

Public Law 91-184
91st Congress, H. R. 4293
December 30, 1969

An Act

To provide for continuation of authority for regulation of exports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Export Administration Act of 1969.

SECTION 1. This Act may be cited as the "Export Administration Act of 1969".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(2) The unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect the national security of the United States.

(3) The unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments.

(4) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.

(2) It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments, and (B) to formulate a unified trade control policy to be observed by all such nations.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

Export controls.

Restrictive
trade practices
or boycotts.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

AUTHORITY

SEC. 4. (a)(1) The Secretary of Commerce shall institute such organizational and procedural changes in any office or division of the Department of Commerce which has heretofore exercised functions relating to the control of exports and continues to exercise such controls under this Act as he determines are necessary to facilitate and effectuate the fullest implementation of the policy set forth in this Act with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, the Secretary shall review any list of articles, materials, or supplies, including technical data or other information, the exportation of which from the United States, its territories and possessions, was heretofore prohibited or curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of this Act. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarter) made by him to the Congress after the date of enactment of this Act pursuant to section 10.

(2) The Secretary of Commerce shall use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging the widest possible trade.

(b) To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Rules and regulations may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its territories and possessions, to any nation or combination of nations threatening the national security of the United States if the President determines that their export would prove detrimental to the national security of the United States, regardless of their availability from nations other than any nation or combination of nations threatening the national security of the United States, but whenever export licenses are required on the ground that considerations of national security override considerations of foreign availability, the reasons for so doing

Presidential
determination.

83 STAT. 842
83 STAT. 843

shall be reported to the Congress in the quarterly report following the decision to require such licenses on that ground to the extent considerations of national security and foreign policy permit. The rules and regulations shall implement the provisions of section 3(5) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in that section must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of that section.

Report to
Congress.

Report.

(c) Nothing in this Act, or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export articles, materials, supplies, data, or information except where the national security, the foreign policy of the United States, or the need to protect the domestic economy from the excessive drain of scarce materials makes such requirement necessary.

(d) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate.

(e) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.

Agricultural
commodities, ex-
ception.

CONSULTATION AND STANDARDS

SEC. 5. (a) In determining what shall be controlled hereunder, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Consistent with considerations of national security, the President shall from time to time seek information and advice from various segments of private industry in connection with the making of these determinations.

(b) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

83 STAT. 843

83 STAT. 844

VIOLATIONS

SEC. 6. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than \$10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

Penalty.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be fined not more than five times the

Communist-dominated
nations,
export prohibi-
tions; penalty.

value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(c) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 7. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and

62 Stat. 933;
68 Stat. 589.

63 STAT. 844
63 STAT. 845

67 Stat. 577.

63 Stat. 7.
50 USC app.2021
note.

Recordkeeping.

Subpoena power.
Availability of
records.

give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege. Self-incrimination, exception.

(c) No department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest. Disclosure of confidential information, prohibition.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE
PROCEDURE AND JUDICIAL REVIEW

83 STAT. 845
83 STAT. 846

SEC. 8. The functions exercised under this Act are excluded from the operation of sections 551, 553-559, and 701-706, of title 5 United States Code. 80 Stat. 381, 392.

INFORMATION TO EXPORTERS

SEC. 9. In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

- (1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;
- (2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;
- (3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and
- (4) inform each exporter of the reasons for a denial of an export license request.

QUARTERLY REPORT

SEC. 10. The head of any department or agency, or other official exercising any functions under this Act, shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder.

DEFINITION

"Person."

SEC. 11. The term "person" as used in this Act includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

EFFECTS ON OTHER ACTS

SEC. 12. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

68 Stat. 848.
83 STAT. 846
83 STAT. 847

EFFECTIVE DATE

SEC. 13. (a) This Act takes effect upon the expiration of the Export Control Act of 1949.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

63 Stat. 7.
50 USC app.2021
note.

TERMINATION DATE

SEC. 14. The authority granted by this Act terminates on June 30, 1971, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

Approved December 30, 1969.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-524 (Comm. on Banking & Currency) and Nos. 91-681, 91-786 (Comm. of Conference).

SENATE REPORT No. 91-336 accompanying S. 2696 (Comm. on Banking & Currency).

CONGRESSIONAL RECORD, Vol. 115 (1969):

Oct. 16, Dec. 10, 23: Considered and passed House.

Oct. 22, Nov. 14, Dec 23: Considered and passed Senate.