

110TH CONGRESS
1ST SESSION

H. R. 4246

To improve the performance of the defense trade controls functions of the Department of State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Mr. SHERMAN (for himself, Mr. MANZULLO, Mr. CROWLEY, and Mr. BLUNT) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To improve the performance of the defense trade controls functions of the Department of State, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Defense Trade Controls Performance Improvement Act
6 of 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Strategic review and assessment of the United States export controls system.

- Sec. 4. Performance requirements in the processing of applications for licenses to export or import items on the United States Munitions List.
- Sec. 5. Requirement to ensure adequate staff and resources for the Directorate of Defense Trade Controls of the Department of State.
- Sec. 6. Audit by Government Accountability Office.
- Sec. 7. Increased flexibility for use of defense trade controls registration fees.
- Sec. 8. Increased transparency through publication of licensing information.
- Sec. 9. Control of items on Missile Technology Control Regime Annex.
- Sec. 10. Waiver of licensing requirements for spare and replacement parts or components and related services of defense items for exports to NATO member states, Australia, Japan, and New Zealand.
- Sec. 11. Availability of information on the status of license applications under chapter 3 of the Arms Export Control Act.
- Sec. 12. Export controls of civil aircraft products.
- Sec. 13. Definitions.
- Sec. 14. Authorization of appropriations.

1 **SEC. 2. 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
6 controls is in urgent need of a comprehensive review
7 in order to ensure such controls are protecting the
8 national 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 to include those
15 relating to arms export controls.

16 (3) Federal Government agencies must review
17 licenses for the export of munitions and dual-use
18 items in a thorough and timely manner to ensure

1 that the United States is able to help its allies and
2 to prevent nuclear and conventional weapons from
3 getting into the hands of our enemies.

4 (4) A Government Accountability Office report
5 of October 9, 2001 (GAO-02-120), documented am-
6 biguous export control jurisdiction affecting 25 per-
7 cent of the items that the United States Government
8 agreed to control as part of its commitments to the
9 Missile Technology Control Regime. More than 6
10 years later, the Departments of Commerce and State
11 have not clearly determined which department has
12 jurisdiction over these items, which increases the
13 risk that these items will fall into the wrong hands.
14 During both the 108th and 109th Congresses, the
15 House of Representatives passed legislation man-
16 dating that the Administration clarify this issue.

17 (5) Both the staffing and funding that relate to
18 the Department of State's arms export control re-
19 sponsibilities have not kept pace with the increased
20 workload relating to such responsibilities, especially
21 over the last five years.

22 (6) In the report to Congress required by the
23 Conference Report (Report 109-272) accompanying
24 the bill, H.R. 2862 (the Science, State, Justice,
25 Commerce and Related Agencies Appropriations Act,

1 2006; Public Law 109–108), the Department of
2 State concluded that—

3 (A) defense trade licensing has become
4 much more complex in recent years as a con-
5 sequence of the increasing globalization of the
6 defense industry;

7 (B) the most important challenge to the
8 Department of State’s licensing process has
9 been the sheer growth in volume of applicants
10 for licenses and agreements, without the cor-
11 responding increase in licensing officers;

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

15 (D) although an 8 percent increase in
16 workload equates to a requirement for three ad-
17 ditional licensing officers per year, there has
18 been no increase in licensing officers during this
19 period; and

20 (E) the increase in licensing volume with-
21 out corresponding increase in trained and expe-
22 rienced personnel has resulted in delays and in-
23 creased processing times.

24 (7) In 2006, the Department of State processed
25 over three times as many licensing applications as

1 the Department of Commerce with about a fifth of
2 the staff of the Department of Commerce.

3 (8) On July 27, 2007, in testimony delivered to
4 the Subcommittee on Terrorism, Nonproliferation
5 and Trade of the House Committee on Foreign Af-
6 fairs to examine the effectiveness of the United
7 States export control regime, the Government Ac-
8 countability Office found that—

9 (A) despite the existence of known
10 vulnerabilities, neither the Departments of
11 Commerce and State have conducted assess-
12 ments to determine their overall effectiveness in
13 the area of arms export control;

14 (B) the initiatives of the Department of
15 State to facilitate defense trade by reducing the
16 time it takes to process export license applica-
17 tions have generally not been successful; and

18 (C) the processing times of the Depart-
19 ment of State doubled over the period from
20 2002 to 2006.

