

## Calendar No. 181

96TH CONGRESS  
1ST SESSION**S. 737**

[Report No. 96-169]

To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

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 IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, FEBRUARY 22), 1979

Mr. STEVENSON (for himself and Mr. HEINZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

MAY 15 (legislative day, APRIL 9), 1979

Reported by Mr. STEVENSON, with an amendment to the text and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 That this Act may be cited as the "Export Administration  
2 Act of 1979".

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## FINDINGS

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SEC. 2. The Congress makes the following findings:

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(1) The right of United States citizens to engage  
in international commerce is a fundamental concern of  
United States policy.

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(2) Exports contribute significantly to the balance  
of trade, employment, and production of the United  
States.

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(3) 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 do-  
mestic economy and may have an important bearing  
upon fulfillment of the foreign policy of the United  
States.

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(4) The unrestricted export of goods and technol-  
ogy without regard to whether they make a significant  
contribution to the military potential of any other  
nation or nations may adversely affect the national se-  
curity of the United States.

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(5) The unwarranted restriction of exports from  
the United States has a serious adverse effect on our  
balance of payments and domestic employment and

1 production, particularly when export restrictions ap-  
2 plied by the United States are more extensive than  
3 export restrictions imposed by other countries.

4 (6) The uncertainty of policy toward certain cate-  
5 gories of exports has curtailed the efforts of American  
6 business in those categories to the detriment of the  
7 overall attempt to improve the trade balance of the  
8 United States and to decrease domestic unemployment.

9 (7) Unreasonable restrictions on access to world  
10 supplies can cause world-wide political and economic in-  
11 stability, interfere with free international trade, and  
12 retard the growth and development of nations.

#### 13 DECLARATION OF POLICY

14 SEC. 3. The Congress makes the following declarations:

15 (1) It is the policy of the United States to mini-  
16 mize uncertainties in export control policy and to en-  
17 courage trade as a right not a privilege with all coun-  
18 tries with which we have diplomatic or trading rela-  
19 tions, except those countries with which such trade has  
20 been determined by the President to be against the na-  
21 tional interest.

22 (2) It is the policy of the United States to restrict  
23 the right to export only after full consideration of the  
24 impact on the economy of the United States and only  
25 to the extent necessary—

1 (A) to protect the domestic economy from  
2 the excessive drain of scarce materials and to  
3 reduce the serious inflationary impact of foreign  
4 demand;

5 (B) to further significantly the foreign policy  
6 of the United States or to fulfill its declared inter-  
7 national obligations; and

8 (C) to prevent the export of goods and tech-  
9 nology which would make a significant contribu-  
10 tion to the military potential of any other nation  
11 or nations which could prove detrimental to the  
12 national security of the United States.

13 (3) It is the policy of the United States (A) to for-  
14 mulate, reformulate, and apply any necessary controls  
15 to the maximum extent possible in cooperation with all  
16 nations, and (B) to encourage observance of a uniform  
17 export control policy by all nations with which the  
18 United States has defense treaty commitments.

19 (4) It is the policy of the United States to use its  
20 economic resources and trade potential to further the  
21 sound growth and stability of its economy as well as to  
22 further its national security and foreign policy objec-  
23 tives.

24 (5) It is the policy of the United States—

1           (A) to oppose restrictive trade practices or  
2           boycotts fostered or imposed by foreign countries  
3           against other countries friendly to the United  
4           States or against any United States person;

5           (B) to encourage and, in specified cases, re-  
6           quire United States persons engaged in the export  
7           of goods and technology to refuse to take actions,  
8           including furnishing information or entering into  
9           or implementing agreements, which have the  
10          effect of furthering or supporting the restrictive  
11          trade practices or boycotts fostered or imposed by  
12          any foreign country against a country friendly to  
13          the United States or against any United States  
14          person; and

15          (C) to foster international cooperation and  
16          the development of international rules and institu-  
17          tions to assure reasonable access to world sup-  
18          plies.

19          (6) It is the policy of the United States that the  
20          desirability of subjecting, or continuing to subject, par-  
21          ticular goods or technology to United States export  
22          controls should be subjected to review by and consulta-  
23          tion with representatives of appropriate United States  
24          Government agencies and private industry.

1           (7) It is the policy of the United States to use  
2           export controls, including license fees, to secure the re-  
3           moval by foreign countries of restrictions on access to  
4           supplies where such restrictions have or may have a  
5           serious domestic inflationary impact, have caused or  
6           may cause a serious domestic shortage, or have been  
7           imposed for purposes of influencing the foreign policy  
8           of the United States. In effecting this policy, the Presi-  
9           dent shall make every reasonable effort to secure the  
10          removal or reduction of such restrictions, policies, or  
11          actions through international cooperation and agree-  
12          ment before resorting to the imposition of controls on  
13          exports from the United States. No action taken in ful-  
14          fillment of the policy set forth in this paragraph shall  
15          apply to the export of medicine or medical supplies.

16          (8) It is the policy of the United States to use  
17          export controls to encourage other countries to take  
18          immediate steps to prevent the use of their territories  
19          or resources to aid, encourage, or give sanctuary to  
20          those persons involved in directing, supporting, or par-  
21          ticipating in acts of international terrorism. To achieve  
22          this objective, the President shall make every reason-  
23          able effort to secure the removal or reduction of such  
24          assistance to international terrorists through interna-

1 tional cooperation and agreement before resorting to  
2 the imposition of export controls.

3 **AUTHORITY**

4 **SEC. 4. (a)(1)** To the extent necessary to effectuate the  
5 policies set forth in section 3 of this Act, the President may  
6 prohibit or curtail the export, except under such rules and  
7 regulations as he shall prescribe, of any goods or technology  
8 subject to the jurisdiction of the United States or exported by  
9 any person subject to the jurisdiction of the United States. To  
10 the extent necessary to achieve effective enforcement of this  
11 Act, such rules and regulations may apply to the financing,  
12 transporting, and other servicing of exports and the participa-  
13 tion therein by any person subject to the jurisdiction of the  
14 United States. In curtailing the export of any goods or tech-  
15 nology to effectuate the policy set forth in section 3(2)(A) of  
16 this Act, the President is authorized to allocate a portion of  
17 export licenses on the basis of factors other than a prior his-  
18 tory of exportation.

