

118TH CONGRESS
1ST SESSION

S. 2265

To streamline and expedite the foreign military sales process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Mr. SULLIVAN introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To streamline and expedite the foreign military sales process, 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 “Speeding the Execu-
5 tion of Arms Deliveries for Allies and Securing Trust Act”
6 or the “STEADFAST Act”.

7 **SEC. 2. STREAMLINING AND EXPEDITING FOREIGN MILI-**
8 **TARY SALES PROCESS.**

9 (a) SECURITY COOPERATION WORKFORCE AND DE-
10 FENSE ACQUISITION WORKFORCE.—

1 (1) RESPONSIBILITIES OF SECRETARY OF DE-
2 FENSE.—

3 (A) IN GENERAL.—The Secretary of De-
4 fense shall—

5 (i) expand, carry out activities to pro-
6 fessionalize, and increase the resources
7 available to the security cooperation work-
8 force so as to enable the full implementa-
9 tion of this section and the amendments
10 made by this section;

11 (ii) ensure that members of the de-
12 fense acquisition workforce involved in the
13 foreign military sales process are aware of
14 evolving United States regional and coun-
15 try-level defense capability-building prior-
16 ities; and

17 (iii) ensure that members of the de-
18 fense acquisition workforce are profes-
19 sionally evaluated using metrics to meas-
20 ure—

21 (I) responsiveness to foreign
22 partner requests;

23 (II) ability to meet foreign part-
24 ner capability and delivery schedule
25 requirements; and

1 (III) advancement of foreign ca-
2 pability-building priorities described in
3 the semiannual guidance issued under
4 paragraph (2).

5 (B) REPORT.—Not later than 90 days
6 after the date of the enactment of this Act, the
7 Secretary of Defense shall submit to the Com-
8 mittees on Armed Services of the Senate and
9 the House of Representatives a report on the
10 resources necessary to implement subparagraph
11 (A), including—

12 (i) the anticipated costs of new per-
13 sonnel and training to carry out such sub-
14 paragraph; and

15 (ii) the estimated increase in foreign
16 military sales administrative user fees nec-
17 essary to offset such costs.

18 (2) GUIDANCE.—

19 (A) IN GENERAL.—Not less frequently
20 than semiannually, the Secretary of Defense, in
21 coordination with the commander of each rel-
22 evant combatant command, shall develop and
23 publish guidance—

24 (i) based on the National Security
25 Strategy and the National Defense Strat-

1 egy for dissemination to the security co-
2 operation workforce and the defense acqui-
3 sition workforce; and

4 (ii) informed by the theater campaign
5 plans and theater security cooperation
6 strategies of such combatant commands.

7 (B) ELEMENTS.—The guidance required
8 by subparagraph (A) shall—

9 (i) identify—

10 (I) regional and country-level for-
11 eign defense capability-building prior-
12 ities; and

13 (II) levels of urgency and desired
14 timelines for achieving foreign capa-
15 bility-building objectives; and

16 (ii) provide guidance to the defense
17 acquisition workforce regarding levels of
18 resourcing, innovation, and risk tolerance
19 that should be considered in meeting ur-
20 gent needs.

21 (3) COMMISSION.—

22 (A) ESTABLISHMENT.—The Secretary of
23 Defense shall establish a commission (in this
24 section referred to as the “Commission”), inde-
25 pendent of the Department of Defense, which

1 shall, subject to applicable law, provide inde-
2 pendent advice on matters studied under sub-
3 paragraph (B) directly to the Secretary of De-
4 fense and the Deputy Secretary of Defense
5 without obtaining the approval or concurrence
6 of any other official within the Department of
7 Defense.

