

109TH CONGRESS
2^D SESSION

H. R. 5847

To amend the Arms Export Control Act to strengthen the requirements for congressional review of arms sales and exports under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2006

Mr. HYDE (for himself and Mr. LANTOS) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Arms Export Control Act to strengthen the requirements for congressional review of arms sales and exports under such 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. ELIGIBILITY REQUIREMENTS UNDER THE**
4 **ARMS EXPORT CONTROL ACT.**

5 (a) GENERAL REQUIREMENTS RELATING TO MISUSE
6 OF UNITED STATES-ORIGIN DEFENSE ARTICLES OR
7 SERVICES.—Section 3(c) of the Arms Export Control Act
8 (22 U.S.C. 2753(c)) is amended—

1 (1) in paragraph (1), by striking “(either in
2 terms of quantities or in terms of the gravity of the
3 consequences regardless of the quantities involved)”
4 each place it appears; and

5 (2) in paragraph (2)—

6 (A) by striking “(2)” and inserting
7 “(2)(A)”; and

8 (B) by adding at the end the following new
9 subparagraph:

10 “(B) The Inspector General of the Department
11 of State shall submit to Congress an annual report
12 that contains—

13 “(i) a determination of the Inspector Gen-
14 eral as to whether or not the Department of
15 State has complied fully and comprehensively
16 with the requirements of this subsection and
17 subsection (e) during the preceding year; and

18 “(ii) a detailed description of the basis of
19 the determination under clause (i).”.

20 (b) CONGRESSIONAL APPROVAL FOR SALES TO NON-
21 NATO COUNTRIES THAT HAVE MISUSED UNITED
22 STATES-ORIGIN DEFENSE ARTICLES OR SERVICES.—

23 (1) AMENDMENT.—Section 3 of the Arms Ex-
24 port Control Act (22 U.S.C. 2753) is amended by
25 adding at the end the following new subsection:

1 “(h)(1) A license permitting a proposed letter of offer
2 to sell defense articles or defense services with respect to
3 which a certification is required to be submitted pursuant
4 to subsection (b) or (c) of section 36 to a country de-
5 scribed in paragraph (2) may be issued only if Congress
6 enacts a joint resolution approving the sale in accordance
7 with the procedures described in paragraph (3).

8 “(2) A country referred to in paragraph (1) is a coun-
9 try, other than a country that is a member of the North
10 Atlantic Treaty Organization, Australia, New Zealand, or
11 Japan, that is the subject of a report issued under sub-
12 section (c) or (e) of this section at any time during the
13 previous five years.

14 “(3) A joint resolution referred to in paragraph (1)—

15 “(A) may only be introduced by either chair or
16 ranking minority member of the appropriate con-
17 gressional committees (as such term is defined in
18 section 36(e)(1)); and

19 “(B) shall be considered in the House of Rep-
20 resentatives and the Senate in accordance with the
21 procedures applicable to the consideration of a joint
22 resolution of disapproval under subsection (b) or (c)
23 of section 36, as the case may be.”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by paragraph (1) applies with respect to a country

1 described in paragraph (2) of section 3(h) of the
2 Arms Export Control Act (as added by paragraph
3 (1)) that is the subject of a report issued under sub-
4 section (c) or (e) of section 3 of such Act on or after
5 October 1, 2006.

6 **SEC. 2. ESTIMATE AND JUSTIFICATION FOR SALES PRO-**
7 **GRAM UNDER THE ARMS EXPORT CONTROL**
8 **ACT.**

9 (a) QUARTERLY REPORTS.—

10 (1) IN GENERAL.—Section 25(a) of the Arms
11 Export Control Act (22 U.S.C. 2765(a)) is amended
12 by striking “(a) Except as provided” and all that
13 follows through “are deemed most likely actually to
14 result in the issuance of a letter of offer or of an
15 export license during such year;” and inserting the
16 following:

17 “(a)(1) Not later than the first day of each calendar
18 quarter, the President shall transmit to the appropriate
19 congressional committees a report that sets forth an Arms
20 Sales Proposal covering all proposed sales and licensed
21 commercial exports under this Act of major weapons or
22 weapons-related defense equipment for \$7,000,000 or
23 more, or of any other weapons or weapons-related defense
24 equipment for \$25,000,000 or more, which are likely to
25 result in a letter of offer or of an export license during

1 such calendar quarter or the succeeding calendar quar-
2 ter.”.

