Public Law 90-628

October 22, 1968
[H. R. 13058]

AN ACT

To repeal certain Acts relating to containers for fruits and vegetables, and for other purposes.

Fruit and vegetable containers. Standards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Acts of Congress listed below are hereby repealed:

(a) The Act of August 31, 1916, entitled "An Act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes" (39 Stat. 673, as amended; 15 U.S.C. 251–256);

(b) The Act of May 21, 1928, entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes" (45 Stat. 685, as amended; 15 U.S.C. 257–257i).

SEC. 2. Section 10(b)(3) of the Act of November 3, 1966 (80 Stat. 1296; 15 U.S.C. 1451), entitled the "Fair Packaging and Labeling Act", is amended by inserting "or" before "the Act of March 4, 1915," and by striking out ", the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251–256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257–257i)."

Effective date.

SEC. 3. This Act shall become effective 60 days after enactment.

Approved October 22, 1968.

Public Law 90-629

October 22, 1968
[H. R. 15681]

AN ACT

To consolidate and revise foreign assistance legislation relating to reimbursable military exports.

The Foreign Military Sales Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Foreign Military Sales Act".

Chapter 1.—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

AUTHENTICATED
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SECTION 1. THE NEED FOR INTERNATIONAL DEFENSE COOPERATION AND MILITARY EXPORT CONTROLS.—As declared by the Congress in the Arms Control and Disarmament Act, an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races.

The Congress recognizes, however, that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all of its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those friendly countries to which it is allied by mutual defense treaties is especially important, since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries which further the objective of applying agreed resources of each country to programs and projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve specific national defense requirements and objectives of mutual concern. To this end, this Act authorizes sales by the United States Government to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the costs thereof, without undue burden to their economies, in accordance with the restraints and control measures specified herein and in furtherance of the security objectives of the United States and of the purposes and principles of the United Nations Charter.

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961, as amended, the extent and character of the military requirement, and the economic and financial capability of the recipient country, with particular regard being given, where appropriate, to proper balance among such sales, grant military assistance, and economic assistance as well as to

75 Stat. 424.
22 USC 2151 note.

the impact of the sales on programs of social and economic development and on existing or incipient arms races.

Post, p. 1323.

It is further the sense of Congress that sales and guaranties under sections 21, 22, 23, and 24, shall not be approved where they would have the effect of arming military dictators who are denying social progress to their own people: *Provided*, That the President may waive this limitation when he determines it would be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate.

Presidential determination, report.

SEC. 2. COORDINATION WITH FOREIGN POLICY.—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) Under the direction of the President, the Secretary of State, taking into account other United States activities abroad, such as military assistance, economic assistance, and food for freedom, shall be responsible for the continuous supervision and general direction of sales under this Act, including, but not limited to, determining whether there shall be a sale to a country and the amount thereof, to the end that sales are integrated with other United States activities and the foreign policy of the United States is best served thereby.

(c) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

SEC. 3. ELIGIBILITY.—(a) No defense article or defense service shall be sold by the United States Government under this Act to any country or international organization unless—

(1) the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article so furnished to it to anyone not an officer, employee, or agent of that country or international organization unless the consent of the President has first been obtained; and

(3) the country or international organization is otherwise eligible to purchase defense articles or defense services.

Report.

The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b) No defense article or defense service shall be sold by the United States Government under this Act to any country which, after the date of enactment of this Act, seizes or takes into custody or fines an American fishing vessel engaged in fishing more than twelve miles from the coast of that country. The President may waive the provisions of this subsection when he determines it to be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Presidential waiver, report.

SEC. 4. PURPOSES FOR WHICH MILITARY SALES BY THE UNITED STATES ARE AUTHORIZED.—Defense articles and defense services shall be sold by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the

recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided*, That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

Report to Congress.

Chapter 2.—FOREIGN MILITARY SALES AUTHORIZATIONS

SEC. 21. CASH SALES FROM STOCK.—The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any friendly country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.

SEC. 22. PROCUREMENT FOR CASH SALES.—The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any friendly country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due: *Provided*, That the President may, when he determines it to be in the national interest, accept a dependable undertaking to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services, and appropriations available to the Department of Defense may be used to meet the payments required by the contracts and shall be reimbursed by the amounts subsequently received from the country or international organization: *Provided further*, That the President may, when he determines it to be in the national interest, enter into sales agreements with purchasing countries or international organizations which fix prices to be paid by the purchasing countries or international organizations for the defense articles or defense services ordered. Funds made available under section 31 for financing sales shall be used to reimburse the applicable appropriations in the amounts required by the

Post, p. 1324.

contracts which exceed the price so fixed, except that such reimbursement shall not be required upon determination by the President that the continued production of the defense article being sold is advantageous to the Armed Forces of the United States. Payments by purchasing countries or international organizations which exceed the amounts required by such contracts shall be transferred to the general fund of the Treasury. To the maximum extent possible, prices fixed under any such sales agreement shall be sufficient to reimburse the United States for the cost of the defense articles or defense services ordered. The President shall submit to the Congress promptly a detailed report concerning any fixed-price sales agreement under which the aggregate cost to the United States exceeds the aggregate amount required to be paid by the purchasing country or international organization. No sales of unclassified defense articles shall be made to the government of any economically developed nation under the provisions of this section unless such articles are not generally available for purchase by such nations from commercial sources in the United States: *Provided, however*, That the President may waive the provisions of this sentence when he determines that the waiver of such provisions is in the national interest.