19 (2)(A) In administering export controls for national se-  
20 curity purposes as prescribed in section 3(2)(C) of this Act  
21 and for foreign policy purposes as prescribed in section  
22 3(2)(B) of this Act, United States policy toward individual  
23 countries shall not be determined exclusively on the basis of a  
24 country's Communist or non-Communist status but shall take  
25 into account such factors as the country's present and poten-

1 tial relationship to the United States, its present and poten-  
2 tial relationship to countries friendly or hostile to the United  
3 States, its ability and willingness to control retransfers of  
4 United States exports in accordance with United States  
5 policy, and such other factors as the President may deem  
6 appropriate. The President shall review at least annually  
7 United States policy toward individual countries to determine  
8 whether such policy is appropriate in light of the factors  
9 specified in the preceding sentence. The results of such  
10 review, together with the justification for United States  
11 policy in light of such factors, shall be reported to Congress  
12 in each report required by section 11 of this Act.

13 (B) Rules and regulations under this subsection may  
14 provide for denial of any request or application for authority  
15 to export goods or technology from the United States, its  
16 territories and possessions, which would make a significant  
17 contribution to the military potential of any nation or combi-  
18 nation of nations threatening the national security of the  
19 United States if the President determines that their export  
20 could prove detrimental to the national security of the United  
21 States. In administering export controls for national security  
22 purposes as prescribed in section 3(2)(C) of this Act, priority  
23 shall be given to preventing the effective transfer to countries  
24 to which exports are controlled for national security purposes  
25 of goods and technology critical to the design, development,

1 or production of military systems which would make a signifi-  
2 cant contribution to the military potential of any nation or  
3 nations which could prove detrimental to the national secu-  
4 rity of the United States. The Secretary of Commerce, in  
5 consultation with the Secretary of Defense, shall review not  
6 less frequently than annually all controls maintained for na-  
7 tional security purposes pursuant to this Act for the purpose  
8 of making such revisions as may be necessary to insure that  
9 export controls are limited, to the maximum extent possible  
10 consistent with the purposes of this Act, to such militarily  
11 critical goods and technologies and the mechanisms through  
12 which they may be effectively transferred. A description of  
13 actions taken to carry out this subsection shall be included in  
14 each report required under section 11 of this Act. Such de-  
15 scriptions shall contain as much detail as may be included  
16 consistent with the national security and the need to maintain  
17 the confidentiality of proprietary information.

18 (C) Prior to imposing, increasing, or extending export  
19 controls for foreign policy purposes pursuant to the authority  
20 provided by this Act, the President shall give full considera-  
21 tion to—

22 (i) alternative means to further the foreign policy  
23 purposes in question;

1           (ii) the ability of the United States Government to  
2 control effectively the export of the goods or technol-  
3 ogy in question;

4           (iii) the likelihood that foreign competitors will  
5 join the United States in effectively controlling such  
6 exports;

7           (iv) the probability that such controls will achieve  
8 the intended foreign policy purpose;

9           (v) the effect of such controls on United States  
10 exports, employment, and production, and on the inter-  
11 national reputation of the United States as a supplier  
12 of goods and technology; and

13           (vi) the reaction of other countries to the imposi-  
14 tion or enlargement of such export controls by the  
15 United States.

16       (D) Whenever the President imposes, increases, or ex-  
17 tends export controls for foreign policy purposes pursuant to  
18 authority provided by this Act, he shall immediately inform  
19 the Congress of such action and make public a report specify-  
20 ing his conclusions with respect to the considerations set  
21 forth in this paragraph and indicating how such export con-  
22 trols will further significantly the foreign policy of the United  
23 States or fulfill its declared international obligations.

24       (E) The President shall not impose export controls for  
25 foreign policy or national security purposes on the export

1 from the United States of goods or technology which he de-  
2 termines is available without restriction from sources outside  
3 the United States in significant quantities and comparable in  
4 quality to those produced in the United States, unless the  
5 President determines that adequate evidence has been pre-  
6 sented to him demonstrating that the absence of such con-  
7 trols would prove detrimental to the foreign policy or nation-  
8 al security of the United States. Where, in accordance with  
9 this paragraph, export controls are imposed for foreign policy  
10 or national security purposes notwithstanding foreign avail-  
11 ability, the President shall take steps to initiate negotiations  
12 with the governments of the appropriate foreign countries for  
13 the purpose of eliminating such availability.

14 (b)(1) Except as otherwise provided in this Act, the Sec-  
15 retary of Commerce shall reorganize the Department of  
16 Commerce as necessary to effectuate the policies set forth in  
17 this Act. The Secretary of Commerce shall maintain a list of  
18 goods and technology the export of which from the United  
19 States, its territories and possessions, is prohibited or regu-  
20 lated pursuant to this Act. The Secretary shall review such  
21 list not less frequently than annually in order to make  
22 promptly such changes and revisions as may be necessary or  
23 desirable in furtherance of the policies set forth in this Act.  
24 The Secretary shall include in each review an assessment of  
25 the availability from sources outside the United States, its

1 territories and possessions, of goods and technology in signifi-  
2 cant quantities and comparable in quality to those items in-  
3 cluded on such list. In order to further effectuate the policies  
4 set forth in this Act, the Secretary shall establish an Office of  
5 Foreign Product and Technology Assessment, whose func-  
6 tions shall include monitoring and gathering information on  
7 the foreign availability of goods and technology subject to  
8 export control. The Secretary shall include a detailed state-  
9 ment with respect to actions taken in compliance with the  
10 provisions of this paragraph in each report to the Congress  
11 pursuant to section 11 of this Act.

12 (2) The Secretary of Commerce shall keep the public  
13 fully apprised of changes in export control policy and proce-  
14 dures instituted in conformity with this Act with a view to  
15 encouraging trade. The Secretary shall meet regularly with  
16 representatives of the business sector in order to obtain their  
17 views on export control policy and the foreign availability of  
18 goods and technology.

19 (c)(1)(A) To effectuate the policies set forth in this Act,  
20 the Secretary of Commerce shall establish the following three  
21 types of export licenses:

22 (i) A validated license.

23 (ii) A qualified general license.

24 (iii) A general license.

25 (B) As used in this subsection—

1           (i) a "validated license" is a license authorizing  
2 the export of goods or technology pursuant to a docu-  
3 ment issued upon application by an exporter in accord-  
4 ance with rules and regulations issued pursuant to this  
5 Act. A validated license may be required for the export  
6 of goods and technology subject to multilateral controls  
7 in which the United States participates or as deter-  
8 mined pursuant to paragraph (2) of this subsection;

9           (ii) a "qualified general license" is a license au-  
10 thORIZING the export of goods or technology, or a class  
11 of goods or technology, subject to the conditions con-  
12 tained in rules and regulations issued pursuant to this  
13 Act, and further subject to approval of the particular  
14 consignee and end use of the goods or technology. The  
15 goods and technology subject to control by qualified  
16 general license shall be determined pursuant to para-  
17 graph (2) of this subsection; and

18           (iii) a "general license" is a license authorizing  
19 the export of a class of goods or technology without  
20 specific approval if the export is effected in accordance  
21 with the conditions contained in rules and regulations  
22 issued pursuant to this Act. All goods and technology  
23 not subject to control by a validated license or by a  
24 qualified general license shall be exportable pursuant to  
25 a general license.

