

110TH CONGRESS
2D SESSION

H. R. 5916

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

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,*

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

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

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 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 programs.
 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 support of security cooperation missions.
 Sec. 404. Foreign Military Sales Stockpile Fund.
 Sec. 405. Congressional notification requirements under the Arms Export Control Act.

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**
 5 **of 2008**

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

7 This subtitle may be cited as the “Defense Trade
 8 Controls Performance Improvement Act of 2008”.

9 **SEC. 102. FINDINGS.**

10 Congress finds the following:

11 (1) In a time of international terrorist threats
 12 and a dynamic global economic and security environ-
 13 ment, United States policy with regard to export
 14 controls is in urgent need of a comprehensive review
 15 in order to ensure such controls are protecting the
 16 national security and foreign policy interests of the
 17 United States.

1 (2) In January 2007, the Government Account-
2 ability Office designated the effective identification
3 and protection of critical technologies as a govern-
4 ment-wide, high-risk area, warranting a strategic re-
5 examination of existing programs, including pro-
6 grams relating to arms export controls.

7 (3) Federal Government agencies must review
8 licenses for export of munitions in a thorough and
9 timely manner to ensure that the United States is
10 able to assist United States allies and to prevent nu-
11 clear and conventional weapons from getting into the
12 hands of enemies of the United States.

13 (4) Both staffing and funding that relate to the
14 Department of State's arms export control respon-
15 sibilities have not kept pace with the increased work-
16 load relating to such responsibilities, especially over
17 the last five years.

18 (5) Outsourcing and off-shoring of defense pro-
19 duction and the policy of many United States trad-
20 ing partners to require offsets for major sales of de-
21 fense and aerospace articles present a potential
22 threat to United States national security and eco-
23 nomic well-being and serve to weaken the defense in-
24 dustrial base.

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

13 (7) In the report to Congress required by the
14 Conference Report (Report 109–272) accompanying
15 the bill, H.R. 2862 (the Science, State, Justice,
16 Commerce and Related Agencies Appropriations Act,
17 2006; Public Law 109–108), the Department of
18 State concluded that—

19 (A) defense trade licensing has become
20 much more complex in recent years as a con-
21 sequence of the increasing globalization of the
22 defense industry;

23 (B) the most important challenge to the
24 Department of State’s licensing process has
25 been the sheer growth in volume of applicants

1 for licenses and agreements, without the cor-
2 responding increase in licensing officers;

3 (C) fiscal year 2005 marked the third
4 straight year of roughly 8 percent annual in-
5 creases in licensing volume;

6 (D) although an 8 percent increase in
7 workload equates to a requirement for three ad-
8 ditional licensing officers per year, there has
9 been no increase in licensing officers during this
10 period; and

11 (E) the increase in licensing volume with-
12 out a corresponding increase in trained and ex-
13 perience personnel has resulted in delays and
14 increased processing times.

15 (8) In 2006, the Department of State processed
16 over three times as many licensing applications as
17 the Department of Commerce with about a fifth of
18 the staff of the Department of Commerce.

19 (9) On July 27, 2007, in testimony delivered to
20 the Subcommittee on Terrorism, Nonproliferation
21 and Trade of the House Committee on Foreign Af-
22 fairs to examine the effectiveness of the United
23 States export control regime, the Government Ac-
24 countability Office found that—

1 (A) the United States Government needs
2 to conduct assessments to determine its overall
3 effectiveness in the area of arms export control;
4 and

5 (B) the processing times of the Depart-
6 ment of State doubled over the period from
7 2002 to 2006.

8 (10) Although the current number of unproc-
9 essed applications for licenses to export defense
10 items is less than 3,800 applications, due to the ex-
11 traordinary efforts of the personnel and manage-
12 ment of the Department of State's Directorate of
13 Defense Trade Controls, at the end of 2006, the De-
14 partment of State's backlog of such unprocessed ap-
15 plications reached its highest level at more than
16 10,000 unprocessed applications. This resulted in
17 major management and personnel challenges for the
18 Directorate of Defense Trade Controls.

19 (11)(A) Allowing a continuation of the status
20 quo in resources for defense trade licensing could ul-
21 timately harm the United States defense industrial
22 base. The 2007 Institute for Defense Analysis report
23 entitled "Export Controls and the U.S. Defense In-
24 dustrial Base" found that the large backlog and long
25 processing times by the Department of State for ap-

1 plications for licenses to export defense items led to
2 an impairment of United States firms in some sec-
3 tors to conduct global business relative to foreign
4 competitors.

5 (B) Additionally, the report found that United
6 States commercial firms have been reluctant to en-
7 gage in research and development activities for the
8 Department of Defense because this raises the fu-
9 ture prospects that the products based on this re-
10 search and development, even if intrinsically com-
11 mercial, will be saddled by Department of State mu-
12 nitions controls due to the link to that research.

13 (12) According to the Department of State's
14 fiscal year 2008 budget justification to Congress,
15 commercial exports licensed or approved under the
16 Arms Export Control Act exceeded
17 \$30,000,000,000, with nearly eighty percent of these
18 items exported to United States NATO allies and
19 other major non-NATO allies.

20 (13) A Government Accountability Office report
21 of October 9, 2001 (GAO-02-120), documented am-
22 biguous export control jurisdiction affecting 25 per-
23 cent of the items that the United States Government
24 agreed to control as part of its commitments to the
25 Missile Technology Control Regime. The United

1 States Government has not clearly determined which
2 department has jurisdiction over these items, which
3 increases the risk that these items will fall into the
4 wrong hands. During both the 108th and 109th
5 Congresses, the House of Representatives passed
6 legislation mandating that the Administration clarify
7 this issue.

8 **SEC. 103. STRATEGIC REVIEW AND ASSESSMENT OF THE**
9 **UNITED STATES EXPORT CONTROLS SYSTEM.**

10 (a) REVIEW AND ASSESSMENT.—

11 (1) IN GENERAL.—Not later than March 31,
12 2009, the President shall conduct a comprehensive
13 and systematic review and assessment of the United
14 States arms export controls system in the context of
15 the national security interests and strategic foreign
16 policy objectives of the United States.

17 (2) ELEMENTS.—The review and assessment
18 required under paragraph (1) shall—

19 (A) determine the overall effectiveness of
20 the United States arms export controls system
21 in order to, where appropriate, strengthen con-
22 trols, improve efficiency, and reduce unneces-
23 sary redundancies across Federal Government
24 agencies, through administrative actions, in-

1 including regulations, and to formulate legislative
2 proposals for new authorities that are needed;

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

9 (C) ensure that all items on the Missile
10 Technology Control Regime Annex are subject
11 to stringent control by the United States Gov-
12 ernment;

13 (D) determine the overall effect of arms
14 export controls on counterterrorism, law en-
15 forcement, and infrastructure protection mis-
16 sions of the Department of Homeland Security;
17 and

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

24 (i) data on—

- 1 (I) commodities sought, such as
2 M-4 rifles, night vision devices, F-14
3 spare parts;
- 4 (II) parties involved, such as the
5 intended end-users, brokers, con-
6 signees, and shippers;
- 7 (III) destination countries and
8 transit countries;
- 9 (IV) modes of transport;
- 10 (V) trafficking methods, such as
11 use of false documentation and front
12 companies registered under flags of
13 convenience;
- 14 (VI) whether the attempted illicit
15 transfer was successful; and
- 16 (VII) any administrative or
17 criminal enforcement actions taken by
18 the United States and any other gov-
19 ernment in relation to the attempted
20 illicit transfer;
- 21 (ii) a thorough evaluation of the Blue
22 Lantern Program, including the adequacy
23 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
9 base, including direct and indirect impact
10 on employment, and formulate policies to
11 address these trends as well as the policy
12 of some United States trading partners to
13 require offsets for major sales of defense
14 articles.

15 (b) CONGRESSIONAL BRIEFINGS.—The President
16 shall provide periodic briefings to the appropriate congres-
17 sional committees on the progress of the review and as-
18 sessment conducted under subsection (a). The require-
19 ment to provide congressional briefings under this sub-
20 section shall terminate on the date on which the President
21 transmits to the appropriate congressional committees the
22 report required under subsection (c).

