

106TH CONGRESS
2^D SESSION

H. R. 4919

IN THE SENATE OF THE UNITED STATES

JULY 25, 2000

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, 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.**

4 This Act may be cited as the “Defense and Security
5 Assistance Act of 2000”.

6 **TITLE I—SECURITY ASSISTANCE**

7 **SEC. 101. ADDITIONS TO UNITED STATES WAR RESERVE**

8 **STOCKPILES FOR ALLIES.**

9 Section 514(b)(2) of the Foreign Assistance Act of
10 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as fol-
11 lows:

12 “(2)(A) The value of such additions to stock-
13 piles of defense articles in foreign countries shall not
14 exceed \$50,000,000 for fiscal year 2001.

15 “(B) Of the amount specified in subparagraph
16 (A) for fiscal year 2001, not more than \$50,000,000
17 may be made available for stockpiles in the Republic
18 of Korea.”.

19 **SEC. 102. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS**

20 **DEFENSE ARTICLES IN THE WAR RESERVE**

21 **STOCKPILES FOR ALLIES TO ISRAEL.**

22 (a) TRANSFERS TO ISRAEL.—

23 (1) AUTHORITY.—Notwithstanding section 514
24 of the Foreign Assistance Act of 1961 (22 U.S.C.
25 2321h), the President is authorized to transfer to

1 Israel, in return for concessions to be negotiated by
2 the Secretary of Defense, with the concurrence of
3 the Secretary of State, any or all of the items de-
4 scribed in paragraph (2).

5 (2) ITEMS COVERED.—The items referred to in
6 paragraph (1) are munitions, equipment, and mate-
7 rial such as armor, artillery, automatic weapons am-
8 munition, and missiles that—

9 (A) are obsolete or surplus items;

10 (B) are in the inventory of the Department
11 of Defense;

12 (C) are intended for use as reserve stocks
13 for Israel; and

14 (D) as of the date of the enactment of this
15 Act, are located in a stockpile in Israel.

16 (b) CONCESSIONS.—The value of concessions nego-
17 tiated pursuant to subsection (a) shall be at least equal
18 to the fair market value of the items transferred. The con-
19 cessions may include cash compensation, services, waiver
20 of charges otherwise payable by the United States, and
21 other items of value.

22 (c) ADVANCE NOTIFICATION OF TRANSFER.—Not
23 less than 30 days before making a transfer under the au-
24 thority of this section, the President shall transmit to the
25 Committee on Foreign Relations of the Senate, and the

1 Committee on International Relations of the House of
2 Representatives a notification of the proposed transfer.
3 The notification shall identify the items to be transferred
4 and the concessions to be received.

5 (d) EXPIRATION OF AUTHORITY.—No transfer may
6 be made under the authority of this section 3 years after
7 the date of the enactment of this Act.

8 **SEC. 103. EXCESS DEFENSE ARTICLES FOR MONGOLIA.**

9 (a) USES FOR WHICH FUNDS ARE AVAILABLE.—
10 Notwithstanding section 516(e) of the Foreign Assistance
11 Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal
12 years 2000 and 2001, funds available to the Department
13 of Defense may be expended for crating, packing, han-
14 dling, and transportation of excess defense articles trans-
15 ferred under the authority of section 516 of that Act to
16 Mongolia.

17 (b) CONTENT OF CONGRESSIONAL NOTIFICATION.—
18 Each notification required to be submitted under section
19 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C.
20 2321j(f)) with respect to a proposed transfer of a defense
21 article described in subsection (a) shall include an esti-
22 mate of the amount of funds to be expended under sub-
23 section (a) with respect to that transfer.

1 **SEC. 104. SENSE OF THE CONGRESS RELATING TO MILI-**
2 **TARY EQUIPMENT FOR THE PHILIPPINES.**

3 (a) IN GENERAL.—It is the sense of the Congress
4 that the United States Government should work with the
5 Government of the Republic of the Philippines to enable
6 that Government to procure military equipment that can
7 be used to upgrade the capabilities and to improve the
8 quality of life of the armed forces of the Philippines.

9 (b) MILITARY EQUIPMENT.—Military equipment de-
10 scribed in subsection (a) should include—

11 (1) naval vessels, including amphibious landing
12 crafts, for patrol, search-and-rescue, and transport;

13 (2) F-5 aircraft and other aircraft that can as-
14 sist with reconnaissance, search-and-rescue, and re-
15 supply;

16 (3) attack, transport, and search-and-rescue
17 helicopters; and

18 (4) vehicles and other personnel equipment.

19 **SEC. 105. ANNUAL MILITARY ASSISTANCE REPORT.**

20 Section 655(b)(3) of the Foreign Assistance Act of
21 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting be-
22 fore the period at the end the following: “, including those
23 defense articles that were exported”.

