authorized to in-*
17 *vestigate violations of the International Traffic in Arms*
18 *Regulations on behalf of the Directorate of Defense Trade*
19 *Controls of the Department of State. The Secretary of State*
20 *shall ensure that the Directorate of Defense Trade Controls*
21 *has adequate staffing for enforcement of the International*
22 *Traffic in Arms Regulations.*

1 **SEC. 106. AUDIT BY INSPECTOR GENERAL OF THE DEPART-**
2 **MENT OF STATE.**

3 (a) *AUDIT.*—Not later than the end of each of the fiscal
4 years 2010 and 2011, the Inspector General of the Depart-
5 ment of State shall conduct an independent audit to deter-
6 mine the extent to which the Department of State is meeting
7 the requirements of sections 104 and 105 of this Act.

8 (b) *REPORT.*—The Inspector General shall submit to
9 the appropriate congressional committees a report that con-
10 tains the result of each audit conducted under subsection
11 (a).

12 **SEC. 107. INCREASED FLEXIBILITY FOR USE OF DEFENSE**
13 **TRADE CONTROLS REGISTRATION FEES.**

14 (a) *IN GENERAL.*—Section 45 of the State Department
15 Basic Authorities Act of 1956 (22 U.S.C. 2717) is amend-
16 ed—

17 (1) *in the first sentence—*

18 (A) *by striking “For” and inserting “(a) IN*
19 *GENERAL.—For”;* and

20 (B) *by striking “Office” and inserting “Di-*
21 *rectorate”;*

22 (2) *by amending the second sentence to read as*
23 *follows:*

24 “(b) *AVAILABILITY OF FEES.*—Fees credited to the ac-
25 count referred to in subsection (a) shall be available only
26 for payment of expenses incurred for—

1 “(1) management,
2 “(2) licensing (in order to meet the requirements
3 of section 105 of the Defense Trade Controls Perform-
4 ance Improvement Act of 2008 (relating to adequate
5 staff and resources of the Directorate of Defense Trade
6 Controls)),
7 “(3) compliance,
8 “(4) policy activities, and
9 “(5) facilities,
10 of defense trade controls functions.”; and

11 (3) by adding at the end the following:

12 “(c) *ALLOCATION OF FEES.*—In allocating fees for
13 payment of expenses described in subsection (b), the Sec-
14 retary of State shall accord the highest priority to payment
15 of expenses incurred for personnel and equipment of the Di-
16 rectorate of Defense Trade Controls, including payment of
17 expenses incurred to meet the requirements of section 105
18 of the Defense Trade Controls Performance Improvement
19 Act of 2008.”.

20 (b) *CONFORMING AMENDMENT.*—Section 38(b)(3)(A)
21 of the Arms Export Control Act (22 U.S.C. 2778(b)(3)(A))
22 is amended to read as follows:

23 “(3)(A) For each fiscal year, 100 percent of registra-
24 tion fees collected pursuant to paragraph (1) shall be cred-
25 ited to a Department of State account, to be available with-

1 out fiscal year limitation. Fees credited to that account
2 shall be available only for the payment of expenses incurred
3 for—

4 “(i) management,

5 “(ii) licensing (in order to meet the requirements
6 of section 105 of the Defense Trade Controls Perform-
7 ance Improvement Act of 2008 (relating to adequate
8 staff and resources of the Directorate of Defense Trade
9 Controls)),

10 “(iii) compliance,

11 “(iv) policy activities, and

12 “(v) facilities,

13 of defense trade controls functions.”.

14 (c) *USE OF CIVIL PENALTIES.*—Not more than
15 \$10,000,000 of the amount of civil penalties collected in
16 each of fiscal years 2008, 2009, 2010, 2011 and 2012 pursu-
17 ant to section 38(e) of the Arms Export Control Act (22
18 U.S.C. 2778(e)) shall be made available for the expenses of
19 the Directorate of Defense Trade Controls of the Department
20 of State.

21 **SEC. 108. REVIEW OF ITAR AND USML.**

22 (a) *IN GENERAL.*—The Secretary of State shall review,
23 with the assistance of United States manufacturers and
24 other interested parties described in section 111(2) of this
25 Act, the International Traffic in Arms Regulations and the

1 *United States Munitions List to determine those tech-*
2 *nologies and goods that warrant different or additional con-*
3 *trols.*

4 **(b) CONDUCT OF REVIEW.**—*In carrying out the review*
5 *required under subsection (a), the Secretary of State shall*
6 *review not less than 20 percent of the technologies and goods*
7 *on the International Traffic in Arms Regulations and the*
8 *United States Munitions List in each calendar year so that*
9 *for the 5-year period beginning with calendar year 2009,*
10 *and for each subsequent 5-year period, the International*
11 *Traffic in Arms Regulations and the United States Muni-*
12 *tions List will be reviewed in their entirety.*

13 **(c) REPORT.**—*The Secretary of State shall submit to*
14 *the appropriate congressional committees an annual report*
15 *on the results of the review carried out under this section.*

16 **SEC. 109. SPECIAL LICENSING AUTHORIZATION FOR CER-**
17 **TAIN EXPORTS TO NATO MEMBER STATES,**
18 **AUSTRALIA, JAPAN, AND NEW ZEALAND.**

19 **(a) IN GENERAL.**—*Section 38 of the Arms Export Con-*
20 *trol Act (22 U.S.C. 2778) is amended by adding at the end*
21 *the following:*

22 **“(k) SPECIAL LICENSING AUTHORIZATION FOR CER-**
23 **TAIN EXPORTS TO NATO MEMBER STATES, AUSTRALIA,**
24 **JAPAN, NEW ZEALAND, ISRAEL, AND SOUTH KOREA.**—

1 “(1) *AUTHORIZATION.—(A) The President may*
2 *provide for special licensing authorization for exports*
3 *of United States-manufactured spare and replacement*
4 *parts or components listed in an application for such*
5 *special licensing authorization in connection with de-*
6 *fense items previously exported to NATO member*
7 *states, Australia, Japan, New Zealand, Israel, and*
8 *South Korea. A special licensing authorization issued*
9 *pursuant to this clause shall be effective for a period*
10 *not to exceed 5 years.*

11 “(B) *An authorization may be issued under sub-*
12 *paragraph (A) only if the applicable government of*
13 *the country described in subparagraph (A), acting*
14 *through the applicant for the authorization, certifies*
15 *that—*

16 “(i) *the export of spare and replacement*
17 *parts or components supports a defense item pre-*
18 *viously lawfully exported;*

19 “(ii) *the spare and replacement parts or*
20 *components will be transferred to a defense agen-*
21 *cy of a country described in subparagraph (A)*
22 *that is a previously approved end-user of the de-*
23 *fense items and not to a distributor or a foreign*
24 *consignee of such defense items;*

1 “(iii) the spare and replacement parts or
2 components will not to be used to materially en-
3 hance, optimize, or otherwise modify or upgrade
4 the capability of the defense items;

5 “(iv) the spare and replacement parts or
6 components relate to a defense item that is
7 owned, operated, and in the inventory of the
8 armed forces a country described in subpara-
9 graph (A);

10 “(v) the export of spare and replacement
11 parts or components will be effected using the
12 freight forwarder designated by the purchasing
13 country’s diplomatic mission as responsible for
14 handling transfers under chapter 2 of this Act as
15 required under regulations; and

16 “(vi) the spare and replacement parts or
17 components to be exported under the special li-
18 censing authorization are specifically identified
19 in the application.