23 (c) REPORT.—Not later than 18 months after the
24 date of the enactment of this Act, the President shall
25 transmit to the appropriate congressional committees a re-

1 port that contains the results of the review and assessment
2 conducted under subsection (a). The report required by
3 this subsection shall contain a certification that the re-
4 quirement of subsection (a)(2)(C) has been met, or if the
5 requirement has not been met, the reasons therefor. The
6 report required by this subsection shall be submitted in
7 unclassified form, but may contain a classified annex, if
8 necessary.

9 **SEC. 104. PERFORMANCE GOALS FOR PROCESSING OF AP-**
10 **PLICATIONS FOR LICENSES TO EXPORT**
11 **ITEMS ON USML.**

12 (a) IN GENERAL.—The Secretary of State, acting
13 through the head of the Directorate of Defense Trade
14 Controls of the Department of State, shall establish the
15 following goals:

16 (1) The processing time for review of each ap-
17 plication for a license to export items on the United
18 States Munitions List (other than applications for
19 approval of agreements under part 124 of title 22,
20 Code of Federal Regulations (or successor regula-
21 tions)) shall be not more than 60 days from the date
22 of receipt of the application.

23 (2) The processing time for review of each ap-
24 plication for a commodity jurisdiction determination

1 shall be not more than 60 days from the date of re-
2 ceipt of the application.

3 (3) The total number of applications described
4 in paragraph (1) that are unprocessed shall be not
5 more than 7 percent of the total number of such ap-
6 plications submitted in the preceding calendar year.

7 (b) ADDITIONAL REVIEW.—(1) If an application de-
8 scribed in paragraph (1) or (2) of subsection (a) is not
9 processed within the time period described in the respec-
10 tive paragraph of such subsection, then the Managing Di-
11 rector of the Directorate of Defense Trade Controls or the
12 Deputy Assistant Secretary for Defense Trade and Re-
13 gional Security of the Department of State, as appro-
14 priate, shall review the status of the application to deter-
15 mine if further action is required to process the applica-
16 tion.

17 (2) If an application described in paragraph (1) or
18 (2) of subsection (a) is not processed within 90 days from
19 the date of receipt of the application, then the Assistant
20 Secretary for Political-Military Affairs of the Department
21 of State shall—

22 (A) review the status of the application to de-
23 termine if further action is required to process the
24 application; and

1 (B) submit to the appropriate congressional
2 committees a notification of the review conducted
3 under subparagraph (A), including a description of
4 the application, the reason for delay in processing
5 the application, and a proposal for further action to
6 process the application.

7 (3) For each calendar year, the Managing Director
8 of the Directorate of Defense Trade Controls shall review
9 not less than 2 percent of the total number of applications
10 described in paragraphs (1) and (2) of subsection (a) to
11 ensure that the processing of such applications, including
12 decisions to approve, deny, or return without action, is
13 consistent with both policy and regulatory requirements
14 of the Department of State.

15 (c) UNITED STATES ALLIES.—Congress states
16 that—

17 (1) it shall be the policy of the Directorate of
18 Defense Trade Controls of the Department of State
19 to ensure that, to the maximum extent practicable,
20 the processing time for review of applications de-
21 scribed in subsection (a)(1) to export items that are
22 not subject to the requirements of section 36(b) or
23 (c) of the Arms Export Control Act (22 U.S.C.
24 2776(b) or (c)) to United States allies in direct sup-
25 port of combat operations or peacekeeping or hu-

1 manitarian operations with United States Armed
2 Forces is not more than 7 days from the date of re-
3 ceipt of the application; and

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

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

21 (1)(A) the average processing time for and
22 number of applications described in subsection
23 (a)(1) to—

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

1 (ii) other major non-NATO allies; and

2 (iii) all other countries; and

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

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

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

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

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

19 (e) CONGRESSIONAL BRIEFINGS.—If, at the end of
20 any month beginning after the date of the enactment of
21 this Act, the total number of applications described in sub-
22 section (a)(1) that are unprocessed is more than 7 percent
23 of the total number of such applications submitted in the
24 preceding calendar year, then the Secretary of State, act-
25 ing through the Under Secretary for Arms Control and

1 International Security, the Assistant Secretary for Polit-
2 ical-Military Affairs, or the Deputy Assistant Secretary
3 for Defense Trade and Regional Security of the Depart-
4 ment of State, as appropriate, shall brief the appropriate
5 congressional committees on such matters and the correc-
6 tive measures that the Directorate of Defense Trade Con-
7 trols will take to comply with the requirements of sub-
8 section (a).

9 (f) TRANSPARENCY OF COMMODITY JURISDICTION
10 DETERMINATIONS.—

11 (1) DECLARATION OF POLICY.—Congress de-
12 clares that the complete confidentiality surrounding
13 several hundred commodity jurisdiction determina-
14 tions made each year by the Department of State
15 pursuant to the International Traffic in Arms Regu-
16 lations is not necessary to protect legitimate propri-
17 etary interests of persons or their prices and cus-
18 tomers, is not in the best security and foreign policy
19 interests of the United States, is inconsistent with
20 the need to ensure a level playing field for United
21 States exporters, and detracts from United States
22 efforts to promote greater transparency and respon-
23 sibility by other countries in their export control sys-
24 tems.

1 (2) PUBLICATION ON INTERNET WEBSITE.—

2 The Secretary of State shall—

3 (A) upon making a commodity jurisdiction
4 determination referred to in paragraph (1) pub-
5 lish on the Internet website of the Department
6 of State not later than 30 days after the date
7 of the determination—

8 (i) the name of the manufacturer of
9 the item;

10 (ii) a brief general description of the
11 item;

12 (iii) the model or part number of the
13 item; and

14 (iv) the United States Munitions List
15 designation under which the item has been
16 designated, except that—

17 (I) the name of the person or
18 business organization that sought the
19 commodity jurisdiction determination
20 shall not be published if the person or
21 business organization is not the man-
22 ufacturer of the item; and

23 (II) the names of the customers,
24 the price of the item, and any propri-
25 etary information relating to the item

1 indicated by the person or business
2 organization that sought the com-
3 modity jurisdiction determination
4 shall not be published; and

5 (B) maintain on the Internet website of
6 the Department of State an archive, that is ac-
7 cessible to the general public and other depart-
8 ments and agencies of the United States, of the
9 information published under subparagraph (A).

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

15 **SEC. 105. REQUIREMENT TO ENSURE ADEQUATE STAFF**
16 **AND RESOURCES FOR DDTC OF THE DEPART-**
17 **MENT OF STATE.**

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

23 (b) MINIMUM NUMBER OF LICENSING OFFICERS.—
24 For fiscal year 2010 and each subsequent fiscal year, the
25 Secretary of State shall ensure that the Directorate of De-

1 fense Trade Controls has at least 1 licensing officer for
2 every 1,250 applications for licenses and other authoriza-
3 tions to export items on the United States Munitions List
4 by not later than the third quarter of such fiscal year,
5 based on the number of licenses and other authorizations
6 expected to be received during such fiscal year. The Sec-
7 retary shall ensure that in meeting the requirement of this
8 subsection, the performance of other functions of the Di-
9 rectorate of Defense Trade Controls is maintained and
10 adequate staff is provided for those functions.

11 (c) MINIMUM NUMBER OF STAFF FOR COMMODITY
12 JURISDICTION DETERMINATIONS.—For each of the fiscal
13 years 2009 through 2011, the Secretary of State shall en-
14 sure that the Directorate of Defense Trade Controls has,
15 to the extent practicable, not less than three individuals
16 assigned to review applications for commodity jurisdiction
17 determinations.

18 (d) ENFORCEMENT RESOURCES.—In accordance
19 with section 127.4 of title 22, Code of Federal Regula-
20 tions, U.S. Immigration and Customs Enforcement is au-
21 thorized to investigate violations of the International Traf-
22 fic in Arms Regulations on behalf of the Directorate of
23 Defense Trade Controls of the Department of State. The
24 Secretary of State shall ensure that the Directorate of De-

1 fense Trade Controls has adequate staffing for enforce-
2 ment of the International Traffic in Arms Regulations.