1 **SEC. 106. REQUIREMENTS RELATING TO COUNTRY EXEMP-**
2 **TIONS FOR LICENSING OF DEFENSE ITEMS**
3 **FOR EXPORT TO FOREIGN COUNTRIES.**

4 (a) REQUIREMENTS OF EXEMPTION.—Section 38 of
5 the Arms Export Control Act (22 U.S.C. 2778) is amend-
6 ed by adding at the end the following:

7 “(j) REQUIREMENTS RELATING TO COUNTRY EX-
8 EMPTIONS FOR LICENSING OF DEFENSE ITEMS FOR EX-
9 PORT TO FOREIGN COUNTRIES.—

10 “(1) REQUIREMENT FOR BILATERAL AGREE-
11 MENT.—

12 “(A) IN GENERAL.—The President may
13 utilize the regulatory or other authority pursu-
14 ant to this Act to exempt a foreign country
15 from the licensing requirements of this Act with
16 respect to exports of defense items only if the
17 United States Government has concluded an
18 agreement described in paragraph (2) with the
19 foreign country that is legally-binding as a mat-
20 ter of domestic and international law on both
21 the United States and that country.

22 “(B) EXCEPTION.—The requirement to
23 conclude a bilateral agreement in accordance
24 with subparagraph (A) shall not apply with re-
25 spect to an exemption for Canada from the li-

1 censing requirements of this Act for the export
2 of defense items.

3 “(2) REQUIREMENTS OF BILATERAL AGREE-
4 MENT.—A bilateral agreement referred to paragraph
5 (1)—

6 “(A) shall, at a minimum, require the for-
7 foreign country, as necessary, to revise its policies
8 and practices, and promulgate or enact nec-
9 essary modifications to its laws and regulations
10 to establish an export control regime that is at
11 least comparable to United States law, regula-
12 tion, and policy regarding—

13 “(i) handling of all United States-ori-
14 gin defense items exported to the foreign
15 country, including prior written United
16 States Government approval for any reex-
17 ports to third countries;

18 “(ii) end-use and retransfer control
19 commitments, including securing binding
20 end-use and retransfer control commit-
21 ments from all end-users, including such
22 documentation as is needed in order to en-
23 sure compliance and enforcement with re-
24 spect to such United States-origin defense
25 items;

1 “(iii) establishment of a procedure
2 comparable to a ‘watchlist’ (if such a
3 watchlist does not exist) and full coopera-
4 tion with United States Government law
5 enforcement and intelligence agencies to
6 allow for sharing of export and import doc-
7 umentation and background information
8 on foreign businesses and individuals em-
9 ployed by or otherwise connected to those
10 businesses; and

11 “(iv) establishment of a list of con-
12 trolled defense items to ensure coverage of
13 those items to be exported under the ex-
14 emption; and

15 “(B) should, at a minimum, require the
16 foreign country, as necessary, to revise its poli-
17 cies and practices, and promulgate or enact
18 necessary modifications to its laws and regula-
19 tions to establish an export control regime that
20 is at least comparable to United States law,
21 regulation, and policy regarding—

22 “(i) controls on the export of tangible
23 or intangible technology, including via fax,
24 phone, and electronic media;

1 “(ii) appropriate controls on unclassi-
2 fied information exported to foreign na-
3 tionals;

4 “(iii) controls on arms trafficking and
5 brokering; and

6 “(iv) violations and penalties of export
7 control laws.

8 “(3) ADVANCE NOTIFICATION.—Not less than
9 30 days before authorizing an exemption for a for-
10 eign country from the licensing requirements of this
11 Act for the export of defense items, the President
12 shall transmit to the Committee on International
13 Relations of the House of Representatives and the
14 Committee on Foreign Relations of the Senate a no-
15 tification that—

16 “(A) the United States has entered into a
17 bilateral agreement with that foreign country
18 satisfying all requirements set forth in para-
19 graph (2);

20 “(B) the foreign country has promulgated
21 or enacted all necessary modifications to its
22 laws and regulations to comply with its obliga-
23 tions under the bilateral agreement with the
24 United States; and

1 “(C) confirms that the appropriate con-
2 gressional committees will continue to receive
3 notifications pursuant to the authorities, proce-
4 dures, and practices of section 36 of this Act
5 for defense exports to a foreign country to
6 which that section would apply and without re-
7 gard to any form of defense export licensing ex-
8 emption otherwise available for that country.

9 “(4) DEFINITIONS.—In this section:

10 “(A) DEFENSE ITEM.—The term ‘defense
11 item’ means defense articles, defense services,
12 and related technical data.