8 (B) STUDY.—The Commission shall con-
9 duct a study of—

10 (i) the requirements for establishing a
11 contracting capacity that is—

12 (I) led by the Defense Security
13 Cooperation Agency; and

14 (II) specific to the foreign mili-
15 tary sales process; and

16 (ii) the feasibility and advisability
17 of—

18 (I) establishing, at the Depart-
19 ment of Defense level or the military
20 department level, a contracting capac-
21 ity that—

22 (aa) is specific to the execu-
23 tion of contracts for foreign mili-
24 tary sales;

1 (bb) is fully funded by the
2 Defense Security Cooperation
3 Agency using foreign military
4 sales administrative funds so as
5 to ensure that such capacity is
6 dedicated solely to foreign mili-
7 tary sales contracting;

8 (cc) is monitored by the De-
9 fense Security Cooperation Agen-
10 cy Chief Performance Office to
11 ensure effectiveness in meeting
12 foreign military sales contracting
13 requirements; and

14 (dd) empowers the Director
15 of the Defense Security Coopera-
16 tion Agency, in coordination with
17 the Under Secretary of Defense
18 for Policy and the Under Sec-
19 retary of Defense for Acquisition
20 and Sustainment, to increase or
21 decrease foreign military sales
22 contracting capacity through the
23 semiannual guidance under para-
24 graph (2); and

1 (II) with respect to technology
2 release deliberations of the Defense
3 Technology Security Administration,
4 incorporating greater global and re-
5 gional strategic considerations, includ-
6 ing by—

7 (aa) transferring the organi-
8 zation, manpower, and functions
9 of the Defense Technology Secu-
10 rity Administration to the De-
11 fense Security Cooperation Agen-
12 cy so as to enable the Director of
13 the Defense Security Cooperation
14 Agency, as the head of the secu-
15 rity cooperation enterprise of the
16 Department of Defense—

17 (AA) to readily balance
18 potential risks to tech-
19 nologies with an existing un-
20 derstanding of foreign part-
21 ner capability needs and lev-
22 els of urgency; and

23 (BB) to provide release
24 recommendations to the Of-
25 fice of the Secretary of De-

1 fense at the Under Secretary
2 level or the Assistant Sec-
3 retary level, as appropriate;
4 and

5 (bb) converting the Defense
6 Technology Security Administra-
7 tion into an organization that re-
8 ports to the Under Secretary of
9 Defense for Research and Engi-
10 neering to ensure a greater un-
11 derstanding of the state of play
12 with regard to cutting-edge tech-
13 nologies.

14 (C) MEMBERSHIP.—

15 (i) IN GENERAL.—The Commission
16 shall be composed of not fewer than seven
17 members, each of whom shall have exper-
18 tise in the foreign military sales process.

19 (ii) RESTRICTION.—The Commission
20 may not have as a member—

21 (I) an officer or employee of the
22 Department of Defense; or

23 (II) a member of the United
24 States Armed Forces.

1 (D) REPORT.—Not later than 1 year after
2 the date of the enactment of this Act, the Com-
3 mission shall submit to the Committees on
4 Armed Services of the Senate and the House of
5 Representatives a report on the results of the
6 study required by subparagraph (B).

7 (b) MODIFICATION OF FOREIGN MILITARY SALES
8 PROCESSING.—

9 (1) DEADLINES.—

10 (A) RESPONSES.—

11 (i) LETTERS OF REQUEST FOR PRIC-
12 ING AND AVAILABILITY.—The Secretary of
13 Defense shall ensure that an eligible for-
14 eign purchaser that has submitted a letter
15 of request for pricing and availability data
16 receives a response to the letter not later
17 than 45 days after the date on which the
18 letter is received by a United States secu-
19 rity cooperation organization, the Defense
20 Security Cooperation Agency, or other im-
21 plementing agency.

22 (ii) LETTERS OF REQUEST FOR LET-
23 TERS OF OFFER AND ACCEPTANCE.—

24 (I) IN GENERAL.—Subject to
25 subclause (II), the Secretary of De-

1 fense and the Secretary of State shall
2 ensure that an eligible foreign pur-
3 chaser that has submitted a letter of
4 request for a letter of offer and ac-
5 ceptance receives a response—

6 (aa) in the case of a letter of
7 request for a blanket-order letter
8 of offer and acceptance, coopera-
9 tive logistics supply support ar-
10 rangements, or associated
11 amendments and modifications,
12 not later than 45 days after the
13 date on which the letter of re-
14 quest is received by a United
15 States security cooperation orga-
16 nization, the Defense Security
17 Cooperation Agency, or other im-
18 plementing agency;

19 (bb) in the case of a letter of
20 request for a defined-order letter
21 of offer and acceptance or associ-
22 ated amendments and modifica-
23 tions, not later than 100 days
24 after such date; and

1 (cc) in the case of a letter of
2 request for a defined-order letter
3 of offer and acceptance or associ-
4 ated amendments that involve ex-
5 tenuating factors, as approved by
6 the Director of the Defense Secu-
7 rity Cooperation Agency, not
8 later than 150 days after such
9 date.