1           (2) To effectuate the policies set forth in section 3 of this  
2 Act, it is the intent of Congress that the use of validated  
3 licenses be limited to the greatest extent possible to the con-  
4 trol of the export of goods and technology which are subject  
5 to multilateral controls in which the United States partici-  
6 pates. To the extent that the President determines that the  
7 policies set forth in section 3 of this Act require the control of  
8 the export of other goods and technology, or more stringent  
9 controls than the multilateral controls, he will report to the  
10 Congress within six months from the date of enactment of  
11 this Act, and annually thereafter, the reasons for the need to  
12 impose, or to continue to impose, such controls. It is further  
13 the intent of Congress that export controls which exceed the  
14 multilateral controls shall be effected to the greatest extent  
15 possible by means of qualified general licenses.

16           (3) Within sixty days from the date of enactment of this  
17 Act, the Secretary of Commerce shall prescribe conditions for  
18 the use of end-use statements and the form of such state-  
19 ments, and establish procedures for the approval of consign-  
20 ees of goods and technology that may be exported pursuant  
21 to a qualified general license.

22           (4) It is the intent of the Congress that any export li-  
23 cense application required under this Act shall be approved  
24 or disapproved within ninety days of its receipt. Upon the  
25 expiration of the ninety-day period beginning on the date of

1 its receipt, any export license application required under this  
2 Act which has not been approved or disapproved shall be  
3 deemed to be approved and the license shall be issued unless  
4 the Secretary of Commerce or other official exercising au-  
5 thority under this Act finds that additional time is required  
6 and notifies the applicant in writing of the specific circum-  
7 stances requiring such additional time. Any application pend-  
8 ing more than ninety days shall be referred to the Export  
9 Administration Board established by paragraph (7) of this  
10 subsection.

11 (5)(A) With respect to any export license application not  
12 finally approved or disapproved within ninety days of its re-  
13 ceipt as provided in paragraph (4) of this subsection, the ap-  
14 plicant shall, to the maximum extent consistent with the na-  
15 tional security of the United States, be informed in writing of  
16 the specific questions raised and negative considerations or  
17 recommendations made by any agency or department of the  
18 Government with respect to such license application, and  
19 shall be accorded an opportunity to respond to such ques-  
20 tions, considerations, or recommendations in writing prior to  
21 final approval or disapproval. In making such final approval  
22 or disapproval, each official exercising authority under this  
23 Act shall take fully into account the applicant's response.

24 (B) Whenever the Secretary determines that it is neces-  
25 sary to refer an export license application to any interagency

1 review process for approval, he shall first, if the applicant so  
2 requests, provide the applicant with an opportunity to review  
3 any documentation to be submitted to such process for the  
4 purpose of describing the export in question, in order to de-  
5 termine whether such documentation accurately describes the  
6 proposed export and to provide additional information in writ-  
7 ing to be appended to the application.

8 (6) In any denial of an export license application, the  
9 applicant shall be informed in writing of the specific statutory  
10 basis for such denial. The Secretary shall establish appropri-  
11 ate procedures for applicants to appeal denials of applica-  
12 tions, and such procedures may include the opportunity for  
13 appeals to the Export Administration Board established  
14 under paragraph (7) of this subsection.

15 (7)(A) There is established an Export Administration  
16 Board (hereinafter referred to as the "Board") composed of  
17 three voting members, who shall be designated by the Secre-  
18 tary of Commerce, the Secretary of Defense, and the Secre-  
19 tary of State, respectively, and nonvoting, advisory members  
20 named by the heads of such other departments and agencies  
21 as the President may designate from time to time. The  
22 member from the Department of Commerce shall preside  
23 over all Board meetings. License applications referred to the  
24 Board shall be approved or denied by an affirmative vote of  
25 at least two of its three voting members. Any voting member

1 of the Board may appeal a decision of the Board to the  
2 Export Administration Review Council, but only if such  
3 appeal is made within five days of the Board's decision.

4 (B) There is established an Export Administration  
5 Review Council (hereinafter referred to as the "Review  
6 Council") composed of the Secretary of Commerce, the Sec-  
7 retary of Defense, and the Secretary of State. The Secretary  
8 of Commerce shall preside over meetings of the Review  
9 Council. License applications referred to the Review Council  
10 shall be approved or denied by an affirmative vote of at least  
11 two of its three members. Any member of the Review Coun-  
12 cil may appeal a decision of the Review Council to the Presi-  
13 dent, but only if such appeal is made within five days of the  
14 Review Council's decision.

15 (C) The President shall decide appeals from decisions of  
16 the Review Council made pursuant to this Act, and review  
17 annually the activities of the Board, the Review Council, and  
18 the Department of Commerce to insure efficient implementa-  
19 tion of the policies of this Act.

20 (D) Any application upon which the Board has reached  
21 no decision within thirty days of receipt shall be referred to  
22 the Review Council. Any application upon which the Review  
23 Council has reached no decision within thirty days shall be  
24 referred to the President. Any application not approved or  
25 disapproved within one hundred and eighty days from initial

1 receipt by the Department of Commerce shall be deemed to  
2 be approved and the license shall be issued by the Depart-  
3 ment of Commerce, unless the applicant has consented in  
4 writing to a longer period.

5 (d) The Secretary of Defense is authorized to review  
6 any proposed export of goods or technology to any country to  
7 which exports are controlled for national security purposes  
8 and shall determine, in consultation with the Secretary of  
9 Commerce and confirm in writing the types and categories of  
10 transactions which should be reviewed by the Secretary of  
11 Defense to carry out the purpose of this subsection. When-  
12 ever a license or other authority is requested for the export of  
13 goods or technology within such types or categories of trans-  
14 actions to any country to which exports are restricted for  
15 national security purposes, the Secretary of Commerce shall  
16 notify the Secretary of Defense of such request, and may not  
17 issue any license prior to the receipt of the recommendation  
18 of the Secretary of Defense or the expiration of thirty days  
19 after notification, whichever first occurs. The Secretary of  
20 Defense shall carefully consider all notifications submitted  
21 pursuant to this subsection and, not later than thirty days  
22 after notification of the request shall—

23 (1) recommend to the Secretary of Commerce that  
24 the proposed export be disapproved if he determines  
25 that the export of such goods or technology will make

1 a significant contribution, which would prove detrimental  
2 tal to the national security of the United States, to the  
3 military potential of such country or any other country;

4 (2) notify the Secretary of Commerce that he will  
5 interpose no objection if appropriate conditions de-  
6 signed to achieve the purposes of this Act are imposed;  
7 or

8 (3) indicate that he does not intend to interpose  
9 an objection to the export of such goods or technology.