20 “(C) An authorization may not be issued under
21 subparagraph (A) for purposes of establishing offshore
22 procurement arrangements or producing defense arti-
23 cles offshore.

24 “(D)(i) For purposes of this subsection, the term
25 ‘United States-manufactured spare and replacement

1 *parts or components’ means spare and replacement*
2 *parts or components—*

3 *“(I) with respect to which—*

4 *“(aa) United States-origin content*
5 *costs constitute at least 85 percent of the*
6 *total content costs;*

7 *“(bb) United States manufacturing*
8 *costs constitute at least 85 percent of the*
9 *total manufacturing costs; and*

10 *“(cc) foreign content, if any, is limited*
11 *to content from countries eligible to receive*
12 *exports of items on the United States Muni-*
13 *tions List under the International Traffic*
14 *in Arms Regulations (other than de mini-*
15 *mis foreign content); and*

16 *“(II) that were last substantially trans-*
17 *formed in the United States.*

18 *“(i) For purposes of clause (i)(I)(aa) and (bb),*
19 *the costs of non-United States-origin content shall be*
20 *determined using the final price or final cost associ-*
21 *ated with the non-United States-origin content.*

22 *“(2) INAPPLICABILITY PROVISIONS.—(A) The*
23 *provisions of this subsection shall not apply with re-*
24 *spect to re-exports or re-transfers of spare and re-*

1 *placement parts or components and related services of*
2 *defense items described in paragraph (1).*

3 *“(B) The congressional notification requirements*
4 *contained in section 36(c) of this Act shall not apply*
5 *with respect to an authorization issued under para-*
6 *graph (1).”.*

7 *(b) EFFECTIVE DATE.—The President shall issue regu-*
8 *lations to implement amendments made by subsection (a)*
9 *not later than 180 days after the date of the enactment of*
10 *this Act.*

11 **SEC. 110. AVAILABILITY OF INFORMATION ON THE STATUS**
12 **OF LICENSE APPLICATIONS UNDER CHAPTER**
13 **3 OF THE ARMS EXPORT CONTROL ACT.**

14 *Chapter 3 of the Arms Export Control Act (22 U.S.C.*
15 *2771 et seq.) is amended by inserting after section 38 the*
16 *following new section:*

17 **“SEC. 38A. AVAILABILITY OF INFORMATION ON THE STATUS**
18 **OF LICENSE APPLICATIONS UNDER THIS**
19 **CHAPTER.**

20 *“(a) AVAILABILITY OF INFORMATION.—Not later than*
21 *one year after the date of the enactment of the Defense Trade*
22 *Controls Performance Improvement Act of 2008, the Presi-*
23 *dent shall make available to persons who have pending li-*
24 *cense applications under this chapter and the committees*
25 *of jurisdiction the ability to access electronically current in-*

1 *formation on the status of each license application required*
2 *to be submitted under this chapter.*

3 “(b) *MATTERS TO BE INCLUDED.*—*The information*
4 *referred to in subsection (a) shall be limited to the following:*

5 “(1) *The case number of the license application.*

6 “(2) *The date on which the license application is*
7 *received by the Department of State and becomes an*
8 *‘open application’.*

9 “(3) *The date on which the Directorate of De-*
10 *fense Trade Controls makes a determination with re-*
11 *spect to the license application or transmits it for*
12 *interagency review, if required.*

13 “(4) *The date on which the interagency review*
14 *process for the license application is completed, if*
15 *such a review process is required.*

16 “(5) *The date on which the Department of State*
17 *begins consultations with the congressional commit-*
18 *tees of jurisdiction with respect to the license applica-*
19 *tion.*

20 “(6) *The date on which the license application is*
21 *sent to the congressional committees of jurisdiction.”.*

22 **SEC. 111. SENSE OF CONGRESS.**

23 *It is the sense of Congress that—*

24 (1)(A) *the advice provided to the Secretary of*
25 *State by the Defense Trade Advisory Group (DTAG)*

1 *supports the regulation of defense trade and helps en-*
2 *sure that United States national security and foreign*
3 *policy interests continue to be protected and advanced*
4 *while helping to reduce unnecessary impediments to*
5 *legitimate exports in order to support the defense re-*
6 *quirements of United States friends and allies; and*

7 *(B) therefore, the Secretary of State should share*
8 *significant planned rules and policy shifts with*
9 *DTAG for comment; and*

10 *(2) recognizing the constraints imposed on the*
11 *Department of State by the nature of a voluntary or-*
12 *ganization such as DTAG, the Secretary of State is*
13 *encouraged to ensure that members of DTAG are*
14 *drawn from a representative cross-section of subject*
15 *matter experts from the United States defense indus-*
16 *try, relevant trade and labor associations, academic,*
17 *and foundation personnel.*

18 **SEC. 112. DEFINITIONS.**

19 *In this subtitle:*

20 *(1) APPROPRIATE CONGRESSIONAL COMMIT-*
21 *TEES.—The term “appropriate congressional commit-*
22 *tees” means the Committee on Foreign Affairs of the*
23 *House of Representatives and the Committee on For-*
24 *ign Relations of the Senate.*

1 (2) *INTERNATIONAL TRAFFIC IN ARMS REGULA-*
2 *TIONS; ITAR.*—*The term “International Traffic in*
3 *Arms Regulations” or “ITAR” means those regula-*
4 *tions contained in parts 120 through 130 of title 22,*
5 *Code of Federal Regulations (or successor regula-*
6 *tions).*

7 (3) *MAJOR NON-NATO ALLY.*—*The term “major*
8 *non-NATO ally” means a country that is designated*
9 *in accordance with section 517 of the Foreign Assist-*
10 *ance Act of 1961 (22 U.S.C. 2321k) as a major non-*
11 *NATO ally for purposes of the Foreign Assistance Act*
12 *of 1961 (22 U.S.C. 2151 et seq.) and the Arms Export*
13 *Control Act (22 U.S.C. 2751 et seq.).*

14 (4) *MISSILE TECHNOLOGY CONTROL REGIME;*
15 *MTCR.*—*The term “Missile Technology Control Re-*
16 *gime” or “MTCR” has the meaning given the term in*
17 *section 11B(c)(2) of the Export Administration Act of*
18 *1979 (50 U.S.C. App. 2401b(c)(2)).*

19 (5) *MISSILE TECHNOLOGY CONTROL REGIME*
20 *ANNEX; MTCR ANNEX.*—*The term “Missile Technology*
21 *Control Regime Annex” or “MTCR Annex” has the*
22 *meaning given the term in section 11B(c)(4) of the*
23 *Export Administration Act of 1979 (50 U.S.C. App.*
24 *2401b(c)(4)).*

1 (6) *OFFSETS*.—The term “offsets” includes com-
2 pensation practices required of purchase in either
3 government-to-government or commercial sales of de-
4 fense articles or defense services under the Arms Ex-
5 port Control Act (22 U.S.C. 2751 et seq.) and the
6 International Traffic in Arms Regulations.

7 (7) *UNITED STATES MUNITIONS LIST; USML*.—
8 The term “United States Munitions List” or
9 “USML” means the list referred to in section 38(a)(1)
10 of the Arms Export Control Act (22 U.S.C.
11 2778(a)(1)).