3 (2) ADDITIONAL INFORMATION.—Section 25(a)
4 of the Arms Export Control Act (22 U.S.C. 2765(a),
5 as amended by paragraph (1), is further amended—

6 (A) by striking “(2) an estimate” and in-
7 serting the following:

8 “(2) Except as provided in subsection (d)(1) of this
9 section, the President shall include in the report required
10 by paragraph (1) for the first calendar quarter of each
11 calendar year—

12 “(A) an estimate”;

13 (B) by redesignating paragraphs (3)
14 through (14) as subparagraphs (B) through
15 (M), respectively;

16 (C) in paragraph (2)(C) (as redesignated),
17 by striking “paragraphs (1) and (2) of this sub-
18 section” and inserting “subparagraph (A)” ;

19 (D) in paragraph (2)(D) (as redesign-
20 ated)—

21 (i) by redesignating subparagraphs
22 (A) and (B) as clauses (i) and (ii), respec-
23 tively; and

24 (ii) in clause (ii) (as redesignated)—

1 (I) by striking “subsection (d)”
2 and inserting “subsection (d)(2)”; and

3 (II) by redesignating clauses (i)
4 through (iii) as subclauses (I) through
5 (III), respectively; and

6 (E) in paragraph (2)(K) (as redesign-
7 nated)—

8 (i) by redesignating subparagraphs
9 (A) and (B) as clauses (i) and (ii), respec-
10 tively; and

11 (ii) in clause (ii) (as redesignated), by
12 striking “subparagraph (A)” and inserting
13 “clause (i)”.

14 (3) DEFINITION.—Section 25(a) of the Arms
15 Export Control Act (22 U.S.C. 2765(a), as amended
16 by paragraphs (1) and (2), is further amended by
17 adding at the end the following new paragraph:

18 “(3) In this subsection, the term ‘calendar quarter’
19 means any three-month period beginning on January 1,
20 April 1, July 1, or October 1 of a calendar year.”.

21 (b) ADDITIONAL INFORMATION.—Section 25(b) of
22 the Arms Export Control Act (22 U.S.C. 2765(b)) is
23 amended to read as follows:

24 “(b)(1)(A) Not later than 15 days after the date on
25 which the President transmits to the appropriate congress-

1 sional committees a report under subsection (a), the Presi-
2 dent shall make available to the appropriate congressional
3 committees all information, in the possession of the Presi-
4 dent as of the date on which such report is so transmitted,
5 regarding each proposed sale and export listed in such re-
6 port.

7 “(B) Such information shall include, but not be lim-
8 ited to—

9 “(i) technical details of all equipment, tech-
10 nology, software and armament that may be in-
11 cluded as part of the sale or export;

12 “(ii) communications between the United States
13 and the purchasing country regarding the sale or ex-
14 port;

15 “(iii) intelligence information relevant to the
16 sale or export; and

17 “(iv) any other relevant information relating to
18 the sale or export.

19 “(2) Either chair of the appropriate congressional
20 committees may waive the requirement of paragraph (1)
21 with respect to a proposed sale or export.”.

22 (c) EXCEPTION; DEFINITION.—Section 25 of the
23 Arms Export Control Act (22 U.S.C. 2765) is amended—

24 (1) in the first subsection (d) (as added by sec-
25 tion 113(2) of the International Security and Devel-

1 opment Cooperation Act of 1985 (Public Law 99–
2 83; 99 Stat. 198))—

3 (A) by striking “(d)” and inserting
4 “(d)(1)”; and

5 (B) by striking “subsection (a)(4)” and in-
6 serting “subsection (a)(2)(C)”;

7 (2) by redesignating the second subsection (d)
8 (as added by section 112(b) of the International Se-
9 curity and Development Cooperation Act of 1985
10 (Public Law 99–83; 99 Stat. 198)) as paragraph (2)
11 of the first subsection (d); and

12 (3) in subsection (d)(2) (as redesignated)—

13 (A) by striking “subsection (a)(5)(B)” and
14 inserting “subsection (a)(2)(D)(ii)”; and

15 (B) by striking the semicolon at the end
16 and inserting a period.