10 If the Secretary of Commerce does not accept the recommen-  
11 dation of the Secretary of Defense, upon the request of the  
12 Secretary of Defense, the application shall be submitted to  
13 the Export Administration Review Council.

14 (e) The Secretary of State is authorized to review any  
15 proposed export of goods or technology to any country to  
16 which exports are restricted for foreign policy purposes and  
17 shall determine, in consultation with the Secretary of Com-  
18 merce, and confirm in writing the types and categories of  
19 transactions which should be reviewed by the Secretary of  
20 State to carry out the purpose of this subsection. Whenever a  
21 license is requested for the export of goods or technology  
22 within such types or categories of transactions to any country  
23 to which exports are restricted for foreign policy purposes,  
24 the Secretary of Commerce shall notify the Secretary of  
25 State of such request, and may not issue any license prior to

1 the receipt of the recommendation of the Secretary of State  
2 or the expiration of thirty days after notification, whichever  
3 first occurs. The Secretary of State shall carefully consider  
4 all notifications submitted to him pursuant to this subsection  
5 and, not later than thirty days after notification of the request  
6 shall—

7       (1) recommend to the Secretary of Commerce that  
8 the proposed export be disapproved if he determines  
9 that prohibiting the export of such goods or technology  
10 is necessary to further significantly the foreign policy  
11 of the United States or to fulfill its declared interna-  
12 tional obligations;

13       (2) notify the Secretary of Commerce that he will  
14 interpose no objection if appropriate conditions de-  
15 signed to achieve the purposes of this Act are imposed;  
16 or

17       (3) indicate that he does not intend to interpose  
18 an objection to the export of such goods or technology.

19 If the Secretary of Commerce does not accept the recommen-  
20 dation of the Secretary of State, upon the request of the Sec-  
21 retary of State, the application shall be submitted to the  
22 Export Administration Review Council.

23       (f) Notwithstanding any other provision of law, any de-  
24 partment, agency, or official of the Federal Government au-  
25 thorized to review or make recommendations with respect to

1 export license applications required pursuant to this Act shall  
2 determine, in consultation with the Secretary of Commerce,  
3 and confirm in writing the types and categories of transac-  
4 tions with specified countries which should be reviewed by  
5 such department, agency, or official. Whenever a license is  
6 requested for the export to such countries of goods or tech-  
7 nology within such types and categories of transactions, the  
8 Secretary of Commerce shall notify such department, agency,  
9 or official of such request, and may not issue any license prior  
10 to the receipt of the recommendation of such department,  
11 agency, or official, or the expiration of thirty days following  
12 such notification, whichever first occurs. Such department,  
13 agency, or official shall carefully consider all notifications  
14 submitted pursuant to this Act and, not later than thirty days  
15 after notification of the request shall—

16 (1) recommend to the Secretary of Commerce that  
17 the export of such goods or technology be disapproved;

18 (2) notify the Secretary of Commerce that such  
19 department, agency, or official will interpose no objec-  
20 tion if appropriate conditions are imposed; or

21 (3) indicate that such department, agency, or offi-  
22 cial does not intend to interpose an objection to the  
23 export of such goods or technology.

24 (g)(1) To effectuate the policy set forth in section 3  
25 (2)(A) of this Act, the Secretary of Commerce shall monitor

1 exports, and contracts for exports, of any goods (other than a  
2 commodity which is subject to the reporting requirements of  
3 section 812 of the Agricultural Act of 1970) when the  
4 volume of such exports in relation to domestic supply contrib-  
5 utes, or may contribute, to an increase in domestic prices or a  
6 domestic shortage, and such price increase or shortage has,  
7 or may have, a serious adverse impact on the economy or  
8 any sector thereof. Such monitoring shall commence at a  
9 time adequate to insure that data will be available which is  
10 sufficient to permit achievement of the policies of this Act.  
11 Information which the Secretary requires to be furnished in  
12 effecting such monitoring shall be confidential, except as pro-  
13 vided in paragraph (2) of this subsection and in the last two  
14 sentences of section 9(e) of this Act.

15 (2) The results of such monitoring shall, to the extent  
16 practicable, be aggregated and included in weekly reports  
17 setting forth, with respect to each item monitored, actual and  
18 anticipated exports, the destination by country, and the do-  
19 mestic and worldwide price, supply, and demand. Such re-  
20 ports may be made monthly if the Secretary determines that  
21 there is insufficient information to justify weekly reports.

22 (h) In imposing export controls to effectuate the policy  
23 stated in section 3(2)(A) of this Act, the President's authority  
24 shall include but not be limited to, the imposition of export  
25 license fees.

1           (i)(1) Notwithstanding any other provision of this Act  
2 and notwithstanding subsection (u) of section 28 of the Min-  
3 eral Leasing Act of 1920, no domestically produced crude oil  
4 transported by pipeline over rights-of-way granted pursuant  
5 to section 28 of such Act (except any such crude oil which  
6 (A) is exchanged in similar quantity for convenience or in-  
7 creased efficiency of transportation with persons or the gov-  
8 ernment of an adjacent foreign state, or (B) is temporarily  
9 exported for convenience or increased efficiency of transpor-  
10 tation across parts of an adjacent foreign state and reenters  
11 the United States) may be exported from the United States,  
12 its territories and possessions, during the two-year period be-  
13 ginning on the date of enactment of this Act, unless the re-  
14 quirements of paragraph (2) of this subsection are met.

15           (2) Crude oil subject to the prohibition contained in  
16 paragraph (1) may be exported only if—

17           (A) the President makes and publishes an express  
18 finding that exports of such crude oil—

19                   (i) will not diminish the total quantity or  
20 quality of petroleum available to the United  
21 States;

22                   (ii) will have a positive effect on consumer oil  
23 prices by decreasing the average crude oil acquisi-  
24 tion costs of refiners;

1 (iii) will be made only pursuant to contracts  
2 which may be terminated if the petroleum sup-  
3 plies of the United States are interrupted or seri-  
4 ously threatened;

5 (iv) are in the national interest; and

6 (v) are in accordance with the provisions of  
7 this Act; and

8 (B) the President reports such finding to the  
9 Congress.

10 If the Congress, within thirty days of continuous session after  
11 receipt of a report of the President under the preceding sen-  
12 tence, adopts a concurrent resolution stating expressly that it  
13 disapproves such export, the President shall promptly take  
14 all necessary steps to prevent such export. For the purpose of  
15 the preceding sentence—

16 (i) continuity of session is broken only by an ad-  
17 journment of Congress sine die; and

18 (ii) the days on which either House is not in ses-  
19 sion because of an adjournment of more than three  
20 days to a day certain are excluded in the computation  
21 of any period of time in which Congress is in continu-  
22 ous session.