10 (II) ELIGIBLE FOREIGN PUR-
11 CHASERS WITH SPECIAL DESIGNA-
12 TIONS.—The Secretary of Defense
13 shall ensure that an eligible foreign
14 purchaser with a special designation
15 that has submitted a letter of request
16 for a letter of offer and acceptance re-
17 ceives a response—

18 (aa) in the case of an eligi-
19 ble foreign purchaser that is a
20 member of the national tech-
21 nology and industrial base—

22 (AA) in the case of a
23 letter of request for a de-
24 fined-order letter of offer
25 and acceptance, not later

1 than 65 days after the date
2 on which the letter of re-
3 quest is received by a United
4 States security cooperation
5 organization, the Defense
6 Security Cooperation Agen-
7 cy, or other implementing
8 agency; and

9 (BB) in the case of a
10 letter of request for a de-
11 fined-order letter of offer
12 and acceptance involving ex-
13 tenuating factors, as ap-
14 proved by the Director of
15 the Defense Security Co-
16 operation Agency, not later
17 than 90 days after such
18 date;

19 (bb) in the case of Israel,
20 Japan, the Republic of Korea,
21 New Zealand, or an eligible for-
22 eign purchaser that is a member
23 of the North Atlantic Treaty Or-
24 ganization or a major non-NATO
25 ally—

1 (AA) in the case of a
2 letter of request for a de-
3 fined-order letter of offer
4 and acceptance, not later
5 than 75 days after such
6 date; and

7 (BB) in the case of a
8 letter of request for a de-
9 fined-order letter of offer
10 and acceptance involving ex-
11 tenuating factors, as ap-
12 proved by the Director of
13 the Defense Security Co-
14 operation Agency, not later
15 than 100 days after such
16 date; and

17 (cc) in the case of an eligible
18 foreign purchaser that is a major
19 defense partner or a major secu-
20 rity partner—

21 (AA) in the case of a
22 letter of request for a de-
23 fined-order letter of offer
24 and acceptance, not later

1 than 85 days after such
2 date; and

3 (BB) in the case of a
4 letter of request for a de-
5 fined-order letter of offer
6 and acceptance involving ex-
7 tenuating factors, as ap-
8 proved by the Director of
9 the Defense Security Co-
10 operation Agency, not later
11 than 125 days.

12 (iii) RULE OF CONSTRUCTION.—Noth-
13 ing in this subparagraph may be construed
14 to include, within a deadline set forth in
15 this subparagraph—

16 (I) any period for the issuance of
17 a decision under subparagraph (B);

18 (II) any period of consultation
19 described in subparagraph (C); or

20 (III) a notification period under
21 section 36(c)(2) of the Arms Export
22 Control Act (22 U.S.C. 2776(c)(2)).

23 (B) LICENSES FOR RELEASE OF SENSITIVE
24 TECHNOLOGY.—

1 (i) DEADLINE FOR DECISION.—With
2 respect to an application of a defense in-
3 dustry provider for a license for the release
4 of sensitive technology as part of foreign
5 military sales negotiations, not later than
6 120 days after the date on which such an
7 application containing all relevant informa-
8 tion in the form required is received by the
9 Department of State Directorate of De-
10 fense Trade Controls, the Secretary of
11 State shall issue a decision on the applica-
12 tion.

13 (ii) APPROVAL.—In the case of a deci-
14 sion under clause (i) to approve such an
15 application, the defense industry provider
16 concerned may commence negotiations with
17 the eligible foreign purchaser on the ear-
18 liest date practicable following the issuance
19 of such decision.