3 **SEC. 106. AUDIT BY INSPECTOR GENERAL OF THE DEPART-**
4 **MENT OF STATE.**

5 (a) AUDIT.—Not later than the end of each of the
6 fiscal years 2010 and 2011, the Inspector General of the
7 Department of State shall conduct an independent audit
8 to determine the extent to which the Department of State
9 is meeting the requirements of sections 104 and 105 of
10 this Act.

11 (b) REPORT.—The Inspector General shall submit to
12 the appropriate congressional committees a report that
13 contains the result of each audit conducted under sub-
14 section (a).

15 **SEC. 107. INCREASED FLEXIBILITY FOR USE OF DEFENSE**
16 **TRADE CONTROLS REGISTRATION FEES.**

17 (a) IN GENERAL.—Section 45 of the State Depart-
18 ment Basic Authorities Act of 1956 (22 U.S.C. 2717) is
19 amended—

20 (1) in the first sentence—

21 (A) by striking “For” and inserting “(a)

22 IN GENERAL.—For”; and

23 (B) by striking “Office” and inserting “Di-
24 rectorate”;

1 (2) by amending the second sentence to read as
2 follows:

3 “(b) AVAILABILITY OF FEES.—Fees credited to the
4 account referred to in subsection (a) shall be available only
5 for payment of expenses incurred for—

6 “(1) management,

7 “(2) licensing (in order to meet the require-
8 ments of section 105 of the Defense Trade Controls
9 Performance Improvement Act of 2008 (relating to
10 adequate staff and resources of the Directorate of
11 Defense Trade Controls)),

12 “(3) compliance,

13 “(4) policy activities, and

14 “(5) facilities,

15 of defense trade controls functions.”; and

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

17 “(c) ALLOCATION OF FEES.—In allocating fees for
18 payment of expenses described in subsection (b), the Sec-
19 retary of State shall accord the highest priority to pay-
20 ment of expenses incurred for personnel and equipment
21 of the Directorate of Defense Trade Controls, including
22 payment of expenses incurred to meet the requirements
23 of section 105 of the Defense Trade Controls Performance
24 Improvement Act of 2008.”.

1 (b) CONFORMING AMENDMENT.—Section
2 38(b)(3)(A) of the Arms Export Control Act (22 U.S.C.
3 2778(b)(3)(A)) is amended to read as follows:

4 “(3)(A) For each fiscal year, 100 percent of registra-
5 tion fees collected pursuant to paragraph (1) shall be cred-
6 ited to a Department of State account, to be available
7 without fiscal year limitation. Fees credited to that ac-
8 count shall be available only for the payment of expenses
9 incurred for—

10 (i) management,

11 (ii) licensing (in order to meet the require-
12 ments of section 105 of the Defense Trade Controls
13 Performance Improvement Act of 2008 (relating to
14 adequate staff and resources of the Directorate of
15 Defense Trade Controls)),

16 (iii) compliance,

17 (iv) policy activities, and

18 (v) facilities,

19 of defense trade controls functions.”.

20 (c) USE OF CIVIL PENALTIES.—Not more than
21 \$10,000,000 of the amount of civil penalties collected in
22 each of fiscal years 2008, 2009, 2010, 2011 and 2012
23 pursuant to section 38(e) of the Arms Export Control Act
24 (22 U.S.C. 2778(e)) shall be made available for the ex-

1 penses of the Directorate of Defense Trade Controls of
2 the Department of State.

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

4 (a) IN GENERAL.—The Secretary of State shall re-
5 view, with the assistance of United States manufacturers
6 and other interested parties described in section 111(2)
7 of this Act, the International Traffic in Arms Regulations
8 and the United States Munitions List to determine those
9 technologies and goods that warrant different or addi-
10 tional controls.

11 (b) CONDUCT OF REVIEW.—In carrying out the re-
12 view required under subsection (a), the Secretary of State
13 shall review not less than 20 percent of the technologies
14 and goods on the International Traffic in Arms Regula-
15 tions and the United States Munitions List in each cal-
16 endar year so that for the 5-year period beginning with
17 calendar year 2009, and for each subsequent 5-year pe-
18 riod, the International Traffic in Arms Regulations and
19 the United States Munitions List will be reviewed in their
20 entirety.

21 (c) REPORT.—The Secretary of State shall submit to
22 the appropriate congressional committees an annual re-
23 port on the results of the review carried out under this
24 section.

1 **SEC. 109. SPECIAL LICENSING AUTHORIZATION FOR CER-**
2 **TAIN EXPORTS TO NATO MEMBER STATES,**
3 **AUSTRALIA, JAPAN, AND NEW ZEALAND.**

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

7 “(k) SPECIAL LICENSING AUTHORIZATION FOR CER-
8 TAIN EXPORTS TO NATO MEMBER STATES, AUSTRALIA,
9 JAPAN, NEW ZEALAND, ISRAEL, AND SOUTH KOREA.—

10 “(1) AUTHORIZATION.—(A) The President may
11 provide for special licensing authorization for exports
12 of United States-manufactured spare and replace-
13 ment parts or components listed in an application
14 for such special licensing authorization in connection
15 with defense items previously exported to NATO
16 member states, Australia, Japan, New Zealand,
17 Israel, and South Korea. A special licensing author-
18 ization issued pursuant to this clause shall be effec-
19 tive for a period not to exceed 5 years.

20 “(B) An authorization may be issued under
21 subparagraph (A) only if the applicable government
22 of the country described in subparagraph (A), acting
23 through the applicant for the authorization, certifies
24 that—

1 “(i) the export of spare and replacement
2 parts or components supports a defense item
3 previously lawfully exported;

4 “(ii) the spare and replacement parts or
5 components will be transferred to a defense
6 agency of a country described in subparagraph
7 (A) that is a previously approved end-user of
8 the defense items and not to a distributor or a
9 foreign consignee of such defense items;

10 “(iii) the spare and replacement parts or
11 components will not to be used to materially en-
12 hance, optimize, or otherwise modify or upgrade
13 the capability of the defense items;

14 “(iv) the spare and replacement parts or
15 components relate to a defense item that is
16 owned, operated, and in the inventory of the
17 armed forces a country described in subpara-
18 graph (A);

19 “(v) the export of spare and replacement
20 parts or components will be effected using the
21 freight forwarder designated by the purchasing
22 country’s diplomatic mission as responsible for
23 handling transfers under chapter 2 of this Act
24 as required under regulations; and

1 “(vi) the spare and replacement parts or
2 components to be exported under the special li-
3 censing authorization are specifically identified
4 in the application.

5 “(C) An authorization may not be issued under
6 subparagraph (A) for purposes of establishing off-
7 shore procurement arrangements or producing de-
8 fense articles offshore.

9 “(D)(i) For purposes of this subsection, the
10 term ‘United States-manufactured spare and re-
11 placement parts or components’ means spare and
12 replacement parts or components—

13 “(I) with respect to which—

14 “(aa) United States-origin content
15 costs constitute at least 85 percent of the
16 total content costs;

17 “(bb) United States manufacturing
18 costs constitute at least 85 percent of the
19 total manufacturing costs; and

20 “(cc) foreign content, if any, is limited
21 to content from countries eligible to receive
22 exports of items on the United States Mu-
23 nitions List under the International Traffic
24 in Arms Regulations (other than de mini-
25 mis foreign content); and

1 **“SEC. 38A. AVAILABILITY OF INFORMATION ON THE STA-**
2 **TUS OF LICENSE APPLICATIONS UNDER THIS**
3 **CHAPTER.**

4 “(a) AVAILABILITY OF INFORMATION.—Not later
5 than one year after the date of the enactment of the De-
6 fense Trade Controls Performance Improvement Act of
7 2008, the President shall make available to persons who
8 have pending license applications under this chapter and
9 the committees of jurisdiction the ability to access elec-
10 tronically current information on the status of each license
11 application required to be submitted under this chapter.

12 “(b) MATTERS TO BE INCLUDED.—The information
13 referred to in subsection (a) shall be limited to the fol-
14 lowing:

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

16 “(2) The date on which the license application
17 is received by the Department of State and becomes
18 an ‘open application’.

19 “(3) The date on which the Directorate of De-
20 fense Trade Controls makes a determination with re-
21 spect to the license application or transmits it for
22 interagency review, if required.

23 “(4) The date on which the interagency review
24 process for the license application is completed, if
25 such a review process is required.