23 (j) Petroleum products refined in United States Foreign  
24 Trade Zones, or in the United States Territory of Guam,  
25 from foreign crude oil shall be excluded from any quantitative

1 restrictions imposed pursuant to section 3(2)(A) of this Act,  
2 except that, if the Secretary of Commerce finds that a prod-  
3 uct is in short supply, the Secretary of Commerce may issue  
4 such rules and regulations as may be necessary to limit  
5 exports.

6       (k)(1) The authority conferred by this section shall not  
7 be exercised with respect to any agricultural commodity, in-  
8 cluding fats and oils or animal hides or skins, without the  
9 approval of the Secretary of Agriculture. The Secretary of  
10 Agriculture shall not approve the exercise of such authority  
11 with respect to any such commodity during any period for  
12 which the supply of such commodity is determined by him to  
13 be in excess of the requirements of the domestic economy,  
14 except to the extent the President determines that such exer-  
15 cise of authority is required to effectuate the policies set forth  
16 in sections 3(2) (B) or (C) of this Act. The Secretary of Agri-  
17 culture shall not approve the exercise of such authority with  
18 respect to any such commodity unless he has (i) given full  
19 consideration to the alternative of using the Commodity  
20 Credit Corporation to purchase such commodity and arrange  
21 sales to foreign governments in accordance with the provi-  
22 sions of the Commodity Credit Corporation Charter Act so as  
23 to stabilize markets and maximize returns to agricultural pro-  
24 ducers, and (ii) determined that export controls are preferable

1 to such use of the authority granted by the Commodity  
2 Credit Corporation Charter Act.

3 (2) Upon approval of the Secretary of Commerce, in  
4 consultation with the Secretary of Agriculture, agricultural  
5 commodities purchased by or for use in a foreign country may  
6 remain in the United States for export at a later date free  
7 from any quantitative limitations on export which may be  
8 imposed pursuant to section 2(2)(A) of this Act subsequent to  
9 such approval. The Secretary of Commerce may not grant  
10 approval hereunder unless he receives adequate assurance  
11 and, in conjunction with the Secretary of Agriculture, finds  
12 that such commodities will eventually be exported, that nei-  
13 ther the sale nor export thereof will result in an excessive  
14 drain of scarce materials and have a serious domestic infla-  
15 tionary impact, that storage of such commodities in the  
16 United States will not unduly limit the space available for  
17 storage of domestically owned commodities, and that the pur-  
18 pose of such storage is to establish a reserve of such com-  
19 modities for later use, not including resale to or use by an-  
20 other country. The Secretary of Commerce is authorized to  
21 issue such rules and regulations as may be necessary to im-  
22 plement this paragraph.

23 (4) Nothing in this Act or the rules or regulations there-  
24 under shall be construed to require authority or permission to

1 export, except where required by the President to effect the  
2 policies set forth in section 3 of this Act.

3 (m) The President may delegate the power, authority,  
4 and discretion conferred upon him by this Act to such depart-  
5 ments, agencies, or officials of the Government as he may  
6 deem appropriate, except that no authority under this Act  
7 may be delegated to, or exercised by, any official of any de-  
8 partment or agency whose head is not appointed by and with  
9 the advice and consent of the Senate.

10 FOREIGN BOYCOTTS

11 SEC. 5. (a)(1) For the purpose of implementing the poli-  
12 cies set forth in sections 3(5) (A) and (B), the President shall  
13 issue rules and regulations prohibiting any United States  
14 person, with respect to his activities in the interstate or for-  
15 eign commerce of the United States, from taking or knowing-  
16 ly agreeing to take any of the following actions with intent to  
17 comply with, further, or support any boycott fostered or im-  
18 posed by a foreign country against a country which is friendly  
19 to the United States and which is not itself the object of any  
20 form of boycott pursuant to United States law or regulation:

21 (A) Refusing, or requiring any other person to  
22 refuse, to do business with or in the boycotted country,  
23 with any business concern organized under the laws of  
24 the boycotted country, with any national or resident of  
25 the boycotted country, or with any other person, pur-

1 suant to an agreement with, a requirement of, or a re-  
2 quest from or on behalf of the boycotting country. The  
3 mere absence of a business relationship with or in the  
4 boycotted country with any business concern organized  
5 under the laws of the boycotted country, with any na-  
6 tional or resident of the boycotted country, or with any  
7 other person, does not indicate the existence of the  
8 intent required to establish a violation of rules and reg-  
9 ulations issued to carry out this subparagraph.

10 (B) Refusing, or requiring any other person to  
11 refuse, to employ or otherwise discriminating against  
12 any United States person on the basis of race, religion,  
13 sex, or national origin of that person or of any owner,  
14 officer, director, or employee of such person.

15 (C) Furnishing information with respect to the  
16 race, religion, sex, or national origin of any United  
17 States person or of any owner, officer, director, or em-  
18 ployee of such person.

19 (D) Furnishing information about whether any  
20 person has, has had, or proposes to have any business  
21 relationship (including a relationship by way of sale,  
22 purchase, legal or commercial representation, shipping  
23 or other transport, insurance, investment, or supply)  
24 with or in the boycotted country, with any business  
25 concern organized under the laws of the boycotted

1 country, with any national or resident of the boycotted  
2 country, or with any other person which is known or  
3 believed to be restricted from having any business rela-  
4 tionship with or in the boycotting country. Nothing in  
5 this paragraph shall prohibit the furnishing of normal  
6 business information in a commercial context as defined  
7 by the Secretary of Commerce.

8 (E) Furnishing information about whether any  
9 person is a member of, has made contributions to, or is  
10 otherwise associated with or involved in the activities  
11 of any charitable or fraternal organization which sup-  
12 ports the boycotted country.

13 (F) Paying, honoring, confirming, or otherwise im-  
14 plementing a letter of credit which contains any condi-  
15 tion or requirement compliance with which is prohibit-  
16 ed by rules and regulations issued pursuant to this  
17 paragraph, and no United States person shall, as a  
18 result of the application of this paragraph, be obligated  
19 to pay or otherwise honor or implement such letter of  
20 credit.