12 **SEC. 113. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums as
14 may be necessary for fiscal year 2009 and each subsequent
15 fiscal year to carry out this subtitle and the amendments
16 made by this subtitle.

17 **Subtitle B—Miscellaneous**
18 **Provisions**

19 **SEC. 121. REPORT ON SELF-FINANCING OPTIONS FOR EX-**
20 **PORT LICENSING FUNCTIONS OF DDTC OF**
21 **THE DEPARTMENT OF STATE.**

22 Not later than 90 days after the date of the enactment
23 of this Act, the Secretary of State shall submit to the appro-
24 priate congressional committees a report on possible mecha-
25 nisms to place the export licensing functions of the Direc-

1 *torate of Defense Trade Controls of the Department of State*
 2 *on a 100 percent self-financing basis.*

3 **SEC. 122. EXPEDITING CONGRESSIONAL DEFENSE EXPORT**
 4 **REVIEW PERIOD FOR SOUTH KOREA AND**
 5 **ISRAEL.**

6 *The Arms Export Control Act (22 U.S.C. 2751 et seq.)*
 7 *is amended—*

8 *(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5),*
 9 *21(e)(2)(A), 36(b)(2), 36(c)(2)(A), 36(d)(2)(A),*
 10 *62(c)(1), and 63(a)(2) by inserting “the Republic of*
 11 *Korea, Israel,” before “or New Zealand”;*

12 *(2) in section 3(b)(2) by inserting “the Govern-*
 13 *ment of the Republic of Korea,” before “or the Gov-*
 14 *ernment of New Zealand”; and*

15 *(3) in section 21(h)(1)(A), by inserting “the Re-*
 16 *public of Korea,” before “or Israel”.*

17 **SEC. 123. AVAILABILITY TO CONGRESS OF PRESIDENTIAL**
 18 **DIRECTIVES REGARDING UNITED STATES**
 19 **ARMS EXPORT POLICIES, PRACTICES, AND**
 20 **REGULATIONS.**

21 *(a) IN GENERAL.—The President shall make available*
 22 *to the appropriate congressional committees the text of each*
 23 *Presidential directive regarding United States export poli-*
 24 *cies, practices, and regulations relating to the implementa-*
 25 *tion of the Arms Export Control Act (22 U.S.C. 2751 et*

1 *seq.) not later than 15 days after the date on which the*
2 *directive has been signed or authorized by the President.*

3 (b) *TRANSITION PROVISION.—Any Presidential direc-*
4 *tive described in subsection (a) that is signed or authorized*
5 *by the President on or after January 1, 2008, and before*
6 *the date of the enactment of this Act shall be made available*
7 *to the appropriate congressional committees not later than*
8 *90 days after the date of the enactment of this Act.*

9 (c) *FORM.—To the maximum extent practicable, the*
10 *Presidential directives required to be made available to the*
11 *appropriate congressional committees under this section*
12 *shall be made available on an unclassified basis.*

13 **SEC. 124. INCREASE IN CONGRESSIONAL NOTIFICATION**
14 **THRESHOLDS AND EXPEDITING CONGRES-**
15 **SIONAL REVIEW FOR SOUTH KOREA AND**
16 **ISRAEL.**

17 (a) *FOREIGN MILITARY SALES.—*

18 (1) *IN GENERAL.—Subsection (b) of section 36 of*
19 *the Arms Export Control Act (22 U.S.C. 2776) is*
20 *amended—*

21 (A) *by redesignating paragraphs (2)*
22 *through (6) as paragraphs (3) through (7), re-*
23 *spectively; and*

1 (B) by striking “The letter of offer shall not
2 be issued” and all that follows through “enacts
3 a joint resolution” and inserting the following:

4 “(2) The letter of offer shall not be issued—

5 “(A) with respect to a proposed sale of any
6 defense articles or defense services under this Act
7 for \$200,000,000 or more, any design and con-
8 struction services for \$300,000,000 or more, or
9 any major defense equipment for \$75,000,000 or
10 more, to the North Atlantic Treaty Organization
11 (NATO), any member country of NATO, Japan,
12 Australia, the Republic of Korea, Israel, or New
13 Zealand, if Congress, within 15 calendar days
14 after receiving such certification, or

15 “(B) with respect to a proposed sale of any
16 defense articles or services under this Act for
17 \$100,000,000 or more, any design and construc-
18 tion services for \$200,000,000 or more, or any
19 major defense equipment for \$50,000,000 or
20 more, to any other country or organization, if
21 Congress, within 30 calendar days after receiv-
22 ing such certification,

23 enacts a joint resolution”.

24 (2) *TECHNICAL AND CONFORMING AMEND-*
25 *MENTS.—Such section is further amended—*

1 (A) in subsection (b)—

2 (i) in paragraph (6)(C), as redesignig-
3 nated, by striking “Subject to paragraph
4 (6), if” and inserting “If”; and

5 (ii) by striking paragraph (7), as re-
6 designated; and

7 (B) in subsection (c)(4), by striking “sub-
8 section (b)(5)” each place it appears and insert-
9 ing “subsection (b)(6)”.

10 (b) *COMMERCIAL SALES*.—Subsection (c) of such sec-
11 tion is amended—

12 (1) in paragraph (2)—

13 (A) in subparagraph (A)—

14 (i) by inserting after “for an export”
15 the following: “of any major defense equip-
16 ment sold under a contract in the amount
17 of \$75,000,000 or more or of defense articles
18 or defense services sold under a contract in
19 the amount of \$200,000,000 or more, (or, in
20 the case of a defense article that is a fire-
21 arm controlled under category I of the
22 United States Munitions List, \$1,000,000 or
23 more)”; and

24 (ii) by striking “Organization,” and
25 inserting “Organization (NATO),” and by

1 further striking “that Organization” and
2 inserting “NATO”; and

3 (B) in subparagraph (C), by inserting after
4 “license” the following: “for an export of any
5 major defense equipment sold under a contract
6 in the amount of \$50,000,000 or more or of de-
7 fense articles or defense services sold under a
8 contract in the amount of \$100,000,000 or more,
9 (or, in the case of a defense article that is a fire-
10 arm controlled under category I of the United
11 States Munitions List, \$1,000,000 or more)”;
12 and

13 (2) by striking paragraph (5).

14 **SEC. 125. DIPLOMATIC EFFORTS TO STRENGTHEN NA-**
15 **TIONAL AND INTERNATIONAL ARMS EXPORT**
16 **CONTROLS.**

17 (a) *SENSE OF CONGRESS.*—It is the sense of Congress
18 that the President should redouble United States diplomatic
19 efforts to strengthen national and international arms export
20 controls by establishing a senior-level initiative to ensure
21 that such arms export controls are comparable to and sup-
22 portive of United States arms export controls, particularly
23 with respect to countries of concern to the United States.