20 (iii) DENIAL.—Concurrently with the
21 issuance of a decision under clause (i) de-
22 nying such an application, the Secretary of
23 State shall provide to the Committee on
24 Armed Services and the Committee on
25 Foreign Relations of the Senate and the

1 Committee on Armed Services and the
2 Committee on Foreign Affairs of the
3 House of Representatives written notice of
4 the decision, including the basis for the de-
5 nial.

6 (iv) RULE OF CONSTRUCTION.—Noth-
7 ing in this subparagraph may be construed
8 to include, within the deadline set forth in
9 clause (i)—

10 (I) any response period under
11 subparagraph (A);

12 (II) any period of consultation
13 described in subparagraph (C); or

14 (III) a notification period under
15 section 36(c)(2) of the Arms Export
16 Control Act (22 U.S.C. 2776(c)(2)).

17 (C) DEPARTMENT OF STATE CONSULTA-
18 TION.—Any period of consultation between the
19 Secretary of State and Congress with respect to
20 a proposed foreign military sale may not—

21 (i) be longer than 20 days; or

22 (ii) be construed to include a notifica-
23 tion period under section 36(c)(2) of the
24 Arms Export Control Act (22 U.S.C.
25 2776(c)(2)).

1 (2) EXPANSION OF COUNTRY
2 PRIORITIZATION.—

3 (A) DX RATINGS.—With respect to foreign
4 military sales to member countries of the North
5 Atlantic Treaty Organization, major non-NATO
6 allies, major defense partners, and major secu-
7 rity partners, the Secretary of Defense may as-
8 sign a Defense Priorities and Allocations Sys-
9 tem order rating of DX (within the meaning of
10 section 700.11 of title 15, Code of Federal Reg-
11 ulations (as in effect on the date of the enact-
12 ment of this section)).

13 (B) RAPID TECHNOLOGY RELEASE REVIEW
14 AND RAPID ACQUISITION.—The Secretary of
15 Defense shall establish a path within the for-
16 eign military sales process that prioritizes
17 Israel, Japan, the Republic of Korea, New Zea-
18 land, member countries of the North Atlantic
19 Treaty Organization, major non-NATO allies,
20 major defense partners, major security part-
21 ners, and eligible purchasers that are members
22 of the national technology and industrial base
23 for rapid technology release review and rapid
24 acquisition of United States defense articles
25 and defense services.

1 (3) LIMITATIONS ON PRICE MODIFICATIONS.—

2 (A) IN GENERAL.—With respect to the dol-
3 lar amount of an offer to sell or the sale of
4 United States defense articles or services devel-
5 oped by a military department and the Defense
6 Security Cooperation Agency for purposes of
7 the foreign military sales process documented in
8 a letter of offer to an eligible foreign purchaser
9 and submitted to the Secretary of State for re-
10 view, the Secretary of Defense may subse-
11 quently direct an increase of—

12 (i) not more than 20 percent of such
13 dollar amount to account for supply chain
14 disruptions, including the unavailability of
15 materials and inflation; and

16 (ii) not less than 20 percent of such
17 dollar amount, subject to review by the
18 Foreign Military Sales Cost Review Board.

19 (B) FOREIGN MILITARY SALES COST RE-
20 VIEW BOARD.—

21 (i) ESTABLISHMENT.—The Secretary
22 of Defense shall establish within the De-
23 partment of Defense a board, to be known
24 as the “Foreign Military Sales Cost Review

1 Board” (in this subparagraph referred to
2 as the “Board”)—

3 (I) to review requests by the Di-
4 rector of the Defense Security Co-
5 operation Agency for an increase in
6 the dollar amount described in sub-
7 paragraph (A) that is more than 20
8 percent of the dollar amount docu-
9 mented in a letter of offer and accept-
10 ance to an eligible foreign purchaser
11 and submitted to the Secretary of
12 State for review; and

13 (II) to make recommendations to
14 the Secretary of Defense as to wheth-
15 er such an increase in such dollar
16 amount should be directed, and if so,
17 the recommended amount of such in-
18 crease to be implemented.

19 (ii) CONSULTATION.—The Board shall
20 conduct reviews under clause (i)(I) in con-
21 sultation with the eligible foreign pur-
22 chaser concerned.

