

110TH CONGRESS
2^D SESSION

H. R. 7177

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 17), 2008

Received

AN ACT

To authorize the transfer of naval vessels to certain foreign recipients, 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,*

1 **TITLE I—NAVAL VESSEL**
2 **TRANSFER**

3 **SECTION 101. SHORT TITLE.**

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

6 **SEC. 102. TRANSFER OF NAVAL VESSELS TO CERTAIN FOR-**
7 **EIGN RECIPIENTS.**

8 (a) **TRANSFERS BY GRANT.**—The President is au-
9 thorized to transfer the vessels specified in paragraphs
10 (1), (3), and (4) of section 501(a) of H.R. 5916 of the
11 110th Congress, as passed the House of Representatives
12 on May 15, 2008, to the foreign recipients specified in
13 paragraphs (1), (3), and (4) of such section, respectively,
14 on a grant basis under section 516 of the Foreign Assist-
15 ance Act of 1961 (22 U.S.C. 2321j).

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

23 (c) **COSTS OF TRANSFERS.**—Any expense incurred by
24 the United States in connection with a transfer authorized
25 by this section shall be charged to the recipient (notwith-

1 standing section 516(e) of the Foreign Assistance Act of
2 1961 (22 U.S.C. 2321j(e)).

3 (d) REPAIR AND REFURBISHMENT IN UNITED
4 STATES SHIPYARDS.—To the maximum extent prac-
5 ticable, the President shall require, as a condition of the
6 transfer of a vessel under this section, that the recipient
7 to which the vessel is transferred have such repair or re-
8 furbishment of the vessel as is needed, before the vessel
9 joins the naval forces of the recipient, performed at a ship-
10 yard located in the United States, including a United
11 States Navy shipyard.

12 (e) EXPIRATION OF AUTHORITY.—The authority to
13 transfer a vessel under this section shall expire at the end
14 of the 2-year period beginning on the date of the enact-
15 ment of this Act.

16 **TITLE II—UNITED STATES ARMS** 17 **EXPORTS**

18 **SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILI-** 19 **TARY EDGE OVER MILITARY THREATS.**

20 (a) ASSESSMENT REQUIRED.—The President shall
21 carry out an empirical and qualitative assessment on an
22 ongoing basis of the extent to which Israel possesses a
23 qualitative military edge over military threats to Israel.
24 The assessment required under this subsection shall be

1 sufficiently robust so as to facilitate comparability of data
2 over concurrent years.

3 (b) USE OF ASSESSMENT.—The President shall en-
4 sure that the assessment required under subsection (a) is
5 used to inform the review by the United States of applica-
6 tions to sell defense articles and defense services under
7 the Arms Export Control Act (22 U.S.C. 2751 et seq.)
8 to countries in the Middle East.

9 (c) REPORTS.—

10 (1) INITIAL REPORT.—Not later than June 30,
11 2009, the President shall transmit to the appro-
12 priate congressional committees a report on the ini-
13 tial assessment required under subsection (a).

14 (2) QUADRENNIAL REPORT.—Not later than
15 four years after the date on which the President
16 transmits the initial report under paragraph (1),
17 and every four years thereafter, the President shall
18 transmit to the appropriate congressional commit-
19 tees a report on the most recent assessment required
20 under subsection (a).

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

24 “(h) CERTIFICATION REQUIREMENT RELATING TO
25 ISRAEL’S QUALITATIVE MILITARY EDGE.—

1 “(1) IN GENERAL.—Any certification relating
2 to a proposed sale or export of defense articles or
3 defense services under this section to any country in
4 the Middle East other than Israel shall include a de-
5 termination that the sale or export of the defense ar-
6 ticles or defense services will not adversely affect
7 Israel’s qualitative military edge over military
8 threats to Israel.

9 “(2) QUALITATIVE MILITARY EDGE DEFINED.—
10 In this subsection, the term ‘qualitative military
11 edge’ means the ability to counter and defeat any
12 credible conventional military threat from any indi-
13 vidual state or possible coalition of states or from
14 non-state actors, while sustaining minimal damages
15 and casualties, through the use of superior military
16 means, possessed in sufficient quantity, including
17 weapons, command, control, communication, intel-
18 ligence, surveillance, and reconnaissance capabilities
19 that in their technical characteristics are superior in
20 capability to those of such other individual or pos-
21 sible coalition of states or non-state actors.”.