24 (b) *REPORT.*—No later than one year after the date
25 of the enactment of this Act, and annually thereafter for

1 *four years, the President shall transmit to the appropriate*
2 *committees of Congress a report on United States diplo-*
3 *matic efforts described in subsection (a).*

4 **SEC. 126. REPORTING REQUIREMENT FOR UNLICENSED EX-**
5 **PORTS.**

6 *Section 655(b) of the Foreign Assistance Act of 1961*
7 *(22 U.S.C. 2415(b)) is amended—*

8 *(1) in paragraph (2), by striking “or” at the*
9 *end;*

10 *(2) in paragraph (3), by striking the period at*
11 *the end and inserting “; or”; and*

12 *(3) by adding at the end the following:*

13 *“(4) were exported without a license under sec-*
14 *tion 38 of the Arms Export Control Act (22 U.S.C.*
15 *2778) pursuant to an exemption established under the*
16 *International Traffic in Arms Regulations, other than*
17 *defense articles exported in furtherance of a letter of*
18 *offer and acceptance under the Foreign Military Sales*
19 *program or a technical assistance or manufacturing*
20 *license agreement, including the specific exemption*
21 *provision in the regulation under which the export*
22 *was made.”.*

1 **SEC. 127. REPORT ON VALUE OF MAJOR DEFENSE EQUIP-**
2 **MENT AND DEFENSE ARTICLES EXPORTED**
3 **UNDER SECTION 38 OF THE ARMS EXPORT**
4 **CONTROL ACT.**

5 *Section 38 of the Arms Export Control Act (22 U.S.C.*
6 *2778) is amended by adding at the end the following:*

7 *“(1) REPORT.—*

8 *“(1) IN GENERAL.—The President shall transmit*
9 *to the appropriate congressional committees a report*
10 *that contains a detailed listing, by country and by*
11 *international organization, of the total dollar value of*
12 *major defense equipment and defense articles exported*
13 *pursuant to licenses authorized under this section for*
14 *the previous fiscal year.*

15 *“(2) INCLUSION IN ANNUAL BUDGET.—The re-*
16 *port required by this subsection shall be included in*
17 *the supporting information of the annual budget of*
18 *the United States Government required to be sub-*
19 *mitted to Congress under section 1105 of title 31,*
20 *United States Code.*

21 *“(3) APPROPRIATE CONGRESSIONAL COMMITTEES*
22 *DEFINED.—In this subsection, the term ‘appropriate*
23 *congressional committees’ means the Committee on*
24 *Foreign Affairs of the House of Representatives and*
25 *the Committee on Foreign Relations of the Senate.”.*

1 **SEC. 128. REPORT ON SATELLITE EXPORT CONTROLS.**

2 (a) *REPORT.*—*The President shall report to the appro-*
3 *priate committees of the Congress, not later than 180 days*
4 *after the date of the enactment of this Act regarding—*

5 (1) *the extent to which current United States ex-*
6 *port controls on satellites and related items under the*
7 *Arms Export Control Act are successfully preventing*
8 *the transfer of militarily-sensitive technologies to*
9 *countries of concern, especially the People’s Republic*
10 *of China;*

11 (2) *the extent to which comparable satellites and*
12 *related items are available from foreign sources with-*
13 *out comparable export controls; and*

14 (3) *whether the current export controls on sat-*
15 *ellites and related items should be altered and in*
16 *what manner, including whether other incentives or*
17 *disincentives should also be employed to discourage*
18 *exports of satellites and related items to the People’s*
19 *Republic of China by any country.*

20 (b) *DEFINITIONS.*—*In this section, the terms “sat-*
21 *ellite” and “related items” mean satellites and all specifi-*
22 *cally designed or modified systems or subsystems, compo-*
23 *nents, parts, accessories, attachments, and associated equip-*
24 *ment for satellites as covered under category XV of the*
25 *International Traffic in Arms Regulations (as in effect on*
26 *the date of the enactment of this Act).*

1 **SEC. 129. DEFINITION.**

2 *In this subtitle, the term “appropriate congressional*
3 *committees” means the Committee on Foreign Affairs of the*
4 *House of Representatives and the Committee on Foreign Re-*
5 *lations of the Senate.*

6 **TITLE II—SECURITY ASSISTANCE**
7 **AND RELATED SUPPORT FOR**
8 **ISRAEL**

9 **SEC. 201. ASSESSMENT OF ISRAEL’S QUALITATIVE MILI-**
10 **TARY EDGE OVER MILITARY THREATS.**

11 (a) *ASSESSMENT REQUIRED.*—*The President shall*
12 *carry out an empirical and qualitative assessment on an*
13 *ongoing basis of the extent to which Israel possesses a quali-*
14 *tative military edge over military threats to Israel. The as-*
15 *essment required under this subsection shall be sufficiently*
16 *robust so as to facilitate comparability of data over concur-*
17 *rent years.*

18 (b) *USE OF ASSESSMENT.*—*The President shall ensure*
19 *that the assessment required under subsection (a) is used*
20 *to inform the review by the United States of applications*
21 *to sell defense articles and defense services under the Arms*
22 *Export Control Act (22 U.S.C. 2751 et seq.) to countries*
23 *in the Middle East.*

24 (c) *REPORTS.*—

25 (1) *INITIAL REPORT.*—*Not later than 180 days*
26 *after the date of the enactment of this Act, the Presi-*

1 *dent shall transmit to the appropriate congressional*
2 *committees a report on the initial assessment required*
3 *under subsection (a).*

4 (2) *QUADRENNIAL REPORT.*—*Not later than four*
5 *years after the date on which the President transmits*
6 *the initial report under paragraph (1), and every*
7 *four years thereafter, the President shall transmit to*
8 *the appropriate congressional committees a report on*
9 *the most recent assessment required under subsection*
10 *(a).*

11 (d) *CERTIFICATION.*—*Section 36 of the Arms Export*
12 *Control Act (22 U.S.C. 2776) is amended by adding at the*
13 *end the following:*

14 “(h) *CERTIFICATION REQUIREMENT RELATING*
15 *ISRAEL’S QUALITATIVE MILITARY EDGE.*—

16 “(1) *IN GENERAL.*—*Any certification relating to*
17 *a proposed sale or export of defense articles or defense*
18 *services under this section to any country in the Mid-*
19 *dle East other than Israel shall include a determina-*
20 *tion that the sale or export of the defense articles or*
21 *defense services will not adversely affect Israel’s quali-*
22 *tative military edge over military threats to Israel.*

23 “(2) *DEFINITION.*—*In this subsection, the term*
24 *‘qualitative military edge’ has the meaning given the*

1 *term in section 205 of the Security Assistance and*
2 *Arms Export Control Reform Act of 2008.”*

3 **SEC. 202. REPORT ON UNITED STATES’ COMMITMENTS TO**
4 **THE SECURITY OF ISRAEL.**

5 *(a) INITIAL REPORT.—Not later than 30 days after the*
6 *date of the enactment of this Act, the President shall trans-*
7 *mit to the appropriate congressional committees a report*
8 *that contains—*

9 *(1) a complete, unedited, and unredacted copy of*
10 *each assurance made by United States Government*
11 *officials to officials of the Government of Israel re-*
12 *garding Israel’s security and maintenance of Israel’s*
13 *qualitative military edge, as well as any other assur-*
14 *ance regarding Israel’s security and maintenance of*
15 *Israel’s qualitative military edge provided in conjunc-*
16 *tion with exports under the Arms Export Control Act*
17 *(22 U.S.C. 2751 et seq.), for the period beginning on*
18 *January 1, 1975, and ending on the date of the enact-*
19 *ment of this Act; and*

20 *(2) an analysis of the extent to which, and by*
21 *what means, each such assurance has been and is con-*
22 *tinuing to be fulfilled.*

23 *(b) SUBSEQUENT REPORTS.—*

24 *(1) NEW ASSURANCES AND REVISIONS.—The*
25 *President shall transmit to the appropriate congres-*

1 sional committees a report that contains the informa-
2 tion required under subsection (a) with respect to—

3 (A) each assurance described in subsection
4 (a) made on or after the date of the enactment
5 of this Act, or

6 (B) revisions to any assurance described in
7 subsection (a) or subparagraph (A) of this para-
8 graph,

9 within 15 days of the new assurance or revision being
10 conveyed.