1 “(5) The date on which the Department of
2 State begins consultations with the congressional
3 committees of jurisdiction with respect to the license
4 application.

5 “(6) The date on which the license application
6 is sent to the congressional committees of jurisdic-
7 tion.”.

8 **SEC. 111. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

10 (1)(A) the advice provided to the Secretary of
11 State by the Defense Trade Advisory Group
12 (DTAG) supports the regulation of defense trade
13 and helps ensure that United States national secu-
14 rity and foreign policy interests continue to be pro-
15 tected and advanced while helping to reduce unnec-
16 essary impediments to legitimate exports in order to
17 support the defense requirements of United States
18 friends and allies; and

19 (B) therefore, the Secretary of State should
20 share significant planned rules and policy shifts with
21 DTAG for comment; and

22 (2) recognizing the constraints imposed on the
23 Department of State by the nature of a voluntary
24 organization such as DTAG, the Secretary of State
25 is encouraged to ensure that members of DTAG are

1 drawn from a representative cross-section of subject
2 matter experts from the United States defense in-
3 dustry, relevant trade and labor associations, aca-
4 demic, and foundation personnel.

5 **SEC. 112. DEFINITIONS.**

6 In this subtitle:

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) **INTERNATIONAL TRAFFIC IN ARMS REGULA-**
13 **TIONS; ITAR.**—The term “International Traffic in
14 Arms Regulations” or “ITAR” means those regula-
15 tions contained in parts 120 through 130 of title 22,
16 Code of Federal Regulations (or successor regula-
17 tions).

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

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

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

12 (6) OFFSETS.—The term “offsets” includes
13 compensation practices required of purchase in ei-
14 ther government-to-government or commercial sales
15 of defense articles or defense services under the
16 Arms Export Control Act (22 U.S.C. 2751 et seq.)
17 and the International Traffic in Arms Regulations.

18 (7) UNITED STATES MUNITIONS LIST; USML.—
19 The term “United States Munitions List” or
20 “USML” means the list referred to in section
21 38(a)(1) of the Arms Export Control Act (22 U.S.C.
22 2778(a)(1)).

23 **SEC. 113. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as may be necessary for fiscal year 2009 and each subse-

1 quent fiscal year to carry out this subtitle and the amend-
 2 ments made by this subtitle.

3 **Subtitle B—Miscellaneous** 4 **Provisions**

5 **SEC. 121. REPORT ON SELF-FINANCING OPTIONS FOR EX-** 6 **PORT LICENSING FUNCTIONS OF DDTC OF** 7 **THE DEPARTMENT OF STATE.**

8 Not later than 90 days after the date of the enact-
 9 ment of this Act, the Secretary of State shall submit to
 10 the appropriate congressional committees a report on pos-
 11 sible mechanisms to place the export licensing functions
 12 of the Directorate of Defense Trade Controls of the De-
 13 partment of State on a 100 percent self-financing basis.

14 **SEC. 122. EXPEDITING CONGRESSIONAL DEFENSE EXPORT** 15 **REVIEW PERIOD FOR SOUTH KOREA AND** 16 **ISRAEL.**

17 The Arms Export Control Act (22 U.S.C. 2751 et
 18 seq.) is amended—

19 (1) in sections 3(b)(2), 3(d)(2)(B),
 20 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b)(1),
 21 36(b)(2), 36(c)(2)(A), 36(c)(5), 36(d)(2)(A),
 22 62(c)(1), and 63(a)(2) by inserting “the Republic of
 23 Korea, Israel,” before “or New Zealand”; and

24 (2) in section 21(h)(1)(A), by inserting “the
 25 Republic of Korea,” before “or Israel”.

1 **SEC. 123. AVAILABILITY TO CONGRESS OF PRESIDENTIAL**
2 **DIRECTIVES REGARDING UNITED STATES**
3 **ARMS EXPORT POLICIES, PRACTICES, AND**
4 **REGULATIONS.**

5 (a) **IN GENERAL.**—The President shall make avail-
6 able to the appropriate congressional committees the text
7 of each Presidential directive regarding United States ex-
8 port policies, practices, and regulations relating to the im-
9 plementation of the Arms Export Control Act (22 U.S.C.
10 2751 et seq.) not later than 15 days after the date on
11 which the directive has been signed or authorized by the
12 President.

13 (b) **TRANSITION PROVISION.**—Any Presidential di-
14 rective described in subsection (a) that is signed or author-
15 ized by the President on or after January 1, 2008, and
16 before the date of the enactment of this Act shall be made
17 available to the appropriate congressional committees not
18 later than 90 days after the date of the enactment of this
19 Act.

20 (c) **FORM.**—To the maximum extent practicable, the
21 Presidential directives required to be made available to the
22 appropriate congressional committees under this section
23 shall be made available on an unclassified basis.

1 **SEC. 124. INCREASE IN CONGRESSIONAL NOTIFICATION**
2 **THRESHOLDS AND EXPEDITING CONGRES-**
3 **SIONAL REVIEW FOR SOUTH KOREA AND**
4 **ISRAEL.**

5 (a) FOREIGN MILITARY SALES.—

6 (1) IN GENERAL.—Subsection (b) of section 36
7 of the Arms Export Control Act (22 U.S.C. 2776)
8 is amended—

9 (A) by redesignating paragraphs (2)
10 through (6) as paragraphs (3) through (7), re-
11 spectively; and

12 (B) by striking “The letter of offer shall
13 not be issued” and all that follows through “en-
14 acts a joint resolution” and inserting the fol-
15 lowing:

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

17 “(A) with respect to a proposed sale of any
18 defense articles or defense services under this
19 Act for \$200,000,000 or more, any design and
20 construction services for \$300,000,000 or more,
21 or any major defense equipment for
22 \$75,000,000 or more, to the North Atlantic
23 Treaty Organization (NATO), any member
24 country of NATO, Japan, Australia, the Repub-
25 lic of Korea, Israel, or New Zealand, if Con-

1 gress, within 15 calendar days after receiving
2 such certification, or

3 “(B) with respect to a proposed sale of any
4 defense articles or services under this Act for
5 \$100,000,000 or more, any design and con-
6 struction services for \$200,000,000 or more, or
7 any major defense equipment for \$50,000,000
8 or more, to any other country or organization,
9 if Congress, within 30 calendar days after re-
10 ceiving such certification,
11 enacts a joint resolution”.

12 (2) TECHNICAL AND CONFORMING AMEND-
13 MENTS.—Such section is further amended—

14 (A) in subsection (b)—

15 (i) in paragraph (6)(C), as redesign-
16 dated, by striking “Subject to paragraph
17 (6), if” and inserting “If”; and

18 (ii) by striking paragraph (7), as re-
19 designated; and

20 (B) in subsection (c)(4), by striking “sub-
21 section (b)(5)” and inserting “subsection
22 (b)(6)”.

23 (b) COMMERCIAL SALES.—Subsection (c) of such sec-
24 tion is amended—

25 (1) in paragraph (2)—

1 (A) in subparagraph (A)—

2 (i) by inserting after “for an export”
3 the following: “of any major defense equip-
4 ment sold under a contract in the amount
5 of \$75,000,000 or more or of defense arti-
6 cles or defense services sold under a con-
7 tract in the amount of \$200,000,000 or
8 more (or, in the case of a defense article
9 that is a firearm controlled under category
10 I of the United States Munitions List,
11 \$1,000,000 or more)”; and

12 (ii) by striking “Organization,” and
13 inserting “Organization (NATO),” and by
14 further striking “that Organization” and
15 inserting “NATO”; and

16 (B) in subparagraph (C), by inserting after
17 “license” the following: “for an export of any
18 major defense equipment sold under a contract
19 in the amount of \$50,000,000 or more or of de-
20 fense articles or defense services sold under a
21 contract in the amount of \$100,000,000 or
22 more (or, in the case of a defense article that
23 is a firearm controlled under category I of the
24 United States Munitions List, \$1,000,000 or
25 more)”; and

1 (2) by striking paragraph (5).

