

Public Law 102-228
102d Congress

An Act

To amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

Dec. 12, 1991
[H.R. 3807]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conventional
Forces
in Europe
Treaty
Implementation
Act of 1991.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Conventional Forces in Europe Treaty Implementation Act of 1991”.

SEC. 2. AUTHORITY TO TRANSFER CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS.

22 USC 2751.

The Arms Export Control Act is amended by adding at the end the following:

“CHAPTER 9—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

“SEC. 91. PURPOSE.

22 USC 2799.

“The purpose of this chapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

“(1) enhance NATO’s forces,

“(2) increase NATO standardization and interoperability, and

“(3) better distribute defense burdens within the NATO alliance.

“SEC. 92. CFE TREATY OBLIGATIONS.

22 USC 2799a.

“The authorities provided in this chapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

“SEC. 93. AUTHORITIES.

22 USC 2799b.

“(a) GENERAL AUTHORITY.—The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

“(1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty’s definition of ‘conventional armaments and equipment limited by the Treaty’;

“(2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty’s area of application; and

“(3) that the President determines are not needed by United States military forces within the CFE Treaty’s area of application.

“(b) ACCEPTANCE OF NATO ASSISTANCE IN ELIMINATING DIRECT COSTS OF TRANSFERS.—In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

“(c) ACCEPTANCE OF NATO ASSISTANCE IN MEETING CERTAIN UNITED STATES OBLIGATIONS.—In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

“(d) AUTHORITY TO TRANSFER ON A GRANT BASIS.—Defense articles may be transferred under subsection (a) without cost to the recipient country.

“(e) THIRD COUNTRY TRANSFERS RESTRICTIONS.—For purposes of sections 3(a)(2), 3(a)(3), 3(c), and 3(d) of this Act, defense articles transferred under subsection (a) of this section shall be deemed to have been sold under this Act.

“(f) MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the Eastern Mediterranean.

“(g) EXPIRATION OF AUTHORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40-month period beginning on the date on which the CFE Treaty enters into force.

“(2) TRANSITION RULE.—Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 94(a) is submitted before the end of the period described in that paragraph.

22 USC 2799c.

“SEC. 94. NOTIFICATIONS AND REPORTS TO CONGRESS.

“(a) NOTIFICATIONS.—Not less than 15 days before transferring any defense articles pursuant to section 93(a), the President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of the Foreign Assistance Act of 1961.

“(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

“(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 93(a) during the preceding calendar year;

“(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of section 91; and

“(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

“(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

“(B) by each Warsaw Pact country in implementing the CFE Treaty.

“SEC. 95. DEFINITIONS.

22 USC 2799d.

“As used in this chapter—

“(1) the term ‘CFE Treaty’ means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

“(2) the term ‘conventional armaments and equipment limited by the CFE Treaty’ has the same meaning as the term ‘conventional armaments and equipment limited by the Treaty’ does under paragraph 1(J) of article II of the CFE Treaty;

“(3) the term ‘NATO’ means the North Atlantic Treaty Organization;

“(4) the term ‘NATO/CFE country’ means a member country of NATO that is a party to the CFE Treaty and is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

“(5) the term ‘Warsaw Pact country’ means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955.”

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the “Soviet Nuclear Threat Reduction Act of 1991”.

Soviet Nuclear
Threat
Reduction
Act of 1991.

22 USC 2551
note.

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) **FINDINGS.**—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor

entities, and (B) to assist in the prevention of weapons proliferation.

(b) **EXCLUSIONS.**—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President, consistent with the findings stated in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) **TYPE OF PROGRAM.**—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) **FUNDING.**—

(1) **TRANSFER AUTHORITY.**—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed \$400,000,000 for use in reducing the Soviet military threat under part B.

(2) **LIMITATION.**—Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense

determines essential for the readiness of the Armed Forces, including amounts for—

- (A) training activities; and
- (B) depot maintenance activities.

(b) **DEPARTMENT OF DEFENSE.**—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) **REIMBURSEMENT OF OTHER AGENCIES.**—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) **CHARGES AGAINST FUNDS.**—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used in providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) **DETERMINATION BY DIRECTOR OF OMB.**—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) **REIMBURSEMENT ARRANGEMENTS.**—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) **NATURAL RESOURCES, ETC.**—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

PART D—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

- (1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and
- (2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

- (1) Amounts spent for such activities and the purposes for which they were spent.
- (2) The source of the funds obligated for such activities, stated specifically by program.
- (3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.
- (4) A description of the activities carried out under part B and the forms of assistance provided under part B.
- (5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

- (1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;
- (2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;
- (3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and
- (4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

- (1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed \$100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of

humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term “humanitarian assistance” does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) **REPORTS BY THE SECRETARY OF STATE.**—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary’s report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) **SOURCE OF FUNDS.**—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) **EMERGENCY REQUIREMENTS.**—The Congress designates all funds transferred pursuant to this section as “emergency requirements” for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be “emergency requirements” for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) **REPAYMENT ARRANGEMENTS.**—

(1) **REIMBURSEMENT ARRANGEMENTS.**—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) **NATURAL RESOURCES, ETC.**—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) **DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.**—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) **PRIOR NOTICE.**—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) **REPORTS TO THE CONGRESS.**—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

- (1) the amount of funds transferred under this title, including the source of such funds;
- (2) the conditions which prompted the use of this authority;
- (3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;
- (4) the types and purpose of the cargo planned to be delivered pursuant to this title; and
- (5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out “\$36,000,000 for the fiscal year 1990 and \$37,316,000 for the fiscal year 1991” and inserting in lieu thereof “\$44,527,000 for fiscal year 1992 and \$45,862,810 for fiscal year 1993”; and

(3) in paragraph (2) as so redesignated, by striking out “fiscal years 1990 and 1991” and inserting in lieu thereof “each fiscal year for which an authorization of appropriations is provided in paragraph (1)”.

(b) **ADMINISTRATIVE AUTHORITIES REGARDING INVESTIGATIONS.**—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

“(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director’s responsibilities under this Act.”

(c) ACDA REVITALIZATION.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

Reports.
22 USC 2551
note.

SEC. 402. ON-SITE INSPECTION AGENCY.

(a) **RESPONSIBILITIES OF THE ON-SITE INSPECTION AGENCY.—**

(1) **ADDITIONAL RESPONSIBILITIES.**—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

“(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;”.

(2) **CONFORMING AMENDMENTS TO DEFINITIONS.**—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out “and” at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding after paragraph (2) the following:

“(3) the term ‘Peaceful Nuclear Explosions Treaty’ means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

“(4) the term ‘Threshold Test Ban Treaty’ means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).”.

(b) **IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.**—Title V of that Act is amended—

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

22 USC 2595c.

“SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

22 USC 2595b-1.

“(a) **REPORT FROM THE PRESIDENT.**—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a

report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Armed Services of the House of Representatives and Senate. The report shall include a review of—

“(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

“(2) the missions and tasks assigned to OSIA to date;

“(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

“(4) the budgetary history of OSIA; and

“(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

“(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.”.

Approved December 12, 1991.

LEGISLATIVE HISTORY—H.R. 3807 (S. 1987):

CONGRESSIONAL RECORD, Vol. 137 (1991):

Nov. 19, considered and passed House.

Nov. 25, considered and passed Senate, amended.

Nov. 26, House concurred in Senate amendments with amendments.

Nov. 27, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):

Dec. 12, Presidential statement.