21 (9) At the end of 2006, the Department of
22 State's backlog or open license applications reached
23 its highest level by exceeding 10,000 cases. This re-
24 sulted in major management and personnel chal-

1 lenges for the Department of State’s Directorate of
2 Defense Trade Controls.

3 (10) Allowing a continuation of the status quo
4 in resources for defense trade licensing could ulti-
5 mately harm the United States defense industrial
6 base. The 2007 Institute for Defense Analysis report
7 entitled “Export Controls and the U.S. Defense In-
8 dustrial Base” found that the large backlog and long
9 processing times for Department of State processed
10 licenses led to an impairment of United States firms
11 in some sectors to conduct global business relative to
12 foreign competitors. Additionally, the report found
13 that United States commercial firms have been re-
14 luctant to engage in research and development ac-
15 tivities for the Department of Defense because this
16 raises the future prospects that the products based
17 on this research and development, even if intrinsi-
18 cally commercial, will be saddled by Department of
19 State munitions controls due to the link to that re-
20 search.

21 (11) According to the Department of State’s
22 fiscal year 2008 budget justification to Congress,
23 commercial exports licensed or approved under the
24 Arms Export Control Act exceeded
25 \$30,000,000,000, with nearly eighty percent of these

1 items exported to United States NATO allies and
2 other major non-NATO allies. The inability of Fed-
3 eral Government agencies to properly assess and cat-
4 egorize United States manufactured goods in a time-
5 ly and consistent manner hinders legitimate trade
6 and exacerbates the United States merchandise
7 trade deficit, which reached \$836,000,000,000 in
8 2006.

9 (12) The failure on the part of the Depart-
10 ments of Commerce and State to assess the overall
11 effectiveness of their export controls, combined with
12 the lack of resources dedicated to these efforts at
13 the Department of State, raises serious national and
14 economic security concerns for the United States
15 that must be addressed expeditiously.

16 **SEC. 3. STRATEGIC REVIEW AND ASSESSMENT OF THE**
17 **UNITED STATES EXPORT CONTROLS SYSTEM.**

18 (a) ASSESSMENT.—The Secretary of State, in coordi-
19 nation with the heads of other Federal agencies (including
20 relevant law enforcement agencies), as appropriate, shall
21 conduct a comprehensive and systematic review and as-
22 sessment of the United States export controls system in
23 the context of the strategic foreign policy objectives of the
24 United States. Such review and assessment shall deter-
25 mine the overall effectiveness of the United States export

1 controls system in order to, where appropriate, strengthen
2 controls, improve efficiency, and reduce unnecessary
3 redundancies across Federal Government agencies,
4 through administrative actions, including regulations, and
5 to formulate legislative proposals for new authorities that
6 are needed.

7 (b) REPORT.—Not later than one year after the date
8 of the enactment of this Act, the Secretary of State shall
9 submit to the appropriate congressional committees a re-
10 port that contains the results of the review and assessment
11 conducted under subsection (a).

12 (c) CONGRESSIONAL BRIEFINGS.—At the time the
13 report required by subsection (b) is submitted to the ap-
14 propriate congressional committees in accordance with
15 such subsection, the Secretary of State (or the Secretary’s
16 designee) shall brief the chairmen and ranking members
17 of the appropriate congressional committees on the mat-
18 ters contained in the report.

19 **SEC. 4. PERFORMANCE REQUIREMENTS IN THE PROC-**
20 **ESSING OF APPLICATIONS FOR LICENSES TO**
21 **EXPORT OR IMPORT ITEMS ON THE UNITED**
22 **STATES MUNITIONS LIST.**

23 (a) REQUIREMENTS.—The Secretary of State, acting
24 through the Directorate of Defense Trade Controls of the
25 Department of State, shall ensure that—

1 (1) the average processing time for review and
2 issuance or denial of applications for licenses to ex-
3 port or import items on the United States Munitions
4 List that are not subject to the requirements of sub-
5 section (b) or (c) of section 36 of the Arms Export
6 Control Act (22 U.S.C. 2776)—