17 (d) CONFORMING AMENDMENTS.—The heading of
18 section 25 of the Arms Export Control Act (22 U.S.C.
19 2765) is amended—

20 (1) by striking “**ANNUAL**” and inserting
21 “**QUARTERLY**”; and

22 (2) by inserting “**ANNUAL**” before “**JUS-**
23 **TIFICATION**”.

24 (e) REPORTS ON COMMERCIAL AND GOVERNMENTAL
25 MILITARY EXPORTS; CONGRESSIONAL ACTIONS.—Section

1 36 of the Arms Export Control Act (22 U.S.C. 2776) is
2 amended—

3 (1) in subsection (b), by adding at the end the
4 following new paragraph:

5 “(7) A certification for a proposed sale or export of
6 defense articles or defense services may be transmitted
7 pursuant to this subsection only if information with re-
8 spect to the sale or export of such defense articles or de-
9 fense services is included in the report transmitted to the
10 appropriate congressional committees pursuant to section
11 25(a) of this Act for the most recent calendar quarter (as
12 such term is defined in such section) or the preceding cal-
13 endar quarter.”; and

14 (2) in subsection (c), by adding at the end the
15 following new paragraph:

16 “(6) A certification for a proposed sale or export of
17 defense articles or defense services may be transmitted
18 pursuant to this subsection only if information with re-
19 spect to the sale or export of such defense articles or de-
20 fense services is included in the report transmitted to the
21 appropriate congressional committees pursuant to section
22 25(a) of this Act for the most recent calendar quarter (as
23 such term is defined in such section) or the preceding cal-
24 endar quarter.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section apply with respect to reports required to be
3 transmitted under section 25 of the Arms Export Control
4 Act (22 U.S.C. 2765) for 2007 and each subsequent cal-
5 endar year.

6 **SEC. 3. REPORTS ON COMMERCIAL AND GOVERNMENTAL**
7 **MILITARY EXPORTS UNDER THE ARMS EX-**
8 **PORT CONTROL ACT; CONGRESSIONAL AC-**
9 **TIONS.**

10 (a) EXPEDITED PROCEDURES FOR CONGRESSIONAL
11 DISAPPROVAL.—

12 (1) GOVERNMENT SALES.—Section 36(b) of the
13 Arms Export Control Act (22 U.S.C. 2776(b)) is
14 amended—

15 (A) by striking paragraphs (2) and (3);

16 (B) by inserting after paragraph (1) the
17 following new paragraph:

18 “(2)(A) Except as provided in subparagraph (B), the
19 provisions of subsections (b), (c), (d), (e), and (f) of sec-
20 tion 152 of the Trade Act of 1974 (19 U.S.C. 2192(b),
21 (c), (d), (e) and (f)) apply to a joint resolution described
22 in paragraph (1) to the same extent as such provisions
23 apply to a joint resolution described in section 152 of such
24 Act.

1 “(B) A joint resolution described in subparagraph
2 (A) may only be introduced by either the chair or ranking
3 minority member of the appropriate congressional commit-
4 tees.”;

5 (C) by redesignating paragraphs (4)
6 through (6) as paragraphs (3) through (5), re-
7 spectively;

8 (D) in paragraph (4)(C), by striking
9 “paragraph (6)” and inserting “paragraph
10 (5)”; and

11 (E) in paragraph (6), by striking “para-
12 graph (5)(C)” and inserting “paragraph
13 (4)(C)”.

14 (2) COMMERCIAL SALES.—Section 36(c)(3) of
15 the Arms Export Control Act (22 U.S.C.
16 2776(c)(3)) is amended to read as follows:

17 “(3)(A) Except as provided in subparagraph (B), the
18 provisions of subsections (b), (c), (d), (e), and (f) of sec-
19 tion 152 of the Trade Act of 1974 (19 U.S.C. 2192(b),
20 (c), (d), (e) and (f)) apply to a joint resolution described
21 in paragraph (2) to the same extent as such provisions
22 apply to a joint resolution described in section 152 of such
23 Act.

24 “(B) A joint resolution described in subparagraph
25 (A) may only be introduced by either the chair or ranking

1 minority member of the appropriate congressional commit-
2 tees.”.