2 **SEC. 125. DIPLOMATIC EFFORTS TO STRENGTHEN NA-**
3 **TIONAL AND INTERNATIONAL ARMS EXPORT**
4 **CONTROLS.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the President should redouble United States
7 diplomatic efforts to strengthen national and international
8 arms export controls by establishing a senior-level initia-
9 tive to ensure that such arms export controls are com-
10 parable to and supportive of United States arms export
11 controls, particularly with respect to countries of concern
12 to the United States.

13 (b) REPORT.—No later than one year after the date
14 of the enactment of this Act, and annually thereafter for
15 four years, the President shall transmit to the appropriate
16 committees of Congress a report on United States diplo-
17 matic efforts described in subsection (a).

18 **SEC. 126. REPORTING REQUIREMENT FOR UNLICENSED EX-**
19 **PORTS.**

20 Section 655(b) of the Foreign Assistance Act of 1961
21 (22 U.S.C. 2415(b)) is amended—

22 (1) in paragraph (2), by striking “or” at the
23 end;

24 (2) in paragraph (3), by striking the period at
25 the end and inserting “; or”; and

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

2 “(4) were exported without a license under sec-
3 tion 38 of the Arms Export Control Act (22 U.S.C.
4 2778) pursuant to an exemption established under
5 the International Traffic in Arms Regulations, other
6 than defense articles exported in furtherance of a
7 letter of offer and acceptance under the Foreign
8 Military Sales program or a technical assistance or
9 manufacturing license agreement, including the spe-
10 cific exemption provision in the regulation under
11 which the export was made.”.

12 **SEC. 127. REPORT ON VALUE OF MAJOR DEFENSE EQUIP-**
13 **MENT AND DEFENSE ARTICLES EXPORTED**
14 **UNDER SECTION 38 OF THE ARMS EXPORT**
15 **CONTROL ACT.**

16 Section 38 of the Arms Export Control Act (22
17 U.S.C. 2778) is amended by adding at the end the fol-
18 lowing:

19 “(k) REPORT.—

20 “(1) IN GENERAL.—The President shall trans-
21 mit to the appropriate congressional committees a
22 report that contains a detailed listing, by country
23 and by international organization, of the total dollar
24 value of major defense equipment and defense arti-

1 cles exported pursuant to licenses authorized under
2 this section for the previous fiscal year.

3 “(2) INCLUSION IN ANNUAL BUDGET.—The re-
4 port required by this subsection shall be included in
5 the supporting information of the annual budget of
6 the United States Government required to be sub-
7 mitted to Congress under section 1105 of title 31,
8 United States Code.

9 “(3) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES DEFINED.—In this subsection, the term ‘ap-
11 propriate congressional committees’ means the Com-
12 mittee on Foreign Affairs of the House of Rep-
13 resentatives and the Committee on Foreign Rela-
14 tions of the Senate.”.

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

16 (a) REPORT.—The President shall report to the ap-
17 propriate committees of the Congress, not later than 180
18 days after the date of the enactment of this Act regard-
19 ing—

20 (1) the extent to which current United States
21 export controls on satellites and related items under
22 the Arms Export Control Act are successfully pre-
23 venting the transfer of militarily-sensitive tech-
24 nologies to countries of concern, especially the Peo-
25 ple’s Republic of China;

1 (2) the extent to which comparable satellites
2 and related items are available from foreign sources
3 without comparable export controls; and

4 (3) whether the current export controls on sat-
5 ellites and related items should be altered and in
6 what manner, including whether other incentives or
7 disincentives should also be employed to discourage
8 exports of satellites and related items to the People’s
9 Republic of China by any country.

10 (b) DEFINITIONS.—In this section, the terms “sat-
11 ellite” and “related items” mean satellites and all specifi-
12 cally designed or modified systems or subsystems, compo-
13 nents, parts, accessories, attachments, and associated
14 equipment for satellites as covered under category XV of
15 the International Traffic in Arms Regulations (as in effect
16 on the date of the enactment of this Act).

17 **SEC. 129. DEFINITION.**

18 In this subtitle, the term “appropriate congressional
19 committees” means the Committee on Foreign Affairs of
20 the House of Representatives and the Committee on For-
21 eign Relations of the Senate.

1 **TITLE II—SECURITY ASSIST-**
2 **ANCE AND RELATED SUP-**
3 **PORT FOR ISRAEL**

4 **SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILI-**
5 **TARY EDGE OVER MILITARY THREATS.**

6 (a) **ASSESSMENT REQUIRED.**—The President shall
7 carry out an empirical and qualitative assessment on an
8 ongoing basis of the extent to which Israel possesses a
9 qualitative military edge over military threats to Israel.
10 The assessment required under this subsection shall be
11 sufficiently robust so as to facilitate comparability of data
12 over concurrent years.

13 (b) **USE OF ASSESSMENT.**—The President shall en-
14 sure that the assessment required under subsection (a) is
15 used to inform the review by the United States of applica-
16 tions to sell defense articles and defense services under
17 the Arms Export Control Act (22 U.S.C. 2751 et seq.)
18 to countries in the Middle East.

19 (c) **REPORTS.**—

20 (1) **INITIAL REPORT.**—Not later than 180 days
21 after the date of the enactment of this Act, the
22 President shall transmit to the appropriate congres-
23 sional committees a report on the initial assessment
24 required under subsection (a).

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

8 (d) CERTIFICATION.—Section 36 of the Arms Export
9 Control Act (22 U.S.C. 2776) is amended by adding at
10 the end the following:

11 “(h) CERTIFICATION REQUIREMENT RELATING
12 ISRAEL’S QUALITATIVE MILITARY EDGE.—

13 “(1) IN GENERAL.—Any certification relating
14 to a proposed sale or export of defense articles or
15 defense services under this section to any country in
16 the Middle East other than Israel shall include a de-
17 termination that the sale or export of the defense ar-
18 ticles or defense services will not adversely affect
19 Israel’s qualitative military edge over military
20 threats to Israel.

21 “(2) DEFINITION.—In this subsection, the term
22 ‘qualitative military edge’ has the meaning given the
23 term in section 205 of the Security Assistance and
24 Arms Export Control Reform Act of 2008.”.

1 **SEC. 202. REPORT ON UNITED STATES' COMMITMENTS TO**
2 **THE SECURITY OF ISRAEL.**

3 (a) INITIAL REPORT.—Not later than 30 days after
4 the date of the enactment of this Act, the President shall
5 transmit to the appropriate congressional committees a re-
6 port that contains—

7 (1) a complete, unedited, and unredacted copy
8 of each assurance made by United States Govern-
9 ment officials to officials of the Government of Israel
10 regarding Israel's security and maintenance of
11 Israel's qualitative military edge, as well as any
12 other assurance regarding Israel's security and
13 maintenance of Israel's qualitative military edge pro-
14 vided in conjunction with exports under the Arms
15 Export Control Act (22 U.S.C. 2751 et seq.), for the
16 period beginning on January 1, 1975, and ending on
17 the date of the enactment of this Act; and

18 (2) an analysis of the extent to which, and by
19 what means, each such assurance has been and is
20 continuing to be fulfilled.

21 (b) SUBSEQUENT REPORTS.—

22 (1) NEW ASSURANCES AND REVISIONS.—The
23 President shall transmit to the appropriate congress-
24 sional committees a report that contains the infor-
25 mation required under subsection (a) with respect
26 to—

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

4 (B) revisions to any assurance described in
5 subsection (a) or subparagraph (A) of this
6 paragraph,

7 within 15 days of the new assurance or revision
8 being conveyed.

9 (2) 5-YEAR REPORTS.—Not later than 5 years
10 after the date of the enactment of this Act, and
11 every 5 years thereafter, the President shall trans-
12 mit to the appropriate congressional committees a
13 report that contains the information required under
14 subsection (a) with respect to each assurance de-
15 scribed in subsection (a) or paragraph (1)(A) of this
16 subsection and revisions to any assurance described
17 in subsection (a) or paragraph (1)(A) of this sub-
18 section during the preceding 5-year period.

19 (c) FORM.—Each report required by this section shall
20 be transmitted in unclassified form, but may contain a
21 classified annex, if necessary.