23 (C) JUSTIFICATION FOR PRICE IN-
24 CREASE.—In the case of an increase in the dol-
25 lar amount described in subparagraph (A), the

1 Secretary of Defense shall provide to the eligi-
2 ble foreign purchaser and the primary defense
3 industry provider concerned documentation jus-
4 tifying such increase.

5 (D) REPORT.—Beginning on December 15,
6 2025, and annually thereafter, the Under Sec-
7 retary of Defense for Acquisition and
8 Sustainment and the Under Secretary of De-
9 fense for Policy shall submit a report, and pro-
10 vide a briefing, to the Committees on Armed
11 Services of the Senate and the House of Rep-
12 resentatives on each request for a dollar
13 amount increase reviewed by the Board during
14 the fiscal year ending on September 30 of the
15 applicable year.

16 (4) DEFINITIONS.—In this subsection:

17 (A) BLANKET-ORDER LETTER OF OFFER
18 AND ACCEPTANCE.—The term “blanket-order
19 letter of offer and acceptance” means an agree-
20 ment between an eligible foreign purchaser and
21 the United States Government for a specific
22 category of items or services (including train-
23 ing) that—

24 (i) does not include a definitive listing
25 of items or quantities; and

1 (ii) specifies a maximum dollar
2 amount against which orders for defense
3 articles and services may be placed.

4 (B) COOPERATIVE LOGISTICS SUPPLY SUP-
5 PORT ARRANGEMENT.—The term “cooperative
6 logistics supply support arrangement” means a
7 military logistics support arrangement designed
8 to provide responsive and continuous supply
9 support at the depot level for United States-
10 made military materiel possessed by foreign
11 countries or international organizations.

12 (C) DEFINED-ORDER LETTER OF OFFER
13 AND ACCEPTANCE.—The term “defined-order
14 letter of offer and acceptance” means a foreign
15 military sales case characterized by an order for
16 a specific defense article or service that is sepa-
17 rately identified as a line item on a letter of
18 offer and acceptance.

19 (D) IMPLEMENTING AGENCY.—The term
20 “implementing agency” means the military de-
21 partment or defense agency assigned, by the
22 Director of the Defense Security Cooperation
23 Agency, the responsibilities of—

24 (i) preparing a letter of offer and ac-
25 ceptance;

1 (ii) implementing a foreign military
2 sales case; and

3 (iii) carrying out the overall manage-
4 ment of the activities that—

5 (I) will result in the delivery of
6 the defense articles or services set
7 forth in the letter of offer and accept-
8 ance; and

9 (II) was accepted by an eligible
10 foreign purchaser.

11 (E) LETTER OF REQUEST.—The term “let-
12 ter of request”—

13 (i) means a written document—

14 (I) submitted to a United States
15 security cooperation organization, the
16 Defense Security Cooperation Agency,
17 or an implementing agency by an eli-
18 gible foreign purchaser for the pur-
19 pose of requesting to purchase or oth-
20 erwise obtain a United States defense
21 article or defense service through the
22 foreign military sales process; and

23 (II) that contains all relevant in-
24 formation in such form as may be re-

1 quired by the Secretary of Defense;
2 and

3 (ii) includes—

4 (I) a formal letter;

5 (II) an email;

6 (III) signed meeting minutes
7 from a recognized official of the gov-
8 ernment of an eligible foreign pur-
9 chaser; and

10 (IV) any other form of written
11 document, as determined by the Sec-
12 retary of Defense or the Director of
13 the Defense Security Cooperation
14 Agency.

15 (F) MAJOR DEFENSE PARTNER.—The
16 term “major defense partner” means—

17 (i) India; and

18 (ii) any other country, as designated
19 by the Secretary of Defense.

20 (G) MAJOR NON-NATO ALLY.—The term
21 “major non-NATO ally”—

22 (i) has the meaning given the term in
23 section 644 of the Foreign Assistance Act
24 of 1961 (22 U.S.C. 2403)); and

1 (ii) includes Taiwan, as required by
2 section 1206 of the Security Assistance
3 Act of 2002 (Public Law 107–228; 22
4 U.S.C. 2321k note).