13 “(B) APPROPRIATE CONGRESSIONAL COM-
14 MITTEES.—The term ‘appropriate congressional
15 committees’ means—

16 “(i) the Committee on International
17 Relations and the Committee on Appro-
18 priations of the House of Representatives;
19 and

20 “(ii) the Committee on Foreign Rela-
21 tions and the Committee on Appropriations
22 of the Senate.”.

23 (b) NOTIFICATION OF EXEMPTION.—Section 38(f) of
24 the Arms Export Control Act (22 U.S.C. 2778(f)) is
25 amended—

1 (1) by inserting “(1)” after “(f)”; and

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

3 “(2) The President may not authorize an exemption
4 for a foreign country from the licensing requirements of
5 this Act for the export of defense items under subsection
6 (j) or any other provision of this Act until 45 days after
7 the date on which the President has transmitted to the
8 Committee on International Relations of the House of
9 Representatives and the Committee on Foreign Relations
10 of the Senate a notification that includes—

11 “(A) a description of the scope of the exemp-
12 tion, including a detailed summary of the defense ar-
13 ticles, defense services, and related technical data
14 proposed to be exported under the exemption; and

15 “(B) a determination by the Attorney General
16 that the bilateral agreement requires sufficient docu-
17 mentation relating to the export of United States de-
18 fense articles, defense services, and related technical
19 data under an exemption which will be compiled and
20 maintained in order to facilitate law enforcement ef-
21 forts to detect, prevent, and prosecute criminal viola-
22 tions of any provision of this Act, including the ef-
23 forts on the part of countries and factions engaged
24 in international terrorism to illicitly acquire sophisti-
25 cated United States weaponry.”.

1 (c) NOTIFICATION RELATING TO EXPORT OF COM-
2 MERCIAL COMMUNICATIONS SATELLITE.—Section
3 36(c)(1) of the Arms Export Control Act (22 U.S.C.
4 2776(c)(1)) is amended in the first sentence by inserting
5 at the end before the period the following: “, except that
6 a certification shall not be required in the case of an appli-
7 cation for a license for export of a commercial communica-
8 tions satellite designated on the United States Munitions
9 List for launch from, and by nationals of, the United
10 States, or the territory of a member country of the North
11 Atlantic Treaty Organization (NATO), the Russian Fed-
12 eration, Ukraine, Australia, Japan, or New Zealand”.

13 **SEC. 107. REPORT ON GOVERNMENT-TO-GOVERNMENT**
14 **ARMS SALES END-USE MONITORING PRO-**
15 **GRAM.**

16 Not later than 90 days after the date of the enact-
17 ment of this Act, the President shall prepare and transmit
18 to the Committee on International Relations and the Com-
19 mittee on Foreign Relations of the Senate a report that
20 contains a summary of the status of the efforts of the De-
21 fense Security Cooperation Agency to implement the End-
22 Use Monitoring Enhancement Plan relating to govern-
23 ment-to-government transfers of defense articles, defense
24 services, and related technologies.

1 **SEC. 108. WAIVER OF CERTAIN COSTS.**

2 Notwithstanding any other provision of law, the
3 President may waive the requirement to impose an appro-
4 priate charge for a proportionate amount of any non-
5 recurring costs of research, development, and production
6 under section 21(e)(1)(B) of the Arms Export Control Act
7 (22 U.S.C. 2761(e)(1)(B)) for the November 1999 sale
8 of 5 UH-60L helicopters to the Republic of Colombia in
9 support of counternarcotics activities.

10 **TITLE II—TRANSFERS OF NAVAL**
11 **VESSELS**

12 **SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS TO**
13 **CERTAIN FOREIGN COUNTRIES.**

14 (a) BRAZIL.—The President is authorized to transfer
15 to the Government of Brazil the “THOMASTON” class
16 dock landing ships ALAMO (LSD 33) and HERMITAGE
17 (LSD 34) and the “GARCIA” class frigates BRADLEY
18 (FF 1041), DAVIDSON (FF 1045), SAMPLE (FF
19 1048), and ALBERT DAVID (FF 1050). Such transfers
20 shall be on a grant basis under section 516 of the Foreign
21 Assistance Act of 1961 (22 U.S.C. 2321j).

22 (b) CHILE.—The President is authorized to transfer
23 to the Government of the Chile the “OLIVER HAZARD
24 PERRY” class guided missile frigates WADSWORTH
25 (FFG 9) and ESTOCIN (FFG 15). Such transfers shall
26 be on a combined lease-sale basis under sections 61 and

1 21 of the Arms Export Control Act (22 U.S.C. 2796,
2 2761).