11 (2) 5-YEAR REPORTS.—Not later than 5 years
12 after the date of the enactment of this Act, and every
13 5 years thereafter, the President shall transmit to the
14 appropriate congressional committees a report that
15 contains the information required under subsection
16 (a) with respect to each assurance described in sub-
17 section (a) or paragraph (1)(A) of this subsection and
18 revisions to any assurance described in subsection (a)
19 or paragraph (1)(A) of this subsection during the pre-
20 ceding 5-year period.

21 (c) FORM.—Each report required by this section shall
22 be transmitted in unclassified form, but may contain a clas-
23 sified annex, if necessary.

1 **SEC. 203. WAR RESERVES STOCKPILE.**

2 (a) *DEPARTMENT OF DEFENSE APPROPRIATIONS ACT,*
3 *2005.—Section 12001(d) of the Department of Defense Ap-*
4 *propriations Act, 2005 (Public Law 108–287; 118 Stat.*
5 *1011), is amended by striking “4” and inserting “6”.*

6 (b) *FOREIGN ASSISTANCE ACT OF 1961.—Section*
7 *514(b)(2)(A) of the Foreign Assistance Act of 1961 (22*
8 *U.S.C. 2321h(b)(2)(A)) is amended by striking “fiscal years*
9 *2007 and 2008” and inserting “fiscal years 2009 and*
10 *2010”.*

11 (c) *EFFECTIVE DATE.—The amendment made by sub-*
12 *section (a) takes effect on August 5, 2008.*

13 **SEC. 204. IMPLEMENTATION OF MEMORANDUM OF UNDER-**
14 **STANDING WITH ISRAEL.**

15 (a) *IN GENERAL.—Of the amount made available for*
16 *fiscal year 2009 for assistance under the program author-*
17 *ized by section 23 of the Arms Export Control Act (22*
18 *U.S.C. 2763) (commonly referred to as the “Foreign Mili-*
19 *tary Financing Program”), the amount specified in sub-*
20 *section (b) is authorized to be made available on a grant*
21 *basis for Israel.*

22 (b) *COMPUTATION OF AMOUNT.—The amount referred*
23 *to in subsection (a) is the amount equal to—*

24 (1) *the amount specified under the heading “For-*
25 *foreign Military Financing Program” for Israel for fis-*
26 *cal year 2008; plus*

1 (2) \$150,000,000.

2 **SEC. 205. DEFINITIONS.**

3 *In this subtitle—*

4 (1) *the term “appropriate congressional committees” means the Committee on Foreign Affairs of the*
5 *House of Representatives and the Committee on For-*
6 *oreign Relations of the Senate; and*

7 (2) *the term “qualitative military edge” means*
8 *the ability to counter and defeat any credible conven-*
9 *tional military threat from any individual state or*
10 *possible coalition of states or from non-state actors,*
11 *while sustaining minimal damages and casualties,*
12 *through the use of superior military means, possessed*
13 *in sufficient quantity, including weapons, command,*
14 *control, communication, intelligence, surveillance,*
15 *and reconnaissance capabilities that in their technical*
16 *characteristics are superior in capability to those of*
17 *such other individual or possible coalition of states or*
18 *non-state actors.*
19

1 **TITLE III—WAIVER OF CERTAIN**
2 **SANCTIONS TO FACILITATE**
3 **DENUCLEARIZATION ACTIVITIES**
4 **IN NORTH KOREA**

5 **SEC. 301. WAIVER AUTHORITY AND EXCEPTIONS.**

6 (a) *WAIVER AUTHORITY.*—*Except as provided in sub-*
7 *section (b), the President may waive, in whole or in part,*
8 *the application of any sanction contained in subparagraph*
9 *(A), (B), (D), or (G) of section 102(b)(2) of the Arms Export*
10 *Control Act (22 U.S.C. 2799aa–1(b)(2)) with respect to*
11 *North Korea in order to provide material, direct, and nec-*
12 *essary assistance for disablement, dismantlement,*
13 *verification, and physical removal activities in the imple-*
14 *mentation of the commitment of North Korea, undertaken*
15 *in the Joint Statement of September 19, 2005, “to aban-*
16 *doning all nuclear weapons and existing nuclear programs”*
17 *as part of the verifiable denuclearization of the Korean Pe-*
18 *ninsula.*

19 (b) *EXCEPTIONS.*—*The waiver authority under sub-*
20 *section (a) may not be exercised with respect to the fol-*
21 *lowing:*

22 (1) *Any export of lethal defense articles that*
23 *would be prevented by the application of section*
24 *102(b)(2)(B) of the Arms Export Control Act.*

1 *under section 301 remains in effect, the President shall*
2 *transmit to the appropriate congressional committees a re-*
3 *port that—*

4 (1) *describes in detail the progress that is being*
5 *made in the implementation of the commitment of*
6 *North Korea described in section 301;*

7 (2) *describes in detail any failures, shortcomings,*
8 *or obstruction by North Korea with respect to the im-*
9 *plementation of the commitment of North Korea de-*
10 *scribed in section 301;*

11 (3) *describes in detail the progress or lack thereof*
12 *in the preceding 12-month period of all other pro-*
13 *grams promoting the elimination of North Korea’s ca-*
14 *pability to develop, deploy, transfer, or maintain*
15 *weapons of mass destruction or their delivery systems;*
16 *and*

17 (4) *beginning with the second report required by*
18 *this subsection, a justification for the continuation of*
19 *the waiver exercised under section 301 and, if appli-*
20 *cable, section 302, for the fiscal year in which the re-*
21 *port is submitted.*

22 **SEC. 304. TERMINATION OF WAIVER AUTHORITY.**

23 *Any waiver in effect by reason of the exercise of the*
24 *waiver authority under section 301 shall terminate if the*
25 *President determines that North Korea—*

1 (1)(A) *on or after September 19, 2005, trans-*
2 *ferred to a non-nuclear-weapon state, or received, a*
3 *nuclear explosive device; or*

4 (B) *on or after October 10, 2006, detonated a*
5 *nuclear explosive device; or*

6 (2) *on or after September 19, 2005—*

7 (A) *transferred to a non-nuclear-weapon*
8 *state any design information or component*
9 *which is determined by the President to be im-*
10 *portant to, and known by North Korea to be in-*
11 *tended by the recipient state for use in, the devel-*
12 *opment or manufacture of any nuclear explosive*
13 *device, or*

14 (B) *sought and received any design infor-*
15 *mation or component which is determined by the*
16 *President to be important to, and intended by*
17 *North Korea for use in, the development or man-*
18 *ufacture of any nuclear explosive device,*