7 (A) to countries that are member states of
8 the North Atlantic Treaty Organization
9 (NATO), Australia, Israel, Japan, and New
10 Zealand is not more than 20 days from receipt
11 of application;

12 (B) to countries that are major non-
13 NATO allies (other than major non-NATO al-
14 lies described in subparagraph (A)) is not more
15 than 30 days from receipt of application; and

16 (C) to other eligible countries is not more
17 than 60 days from receipt of application; and

18 (2) prior to consultation with the appropriate
19 congressional committees, the average processing
20 time for review of applications for licenses to export
21 or import items on the United States Munitions List
22 that are subject to the requirements of subsection
23 (b) or (c) of section 36 of the Arms Export Control
24 Act (22 U.S.C. 2776)—

1 (A) to countries that are member states of
2 the North Atlantic Treaty Organization
3 (NATO), Australia, Israel, Japan, and New
4 Zealand is not more than 40 days from receipt
5 of application;

6 (B) to countries that are major non-
7 NATO allies (other than major non-NATO al-
8 lies described in subparagraph (A)) is not more
9 than 60 days from receipt of application; and

10 (C) to other eligible countries is not more
11 than 120 days from receipt of application;

12 (3) the average processing time for review and
13 determinations of commodity jurisdiction requests is
14 not more than 60 days;

15 (4) the average processing time for review and
16 determinations of technical assistance agreements is
17 not more than 120 days;

18 (5) at no time does the Directorate of Defense
19 Trade Controls have more than 2,000 open applica-
20 tions for licenses to export or import items on the
21 United States Munitions List; and

22 (6) applications for licenses to export or import
23 items on the United States Munitions List that are
24 returned without action or denied are periodically re-
25 viewed by the Managing Director of the Directorate

1 of Defense Trade Controls to ensure such decisions
2 are consistent with both policy and regulatory re-
3 quirements of the Department of State.

4 (b) STATEMENT OF POLICY.—Congress states that it
5 shall be the policy of the Directorate of Defense Trade
6 Controls of the Department of State to ensure that, to
7 the maximum extent practicable, the average processing
8 time for review and issuance or denial of applications for
9 licenses to export or import items on the United States
10 Munitions List that are not subject to the requirements
11 of subsection (b) or (c) of section 36 of the Arms Export
12 Control Act (22 U.S.C. 2776) to United States NATO al-
13 lies and major non-NATO allies in direct support of com-
14 bat operations or peacekeeping or humanitarian oper-
15 ations with United States Armed Forces is not more than
16 seven calendar days from receipt of application.

17 (c) DETERMINATION OF AVERAGE PROCESSING
18 TIME.—The Secretary of State shall determine the aver-
19 age processing times established under subsections (a) and
20 (b) on the basis of the volume of applications received by
21 the Directorate of Defense Trade Controls during the im-
22 mediately preceding 6-month period.

23 (d) CONGRESSIONAL BRIEFINGS.—If, at the end of
24 any month—

1 (1) the average processing times for review and
2 issuance or denial of applications for licenses to ex-
3 port or import items under any category of the
4 United States Munitions List is in excess of the
5 times specified in subparagraphs (A), (B), and (C)
6 of paragraphs (1) and (2) of subsection (a),

7 (2) the average processing time for review and
8 determinations of commodity jurisdiction requests is
9 more than 60 days as described in subsection (a)(3),
10 or

11 (3) the Directorate of Defense Trade Controls
12 has more than 2,000 open applications as described
13 in subsection (a)(5),

14 the Secretary of State, acting through the Undersecretary
15 for Arms Control and International Affairs, the Assistant
16 Secretary for Political and Military Affairs, or the Deputy
17 Assistant Secretary for Defense Trade Controls of the De-
18 partment of State, shall brief the appropriate congres-
19 sional committees on such matters and the corrective
20 measures that the Directorate of Defense Trade Controls
21 will take to comply with the requirements of subsection
22 (a).

23 (e) CONGRESSIONAL REPORT.—If the processing
24 time for review and determination of a commodity jurisdic-
25 tion request is more than 120 days, the Secretary of State

1 shall submit to the appropriate congressional committees
2 a report that describes the request and the reasons for
3 the extended duration of the processing time of the re-
4 quest.