21 (2) Rules and regulations issued pursuant to paragraph  
22 (1) shall provide exceptions for—

23 (A) complying or agreeing to comply with require-  
24 ments (i) prohibiting the import of goods or services  
25 from the boycotted country or goods produced or serv-

1       ices provided by any business concern organized under  
2       the laws of the boycotted country or by nationals or  
3       residents of the boycotted country, or (ii) prohibiting  
4       the shipment of goods to the boycotting country on a  
5       carrier of the boycotted country, or by a route other  
6       than that prescribed by the boycotting country or the  
7       recipient of the shipment;

8           (B) complying or agreeing to comply with import  
9       and shipping document requirements with respect to  
10      the country of origin, the name of the carrier and route  
11      of shipment, the name of the supplier of the shipment  
12      or the name of the provider of other services, except  
13      that no information knowingly furnished or conveyed in  
14      response to such requirements may be stated in nega-  
15      tive, blacklisting, or similar exclusionary terms on or  
16      after June 22, 1978, other than with respect to carri-  
17      ers or route of shipment as may be permitted by such  
18      rules and regulations in order to comply with precau-  
19      tionary requirements protecting against war risks and  
20      confiscation;

21           (C) complying or agreeing to comply in the  
22      normal course of business with the unilateral and spe-  
23      cific selection by a boycotting country, or national or  
24      resident thereof, of carriers, insurers, suppliers of serv-  
25      ices to be performed within the boycotting country or

1 specific goods which, in the normal course of business,  
2 are identifiable by source when imported into the boy-  
3 cotted country;

4 (D) complying or agreeing to comply with export  
5 requirements of the boycotted country relating to ship-  
6 ments or transshipments of exports to the boycotted  
7 country, to any business concern of or organized under  
8 the laws of the boycotted country, or to any national  
9 or resident of the boycotted country;

10 (E) compliance by an individual or agreement by  
11 an individual to comply with the immigration or pass-  
12 port requirements of any country with respect to such  
13 individual or any member of such individual's family or  
14 with requests for information regarding requirements of  
15 employment of such individual within the boycotted  
16 country; and

17 (F) compliance by a United States person resident  
18 in a foreign country or agreement by such person to  
19 comply with the laws of that country with respect to  
20 his activities exclusively therein, and such rules and  
21 regulations may contain exceptions for such resident  
22 complying with the laws or regulations of that foreign  
23 country governing imports into such country of trade-  
24 marked, tradenamed, or similarly specifically identifi-  
25 able products, or components of products for his own

1 use, including the performance of contractual services  
2 within that country, as may be defined by such rules  
3 and regulations.

4 (3) Rules and regulations issued pursuant to paragraphs  
5 (2)(C) and (2)(F) shall not provide exceptions from para-  
6 graphs (1)(B) and (1)(C).

7 (4) Nothing in this subsection may be construed to su-  
8 percede or limit the operation of the antitrust or civil rights  
9 laws of the United States.

10 (5) Rules and regulations pursuant to this subsection  
11 shall be issued not later than 90 days after the date of enact-  
12 ment of this section and shall be issued in final form and  
13 become effective not later than 120 days after they are first  
14 issued, except that (A) rules and regulations prohibiting neg-  
15 ative certification may take effect not later than 1 year after  
16 the date of enactment of this section, and (B) a grace period  
17 shall be provided for the application of the rules and regula-  
18 tions issued pursuant to this subsection to actions taken pur-  
19 suant to a written contract or other agreement entered into  
20 on or before May 16, 1977. Such grace period shall end on  
21 December 31, 1978, except that the Secretary of Commerce  
22 may extend the grace period for not to exceed 1 additional  
23 year in any case in which the Secretary finds that good faith  
24 efforts are being made to renegotiate the contract or agree-  
25 ment in order to eliminate the provisions which are inconsist-

1 ent with the rules and regulations issued pursuant to para-  
2 graph (1).

3 (6) This Act shall apply to any transaction or activity  
4 undertaken, by or through a United States or other person,  
5 with intent to evade the provisions of this Act as implement-  
6 ed by the rules and regulations issued pursuant to this sub-  
7 section, and such rules and regulations shall expressly pro-  
8 vide that the exceptions set forth in paragraph (2) shall not  
9 permit activities or agreements (expressed or implied by a  
10 course of conduct, including a pattern of responses) otherwise  
11 prohibited, which are not within the intent of such  
12 exceptions.

13 (b)(1) In addition to the rules and regulations issued pur-  
14 suant to subsection (a) of this section, rules and regulations  
15 issued under section 4(b) of this Act shall implement the poli-  
16 cies set forth in section 3(5).

17 (2) Such rules and regulations shall require that any  
18 United States person receiving a request for the furnishing of  
19 information, the entering into or implementing of agreements,  
20 or the taking of any other action referred to in section 3(5)  
21 shall report that fact to the Secretary of Commerce, together  
22 with such other information concerning such request as the  
23 Secretary may require for such action as he may deem appro-  
24 priate for carrying out the policies of that section. Such  
25 person shall also report to the Secretary of Commerce

1 whether he intends to comply and whether he has complied  
2 with such request. Any report filed pursuant to this para-  
3 graph after the date of enactment of this section shall be  
4 made available promptly for public inspection and copying,  
5 except that information regarding the quantity, description,  
6 and value of any goods or technology to which such report  
7 relates may be kept confidential if the Secretary determines  
8 that disclosure thereof would place the United States person  
9 involved at a competitive disadvantage. The Secretary of  
10 Commerce shall periodically transmit summaries of the infor-  
11 mation contained in such reports to the Secretary of State for  
12 such action as the Secretary of State, in consultation with  
13 the Secretary of Commerce, may deem appropriate for carry-  
14 ing out the policies set forth in section 3(5) of this Act.

15       PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT

16                               CONTROLS

17       SEC. 6. (a) Any person who, in his domestic manufac-  
18 turing process or other domestic business operation, utilizes a  
19 product produced abroad in whole or in part from a commod-  
20 ity historically obtained from the United States but which has  
21 been made subject to export controls, or any person who  
22 historically has exported such a commodity, may transmit a  
23 petition of hardship to the Secretary of Commerce requesting  
24 an exemption from such controls in order to alleviate any  
25 unique hardship resulting from the imposition of such con-

1 trols. A petition under this section shall be in such form as  
2 the Secretary of Commerce shall prescribe and shall contain  
3 information demonstrating the need for the relief requested.

4 (b) Not later than thirty days after receipt of any peti-  
5 tion under subsection (a), the Secretary of Commerce shall  
6 transmit a written decision to the petitioner granting or deny-  
7 ing the requested relief. Such decision shall contain a state-  
8 ment setting forth the Secretary's basis for the grant or  
9 denial. Any exemption granted may be subject to such condi-  
10 tions as the Secretary deems appropriate.