19 *unless the President determines and certifies to the*
20 *appropriate congressional committees that such waiv-*
21 *er is vital to the national security interests of the*
22 *United States.*

23 **SEC. 305. EXPIRATION OF WAIVER AUTHORITY.**

24 *Any waiver in effect by reason of the exercise of the*
25 *waiver authority under section 301 shall terminate on the*

1 *date that is 4 years after the date of the enactment of this*
2 *Act. The waiver authority under section 301 may not be*
3 *exercised beginning on the date that is 3 years after the*
4 *date of the enactment of this Act.*

5 **SEC. 306. CONTINUATION OF RESTRICTIONS AGAINST THE**
6 **GOVERNMENT OF NORTH KOREA.**

7 *(a) IN GENERAL.—Except as provided in section*
8 *301(a), restrictions against the Government of North Korea*
9 *that were imposed by reason of a determination of the Sec-*
10 *retary of State that North Korea is a state sponsor of ter-*
11 *rorism shall remain in effect, and shall not be lifted pursu-*
12 *ant to the provisions of law under which the determination*
13 *was made, unless the President certifies to the appropriate*
14 *congressional committees that—*

15 *(1) the Government of North Korea is no longer*
16 *engaged in the transfer of technology related to the ac-*
17 *quisition or development of nuclear weapons, particu-*
18 *larly to the Governments of Iran, Syria, or any other*
19 *country that is a state sponsor of terrorism;*

20 *(2) in accordance with the Six-Party Talks*
21 *Agreement of February 13, 2007, the Government of*
22 *North Korea has “provided a complete and correct*
23 *declaration of all its nuclear programs,” and there*
24 *are measures to effectively verify this declaration by*
25 *the United States which, “[a]t the request of the other*

1 *Parties,” is leading “disablement activities” and*
2 *“provid[ing] the funding for those activities”; and*

3 *(3) the Government of North Korea has agreed to*
4 *the participation of the International Atomic Energy*
5 *Agency in the monitoring and verification of the*
6 *shutdown and sealing of the Yongbyon nuclear facil-*
7 *ity.*

8 *(b) STATE SPONSOR OF TERRORISM DEFINED.—In*
9 *this section, the term “state sponsor of terrorism” means*
10 *a country the government of which the Secretary of State*
11 *has determined, for purposes of section 6(j) of the Export*
12 *Administration Act of 1979 (as continued in effect pursu-*
13 *ant to the International Emergency Economic Powers Act),*
14 *section 40 of the Arms Export Control Act, section 620A*
15 *of the Foreign Assistance Act of 1961, or any other provi-*
16 *sion of law, is a government that has repeatedly provided*
17 *support for acts of international terrorism.*

18 **SEC. 307. REPORT ON VERIFICATION MEASURES RELATING**
19 **TO NORTH KOREA’S NUCLEAR PROGRAMS.**

20 *(a) IN GENERAL.—Not later than 15 days after the*
21 *date of enactment of this Act, the Secretary of State shall*
22 *submit to the appropriate congressional committees a report*
23 *on verification measures relating to North Korea’s nuclear*
24 *programs under the Six-Party Talks Agreement of Feb-*
25 *ruary 13, 2007, with specific focus on how such verification*

1 *measures are defined under the Six-Party Talks Agreement*
2 *and understood by the United States Government.*

3 (b) *MATTERS TO BE INCLUDED.*—*The report required*
4 *under subsection (a) shall include, among other elements,*
5 *a detailed description of—*

6 (1) *the methods to be utilized to confirm that*
7 *North Korea has “provided a complete and correct*
8 *declaration of all of its nuclear programs”;*

9 (2) *the specific actions to be taken in North*
10 *Korea and elsewhere to ensure a high and ongoing*
11 *level of confidence that North Korea has fully met the*
12 *terms of the Six-Party Talks Agreement relating to its*
13 *nuclear programs;*

14 (3) *any formal or informal agreement with*
15 *North Korea regarding verification measures relating*
16 *to North Korea’s nuclear programs under the Six-*
17 *Party Talks Agreement; and*

18 (4) *any disagreement expressed by North Korea*
19 *regarding verification measures relating to North Ko-*
20 *rea’s nuclear programs under the Six-Party Talks*
21 *Agreement.*

22 (c) *FORM.*—*The report required under subsection (a)*
23 *shall be submitted in unclassified form, but may include*
24 *a classified annex.*

1 **SEC. 308. DEFINITIONS.**

2 *In this title—*

3 (1) *the term “appropriate congressional commit-*
4 *tees” means—*

5 (A) *the Committee on Foreign Affairs and*
6 *the Committee on Appropriations of the House of*
7 *Representatives; and*

8 (B) *the Committee on Foreign Relations*
9 *and the Committee on Appropriations of the*
10 *Senate;*

11 (2) *the terms “non-nuclear-weapon state”, “de-*
12 *sign information”, and “component” have the mean-*
13 *ings given such terms in section 102 of the Arms Ex-*
14 *port Control Act (22 U.S.C. 2799aa–1); and*

15 (3) *the term “Six-Party Talks Agreement of Feb-*
16 *ruary 13, 2007” or “Six-Party Talks Agreement”*
17 *means the action plan released on February 13, 2007,*
18 *of the Third Session of the Fifth Round of the Six-*
19 *Party Talks held in Beijing among the People’s Re-*
20 *public of China, the Democratic People’s Republic of*
21 *Korea (North Korea), Japan, the Republic of Korea*
22 *(South Korea), the Russian Federation, and the*
23 *United States relating to the denuclearization of the*
24 *Korean Peninsula, normalization of relations between*
25 *the North Korea and the United States, normalization*
26 *of relations between North Korea and Japan, economy*

1 *and energy cooperation, and matters relating to the*
2 *Northeast Asia Peace and Security Mechanism.*

3 ***TITLE IV—MISCELLANEOUS***
4 ***PROVISIONS***

5 ***SEC. 401. AUTHORITY TO BUILD THE CAPACITY OF FOREIGN***
6 ***MILITARY FORCES.***

7 *(a) AUTHORITY.—The Secretary of State is authorized*
8 *to conduct a program to respond to contingencies in foreign*
9 *countries or regions by providing training, procurement,*
10 *and capacity-building of a foreign country’s national mili-*
11 *tary forces and dedicated counter-terrorism forces in order*
12 *for that country to—*

13 *(1) conduct counterterrorist operations; or*

14 *(2) participate in or support military and sta-*
15 *bility operations in which the United States is a par-*
16 *ticipant.*

17 *(b) TYPES OF CAPACITY-BUILDING.—The program au-*
18 *thorized under subsection (a) may include the provision of*
19 *equipment, supplies, and training.*

20 *(c) LIMITATIONS.—*

21 *(1) ANNUAL FUNDING LIMITATION.—The Sec-*
22 *retary of State may use up to \$25,000,000 of funds*
23 *available under the Foreign Military Financing pro-*
24 *gram for each of the fiscal years 2009 and 2010 to*
25 *conduct the program authorized under subsection (a).*

1 (2) *ASSISTANCE OTHERWISE PROHIBITED BY*
2 *LAW.—The Secretary of State may not use the au-*
3 *thority in subsection (a) to provide any type of assist-*
4 *ance described in subsection (b) that is otherwise pro-*
5 *hibited by any provision of law.*