5 (f) REVIEW AND ASSESSMENT OF COMPREHENSIVE
6 DEFENSE TRADE SECURITY INITIATIVES.—

7 (1) REVIEW AND ASSESSMENT.—The Secretary
8 of State, in coordination with the heads of other rel-
9 evant Federal departments and agencies, shall re-
10 view each of the Department of State’s Comprehen-
11 sive Defense Trade Security Initiative’s export au-
12 thorizations described in paragraph (2) and assess
13 the effectiveness of each such authorization, includ-
14 ing the extent to which the authorization is utilized
15 and is achieving the initiative’s stated objectives.
16 This review should also assess how well such author-
17 izations are supporting defense cooperation and
18 interoperability with United States allies and part-
19 ners by permitting timely sharing of technology,
20 maintenance information, and spare parts and com-
21 ponents for cooperative defense programs.

22 (2) COMPREHENSIVE DEFENSE TRADE SECUR-
23 RITY INITIATIVES.—The Comprehensive Defense
24 Trade Security Initiative’s export authorizations re-
25 ferred to in paragraph (1) are the following:

1 (A) MAJOR PROJECT AUTHORIZATION.—
2 Comprehensive authorization for a range of ex-
3 port activities between a single registered
4 United States exporter, as original equipment
5 manufacturer, and a foreign company or gov-
6 ernment, including integration, codevelopment,
7 or production.

8 (B) MAJOR PROGRAM AUTHORIZATION.—
9 Comprehensive authorization for a range of ex-
10 port activities for a principal registered con-
11 tractor covering all aspects of a commercial
12 project with a foreign company or government,
13 including participation by multiple subcontractors
14 and exporters, such as a transaction for a
15 foreign government's purchase of a United
16 States major weapons system.

17 (C) GLOBAL PROJECT AUTHORIZATION.—
18 Comprehensive authorization for a United
19 States exporter to carry out broad range of ac-
20 tivities associated with a cooperative project
21 pursuant to a government -to-government
22 agreement.

23 (3) REPORT.—Not later than 180 days after
24 the date of the enactment of this Act, the Secretary
25 of State shall submit to the appropriate congres-

1 sional committees a report that contains the results
2 of the review and assessment conducted under para-
3 graph (1) and recommendations based on the review
4 and assessment of any needed improvements.

5 (g) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed to prohibit the President or Con-
7 gress from undertaking a thorough review of the national
8 security and foreign policy implications of a proposed ex-
9 port or import of items on the United States Munitions
10 List.

11 **SEC. 5. REQUIREMENT TO ENSURE ADEQUATE STAFF AND**
12 **RESOURCES FOR THE DIRECTORATE OF DE-**
13 **FENSE TRADE CONTROLS OF THE DEPART-**
14 **MENT OF STATE.**

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

20 (b) **MINIMUM NUMBER OF LICENSING OFFICERS.**—
21 The Secretary of State shall ensure that the Directorate
22 of Defense Trade Controls has not less than the following
23 number of licensing officers for the following fiscal years:

24 (1) 60 licensing officers for fiscal year 2009.

25 (2) 70 licensing officers for fiscal year 2010.

1 (3) An appropriate number of licensing officers
2 so that the ratio between the number of licensing of-
3 ficers to the estimated number of applications for li-
4 censes to export or import items on the United
5 States Munitions List for fiscal year 2011 and each
6 subsequent fiscal year is not less than 1 to 1,250.

7 (c) **MINIMUM NUMBER OF STAFF FOR COMMODITY**
8 **JURISDICTION REQUESTS.**—For each of the fiscal years
9 2009 through 2011, the Secretary of State shall ensure
10 that the Directorate of Defense Trade Controls has not
11 less than three individuals assigned to review and make
12 determinations of commodity jurisdiction requests.

13 **SEC. 6. AUDIT BY GOVERNMENT ACCOUNTABILITY OFFICE.**

14 (a) **AUDIT.**—Not later than end of each of the fiscal
15 years 2009 through 2011, the Comptroller General shall
16 conduct an independent audit to determine whether or not
17 the Department of State is meeting the requirements of
18 sections 4 and 5 of this Act.

19 (b) **REPORT.**—The Comptroller General shall submit
20 to the appropriate congressional committees a report that
21 contains the result of each audit conducted under sub-
22 section (a).