3 (b) REQUIREMENT TO PROVIDE ADVANCE NOTIFICA-
4 TION AND CONSULTATION ON CERTAIN SALES AND EX-
5 PORTS.—Section 36 of the Arms Export Control Act (22
6 U.S.C. 2776) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(h)(1)(A) Not later than 20 calendar days prior to
9 the submission of a certification under subsection (b), (c),
10 or (d) of this section, the President shall provide advance
11 notification in writing to, and consult with, the chairs and
12 ranking minority members of the appropriate congress-
13 sional committees of the offer to sell or export the defense
14 articles or defense services with respect to which such a
15 certification is required to be submitted pursuant to any
16 such subsection.

17 “(B)(i) The requirement of subparagraph (A) to pro-
18 vide 20 calendar days advance notification in writing to
19 the chairs and ranking minority members of the appro-
20 priate congressional committees shall not apply if the
21 chairs and ranking minority members of the appropriate
22 congressional committees have agreed, at their discretion,
23 to waive such requirement.

24 “(ii) The requirements of subparagraph (A) shall not
25 apply if the President states in the certification that an

1 emergency exists that requires the sale or export of de-
2 fense articles or defense services to be in the national secu-
3 rity interests of the United States in accordance with sub-
4 section (b), (c), or (d) of this section.

5 “(2)(A) The President shall not submit a certification
6 under subsection (b), (c), or (d) of this section if either
7 chair or ranking minority member of the appropriate con-
8 gressional committees requests a deferral of the submis-
9 sion of the certification based on the impact of the pro-
10 posed sale or export of defense articles or defense services
11 described in paragraph (1) on the security or foreign pol-
12 icy interests of the United States.

13 “(B)(i) The requirement of subparagraph (A) shall
14 not apply if the President transmits to the chairs and
15 ranking minority members of the appropriate congress-
16 sional committees a report in writing that contains a de-
17 termination of the President that extraordinary cir-
18 cumstances exist which necessitates the obviation of such
19 requirement and a detailed description of such cir-
20 cumstances.

21 “(ii) The authority of clause (i) may not be delegated
22 to any official who holds a position that is lower in rank
23 or status than the Secretary of State.”.

24 (c) REQUIREMENT TO PROVIDE INFORMATION RE-
25 LATING TO CERTAIN SALES AND EXPORTS.—Section 36

1 of the Arms Export Control Act (22 U.S.C. 2776), as
2 amended by subsection (a), is further amended by adding
3 at the end the following new subsection:

4 “(i)(1) In the case of a certification for the offer to
5 sell or export defense articles or defense services to a coun-
6 try other than a country that is a member of the North
7 Atlantic Treaty Organization, Australia, New Zealand, or
8 Japan, unless the President states in the certification that
9 there has not been a violation of any agreement with the
10 United States under section 3 of this Act or section 505
11 of the Foreign Assistance Act of 1961 (22 U.S.C. 2314)
12 involving such country which would necessitate the trans-
13 mission to Congress of a report under subsection (c) or
14 (e) of section 3 of this Act, the President shall, upon the
15 written request of either chair or ranking minority mem-
16 ber of the appropriate congressional committees, transmit
17 to the appropriate congressional committees a report in
18 writing that contains an explanation of the facts and cir-
19 cumstances prompting the omission of such statement in
20 the certification.

21 “(2)(A) A written request to the President under
22 paragraph (1) shall toll the 30-day period described in
23 subsection (b), (c), or (d) of this section with respect to
24 the enactment of a joint resolution to prohibit the sale or
25 export of the defense articles or defense services from the

1 date on which the request is received by the President
2 until the date on which the President's report is received
3 by the appropriate congressional committees.

4 “(B)(i) The requirement of subparagraph (A) shall
5 not apply if the President transmits to the appropriate
6 congressional committees a report in writing that contains
7 a determination of the President that the national security
8 interests of the United States would be adversely affected
9 by the application of such requirement to the proposed
10 sale or export of the defense articles or defense services.

11 “(ii) The authority of clause (i) may not be delegated
12 by the President to any other official of the Government
13 of the United States.”.