6 (3) *LIMITATION ON ELIGIBLE COUNTRIES.—The*
7 *Secretary of State may not use the authority in sub-*
8 *section (a) to provide assistance described in sub-*
9 *section (b) to any foreign country that is otherwise*
10 *prohibited from receiving such type of assistance*
11 *under any other provision of law.*

12 (d) *FORMULATION AND EXECUTION OF ACTIVITIES.—*
13 *The Secretary of State is authorized to coordinate with the*
14 *head of any other appropriate department or agency in the*
15 *formulation and execution of the program authorized under*
16 *subsection (a).*

17 (e) *CONGRESSIONAL NOTIFICATION.—*

18 (1) *ACTIVITIES IN A COUNTRY.—Not less than 15*
19 *days before obligating funds for activities in any*
20 *country under the program authorized under sub-*
21 *section (a), the Secretary of State shall submit to the*
22 *congressional committees specified in paragraph (3) a*
23 *notice of the following:*

24 (A) *The country whose capacity to engage*
25 *in activities in subsection (a) will be assisted.*

1 (B) *The budget, implementation timeline*
2 *with milestones, and completion date for com-*
3 *pleting the activities.*

4 (2) *SPECIFIED CONGRESSIONAL COMMITTEES.—*
5 *The congressional committees specified in this para-*
6 *graph are the following:*

7 (A) *The Committee on Foreign Affairs and*
8 *the Committee on Appropriations of the House of*
9 *Representatives.*

10 (B) *The Committee on Foreign Relations*
11 *and the Committee on Appropriations of the*
12 *Senate.*

13 **SEC. 402. MAINTENANCE OF EUROPEAN UNION ARMS EM-**
14 **BARGO AGAINST CHINA.**

15 (a) *FINDINGS.—Congress makes the following findings:*

16 (1) *Congress has previously expressed its strong*
17 *concerns in House Resolution 57 of February 2, 2005,*
18 *and Senate Resolution 91 of March 17, 2005, with the*
19 *transfer of armaments and related technology to the*
20 *People’s Republic of China by member states of the*
21 *European Union, which increased eightfold from 2001*
22 *to 2003, and with plans to terminate in the near fu-*
23 *ture the arms embargo they imposed in 1989 fol-*
24 *lowing the Tiananmen Square massacre.*

1 (2) *The deferral of a decision by the European*
2 *Council to terminate its arms embargo following*
3 *adoption of the resolutions specified in paragraph (1),*
4 *the visit by the President of the United States to Eu-*
5 *rope, and growing concern among countries in the re-*
6 *gions and the general public on both sides of the At-*
7 *lantic, was welcomed by the Congress.*

8 (3) *The decision by the European Parliament on*
9 *April 14, 2005, by a vote of 421 to 85, to oppose the*
10 *lifting of the European Union’s arms embargo on the*
11 *People’s Republic of China, and resolutions issued by*
12 *a number of elected parliamentary bodies in Europe*
13 *also opposing the lifting of the arms embargo, was*
14 *also welcomed by the Congress as a reassurance that*
15 *its European friends and allies understood the grav-*
16 *ity of prematurely lifting the embargo.*

17 (4) *The onset of a strategic dialogue between the*
18 *European Commission and the Government of the*
19 *United States on the security situation in East Asia*
20 *holds out the hope that a greater understanding will*
21 *emerge of the consequences of European assistance to*
22 *the military buildup of the People’s Republic of*
23 *China for peace and stability in that region, to the*
24 *security interests of the United States and its friends*
25 *and allies in the region, and, in particular, to the*

1 *safety of United States Armed Forces whose presence*
2 *in the region has been a decisive factor in ensuring*
3 *peace and prosperity since the end of World War II.*

4 (5) *A more intensive dialogue with Europe on*
5 *this matter will clarify for United States' friends and*
6 *allies in Europe how their "non-lethal" arms trans-*
7 *fers improve the force projection of the People's Re-*
8 *public of China, are far from benign, and enhance the*
9 *prospects for the threat or use of force in resolving the*
10 *status of Taiwan.*

11 (6) *This dialogue may result in an important*
12 *new consensus between the United States and its Eu-*
13 *ropean partners on the need for coordinated policies*
14 *that encourage the development of democracy in the*
15 *People's Republic of China and which discourage, not*
16 *assist, China's unjustified military buildup and pur-*
17 *suit of weapons that threaten its neighbors.*

18 (7) *However, the statement by the President of*
19 *France in Beijing in November 2007 that the Euro-*
20 *pean Union arms embargo should be lifted is trou-*
21 *bling, especially since France will assume the six-*
22 *month presidency of the European Union in July*
23 *2008.*

24 (8) *There continues to be wide-spread concerns*
25 *regarding the lack of any significant progress by the*

1 *Government of the People's Republic of China in re-*
2 *specting the civil and political rights of the Chinese*
3 *people.*

4 *(b) STATEMENT OF POLICY.—It shall be the policy of*
5 *the United States Government to oppose any diminution*
6 *or termination of the arms embargo that was established*
7 *by the Declaration of the European Council of June 26,*
8 *1989, and to take whatever diplomatic and other measures*
9 *that are appropriate to convince the Member States of the*
10 *European Union, individually and collectively, to continue*
11 *to observe this embargo in principle and in practice. Appro-*
12 *priate measures should include prohibitions on entering*
13 *into defense procurement contracts or defense-related re-*
14 *search and development arrangements with European*
15 *Union Member States that do not observe such an embargo*
16 *in practice.*

17 *(c) REPORT.—Not later than 180 days after the date*
18 *of the enactment of this Act, and every six months thereafter*
19 *until December 31, 2010, the President shall transmit to*
20 *the Committee on Foreign Affairs and Committee on Armed*
21 *Services of the House of Representatives and the Committee*
22 *on Foreign Relations and the Committee on Armed Services*
23 *of the Senate a report on all efforts and activities of the*
24 *United States Government to ensure the success of the policy*
25 *declared in subsection (b).*

1 **SEC. 403. REIMBURSEMENT OF SALARIES OF MEMBERS OF**
2 **THE RESERVE COMPONENTS IN SUPPORT OF**
3 **SECURITY COOPERATION MISSIONS.**

4 *Section 632(d) of the Foreign Assistance Act of 1961*
5 *(22 U.S.C. 2392(d)) is amended—*

6 *(1) by striking “(d) Except as otherwise pro-*
7 *vided” and inserting “(d)(1) Except as otherwise pro-*
8 *vided”; and*

9 *(2) by adding at the end the following:*

10 *“(2) Notwithstanding provisions concerning the exclu-*
11 *sion of the costs of salaries of members of the Armed Forces*
12 *in section 503(a) of this Act and paragraph (1) of this sub-*
13 *section, the full cost of salaries of members of the reserve*
14 *components of the Armed Forces (specified in section 10101*
15 *of title 10, United States Code) may, during each of fiscal*
16 *years 2009 and 2010, be included in calculating pricing*
17 *or value for reimbursement charged under section 503(a)*
18 *of this Act and paragraph (1) of this subsection, respec-*
19 *tively.”.*

20 **SEC. 404. FOREIGN MILITARY SALES STOCKPILE FUND.**

21 *(a) IN GENERAL.—Subsection (a) of section 51 of the*
22 *Arms Export Control Act (22 U.S.C. 2795) is amended—*