1 **SEC. 7. INCREASED FLEXIBILITY FOR USE OF DEFENSE**
2 **TRADE CONTROLS REGISTRATION FEES.**

3 Section 45 of the State Department Basic Authorities
4 Act of 1956 (22 U.S.C. 2717) is amended—

5 (1) in the first sentence, by striking “Office”
6 and inserting “Directorate”; and

7 (2) in the second sentence, to read as follows:
8 “Fees credited to that account shall be available
9 only for payment of expenses incurred for manage-
10 ment, licensing, compliance, and policy activities of
11 defense trade controls functions. In allocating fees
12 for payment of expenses described in the preceding
13 sentence, the Secretary of State shall accord the
14 highest priority to payment of expenses incurred for
15 personnel of the Directorate of Defense Trade Con-
16 trols, including payment of expenses incurred to
17 meet the requirements of section 5 of the Defense
18 Trade Controls Performance Improvement Act of
19 2007 (relating to adequate staff and resources of the
20 Directorate of Defense Trade Controls).”.

21 **SEC. 8. INCREASED TRANSPARENCY THROUGH PUBLICA-**
22 **TION OF LICENSING INFORMATION.**

23 (a) STATUS OF APPLICATIONS.—The Directorate of
24 Defense Trade Controls shall establish a secure Internet-
25 based system for tracking the progress of applications for
26 licenses to export or import items on the United States

1 Munitions List so that applicants can track the status of
2 their applications.

3 (b) OTHER INFORMATION.—Beginning not later than
4 180 days after the date of the enactment of this Act, the
5 Secretary of State shall publish on the Internet website
6 of the Department of State, and update as appropriate—

7 (1) information concerning the average proc-
8 essing times, by category, and the number of open
9 applications, as required by section 4 of this Act;
10 and

11 (2) information concerning staff and resources
12 of the Directorate of Defense Trade Controls of the
13 Department of State, including the number of licens-
14 ing officers, as required by section 5 of this Act.

15 **SEC. 9. CONTROL OF ITEMS ON MISSILE TECHNOLOGY**

16 **CONTROL REGIME ANNEX.**

17 (a) CONTROL OF ITEMS ON MTCR ANNEX.—The
18 Secretary of State, in coordination with the Secretary of
19 Commerce, the Secretary of Defense, and the heads of
20 other federal agencies, as appropriate, shall ensure that
21 all items on the Missile Technology Control Regime Annex
22 are subject to stringent control by the Government of the
23 United States pursuant to the International Traffic in
24 Arms Regulations and the Export Administration Regula-
25 tions.

1 (b) CERTIFICATION.—Not later than 180 days after
2 the date of the enactment of this Act, the Secretary of
3 State, in coordination with the Secretary of Commerce,
4 the Secretary of Defense, and the heads of other federal
5 agencies, as appropriate, shall submit to the appropriate
6 congressional committees a report that contains—

7 (1) a certification that the requirement of sub-
8 section (a) has been met, or if the requirement has
9 not been met, the reasons therefore; and

10 (2) a description of the updated coverage, if
11 any, of the regulations referred to in subsection (a)
12 with respect to all items on the MTCR Annex and
13 an explanation of any areas of overlap or omissions,
14 if any, among the regulations.

15 **SEC. 10. WAIVER OF LICENSING REQUIREMENTS FOR**
16 **SPARE AND REPLACEMENT PARTS OR COM-**
17 **PONENTS AND RELATED SERVICES OF DE-**
18 **FENSE ITEMS FOR EXPORTS TO NATO MEM-**
19 **BER STATES, AUSTRALIA, JAPAN, AND NEW**
20 **ZEALAND.**

21 (a) IN GENERAL.—Section 38(j) of the Arms Export
22 Control Act (22 U.S.C. 2778(j)) is amended—

23 (1) by redesignating paragraph (4) as para-
24 graph (5); and

1 (2) by inserting after paragraph (3) the fol-
2 lowing new paragraph:

3 “(4) WAIVER OF LICENSING REQUIREMENTS
4 FOR SPARE AND REPLACEMENT PARTS OR COMPO-
5 NENTS AND RELATED SERVICES OF DEFENSE ITEMS
6 FOR EXPORTS TO NATO MEMBER STATES, AUS-
7 TRALIA, JAPAN, AND NEW ZEALAND.—

8 “(A) WAIVER.—(i) Subject to subpara-
9 graph (B), the President shall waive the licens-
10 ing requirements of this Act for exports of
11 spare and replacement parts or components and
12 related services of defense items exported to
13 NATO member states, Australia, Japan, and
14 New Zealand.