22 (e) DEFINITIONS.—In this section:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means the Committee on Foreign Affairs of

1 the House of Representatives and the Committee on
2 Foreign Relations of the Senate.

3 (2) QUALITATIVE MILITARY EDGE.—The term
4 “qualitative military edge” has the meaning given
5 the term in section 36(h) of the Arms Export Con-
6 trol Act, as added by subsection (d) of this section.

7 **SEC. 202. IMPLEMENTATION OF MEMORANDUM OF UNDER-**
8 **STANDING WITH ISRAEL.**

9 (a) IN GENERAL.—Of the amount made available for
10 fiscal year 2009 for assistance under the program author-
11 ized by section 23 of the Arms Export Control Act (22
12 U.S.C. 2763) (commonly referred to as the “Foreign Mili-
13 tary Financing Program”), the amount specified in sub-
14 section (b) is authorized to be made available on a grant
15 basis for Israel.

16 (b) COMPUTATION OF AMOUNT.—The amount re-
17 ferred to in subsection (a) is the amount equal to—

18 (1) the amount specified under the heading
19 “Foreign Military Financing Program” for Israel for
20 fiscal year 2008; plus

21 (2) \$150,000,000.

22 (c) OTHER AUTHORITIES.—

23 (1) AVAILABILITY OF FUNDS FOR ADVANCED
24 WEAPONS SYSTEMS.—To the extent the Government
25 of Israel requests the United States to provide as-

1 sistance for fiscal year 2009 for the procurement of
2 advanced weapons systems, amounts authorized to
3 be made available for Israel under this section shall,
4 as agreed to by Israel and the United States, be
5 available for such purposes, of which not less than
6 \$670,650,000 shall be available for the procurement
7 in Israel of defense articles and defense services, in-
8 cluding research and development.

9 (2) DISBURSEMENT OF FUNDS.—Amounts au-
10 thorized to be made available for Israel under this
11 section shall be disbursed not later than 30 days
12 after the date of the enactment of an Act making
13 appropriations for the Department of State, foreign
14 operations, and related programs for fiscal year
15 2009, or October 31, 2008, whichever occurs later.

16 **SEC. 203. SECURITY COOPERATION WITH THE REPUBLIC**
17 **OF KOREA.**

18 (a) FINDINGS.—Congress makes the following find-
19 ings:

20 (1) Close and continuing defense cooperation
21 between the United States and the Republic of
22 Korea continues to be in the national security inter-
23 est of the United States.

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

4 (3) The Republic of Korea has been a major
5 purchaser of United States defense articles and serv-
6 ices through the Foreign Military Sales (FMS) pro-
7 gram, totaling \$6,900,000,000 in deliveries over the
8 last 10 years.

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

14 (5) Congress has previously enacted important,
15 special defense cooperation arrangements for the Re-
16 public of Korea, as in the Act entitled “An Act to
17 authorize the transfer of items in the War Reserves
18 Stockpile for Allies, Korea”, approved December 30,
19 2005 (Public Law 109–159; 119 Stat. 2955), which
20 authorized the President, notwithstanding section
21 514 of the Foreign Assistance Act of 1961 (22
22 U.S.C. 2321h), to transfer to the Republic of Korea
23 certain defense items to be included in a war reserve
24 stockpile for that country.

1 (6) Enhanced support for defense cooperation
2 with the Republic of Korea is important to the na-
3 tional security of the United States, including
4 through creation of a status in law for the Republic
5 of Korea similar to the countries in the North Atlan-
6 tic Treaty Organization, Japan, Australia, and New
7 Zealand, with respect to consideration by Congress
8 of foreign military sales to the Republic of Korea.

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

12 (1) in sections 3(d)(2)(B), 3(d)(3)(A)(i),
13 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A),
14 62(c)(1), and 63(a)(2), by inserting “the Republic of
15 Korea,” before “or New Zealand” each place it ap-
16 pears;

17 (2) in section 3(b)(2), by inserting “the Govern-
18 ment of the Republic of Korea,” before “or the Gov-
19 ernment of New Zealand”;

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

22 (4) in section 21(h)(2), by striking “or to any
23 member government of that Organization if that Or-
24 ganization or member government” and inserting “,
25 to any member government of that Organization, or