22 **SEC. 203. WAR RESERVES STOCKPILE.**

23 (a) DEPARTMENT OF DEFENSE APPROPRIATIONS
24 ACT, 2005.—Section 12001 of the Department of Defense

1 Appropriations Act, 2005 (Public Law 108–287; 118 Stat.
2 1011), is amended—

3 (1) in subsection (a)(2)(D), by striking “as of
4 the date of enactment of this Act,”; and

5 (2) in subsection (d), by striking “2” and in-
6 serting “4”.

7 (b) FOREIGN ASSISTANCE ACT OF 1961.—Section
8 514(b)(2) of the Foreign Assistance Act of 1961 (22
9 U.S.C. 2321h(b)(2)) is amended—

10 (1) in subparagraph (A)—

11 (A) by striking “\$100,000,000” and in-
12 serting “\$200,000,000”; and

13 (B) by striking “fiscal years 2004 and
14 2005” and inserting “fiscal years 2009 and
15 2010”; and

16 (2) in subparagraph (B), by striking
17 “\$100,000,000” and inserting “\$200,000,000”.

18 (c) EFFECTIVE DATE.—The amendment made by
19 subsection (b)(1)(B) takes effect on August 5, 2008.

20 **SEC. 204. IMPLEMENTATION OF MEMORANDUM OF UNDER-**
21 **STANDING WITH ISRAEL.**

22 (a) IN GENERAL.—Of the amount made available for
23 fiscal year 2009 for assistance under the program author-
24 ized by section 23 of the Arms Export Control Act (22
25 U.S.C. 2763) (commonly referred to as the “Foreign Mili-

1 tary Financing Program”), the amount specified in sub-
2 section (b) is authorized to be made available on a grant
3 basis for Israel.

4 (b) COMPUTATION OF AMOUNT.—The amount re-
5 ferred to in subsection (a) is the amount equal to—

6 (1) the amount specified under the heading
7 “Foreign Military Financing Program” for Israel for
8 fiscal year 2008; plus

9 (2) \$150,000,000.

10 **SEC. 205. DEFINITIONS.**

11 In this subtitle—

12 (1) the term “appropriate congressional com-
13 mittees” means the Committee on Foreign Affairs of
14 the House of Representatives and the Committee on
15 Foreign Relations of the Senate; and

16 (2) the term “qualitative military edge” means
17 the ability to counter and defeat any credible con-
18 ventional military threat from any individual state or
19 possible coalition of states or from non-state actors,
20 while sustaining minimal damages and casualties,
21 through the use of superior military means, pos-
22 sessed in sufficient quantity, including weapons,
23 command, control, communication, intelligence, sur-
24 veillance, and reconnaissance capabilities that in
25 their technical characteristics are superior in capa-

1 bility to those of such other individual or possible co-
2 alition of states or non-state actors.

3 **TITLE III—WAIVER OF CERTAIN**
4 **SANCTIONS TO FACILITATE**
5 **DENUCLEARIZATION ACTIVI-**
6 **TIES IN NORTH KOREA**

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

8 (a) **WAIVER AUTHORITY.**—Except as provided in
9 subsection (b), the President may waive, in whole or in
10 part, the application of any sanction contained in subpara-
11 graph (A), (B), (D), or (G) of section 102(b)(2) of the
12 Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2))
13 with respect to North Korea in order to provide material,
14 direct, and necessary assistance for disablement, dis-
15 mantlement, verification, and physical removal activities
16 in the implementation of the commitment of North Korea,
17 undertaken in the Joint Statement of September 19,
18 2005, “to abandoning all nuclear weapons and existing
19 nuclear programs” as part of the verifiable
20 denuclearization of the Korean Peninsula.

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

1 (1) Any export of lethal defense articles that
2 would be prevented by the application of section
3 102(b)(2)(B) of the Arms Export Control Act.

4 (2) Any sanction relating to credit or credit
5 guarantees contained in section 102(b)(2)(D) of the
6 Arms Export Control Act.

7 **SEC. 302. CERTIFICATION REGARDING WAIVER OF CER-**
8 **TAIN SANCTIONS.**

9 Assistance described in subparagraph (B) or (G) of
10 section 102(b)(2) of the Arms Export Control Act (22
11 U.S.C. 2799aa-1(b)(2)) may be provided with respect to
12 North Korea by reason of the exercise of the waiver au-
13 thority under section 301 only if the President first deter-
14 mines and certifies to the appropriate congressional com-
15 mittees that—

16 (1) all necessary steps will be taken to ensure
17 that the assistance will not be used to improve the
18 military capabilities of the armed forces of North
19 Korea; and

20 (2) the exercise of the waiver authority is in the
21 national security interests of the United States.

22 **SEC. 303. CONGRESSIONAL NOTIFICATION AND REPORT.**

23 (a) NOTIFICATION.—The President shall notify the
24 appropriate congressional committees in writing not later

1 than 15 days before exercising the waiver authority under
2 section 301.

3 (b) REPORT.—Not later than 60 days after the date
4 of the enactment of this Act, and annually thereafter for
5 such time during which the exercise of the waiver author-
6 ity under section 301 remains in effect, the President shall
7 transmit to the appropriate congressional committees a re-
8 port that—

9 (1) describes in detail the progress that is being
10 made in the implementation of the commitment of
11 North Korea described in section 301;

12 (2) describes in detail any failures, short-
13 comings, or obstruction by North Korea with respect
14 to the implementation of the commitment of North
15 Korea described in section 301;

16 (3) describes in detail the progress or lack
17 thereof in the preceding 12-month period of all other
18 programs promoting the elimination of North Ko-
19 rea’s capability to develop, deploy, transfer, or main-
20 tain weapons of mass destruction or their delivery
21 systems; and

22 (4) beginning with the second report required
23 by this subsection, a justification for the continu-
24 ation of the waiver exercised under section 301 and,

1 if applicable, section 302, for the fiscal year in which
2 the report is submitted.

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

4 Any waiver in effect by reason of the exercise of the
5 waiver authority under section 301 shall terminate if the
6 President determines that North Korea—

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

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

12 (2) on or after September 19, 2005—

13 (A) transferred to a non-nuclear-weapon
14 state any design information or component
15 which is determined by the President to be im-
16 portant to, and known by North Korea to be in-
17 tended by the recipient state for use in, the de-
18 velopment or manufacture of any nuclear explo-
19 sive device, or

20 (B) sought and received any design infor-
21 mation or component which is determined by
22 the President to be important to, and intended
23 by North Korea for use in, the development or
24 manufacture of any nuclear explosive device,

1 unless the President determines and certifies to the
2 appropriate congressional committees that such
3 waiver is vital to the national security interests of
4 the United States.

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

6 Any waiver in effect by reason of the exercise of the
7 waiver authority under section 301 shall terminate on the
8 date that is 4 years after the date of the enactment of
9 this Act. The waiver authority under section 301 may not
10 be exercised beginning on the date that is 3 years after
11 the date of the enactment of this Act.

12 **SEC. 306. CONTINUATION OF RESTRICTIONS AGAINST THE**
13 **GOVERNMENT OF NORTH KOREA.**

14 (a) IN GENERAL.—Except as provided in section
15 301(a), restrictions against the Government of North
16 Korea that were imposed by reason of a determination of
17 the Secretary of State that North Korea is a state sponsor
18 of terrorism shall remain in effect, and shall not be lifted
19 pursuant to the provisions of law under which the deter-
20 mination was made, unless the President certifies to the
21 appropriate congressional committees that—

22 (1) the Government of North Korea is no
23 longer engaged in the transfer of technology related
24 to the acquisition or development of nuclear weap-
25 ons, particularly to the Governments of Iran, Syria,

1 or any other country that is a state sponsor of ter-
2 rorism;

3 (2) in accordance with the Six-Party Talks
4 Agreement of February 13, 2007, the Government
5 of North Korea has “provided a complete and cor-
6 rect declaration of all its nuclear programs,” and
7 there are measures to effectively verify this declara-
8 tion by the United States which, “[a]t the request
9 of the other Parties,” is leading “disablement activi-
10 ties” and “provid[ing] the funding for those activi-
11 ties”; and

12 (3) the Government of North Korea has agreed
13 to the participation of the International Atomic En-
14 ergy Agency in the monitoring and verification of
15 the shutdown and sealing of the Yongbyon nuclear
16 facility.