3 (c) GREECE.—The President is authorized to trans-
4 fer to the Government of Greece the “KNOX” class frig-
5 ates VREELAND (FF 1068) and TRIPPE (FF 1075).
6 Such transfers shall be on a grant basis under section 516
7 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

8 (d) TURKEY.—The President is authorized to trans-
9 fer to the Government of Turkey the ‘OLIVER HAZARD
10 PERRY’ class guided missile frigates JOHN A MOORE
11 (FFG 19) and FLATLEY (FFG 21). Such transfers shall
12 be on a combined lease-sale basis under sections 61 and
13 21 of the Arms Export Control Act (22 U.S.C. 2796,
14 2761).

15 **SEC. 202. INAPPLICABILITY OF AGGREGATE ANNUAL LIMI-**
16 **TATION ON VALUE OF TRANSFERRED EXCESS**
17 **DEFENSE ARTICLES.**

18 In the case of the transfer of a naval vessel author-
19 ized under section 201 of this Act to be transferred on
20 a grant basis under section 516 of the Foreign Assistance
21 Act of 1961 (22 U.S.C. 2321j), the value of the vessel
22 transferred shall not be included for purposes of sub-
23 section (g) of that section in the aggregate value of excess
24 defense articles transferred to countries under that section
25 in any fiscal year.

1 **SEC. 203. COSTS OF TRANSFERS.**

2 Any expense incurred by the United States in connec-
3 tion with a transfer authorized by this title shall be
4 charged to the recipient.

5 **SEC. 204. CONDITIONS RELATING TO COMBINED LEASE-**
6 **SALE TRANSFERS.**

7 A transfer of a vessel on a combined lease-sale basis
8 authorized by section 201 shall be made in accordance
9 with the following requirements:

10 (1) The President may initially transfer the ves-
11 sel by lease, with lease payments suspended for the
12 term of the lease, if the country entering into the
13 lease for the vessel simultaneously enters into a for-
14 eign military sales agreement for the transfer of title
15 to the vessel.

16 (2) The President may not deliver to the pur-
17 chasing country title to the vessel until the purchase
18 price of the vessel under such a foreign military
19 sales agreement is paid in full.

20 (3) Upon payment of the purchase price in full
21 under such a sales agreement and delivery of title to
22 the recipient country, the President shall terminate
23 the lease.

24 (4) If the purchasing country fails to make full
25 payment of the purchase price in accordance with
26 the sales agreement—

1 (A) the sales agreement shall be imme-
2 diately terminated;

3 (B) the suspension of lease payments
4 under the lease shall be vacated; and

5 (C) the United States shall be entitled to
6 retain all funds received on or before the date
7 of the termination under the sales agreement,
8 up to the amount of lease payments due and
9 payable under the lease and all other costs re-
10 quired by the lease to be paid to that date.

11 (5) If a sales agreement is terminated pursuant
12 to paragraph (4), the United States shall not be re-
13 quired to pay any interest to the recipient country
14 on any amount paid to the United States by the re-
15 cipient country under the sales agreement and not
16 retained by the United States under the lease.

17 **SEC. 205. FUNDING OF CERTAIN COSTS OF TRANSFERS.**

18 There is authorized to be appropriated to the Defense
19 Vessels Transfer Program Account such funds as may be
20 necessary to cover the costs (as defined in section 502 of
21 the Congressional Budget Act of 1974 (2 U.S.C. 661a))
22 of the lease-sale transfers authorized by section 201.
23 Funds appropriated pursuant to the authorization of ap-
24 propriations under preceding sentence for the purpose de-

1 scribed in such sentence may not be available for any other
2 purpose.

3 **SEC. 206. REPAIR AND REFURBISHMENT IN UNITED STATES**
4 **SHIPYARDS.**

5 To the maximum extent practicable, the President
6 shall require, as a condition of the transfer of a vessel
7 under section 201, that the country to which the vessel
8 is transferred have such repair or refurbishment of the
9 vessel as is needed, before the vessel joins the naval forces
10 of that country, performed at a shipyard located in the
11 United States, including a United States Navy shipyard.

12 **SEC. 207. SENSE OF THE CONGRESS REGARDING TRANSFER**
13 **OF NAVAL VESSELS ON A GRANT BASIS.**

14 It is the sense of the Congress that naval vessels au-
15 thorized under section 201 of this Act to be transferred
16 to foreign countries on a grant basis under section 516
17 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j)
18 should be so transferred only if the United States receives
19 appropriate benefits from such countries for transferring
20 the vessel on a grant basis.

21 **SEC. 208. EXPIRATION OF AUTHORITY.**

22 The authority granted by section 201 of this Act shall
23 expire 2 years after the date of the enactment of this Act.

Passed the House of Representatives July 24, 2000.

Attest: JEFF TRANDAHL,
Clerk.