15 “(ii) A waiver may be issued under this
16 subparagraph only if—

17 “(I) the export of spare and replace-
18 ment parts or components and related
19 services—

20 “(aa) supports a defense item
21 previously lawfully exported;

22 “(bb) is a one-for-one replace-
23 ment of the spare and replacement
24 parts or components and related serv-
25 ices; and

1 “(cc) is limited to destruction or
2 return of the replaced part or compo-
3 nent and documentation of the proc-
4 ess;

5 “(II) the spare and replacement parts
6 or components and related services will be
7 transferred to a defense agency of a coun-
8 try described in clause (i) that is a pre-
9 viously approved end-user of the defense
10 items and not to a distributor of such de-
11 fense items;

12 “(III) the spare and replacement
13 parts or components and related services
14 will not to be used to enhance, optimize, or
15 otherwise upgrade the capability of the de-
16 fense items; and

17 “(IV) the spare and replacement parts
18 or components and related services relate
19 to a defense item that is owned, operated,
20 and in the inventory of the armed forces a
21 country described in clause (i).

22 “(iii) For purposes of this paragraph, the
23 term ‘defense items’ has the meaning given the
24 term in paragraph (5) of this subsection, except
25 that such term does not include items on the

1 list referred to in subsection (a)(1) of this sec-
2 tion that are significant military equipment or
3 items on the Missile Technology Control Re-
4 gime Annex (as such term is defined in section
5 11B(c)(4) of the Export Administration Act of
6 1979 (50 U.S.C. App. 2401b(c)(4))).

7 “(B) EXCEPTION.—The President is au-
8 thorized to not issue a waiver under subpara-
9 graph (A) with respect to a country described
10 in such subparagraph if the President deter-
11 mines that it is in the national security inter-
12 ests of the United States to do so.

13 “(C) INAPPLICABILITY TO RE-EXPORTS
14 AND RE-TRANSFERS.—The provisions of this
15 paragraph shall not apply with respect to re-ex-
16 ports or re-transfers of spare and replacement
17 parts or components and related services of de-
18 fense items described in subparagraph (A).

19 “(D) ADVANCE NOTIFICATION AND DIS-
20 APPROVAL PROVISIONS.—Every person who
21 seeks to export spare and replacement parts or
22 components and related services of defense
23 items described in subparagraph (A)—

24 “(i) shall, not less than 5 days prior
25 to the export of such parts, components,

1 and services, notify the Secretary of State
2 of the type, number, and monetary value of
3 such parts, components, and services; and
4 “(ii) may export such parts, compo-
5 nents, and services only if the Secretary of
6 State does not disapprove the export of
7 such parts, components, and services dur-
8 ing such 5-day period.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall take effect on October 1, 2008.

11 **SEC. 11. 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
15 U.S.C. 2771 et seq.) is amended by inserting after section
16 38 the following new section:

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

20 “(a) AVAILABILITY TO CONGRESS.—Not later than
21 six months after the date of the enactment of the Defense
22 Trade Controls Performance Improvement Act of 2007,
23 the President shall make available to the congressional
24 committees of jurisdiction the ability to access electroni-
25 cally, by secure means, current information on the status

1 of all license applications required to be submitted under
2 this chapter.

3 “(b) MATTERS TO BE INCLUDED.—The information
4 described in subsection (a) shall include, but is not limited
5 to, the following:

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

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

13 “(3) The date on which the interagency review
14 process for each license is completed, if such a re-
15 view process is required.

16 “(4) The date on which each license is sent to
17 the Bureau of Legislative Affairs of the Department
18 State for action.

19 “(5) The date on which the Bureau of Legisla-
20 tive Affairs of the Department of State begins con-
21 sultations with the congressional committees of ju-
22 risdiction with respect to each license.