11 (c) For purposes of this section, the Secretary's decision  
12 with respect to the grant or denial of relief from unique hard-  
13 ship resulting directly or indirectly from the imposition of  
14 controls shall reflect the Secretary's consideration of such  
15 factors as—

16 (1) whether denial would cause a unique hardship  
17 to the petitioner which can be alleviated only by grant-  
18 ing an exception to the applicable regulations. In de-  
19 termining whether relief shall be granted, the Secre-  
20 tary will take into account:

21 (A) ownership of material for which there is  
22 not practicable domestic market by virtue of the  
23 location or nature of the material;

24 (B) potential serious financial loss to the ap-  
25 plicant if not granted an exception;

1           (C) inability to obtain, except through  
2 import, an item essential for domestic use which  
3 is produced abroad from the commodity under  
4 control;

5           (D) the extent to which denial would conflict,  
6 to the particular detriment of the applicant, with  
7 other national policies including those reflected in  
8 any international agreement to which the United  
9 States is a party;

10           (E) possible adverse effects on the economy  
11 (including unemployment) in any locality or region  
12 of the United States; and

13           (F) other relevant factors, including the ap-  
14 plicant's lack of an exporting history during any  
15 base period that may be established with respect  
16 to export quotas for the particular commodity; and

17           (2) the effect a finding in favor of the applicant  
18 would have on attainment of the basic objectives of the  
19 short supply control program.

20 In all cases, the desire to sell at higher prices and thereby  
21 obtain greater profits will not be considered as evidence of a  
22 unique hardship, nor will circumstances where the hardship is  
23 due to imprudent acts or failure to act on the part of the  
24 petitioner.



1 ment; and vessels for transporting oil, gas, coal, and other  
2 fuels.

3 (b)(1) In authorizing exports, full utilization of private  
4 competitive trade channels shall be encouraged insofar as  
5 practicable, giving consideration to the interests of small  
6 business, merchant exporters as well as producers, and estab-  
7 lished and new exporters, and provision shall be made for  
8 representative trade consultation to that end. In addition,  
9 there may be applied such other standards or criteria as may  
10 be deemed necessary by the head of such department, or  
11 agency, or official to carry out the policies of this Act.

12 (2) Upon imposing quantitative restrictions on exports of  
13 any goods or technology to carry out the policy stated in  
14 section 3(2)(A) of this Act, the Secretary of Commerce shall  
15 include in the notice published in the Federal Register an  
16 invitation to all interested parties to submit written com-  
17 ments within fifteen days from the date of publication of the  
18 impact of such restrictions and the method of licensing used  
19 to implement them.

20 (c)(1) Upon written request by representatives of a sub-  
21 stantial segment of any industry which produces goods or  
22 technology which are subject to export controls or are being  
23 considered for such controls because of their significance to  
24 the national security of the United States, the Secretary of  
25 Commerce shall appoint a technical advisory committee for

1 any grouping of such goods or technology which he deter-  
2 mines is difficult to evaluate because of questions concerning  
3 technical matters, worldwide availability and actual utiliza-  
4 tion of production and technology, or licensing procedures.  
5 Each such committee shall consist of representatives of  
6 United States industry and government, including the De-  
7 partments of Commerce, Defense, and State, and, when ap-  
8 propriate, other Government departments and agencies. No  
9 person serving on any such committee who is representative  
10 of industry shall serve on such committee for more than four  
11 consecutive years.

12 (2) It shall be the duty and function of the technical  
13 advisory committees established under paragraph (1) to  
14 advise and assist the Secretary of Commerce and any other  
15 department, agency, or official of the Government of the  
16 United States to which the President has delegated power,  
17 authority, and discretion under section 4(e) with respect to  
18 actions designed to carry out the policy set forth in section 3  
19 of this Act. Such committees, where they have expertise in  
20 such matters, shall be consulted with respect to questions  
21 involving (A) technical matters, (B) worldwide availability  
22 and actual utilization of production technology, (C) licensing  
23 procedures which affect the level of export controls applica-  
24 ble to any goods or technology, and (D) exports subject to  
25 multilateral controls in which the United States participates

1 including proposed revisions of any such multilateral controls.  
2 The Secretary shall include in each report required by section  
3 11 of this Act an accounting of the consultation undertaken  
4 pursuant to this paragraph, the use made of the advice ren-  
5 dered by the technical advisory committees pursuant to this  
6 paragraph, and the contributions of the technical advisory  
7 committees to carrying out the policies of this Act. Nothing  
8 in this subsection shall prevent the Secretary from consult-  
9 ing, at any time, with any person representing industry or  
10 the general public regardless of whether such person is a  
11 member of a technical advisory committee. Members of the  
12 public shall be given a reasonable opportunity, pursuant to  
13 regulations prescribed by the Secretary of Commerce, to  
14 present evidence to such committees.

15 (3) Upon request of any member of any such committee,  
16 the Secretary may, if he determines it appropriate, reimburse  
17 such member for travel, subsistence, and other necessary ex-  
18 penses incurred by him in connection with his duties as a  
19 member.

20 (4) Each such committee shall elect a chairman, and  
21 shall meet at least every three months at the call of the  
22 Chairman, unless the Chairman determines, in consultation  
23 with the other members of the committee, that such a meet-  
24 ing is not necessary to achieve the purposes of this Act. Each  
25 such committee shall be terminated after a period of two

1 years, unless extended by the Secretary for additional periods  
2 of two years. The Secretary shall consult each such commit-  
3 tee with regard to such termination or extension of that  
4 committee.

5 (5) To facilitate the work of the technical advisory com-  
6 mittees, the Secretary of Commerce, in conjunction with  
7 other departments and agencies participating in the adminis-  
8 tration of this Act, shall disclose to each such committee ade-  
9 quate information, consistent with national security, pertain-  
10 ing to the reasons for the export controls which are in effect  
11 or contemplated for the grouping of goods or technology with  
12 respect to which that committee furnishes advice.

13 (6) Whenever a technical advisory committee certifies to  
14 the Secretary of Commerce that goods or technology have  
15 become or will imminently become available in fact from  
16 sources outside the United States in sufficient quantity and of  
17 comparable quality so as to render United States export con-  
18 trols ineffective in achieving the purposes of this Act, and  
19 provides adequate documentation for such certification, the  
20 Secretary of Commerce shall either remove export controls  
21 on such goods or technology or submit a recommendation to  
22 the President regarding the termination or continuation of  
23 such controls.

## VIOLATIONS

1

2       SEC. 8. (a) Except as provided in subsection (b) of this  
3 section, whoever knowingly violates any provision of this Act  
4 or any regulation, order, or license issued thereunder shall be  
5 fined not more than \$25,000 or imprisoned not more than  
6 one year, or both. For a second or subsequent offense, the  
7 offender shall be fined not more than three times the value of  
8 the exports involved or \$50,000, whichever is greater, or  
9 imprisoned not more than five years, or both.