17 (b) STATE SPONSOR OF TERRORISM DEFINED.—In
18 this section, the term “state sponsor of terrorism” means
19 a country the government of which the Secretary of State
20 has determined, for purposes of section 6(j) of the Export
21 Administration Act of 1979 (as continued in effect pursu-
22 ant to the International Emergency Economic Powers
23 Act), section 40 of the Arms Export Control Act, section
24 620A of the Foreign Assistance Act of 1961, or any other

1 provision of law, is a government that has repeatedly pro-
2 vided support for acts of international terrorism.

3 **SEC. 307. REPORT ON VERIFICATION MEASURES RELATING**
4 **TO NORTH KOREA'S NUCLEAR PROGRAMS.**

5 (a) IN GENERAL.—Not later than 15 days after the
6 date of enactment of this Act, the Secretary of State shall
7 submit to the appropriate congressional committees a re-
8 port on verification measures relating to North Korea's
9 nuclear programs under the Six-Party Talks Agreement
10 of February 13, 2007, with specific focus on how such
11 verification measures are defined under the Six-Party
12 Talks Agreement and understood by the United States
13 Government.

14 (b) MATTERS TO BE INCLUDED.—The report re-
15 quired under subsection (a) shall include, among other ele-
16 ments, a detailed description of—

17 (1) the methods to be utilized to confirm that
18 North Korea has “provided a complete and correct
19 declaration of all of its nuclear programs”;

20 (2) the specific actions to be taken in North
21 Korea and elsewhere to ensure a high and ongoing
22 level of confidence that North Korea has fully met
23 the terms of the Six-Party Talks Agreement relating
24 to its nuclear programs;

1 (3) any formal or informal agreement with
2 North Korea regarding verification measures relat-
3 ing to North Korea’s nuclear programs under the
4 Six-Party Talks Agreement; and

5 (4) any disagreement expressed by North Korea
6 regarding verification measures relating to North
7 Korea’s nuclear programs under the Six-Party Talks
8 Agreement.

9 (c) FORM.—The report required under subsection (a)
10 shall be submitted in unclassified form, but may include
11 a classified annex.

12 **SEC. 308. DEFINITIONS.**

13 In this title—

14 (1) the term “appropriate congressional com-
15 mittees” means—

16 (A) the Committee on Foreign Affairs and
17 the Committee on Appropriations of the House
18 of Representatives; and

19 (B) the Committee on Foreign Relations
20 and the Committee on Appropriations of the
21 Senate;

22 (2) the terms “non-nuclear-weapon state”, “de-
23 sign information”, and “component” have the mean-
24 ings given such terms in section 102 of the Arms
25 Export Control Act (22 U.S.C. 2799aa–1); and

1 (3) the term “Six-Party Talks Agreement of
2 February 13, 2007” or “Six-Party Talks Agree-
3 ment” means the action plan released on February
4 13, 2007, of the Third Session of the Fifth Round
5 of the Six-Party Talks held in Beijing among the
6 People’s Republic of China, the Democratic People’s
7 Republic of Korea (North Korea), Japan, the Re-
8 public of Korea (South Korea), the Russian Federa-
9 tion, and the United States relating to the
10 denuclearization of the Korean Peninsula, normal-
11 ization of relations between the North Korea and the
12 United States, normalization of relations between
13 North Korea and Japan, economy and energy co-
14 operation, and matters relating to the Northeast
15 Asia Peace and Security Mechanism.

16 **TITLE IV—MISCELLANEOUS** 17 **PROVISIONS**

18 **SEC. 401. AUTHORITY TO BUILD THE CAPACITY OF FOR-** 19 **EIGN MILITARY FORCES.**

20 (a) **AUTHORITY.**—The Secretary of State is author-
21 ized to conduct a program to respond to contingencies in
22 foreign countries or regions by providing training, pro-
23 curement, and capacity-building of a foreign country’s na-
24 tional military forces and dedicated counter-terrorism
25 forces in order for that country to—

1 (1) conduct counterterrorist operations; or

2 (2) participate in or support military and sta-
3 bility operations in which the United States is a par-
4 ticipant.

5 (b) TYPES OF CAPACITY-BUILDING.—The program
6 authorized under subsection (a) may include the provision
7 of equipment, supplies, and training.

8 (c) LIMITATIONS.—

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

15 (2) ASSISTANCE OTHERWISE PROHIBITED BY
16 LAW.—The Secretary of State may not use the au-
17 thority in subsection (a) to provide any type of as-
18 sistance described in subsection (b) that is otherwise
19 prohibited by any provision of law.

20 (3) LIMITATION ON ELIGIBLE COUNTRIES.—
21 The Secretary of State may not use the authority in
22 subsection (a) to provide assistance described in sub-
23 section (b) to any foreign country that is otherwise
24 prohibited from receiving such type of assistance
25 under any other provision of law.

1 (d) FORMULATION AND EXECUTION OF ACTIVI-
2 TIES.—The Secretary of State is authorized to coordinate
3 with the head of any other appropriate department or
4 agency in the formulation and execution of the program
5 authorized under subsection (a).

6 (e) CONGRESSIONAL NOTIFICATION.—

7 (1) ACTIVITIES IN A COUNTRY.—Not less than
8 15 days before obligating funds for activities in any
9 country under the program authorized under sub-
10 section (a), the Secretary of State shall submit to
11 the congressional committees specified in paragraph
12 (3) a notice of the following:

13 (A) The country whose capacity to engage
14 in activities in subsection (a) will be assisted.

15 (B) The budget, implementation timeline
16 with milestones, and completion date for com-
17 pleting the activities.

18 (2) SPECIFIED CONGRESSIONAL COMMIT-
19 TEES.—The congressional committees specified in
20 this paragraph are the following:

21 (A) The Committee on Foreign Affairs and
22 the Committee on Appropriations of the House
23 of Representatives.

1 (B) The Committee on Foreign Relations
2 and the Committee on Appropriations of the
3 Senate.

4 **SEC. 402. MAINTENANCE OF EUROPEAN UNION ARMS EM-**
5 **BARGO AGAINST CHINA.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) Congress has previously expressed its strong
9 concerns in House Resolution 57 of February 2,
10 2005, and Senate Resolution 91 of March 17, 2005,
11 with the transfer of armaments and related tech-
12 nology to the People’s Republic of China by member
13 states of the European Union, which increased
14 eightfold from 2001 to 2003, and with plans to ter-
15 minate in the near future the arms embargo they
16 imposed in 1989 following the Tiananmen Square
17 massacre.

18 (2) The deferral of a decision by the European
19 Council to terminate its arms embargo following
20 adoption of the resolutions specified in paragraph
21 (1), the visit by the President of the United States
22 to Europe, and growing concern among countries in
23 the regions and the general public on both sides of
24 the Atlantic, was welcomed by the Congress.

1 (3) The decision by the European Parliament
2 on April 14, 2005, by a vote of 421 to 85, to oppose
3 the lifting of the European Union’s arms embargo
4 on the People’s Republic of China, and resolutions
5 issued by a number of elected parliamentary bodies
6 in Europe also opposing the lifting of the arms em-
7 bargo, was also welcomed by the Congress as a reas-
8 surance that its European friends and allies under-
9 stood the gravity of prematurely lifting the embargo.

10 (4) The onset of a strategic dialogue between
11 the European Commission and the Government of
12 the United States on the security situation in East
13 Asia holds out the hope that a greater under-
14 standing will emerge of the consequences of Euro-
15 pean assistance to the military buildup of the Peo-
16 ple’s Republic of China for peace and stability in
17 that region, to the security interests of the United
18 States and its friends and allies in the region, and,
19 in particular, to the safety of United States Armed
20 Forces whose presence in the region has been a deci-
21 sive factor in ensuring peace and prosperity since
22 the end of World War II.

23 (5) A more intensive dialogue with Europe on
24 this matter will clarify for United States’ friends
25 and allies in Europe how their “non-lethal” arms

1 transfers improve the force projection of the People's
2 Republic of China, are far from benign, and enhance
3 the prospects for the threat or use of force in resolv-
4 ing the status of Taiwan.

5 (6) This dialogue may result in an important
6 new consensus between the United States and its
7 European partners on the need for coordinated poli-
8 cies that encourage the development of democracy in
9 the People's Republic of China and which discour-
10 age, not assist, China's unjustified military buildup
11 and pursuit of weapons that threaten its neighbors.