Report to Congress.

Waiver.

SEC. 23. CREDIT SALES.—The President is hereby authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on terms of repayment to the United States Government of not less than the value thereof in United States dollars within a period not to exceed ten years after the delivery of the defense articles or the rendering of the defense services.

SEC. 24. GUARANTIES.—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense services to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies) promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

(c) Funds made available pursuant to section 31 shall be obligated in an amount equal to 25 per centum of the contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 25 per centum of the contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

Chapter 3.—MILITARY EXPORT CONTROLS

SEC. 31. AUTHORIZATION AND AGGREGATE CEILING ON FOREIGN MILITARY SALES CREDITS.—(a) There is hereby authorized to be appropriated to the President to carry out this Act not to exceed $296,000,000 for the fiscal year 1969. Unobligated balances of funds made available

pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this Act.

(b) The aggregate total of credits, or participations in credits, extended pursuant to this Act (excluding credits covered by guaranties issued pursuant to section 24(b)) and of the face amount of guaranties issued pursuant to sections 24 (a) and (b) during the fiscal year 1969 shall not exceed $296,000,000.

SEC. 32. PROHIBITION AGAINST CERTAIN MILITARY EXPORT FINANCING BY EXPORT-IMPORT BANK.—Notwithstanding any other provision of law, no funds or borrowing authority available to the Export-Import Bank of the United States shall be used by such Bank to participate in any extension of credit in connection with any agreement to sell defense articles and defense services entered into with any economically less developed country after June 30, 1968.

SEC. 33. REGIONAL CEILINGS ON FOREIGN MILITARY SALES.—(a) The aggregate of the total amount of military assistance pursuant to the Foreign Assistance Act of 1961, as amended, of cash sales pursuant to sections 21 and 22, of credits, or participations in credits, financed pursuant to section 23 (excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24 (a) and (b), and of loans and sales in accordance with section 7307 of title 10, United States Code, shall, excluding training, not exceed $75,000,000 in the fiscal year 1969 for Latin American countries.

75 Stat. 424.
22 USC 2151 note.
Ante, p. 1323.
Ante, p. 1324.
70A Stat. 452.

(b) The aggregate of the total amount of military assistance pursuant to the Foreign Assistance Act of 1961, as amended, of cash sales pursuant to sections 21 and 22, of credits, or participations in credits, financed pursuant to section 23 (excluding credits covered by guaranties issued pursuant to section 24(b)), and of the face amount of contracts of guaranty issued pursuant to sections 24 (a) and (b) shall, excluding training, not exceed $40,000,000 in the fiscal year 1969 for African countries.

(c) The President may waive the limitations of this section when he determines it to be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Waiver.
Report.

SEC. 34. FOREIGN MILITARY SALES CREDIT STANDARDS.—The President shall establish standards and criteria for credit and guaranty transactions under sections 23 and 24 in accordance with the foreign, national security, and financial policies of the United States.

SEC. 35. FOREIGN MILITARY SALES TO LESS DEVELOPED COUNTRIES.—(a) When the President finds that any economically less developed country is diverting development assistance furnished pursuant to the Foreign Assistance Act of 1961, as amended, or sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, to military expenditures, or is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, such country shall be immediately ineligible for further sales and guarantees under sections 21, 22, 23, and 24, until the President is assured that such diversion will no longer take place. (b) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate semiannual reports of sales, and guaranties, to economically less developed countries, under sections 21, 22, 23, and 24, disclosing in detail the countries extended sales guaranties and credits and the terms and conditions of such sales, guaranties and credits; concurrently the President shall transmit semiannual reports of forecasts of sales and of guaranty and credit applications and anticipated

68 Stat. 454;
80 Stat. 1526.
7 USC 1691 note.
Report.
Report.

guaranty and credit extensions to economically less developed countries for the current fiscal year.

SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS.—(a) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate semiannual reports of all exports during the preceding six months of significant defense articles on the United States munitions list to any foreign government, international organization, or other foreign recipient or purchaser, by the United States under this Act or any other authority, or by any individual, corporation, partnership, or other association doing business in the United States. Such reports shall include, but not be limited to, full information as to the particular defense articles so exported, the particular recipient or purchaser, the terms of the export, including its selling price, if any, and such other information as may be appropriate to enable the Congress to evaluate the distribution of United States defense articles abroad. In preparing such reports the Secretary of State is authorized to utilize the latest statistics and information available in the various departments and agencies of the Government.

