

Public Law 110–429
110th Congress

An Act

Oct. 15, 2008
[H.R. 7177]

To authorize the transfer of naval vessels to certain foreign recipients, and for other purposes.

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

Naval Vessel
Transfer Act of
2008.

TITLE I—NAVAL VESSEL TRANSFER

SECTION 101. SHORT TITLE.

This title may be cited as the “Naval Vessel Transfer Act of 2008”.

SEC. 102. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

President.

(a) **TRANSFERS BY GRANT.**—The President is authorized to transfer the vessels specified in paragraphs (1), (3), and (4) of section 501(a) of H.R. 5916 of the 110th Congress, as passed the House of Representatives on May 15, 2008, to the foreign recipients specified in paragraphs (1), (3), and (4) of such section, respectively, on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) **GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.**—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) **COSTS OF TRANSFERS.**—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e))).

President.

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

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

TITLE II—UNITED STATES ARMS EXPORTS

SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILITARY EDGE OVER MILITARY THREATS.

President.
22 USC 2776
note.

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

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

(c) **REPORTS.**—

(1) **INITIAL REPORT.**—Not later than June 30, 2009, the President shall transmit to the appropriate congressional committees a report on the initial assessment required under subsection (a).

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

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

“(h) **CERTIFICATION REQUIREMENT RELATING TO ISRAEL'S QUALITATIVE MILITARY EDGE.**—

“(1) **IN GENERAL.**—Any certification relating to a proposed sale or export of defense articles or defense services under this section to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel.

“(2) **QUALITATIVE MILITARY EDGE DEFINED.**—In this subsection, the term ‘qualitative military edge’ means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties, through the use of superior military means, possessed in sufficient quantity, including weapons, command, control, communication, intelligence, surveillance, and reconnaissance capabilities that in their technical characteristics are superior in capability to those of such other individual or possible coalition of states or non-state actors.”

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **QUALITATIVE MILITARY EDGE.**—The term “qualitative military edge” has the meaning given the term in section 36(h)

of the Arms Export Control Act, as added by subsection (d) of this section.

SEC. 202. IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING WITH ISRAEL.

(a) **IN GENERAL.**—Of the amount made available for fiscal year 2009 for assistance under the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763) (commonly referred to as the “Foreign Military Financing Program”), the amount specified in subsection (b) is authorized to be made available on a grant basis for Israel.

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

- (1) the amount specified under the heading “Foreign Military Financing Program” for Israel for fiscal year 2008; plus
- (2) \$150,000,000.

(c) **OTHER AUTHORITIES.**—

(1) **AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.**—To the extent the Government of Israel requests the United States to provide assistance for fiscal year 2009 for the procurement of advanced weapons systems, amounts authorized to be made available for Israel under this section shall, as agreed to by Israel and the United States, be available for such purposes, of which not less than \$670,650,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development.

Deadline.

(2) **DISBURSEMENT OF FUNDS.**—Amounts authorized to be made available for Israel under this section shall be disbursed not later than 30 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs for fiscal year 2009, or October 31, 2008, whichever occurs later.

22 USC 2753
note.

SEC. 203. SECURITY COOPERATION WITH THE REPUBLIC OF KOREA.

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

(1) Close and continuing defense cooperation between the United States and the Republic of Korea continues to be in the national security interest of the United States.

(2) The Republic of Korea was designated a major non-NATO ally in 1987, the first such designation.

(3) The Republic of Korea has been a major purchaser of United States defense articles and services through the Foreign Military Sales (FMS) program, totaling \$6,900,000,000 in deliveries over the last 10 years.

(4) Purchases of United States defense articles, services, and major defense equipment facilitate and increase the interoperability of Republic of Korea military forces with the United States Armed Forces.

(5) Congress has previously enacted important, special defense cooperation arrangements for the Republic of Korea, as in the Act entitled “An Act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea”, approved December 30, 2005 (Public Law 109-159; 119 Stat. 2955), which authorized the President, notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), to transfer to the Republic of Korea certain defense items to be included in a war reserve stockpile for that country.

(6) Enhanced support for defense cooperation with the Republic of Korea is important to the national security of the United States, including through creation of a status in law for the Republic of Korea similar to the countries in the North Atlantic Treaty Organization, Japan, Australia, and New Zealand, with respect to consideration by Congress of foreign military sales to the Republic of Korea.

(b) SPECIAL FOREIGN MILITARY SALES STATUS FOR REPUBLIC OF KOREA.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A), 62(c)(1), and 63(a)(2), by inserting “the Republic of Korea,” before “or New Zealand” each place it appears;

22 USC 2753,
2761, 2776,
2796a, 2796b.

(2) in section 3(b)(2), by inserting “the Government of the Republic of Korea,” before “or the Government of New Zealand”;

(3) in section 21(h)(1)(A), by inserting “the Republic of Korea,” before “or Israel”; and

(4) in section 21(h)(2), by striking “or to any member government of that Organization if that Organization or member government” and inserting “, to any member government of that Organization, or to the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel”.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 7177:

CONGRESSIONAL RECORD, Vol. 154 (2008):

Sept. 27, considered and passed House.

Oct. 1, considered and passed Senate.