23 “(6) The date on which each license is formally
24 sent to the congressional committees of jurisdiction.

1 Register amendments, as appropriate, to the Commerce
2 Control List or the United States Munitions List, or both,
3 specifying any civil aircraft product described in sub-
4 section (a) that requires additional or different export con-
5 trols than the export controls described in such subsection.

6 (c) EXPORT CONTROLS UNDER JURISDICTION OF
7 DEPARTMENT OF STATE.—Any civil aircraft product that
8 has a lethal military end-use, is currently subject to a li-
9 cense issued by the Department of State, is determined
10 to be subject to the jurisdiction of the Department of
11 State as a result of a commodity jurisdiction determina-
12 tion, or is an anti-missile defense item, including a special
13 mission system installed on United States commercial air-
14 craft for anti-missile defense, shall be subject to the juris-
15 diction of the Department of State unless determined oth-
16 erwise by the Secretary of State.

17 (d) WAIVER.—The President shall waive the applica-
18 tion of any provision of this section with respect to any
19 civil aircraft product for which the President determines
20 that exercising such waiver is in the national security in-
21 terests of the United States.

22 (e) CIVIL AIRCRAFT PRODUCT DEFINED.—In this
23 section, the term “civil aircraft product” means—

24 (1) a Class I product, Class II product, or Class
25 III product, as defined in section 21.321(b) of title

1 14, Code of Federal Regulations (as in effect on
2 June 1, 2007); and

3 (2) any part, component, or related technical
4 data of a product described in paragraph (1).

5 **SEC. 13. DEFINITIONS.**

6 In this Act:

7 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
8 **TEES.**—The term “appropriate congressional com-
9 mittees” means the Committee on Foreign Affairs of
10 the House of Representatives and the Committee on
11 Foreign Relations of the Senate.

12 (2) **EXPORT ADMINISTRATION REGULATIONS.**—
13 The term “Export Administration Regulations”
14 means those regulations contained in sections 730
15 through 774 of title 15, Code of Federal Regulations
16 (or successor regulations).

17 (3) **COMMERCE CONTROL LIST.**—The term
18 “Commerce Control List” means the list maintained
19 under part 774 of title 15, Code of Federal Regula-
20 tions.

21 (4) **INTERNATIONAL TRAFFIC IN ARMS REGULA-**
22 **TIONS.**—The term “International Traffic in Arms
23 Regulations” means those regulations contained in
24 sections 120 through 130 of title 22, Code of Fed-
25 eral Regulations (or successor regulations).

1 (5) MAJOR NON-NATO ALLY.—The term “major
2 non-NATO ally” means a country that is designated
3 in accordance with section 517 of the Foreign As-
4 sistance Act of 1961 (22 U.S.C. 2321k) as a major
5 non-NATO ally for purposes of the Foreign Assist-
6 ance Act of 1961 (22 U.S.C. 2151 et seq.) and the
7 Arms Export Control Act (22 U.S.C. 2751 et seq.).

8 (6) MISSILE TECHNOLOGY CONTROL REGIME;
9 MTCR.—The term “Missile Technology Control Re-
10 gime” or “MTCR” has the meaning given the term
11 in section 11B(c)(2) of the Export Administration
12 Act of 1979 (50 U.S.C. App. 2401b(c)(2)).

13 (7) MISSILE TECHNOLOGY CONTROL REGIME
14 ANNEX; MTCR ANNEX.—The term “Missile Tech-
15 nology Control Regime Annex” or “MTCR Annex”
16 has the meaning given the term in section 11B(c)(4)
17 of the Export Administration Act of 1979 (50
18 U.S.C. App. 2401b(c)(4)).

19 (8) TECHNICAL ASSISTANCE AGREEMENT.—The
20 term “technical assistance agreement” means an
21 agreement described in section 120.22 of title 22,
22 Code of Federal Regulations (or successor regula-
23 tions).

24 (9) UNITED STATES MUNITIONS LIST.—The
25 term “United States Munitions List” means the list

1 referred to in section 38(a)(1) of the Arms Export
2 Control Act (22 U.S.C. 2778(a)(1)).

3 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary for fiscal year 2009 and each subse-
6 quent fiscal year to carry out this Act and the amend-
7 ments made by this Act.

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