23 *(1) in paragraph (1), by striking “Special De-*
24 *fense Acquisition Fund” and inserting “Foreign Mili-*
25 *tary Sales Stockpile Fund”; and*

1 (2) *in paragraph (4), by inserting “building the*
2 *capacity of recipient countries and” before “narcotics*
3 *control purposes”.*

4 **(b) CONTENTS OF FUND.**—*Subsection (b) of such sec-*
5 *tion is amended—*

6 (1) *in paragraph (2), by striking “and” at the*
7 *end;*

8 (2) *in paragraph (3), by inserting “and” at the*
9 *end; and*

10 (3) *by inserting after paragraph (3) the fol-*
11 *lowing:*

12 *“(4) collections from leases made pursuant to*
13 *section 61 of this Act,”.*

14 **(c) AVAILABILITY.**—*Subsection (c)(2) of such section is*
15 *amended to read as follows:*

16 *“(2) Amounts credited to the Fund under subsection*
17 *(b) shall remain available until expended.”.*

18 **(d) CONFORMING AMENDMENTS.**—*(1) The heading of*
19 *such section is amended by striking “SPECIAL DEFENSE*
20 *ACQUISITION FUND” and inserting “FOREIGN MILITARY*
21 *SALES STOCKPILE FUND”.*

22 *(2) The heading of chapter 5 of the Arms Export Con-*
23 *trol Act is amended by striking “**SPECIAL DEFENSE***
24 ***ACQUISITION FUND**” and inserting “**FOREIGN***
25 ***MILITARY SALES STOCKPILE FUND**”.*

1 **SEC. 405. CONGRESSIONAL NOTIFICATION REQUIREMENTS**
2 **UNDER THE ARMS EXPORT CONTROL ACT.**

3 *The Arms Export Control Act (22 U.S.C. 2751 et seq.)*
4 *is amended—*

5 (1) *by striking “Speaker of the House of Rep-*
6 *resentatives and the Committee on Foreign Relations*
7 *of the Senate” each place it appears and inserting*
8 *“Committee on Foreign Affairs of the House of Rep-*
9 *resentatives and the Committee on Foreign Relations*
10 *of the Senate”;*

11 (2) *by striking “Speaker of the House of Rep-*
12 *resentatives and the Chairman of the Committee on*
13 *Foreign Relations of the Senate” and “Speaker of the*
14 *House of Representatives and the chairman of the*
15 *Committee on Foreign Relations of the Senate” each*
16 *place they appear and inserting “Chairman of the*
17 *Committee on Foreign Affairs of the House of Rep-*
18 *resentatives and the Chairman of the Committee on*
19 *Foreign Relations of the Senate”;*

20 (3) *by striking “Speaker of the House of Rep-*
21 *resentatives and to the chairman of the Committee on*
22 *Foreign Relations” each place it appears and insert-*
23 *ing “Chairman of the Committee on Foreign Affairs*
24 *of the House of Representatives and to the Chairman*
25 *of the Committee on Foreign Relations”;*

1 (4) by striking “Speaker of the House of Rep-
2 representatives and the Committees on Armed Services
3 and Foreign Relations of the Senate” each place it
4 appears and inserting “Committees on Foreign Af-
5 fairs and Armed Services of the House of Representa-
6 tives and the Committees on Foreign Relations and
7 Armed Services of the Senate”;

8 (5) by striking “Speaker of the House of Rep-
9 representatives, the chairman of the Committee on For-
10 eign Relations of the Senate, and the chairman of the
11 Committee on Armed Services of the Senate” each
12 place it appears and inserting “Chairmen of the
13 Committees on Foreign Affairs and Armed Services of
14 the House of Representatives and the Chairmen of the
15 Committees on Foreign Relations and Armed Services
16 of the Senate”; and

17 (6) by striking “Speaker of the House of Rep-
18 representatives, and to the chairman of the Committee on
19 Foreign Relations” each place it appears and insert-
20 ing “Chairman of the Committee on Foreign Affairs
21 of the House of Representatives and to the Chairman
22 of the Committee on Foreign Relations” each place it
23 appears.

1 **SEC. 406. SENSE OF CONGRESS.**

2 *It is the sense of Congress that the United States should*
 3 *not provide security assistance or arms exports to nations*
 4 *contributing to massive, widespread, and systematic viola-*
 5 *tions of human rights or acts of genocide, particularly with*
 6 *respect to Darfur, Sudan.*

7 **TITLE V—AUTHORITY TO**
 8 **TRANSFER NAVAL VESSELS**

9 **SEC. 501. AUTHORITY TO TRANSFER NAVAL VESSELS TO**
 10 **CERTAIN FOREIGN RECIPIENTS.**

11 *(a) TRANSFERS BY GRANT.—The President is author-*
 12 *ized to transfer vessels to foreign countries on a grant basis*
 13 *under section 516 of the Foreign Assistance Act of 1961 (22*
 14 *U.S.C. 2321j), as follows:*

15 *(1) PAKISTAN.—To the Government of Pakistan,*
 16 *the OLIVER HAZARD PERRY class guided missile*
 17 *frigate MCINERNEY (FFG-8).*

18 *(2) GREECE.—To the Government of Greece, the*
 19 *OSPREY class minehunter coastal ships OSPREY*
 20 *(MHC-51) and ROBIN (MHC-54).*

21 *(3) CHILE.—To the Government of Chile, the*
 22 *KAISER class oiler ANDREW J. HIGGINS (AO-*
 23 *190).*

24 *(4) PERU.—To the Government of Peru, the*
 25 *NEWPORT class amphibious tank landing ships*
 26 *FRESNO (LST-1182) and RACINE (LST-1191).*

1 **(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF**
2 *TRANSFERRED EXCESS DEFENSE ARTICLES.*—*The value of*
3 *a vessel transferred to a recipient on a grant basis pursuant*
4 *to authority provided by subsection (a) shall not be counted*
5 *against the aggregate value of excess defense articles trans-*
6 *ferred in any fiscal year under section 516(g) of the Foreign*
7 *Assistance Act of 1961.*

8 **(c) COSTS OF TRANSFERS.**—*Any expense incurred by*
9 *the United States in connection with a transfer authorized*
10 *by this section shall be charged to the recipient.*

11 **(d) REPAIR AND REFURBISHMENT IN UNITED STATES**
12 *SHIPYARDS.*—*To the maximum extent practicable, the*
13 *President shall require, as a condition of the transfer of a*
14 *vessel under this section, that the recipient to which the ves-*
15 *sel is transferred have such repair or refurbishment of the*
16 *vessel as is needed before the vessel joins the naval forces*
17 *of the recipient performed at a shipyard located in the*
18 *United States, including a United States Navy shipyard.*

19 **(e) EXPIRATION OF AUTHORITY.**—*The authority to*
20 *transfer a vessel under this section shall expire at the end*
21 *of the 2-year period beginning on the date of the enactment*
22 *of this Act.*

Union Calendar No. 391

110TH CONGRESS
2^D SESSION

H. R. 5916

[Report No. 110-626]

A BILL

To reform the administration of the Arms Export
Control Act, and for other purposes.

MAY 12, 2008

Reported with an amendment, committed to the Com-
mittee of the Whole House on the State of the Union,
and ordered to be printed