5 (H) MAJOR SECURITY PARTNER.—The
6 term “major security partner” means—

7 (i) the United Arab Emirates;

8 (ii) Bahrain;

9 (iii) Saudi Arabia; and

10 (iv) any other country, as designated
11 by the Secretary of Defense, in consulta-
12 tion with the Secretary of State and the
13 Director of National Intelligence.

14 (I) NATIONAL TECHNOLOGY AND INDUS-
15 TRIAL BASE.—The term “national technology
16 and industrial base” has the meaning given the
17 term in section 4801 of title 10, United States
18 Code.

19 (c) MODIFICATION OF REPORTING REQUIRE-
20 MENTS.—Section 36 of the Arms Export Control Act (22
21 U.S.C. 2776) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)—

24 (i) in the matter preceding subpara-
25 graph (A), by striking “any letter of offer”

1 and all that follows through “\$14,000,000
2 or more” and inserting “any letter of offer
3 to sell any defense articles or services
4 under this Act for \$170,000,000 or more,
5 any design and construction services for
6 \$681,000,000 or more, or any major de-
7 fense equipment for \$47,000,000 or
8 more”; and

9 (ii) in the undesignated matter at the
10 end, in the second sentence, by striking
11 “or New Zealand” and inserting “New
12 Zealand, any major non-NATO ally (as de-
13 fined in section 644 of the Foreign Assist-
14 ance Act of 1961 (22 U.S.C. 2403)), or
15 any major defense partner, or major secu-
16 rity partner”;

17 (B) in paragraph (2), by striking “or New
18 Zealand” and inserting “New Zealand, any
19 major non-NATO ally, or any major defense
20 partner or major security partner”; and

21 (C) in paragraph (6), in the matter pre-
22 ceding subparagraph (A)—

23 (i) by striking “or New Zealand” and
24 inserting “New Zealand, a major non-

1 NATO ally, or a major defense partner or
2 major security partner”;

3 (ii) in subparagraph (A), by striking
4 “\$25,000,000” and inserting
5 “\$85,000,000”;

6 (iii) in subparagraph (B), by striking
7 “\$100,000,000” and inserting
8 “\$340,000,000”; and

9 (iv) in subparagraph (C), by striking
10 “\$300,000,000” and inserting
11 “\$1,000,000,000”;

12 (2) in subsection (c)—

13 (A) in paragraph (2)(A), by striking “or
14 New Zealand” and inserting “New Zealand,
15 any major non-NATO ally, or any major de-
16 fense partner or major security partner”;

17 (B) in paragraph (5), by striking “or New
18 Zealand” and inserting “New Zealand, a major
19 non-NATO ally, or a major defense partner or
20 major security partner”; and

21 (C) by adding at the end the following new
22 paragraph:

23 “(7) A sale of major defense equipment, defense arti-
24 cles, or defense services that is the subject of an applica-
25 tion for which notification has been provided under this

1 subsection, including such a sale for which the number of
2 such equipment, articles, or services is increased, shall not
3 require subsequent notification under this subsection un-
4 less the dollar amount of the offer to sell or the sale ex-
5 ceeds 150 percent of the dollar amount of the offer to sell
6 or the sale set forth in the notification provided.”;

7 (3) in subsection (d)(2)(A), by striking “or New
8 Zealand” and inserting “New Zealand, a major non-
9 NATO ally, or a major defense partner or major se-
10 security partner”; and

11 (4) by adding at the end the following new sub-
12 section:

13 “(j) DEFINITIONS.—In this section:

14 “(1) MAJOR DEFENSE PARTNER.—The term
15 ‘major defense partner’ means—

16 “(A) India; and

17 “(B) any other country, as designated by
18 the Secretary of Defense.

19 “(2) MAJOR NON-NATO ALLY.—The term
20 ‘major non-NATO ally’—

21 “(A) has the meaning given the term in
22 section 644 of the Foreign Assistance Act of
23 1961 (22 U.S.C. 2403)); and

24 “(B) includes Taiwan, as required by sec-
25 tion 1206 of the Security Assistance Act of

1 2002 (Public Law 107–228; 22U.S.C. 2321k
2 note).