14 (d) DEFINITION.—Section 36(e) of the Arms Export
15 Control Act (22 U.S.C. 2776(e)) is amended—

16 (1) by redesignating paragraphs (1) and (2) as
17 paragraphs (2) and (3), respectively; and

18 (2) by inserting before paragraph (2) (as redesi-
19 gnated) the following new paragraph:

20 “(1) the term “appropriate congressional com-
21 mittee means—

22 “(A) the Committee on International Rela-
23 tions of the House of Representatives; and

24 “(B) the Committee on Foreign Relations
25 of the Senate;”.

1 (e) CONFORMING AMENDMENTS.—Section 36 of the
2 Arms Export Control Act (22 U.S.C. 2776) is amended—

3 (1) in subsections (a), (b)(1), (c)(1), and (f), by
4 striking “Speaker of the House of Representatives
5 and to the chairman of the Committee on Foreign
6 Relations of the Senate” and inserting “chairs of the
7 appropriate congressional committees”;

8 (2) in subsection (b)—

9 (A) in paragraph (1), by striking “such
10 committee or the Committee on Foreign Affairs
11 of the House of Representatives” and inserting
12 “either chair of the appropriate congressional
13 committees”;

14 (B) in paragraph (4), by striking “Con-
15 gress” and inserting “chairs of the appropriate
16 congressional committees”; and

17 (C) in paragraph (5)—

18 (i) in subparagraph (A), by striking
19 “chairman of the Committee on Foreign
20 Affairs of the House of Representatives
21 and the chairman of the Committee on
22 Foreign Relations of the Senate” and in-
23 sserting “chairs of the appropriate congres-
24 sional committees”;

1 (ii) in subparagraph (B), by striking
2 “Congress” and inserting “chairs of the
3 appropriate congressional committees”;
4 and

5 (iii) in subparagraph (C), by striking
6 “Speaker of the House of Representatives
7 and the chairman of the Committee on
8 Foreign Relations of the Senate” and in-
9 scribing “chairs of the appropriate congress-
10 sional committees”; and

11 (3) in subsection (c)—

12 (A) in paragraph (1), by striking “such
13 committee or the Committee on Foreign Affairs
14 of the House of Representatives” and inserting
15 “either chair of the appropriate congressional
16 committees”; and

17 (B) in subparagraphs (A) and (C) of para-
18 graph (2), by striking “Congress receives” and
19 inserting “chairs of the appropriate congress-
20 sional committees receive”; and

21 (C) in paragraph (4), by striking “Con-
22 gress” each place it appears and inserting “the
23 chairs of the appropriate congressional commit-
24 tees”.

1 **SEC. 4. NOTIFICATION AND CONSULTATION REQUIRE-**
2 **MENTS RELATING TO CERTAIN INITIATIVES**
3 **AND NEGOTIATIONS.**

4 (a) INITIATIVES AND NEGOTIATIONS RELATING TO
5 NUCLEAR COOPERATION.—The President shall keep the
6 appropriate congressional committees fully and completely
7 informed of any initiative or negotiations relating to a new
8 or amended agreement for peaceful nuclear cooperation
9 pursuant to section 123 of the Atomic Energy Act of 1954
10 prior to the President’s announcement of such initiative
11 or negotiations. The President shall consult with the ap-
12 propriate congressional committees concerning such initia-
13 tive or negotiations beginning not less than 15 calendar
14 days before such announcement.

15 (b) INITIATIVES AND NEGOTIATIONS WITH STATE
16 SPONSORS OF TERRORISM.—The President shall keep the
17 appropriate congressional committees fully and completely
18 informed of any initiative relating to or negotiations with
19 any country the government of which the Secretary of
20 State has determined, for purposes of section 6(j) of the
21 Export Administration Act of 1979, section 620A of the
22 Foreign Assistance Act of 1961, section 40 of the Arms
23 Export Control Act, or any other provision of law, is a
24 government that has repeatedly provided support for acts
25 of international terrorism, either directly with such coun-
26 try or as part of a multilateral initiative. The President

1 shall consult with the appropriate congressional commit-
2 tees concerning such initiative or negotiations not less
3 than 15 calendar days before the announcement or incep-
4 tion of such initiative or negotiations.

5 (c) DEFINITION.—In this section, the term “appro-
6 priate congressional committees” means the Committee on
7 International Relations of the House of Representatives
8 and the Committee on Foreign Relations of the Senate.

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