(b) There shall be included in the presentation material submitted to the Congress during its consideration of amendments to this Act, or of any Act appropriating funds pursuant to authorizations contained in this Act, annual tables disclosing the dollar value of cash and credit foreign military sales orders, commitments to order, and estimated future orders under this Act and estimates of commercial sales orders and commitments to order received directly from any country or international organization by any individual, corporation, partnership, or other association doing business in the United States. The data reported shall be set forth on a country-by-country basis and shall be summarized on an economically developed country-economically less developed country basis.

(c) Nothing in this section shall be construed as modifying in any way the provisions of section 414 of the Mutual Security Act of 1954, as amended, relating to munitions control.

68 Stat. 848.
22 USC 1934.

SEC. 37. FISCAL PROVISIONS RELATING TO FOREIGN MILITARY SALES CREDITS.—(a) Cash payments received under sections 21 and 22 and advances received under section 23 shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

Ante, p. 1323.
Ante, p. 1324.

(b) Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 23, amounts received from the disposition of instruments evidencing indebtedness, and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

Chapter 4.—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

SEC. 41. EFFECTIVE DATE.—This Act shall take effect on July 1, 1968.

SEC. 42. GENERAL PROVISIONS.—(a) In carrying out this Act, special emphasis shall be placed on procurement in the United States, but consideration shall also be given to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this Act, there shall be taken into consideration

(1) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States, and (2) the portion of the defense articles so manufactured which is of United States origin.

(b) Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(c)(1) With respect to sales and guaranties under sections 21, 22, 23, and 24, the Secretary of Defense shall, under the direction of the President, have primary responsibility for— *Ante*, pp. 1323, 1324.

(A) the determination of military end-item requirements;

(B) the procurement of military equipment in a manner which permits its integration with service programs;

(C) the supervision of the training of foreign military personnel;

(D) the movement and delivery of military end-items; and

(E) within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

(2) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall, under the direction of the President, be determined by the Secretary of Defense.

SEC. 43. ADMINISTRATIVE EXPENSES.—Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act.

SEC. 44. STATUTORY CONSTRUCTION.—No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10 of the United States Code. 68 Stat. 919. 42 USC 2011 note.

SEC. 45. STATUTES REPEALED AND AMENDED.—(a) Sections 521, 522, 523, 524(b)(3), 525, 634(g), and 640 of the Foreign Assistance Act of 1961, as amended, are hereby repealed. 70A Stat. 452. 22 USC 2341-2345, 2394, 2399a.

(b) Part III of the Foreign Assistance Act of 1961, as amended, is amended as follows:

(1) Section 622(b) is amended by striking out "or sales". 22 USC 2382.

(2) Section 622(c) is amended by striking out "and sales" and "or sales".

(3) Section 632(d) is amended by striking out "sections 506, 522, and 523," in the first sentence and inserting in lieu thereof "section 506". 22 USC 2392.

(4) Section 634(d) is amended by inserting "or any other" between "under this" and "Act" in the fourth sentence. 22 USC 2394.

(5) Section 644(m) is amended by striking out "and sales" in the first sentence of the paragraph following numbered paragraph (3). 22 USC 2403.

(c) References in law to the provisions of law repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act. Except for the laws specified in section 44, no other provision of law shall be deemed to

apply to this Act unless it refers specifically to this Act or refers generally to sales of defense articles and defense services under any Act.

SEC. 46. SAVING PROVISIONS.—Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 45(a) shall continue in full force and effect until modified by appropriate authority.

Approved October 22, 1968.

Public Law 90-630

October 22, 1968
[H. R. 11394]

AN ACT

To amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes.

Taxes.
Distilled spirits.
72 Stat. 1324.
26 USC 5008.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 5008(c) of the Internal Revenue Code of 1954 (relating to loss or destruction of distilled spirits) is amended—

(1) by striking out "before the completion of the bottling and casing or other packaging of such spirits for removal from the bottling premises" and inserting in lieu thereof "before removal from the premises", and

(2) by inserting after "such loss occurred" in subparagraph (B) the following: "(i) before the completion of the bottling and casing or other packaging of such spirits for removal from the bottling premises and (ii)".

SEC. 2. (a) The second sentence of section 5062(b) of the Internal Revenue Code of 1954 (relating to drawback in the case of exportation of distilled spirits) is amended to read as follows: "In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary or his delegate."

46 Stat. 694;
49 Stat. 1960.

(b) The second paragraph of section 313(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(d)) (relating to drawback) is amended—

(1) by inserting "or determined" after "been paid" each place it appears,

(2) by striking out the colon and the proviso, and

(3) by adding at the end thereof the following new sentence: "In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

72 Stat. 1366.

SEC. 3. (a) Section 5232 of the Internal Revenue Code of 1954 (relating to imported distilled spirits) is amended to read as follows:

"SEC. 5232. IMPORTED DISTILLED SPIRITS.

"(a) TRANSFER TO DISTILLED SPIRITS PLANT WITHOUT PAYMENT OF TAX.—Imported distilled spirits in bulk containers may, under such regulations as the Secretary or his delegate shall prescribe, be withdrawn from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of a distilled spirits plant with-