12 (7) However, the statement by the President of
13 France in Beijing in November 2007 that the Euro-
14 pean Union arms embargo should be lifted is trou-
15 bling, especially since France will assume the six-
16 month presidency of the European Union in July
17 2008.

18 (8) There continues to be wide-spread concerns
19 regarding the lack of any significant progress by the
20 Government of the People's Republic of China in re-
21 specting the civil and political rights of the Chinese
22 people.

23 (b) STATEMENT OF POLICY.—It shall be the policy
24 of the United States Government to oppose any dimin-
25 tion or termination of the arms embargo that was estab-

1 lished by the Declaration of the European Council of June
2 26, 1989, and to take whatever diplomatic and other
3 measures that are appropriate to convince the Member
4 States of the European Union, individually and collec-
5 tively, to continue to observe this embargo in principle and
6 in practice. Appropriate measures should include prohibi-
7 tions on entering into defense procurement contracts or
8 defense-related research and development arrangements
9 with European Union Member States that do not observe
10 such an embargo in practice.

11 (c) REPORT.—Not later than 180 days after the date
12 of the enactment of this Act, and every six months there-
13 after until December 31, 2010, the President shall trans-
14 mit to the Committee on Foreign Affairs and Committee
15 on Armed Services of the House of Representatives and
16 the Committee on Foreign Relations and the Committee
17 on Armed Services of the Senate a report on all efforts
18 and activities of the United States Government to ensure
19 the success of the policy declared in subsection (b).

20 **SEC. 403. REIMBURSEMENT OF SALARIES OF MEMBERS OF**
21 **THE RESERVE COMPONENTS IN SUPPORT OF**
22 **SECURITY COOPERATION MISSIONS.**

23 Section 632(d) of the Foreign Assistance Act of 1961
24 (22 U.S.C. 2392(d)) is amended—

1 (1) by striking “(d) Except as otherwise pro-
2 vided” and inserting “(d)(1) Except as otherwise
3 provided”; and

4 (2) by adding at the end the following:

5 “(2) Notwithstanding provisions concerning the ex-
6 clusion of the costs of salaries of members of the Armed
7 Forces in section 503(a) of this Act and paragraph (1)
8 of this subsection, the full cost of salaries of members of
9 the reserve components of the Armed Forces (specified in
10 section 10101 of title 10, United States Code) may, during
11 each of fiscal years 2009 and 2010, be included in calcu-
12 lating pricing or value for reimbursement charged under
13 section 503(a) of this Act and paragraph (1) of this sub-
14 section, respectively.”.

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

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

18 (1) in paragraph (1), by striking “Special De-
19 fense Acquisition Fund” and inserting “Foreign
20 Military Sales Stockpile Fund”; and

21 (2) in paragraph (4), by inserting “building the
22 capacity of recipient countries and” before “nar-
23 cotics control purposes”.

24 (b) CONTENTS OF FUND.—Subsection (b) of such
25 section is amended—

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

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

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) collections from leases made pursuant to
8 section 61 of this Act,”.

9 (c) AVAILABILITY.—Subsection (c)(2) of such section
10 is amended to read as follows:

11 “(2) Amounts credited to the Fund under subsection
12 (b) shall remain available until expended.”.

13 (d) CONFORMING AMENDMENTS.—(1) The heading
14 of such section is amended by striking “SPECIAL DEFENSE
15 ACQUISITION FUND” and inserting “FOREIGN MILITARY
16 SALES STOCKPILE FUND”.

17 (2) The heading of chapter 5 of the Arms Export
18 Control Act is amended by striking “**SPECIAL DE-
19 FENSE ACQUISITION FUND**” and inserting
20 “**FOREIGN MILITARY SALES STOCKPILE
21 FUND**”.

22 **SEC. 405. CONGRESSIONAL NOTIFICATION REQUIREMENTS**
23 **UNDER THE ARMS EXPORT CONTROL ACT.**

24 The Arms Export Control Act (22 U.S.C. 2751 et
25 seq.) is amended—

1 (1) by striking “Speaker of the House of Rep-
2 representatives and the Committee on Foreign Rela-
3 tions of the Senate” each place it appears and in-
4 serting “Committee on Foreign Affairs of the House
5 of Representatives and the Committee on Foreign
6 Relations of the Senate”;

7 (2) by striking “Speaker of the House of Rep-
8 representatives and the Chairman of the Committee on
9 Foreign Relations of the Senate” each place it ap-
10 pears and inserting “Chairman of the Committee on
11 Foreign Affairs of the House of Representatives and
12 the Chairman of the Committee on Foreign Rela-
13 tions of the Senate”;

14 (3) by striking “Speaker of the House of Rep-
15 representatives and to the Chairman of the Committee
16 on Foreign Relations” each place it appears and in-
17 serting “Chairman of the Committee on Foreign Af-
18 fairs of the House of Representatives and to the
19 Chairman of the Committee on Foreign Relations”;

20 (4) by striking “Speaker of the House of Rep-
21 representatives and the Committees on Armed Services
22 and Foreign Relations of the Senate” each place it
23 appears and inserting “Committees on Foreign Af-
24 fairs and Armed Services of the House of Represent-

1 atives and the Committees on Foreign Relations and
 2 Armed Services of the Senate”;

3 (5) by striking “Speaker of the House of Rep-
 4 resentatives, the chairman of the Committee on For-
 5 eign Relations of the Senate, and the chairman of
 6 the Committee on Armed Services of the Senate”
 7 each place it appears and inserting “chairmen of the
 8 Committees on Foreign Affairs and Armed Services
 9 of the House of Representatives and the chairmen of
 10 the Committees on Foreign Relations and Armed
 11 Services of the Senate”; and

12 (6) by striking “Speaker of the House of Rep-
 13 resentatives, and to the chairman of the Committee
 14 on Foreign Relations” each place it appears and in-
 15 serting “Chairman of the Committee on Foreign Af-
 16 fairs of the House of Representatives and to the
 17 Chairman of the Committee on Foreign Relations”
 18 each place it appears.

19 **TITLE V—AUTHORITY TO**
 20 **TRANSFER NAVAL VESSELS**

21 **SEC. 501. AUTHORITY TO TRANSFER NAVAL VESSELS TO**
 22 **CERTAIN FOREIGN RECIPIENTS.**

23 (a) TRANSFERS BY GRANT.—The President is au-
 24 thorized to transfer vessels to foreign countries on a grant

1 basis under section 516 of the Foreign Assistance Act of
2 1961 (22 U.S.C. 2321j), as follows:

3 (1) PAKISTAN.—To the Government of Paki-
4 stan, the OLIVER HAZARD PERRY class guided
5 missile frigate MCINERNEY (FFG-8).

6 (2) GREECE.—To the Government of Greece,
7 the OSPREY class minehunter coastal ships OS-
8 PREY (MHC-51) and ROBIN (MHC-54).

9 (3) CHILE.—To the Government of Chile, the
10 KAISER class oiler ANDREW J. HIGGINS (AO-
11 190).

12 (4) PERU.—To the Government of Peru, the
13 NEWPORT class amphibious tank landing ships
14 FRESNO (LST-1182) and RACINE (LST-1191).

15 (b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF
16 TRANSFERRED EXCESS DEFENSE ARTICLES.—The value
17 of a vessel transferred to a recipient on a grant basis pur-
18 suant to authority provided by subsection (a) shall not be
19 counted against the aggregate value of excess defense arti-
20 cles transferred in any fiscal year under section 516(g)
21 of the Foreign Assistance Act of 1961.

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

1 (d) REPAIR AND REFURBISHMENT IN UNITED
2 STATES SHIPYARDS.—To the maximum extent prac-
3 ticable, the President shall require, as a condition of the
4 transfer of a vessel under this section, that the recipient
5 to which the vessel is transferred have such repair or re-
6 furbishment of the vessel as is needed before the vessel
7 joins the naval forces of the recipient performed at a ship-
8 yard located in the United States, including a United
9 States Navy shipyard.

10 (e) EXPIRATION OF AUTHORITY.—The authority to
11 transfer a vessel under this section shall expire at the end
12 of the 2-year period beginning on the date of the enact-
13 ment of this Act.

○