3 “(3) MAJOR SECURITY PARTNER.—The term
4 ‘major security partner’ means—

5 “(A) the United Arab Emirates;

6 “(B) Bahrain;

7 “(C) Saudi Arabia; and

8 “(D) any other country, as designated by
9 the Secretary of Defense, in consultation with
10 the Secretary of State and the Director of Na-
11 tional Intelligence.”.

12 (d) ASSISTANT SECRETARY OF DEFENSE FOR TECH-
13 NOLOGY COOPERATION AND SECURITY REVIEW.—

14 (1) IN GENERAL.—Section 138 of title 10,
15 United States Code, is amended—

16 (A) in subsection (a)(1), by striking “19”
17 and inserting “20”; and

18 (B) in subsection (b), by adding at the end
19 the following new paragraph:

20 “(9) One of the Assistant Secretaries is the Assist-
21 ance Secretary of Defense for Technology Cooperation and
22 Security Review. The Assistant Secretary shall serve
23 under the authority, direction, and control of the Under
24 Secretary of Defense for Acquisition and Sustainment.
25 The principal duty of the Assistant Secretary shall be the

1 overall supervision of policy and processes of the Depart-
2 ment of Defense for technology cooperation and security
3 review in the context of foreign military sales and direct
4 commercial sales.”.

5 (2) CONFORMING AMENDMENT.—Section 5315
6 of title 5, United States Code, is amended by strik-
7 ing “Assistant Secretaries of Defense (19)” and in-
8 serting “Assistant Secretaries of Defense (20)”.

9 (e) SPECIAL DEFENSE ACQUISITION FUND.—Section
10 51 of the Arms Export Control Act (22 U.S.C. 2795) is
11 amended by adding at the end the following new sub-
12 section:

13 “(d) Decisions with respect to the use of a portion
14 of the Fund for the acquisition of defense articles and de-
15 fense services in anticipation of their transfer pursuant
16 to this Act, the Foreign Assistance Act of 1961 (22 U.S.C.
17 2151 et seq.), or as otherwise authorized by law, to eligible
18 foreign countries and international organizations shall be
19 made independently of acquisition decisions relating to the
20 requirements of the United States Armed Forces.”.

21 (f) EXPEDITED DELIVERIES TO PRIORITY FOREIGN
22 PURCHASERS.—

23 (1) ACQUISITION STRATEGIES.—

24 (A) IN GENERAL.—With respect to a for-
25 eign country or capability identified in guidance

1 issued under subsection (a)(2) as a regional or
2 country-level foreign defense capability-building
3 priority, the Secretary of Defense shall establish
4 a requirement that, in developing letters of
5 offer and acceptance, the acquisition program
6 office of each military department shall develop,
7 at program inception—

8 (i) an acquisition strategy that docu-
9 ments the standard acquisition path; and

10 (ii) an acquisition strategy that docu-
11 ments the fastest acquisition path.

12 (B) ASSOCIATED RISK.—In developing
13 each acquisition strategy required by clauses (i)
14 and (ii) of subparagraph (A), the acquisition
15 program office of the military department con-
16 cerned shall—

17 (i) measure, and justify with respect
18 to the urgency of delivering a capability in
19 full or in phases, the associated risk, risk
20 mitigation, and risk cost; and

21 (ii) provide, in coordination with the
22 appropriate regional directorate of the Of-
23 fice of the Under Secretary of Defense for
24 Policy and the Director of the Defense Se-
25 curity Cooperation Agency, to the acquisi-

1 tion leadership of such military department
2 a briefing on the results of the measure-
3 ments under clause (i).

4 (C) DECISION.—Not later than 30 days
5 after the date of a briefing under subparagraph
6 (B)(ii), the acquisition leadership of the mili-
7 tary department concerned shall issue a deci-
8 sion with respect to the acquisition strategy se-
9 lected.

10 (2) INPUT FROM ELIGIBLE FOREIGN PUR-
11 CHASER.—

12 (A) IN GENERAL.—The Secretary of De-
13 fense shall ensure that, in the development of
14 acquisition strategies for priority countries and
15 capabilities under paragraph (1), the foreign
16 purchaser is provided an opportunity to provide
17 input with respect to risk tolerance.

18 (B) INFORMATION SHARING.—In carrying
19 out subparagraph (A), the Secretary of Defense
20 shall ensure that a foreign purchaser is briefed
21 on risks identified, alternate approaches that
22 may be taken, and the schedule, cost, and capa-
23 bility tradeoffs associated with such alternate
24 approaches.

1 (C) INCLUSION IN BRIEFING.—Foreign
2 purchaser input gathered under this paragraph
3 shall be included in the briefing required by
4 paragraph (1)(B)(ii) and appropriately weight-
5 ed in making final a decision with respect to
6 the appropriate acquisition approach.

7 (3) AGREEMENTS WITH MANUFACTURERS.—

8 (A) IN GENERAL.—The Secretary of De-
9 fense shall allow United States companies to
10 enter into agreements with manufacturers to
11 begin the process of acquiring long-lead Govern-
12 ment-furnished equipment on forecast.

13 (B) HIGH-DEMAND SYSTEMS.—United
14 States companies that produce high-demand
15 systems shall purchase certain sensitive and
16 closely controlled items, such as communica-
17 tions security devices, military grade GPS, and
18 anti-spoofing devices, as Government-furnished
19 equipment.

20 (C) DEPARTMENT OF DEFENSE POLICY.—

21 (i) IN GENERAL.—The Secretary of
22 Defense shall implement policies, and en-
23 sure that the head of each military depart-
24 ment implements policies, that allow
25 United States companies to enter into

1 agreements with manufacturers of Govern-
2 ment-furnished equipment so that produc-
3 tion on long-lead Government-furnished
4 equipment may begin before the execution
5 of a signed commercial contract or the
6 issuance of a letter of offer and accept-
7 ance.

8 (ii) ELEMENTS.—The policies re-
9 quired by clause (i) shall require that—

10 (I) United States companies
11 shall—

12 (aa) before entering into an
13 agreement under this paragraph,
14 obtain the concurrence or ap-
15 proval of the head of the military
16 department concerned to do so;
17 and

18 (bb) be responsible for—

19 (AA) negotiating di-
20 rectly with the manufacturer
21 of Government-furnished
22 equipment; and

23 (BB) providing any
24 payment to such manufac-
25 turer; and

1 (II) transfer of Government-fur-
2 nished equipment from such manufac-
3 turer to the purchasing company shall
4 not occur until the date on which a
5 letter of offer and acceptance or com-
6 mercial contract is produced.

7 (D) RECOVERY OF COSTS FOR CERTAIN
8 SALES.—In the case of defense sales, pur-
9 chasing companies may recoup costs associated
10 with ordering the Government-furnished equip-
11 ment described in the applicable letter of offer
12 and acceptance.

13 (g) MODIFICATION OF AUTHORITY FOR SALES TO
14 UNITED STATES COMPANIES FOR INCORPORATION INTO
15 END ITEMS.—Section 30(a)(2) of the Arms Export Con-
16 trol Act (22 U.S.C. 2770(a)(2)) is amended by inserting
17 “or for the purpose of providing defense capabilities
18 through provision of a service” after “to be sold by such
19 a company”.

20 (h) TREATMENT OF NATIONAL TECHNOLOGY AND
21 INDUSTRIAL BASE AS DOMESTIC SOURCE UNDER DE-
22 FENSE PRODUCTION ACT OF 1950.—Section 702(7)(A) of
23 the Defense Production Act of 1950 (50 U.S.C.
24 4552(7)(A)) is amended by striking “the United States
25 or Canada” and inserting “the United States, any other

1 country, the persons or organizations within the national
2 technology and industrial base, or Japan”.

3 (i) DEFINITIONS.—In this section:

4 (1) DEFENSE ACQUISITION WORKFORCE.—The
5 term “defense acquisition workforce” means the De-
6 partment of Defense acquisition workforce described
7 in chapter 87 of title 10, United States Code.

8 (2) SECURITY COOPERATION WORKFORCE.—
9 The term “security cooperation workforce” has the
10 meaning given the term in section 384 of title 10,
11 United States Code.

○