10       (b) Whoever willfully exports anything contrary to any  
11 provision of this Act or any regulation, order, or license  
12 issued thereunder, with knowledge that such exports will be  
13 used for the benefit of any country to which exports are re-  
14 stricted for national security or foreign policy purposes, shall  
15 be fined not more than five times the value of the exports  
16 involved or \$50,000, whichever is greater, or imprisoned not  
17 more than five years, or both.

18       (c)(1) The head of any department or agency exercising  
19 any functions under this Act, or any officer or employee of  
20 such department or agency specifically designated by the  
21 head thereof, may impose a civil penalty not to exceed  
22 \$10,000 for each violation of this Act or any regulation,  
23 order, or license issued under this Act, either in addition to or  
24 in lieu of any other liability or penalty which may be  
25 imposed.

1           (2)(A) The authority under this Act to suspend or  
2 revoke the authority of any United States person to export  
3 goods or technology may be used with respect to any viola-  
4 tion of the rules and regulations issued pursuant to section  
5 5(a) of this Act.

6           (B) Any administrative sanction (including any civil pen-  
7 alty or any suspension or revocation of authority to export)  
8 imposed under this Act for a violation of the rules and regula-  
9 tions issued pursuant to section 5(a) of this Act may be im-  
10 posed only after notice and opportunity for an agency hearing  
11 on the record in accordance with sections 554 through 557 of  
12 title 5, United States Code.

13           (C) Any charging letter or other document initiating ad-  
14 ministrative proceedings for the imposition of sanctions for  
15 violations of the rules and regulations issued pursuant to see-  
16 tion 5(a) of this Act shall be made available for public inspec-  
17 tion and copying.

18           (d) The payment of any penalty imposed pursuant to  
19 subsection (c) may be made a condition, for a period not ex-  
20 ceeding one year after the imposition of such penalty, to the  
21 granting, restoration, or continuing validity of any export li-  
22 cense, permission, or privilege granted or to be granted to  
23 the person upon whom such penalty is imposed. In addition,  
24 the payment of any penalty imposed under subsection (c) may  
25 be deferred or suspended in whole or in part for a period of

1 time no longer than any probation period (which may exceed  
2 one year) that may be imposed upon such person. Such a  
3 deferral or suspension shall not operate as a bar to the collec-  
4 tion of the penalty in the event that the conditions of the  
5 suspension, deferral, or probation are not fulfilled.

6 (e) Any amount paid in satisfaction of any penalty im-  
7 posed pursuant to subsection (c) shall be covered into the  
8 Treasury as a miscellaneous receipt. The head of the depart-  
9 ment or agency concerned may, in his discretion, refund any  
10 such penalty, within two years after payment, on the ground  
11 of a material error of fact or law in the imposition. Notwith-  
12 standing section 1346(a) of title 28, United States Code, no  
13 action for the refund of any such penalty may be maintained  
14 in any court.

15 (f) In the event of the failure of any person to pay a  
16 penalty imposed pursuant to subsection (c), a civil action for  
17 the recovery thereof may, in the discretion of the head of the  
18 department or agency concerned, be brought in the name of  
19 the United States. In any such action, the court shall deter-  
20 mine de novo all issues necessary to the establishment of  
21 liability. Except as provided in this subsection and in subsec-  
22 tion (d), no such liability shall be asserted, claimed, or recov-  
23 ered upon by the United States in any way unless it has  
24 previously been reduced to judgment.

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



1 in the case of contumacy by, or refusal to obey a subpoena  
2 issued to, any such person, the district court of the United  
3 States for any district in which such person is found or re-  
4 sides or transacts business, upon application, and after notice  
5 to any such person and hearing, shall have jurisdiction to  
6 issue an order requiring such person to appear and give testi-  
7 mony or to appear and produce books, records, and other  
8 writings, or both, and any failure to obey such order of the  
9 court may be punished by such court as a contempt thereof.

10 (b) No person shall be excused from complying with any  
11 requirements under this section because of his privilege  
12 against self-incrimination, but the immunity provisions of the  
13 Compulsory Testimony Act of February 11, 1903 (27 Stat.  
14 443; 49 U.S.C. 46) shall apply with respect to any individual  
15 who specifically claims such privilege.

16 (c) Except as otherwise provided by the third sentence  
17 of section 5(b)(2) and by section 8(e)(2)(C) of this Act, infor-  
18 mation obtained under this Act, which is deemed confidential  
19 or with reference to which a request for confidential treat-  
20 ment is made by the person furnishing such information, shall  
21 be exempt from disclosure under section 552(b)(3)(B) of title  
22 5, United States Code, and such information shall not be  
23 published or disclosed unless the Secretary of Commerce de-  
24 termines that the withholding thereof is contrary to the na-  
25 tional interest. Nothing in this Act shall be construed as au-

1 authorizing the withholding of information from Congress, and  
2 all information obtained at any time under this Act or previ-  
3 ous Acts regarding the control of exports, including any  
4 report or license application required under section 4(a), shall  
5 be made available upon request to any committee or subcom-  
6 mittee of Congress of appropriate jurisdiction. No such com-  
7 mittee or subcommittee shall disclose any information ob-  
8 tained under this Act or previous Acts regarding the control  
9 of exports which is submitted on a confidential basis unless  
10 the full committee determines that the withholding thereof is  
11 contrary to the national interest.

12 (d) In the administration of this Act, reporting require-  
13 ments shall be so designed as to reduce the cost of reporting,  
14 recordkeeping, and export documentation required under this  
15 Act to the extent feasible consistent with effective enforce-  
16 ment and compilation of useful trade statistics. Reporting,  
17 recordkeeping, and export documentation requirements shall  
18 be periodically reviewed and revised in the light of develop-  
19 ments in the field of information technology. A detailed state-  
20 ment with respect to any action taken in compliance with this  
21 subsection shall be included in the report required by section  
22 11 of this Act.

23 (e) The Secretary of Commerce, in consultation with ap-  
24 propriate United States Government departments and agen-  
25 cies and with appropriate technical advisory committees es-

1 tablished under section 7(e), shall review the rules and regu-  
2 lations issued under this Act and the lists of goods and tech-  
3 nology which are subject to export controls in order to deter-  
4 mine how compliance with the provisions of this Act, can be  
5 facilitated by simplifying such rules and regulations, by sim-  
6 plifying or clarifying such lists, or by any other means. The  
7 Secretary of Commerce shall report periodically to Congress  
8 on the actions taken on the basis of such review to simplify  
9 such rules and regulations. Such reports may be included in  
10 the report required by section 11 of this Act.

11 EXEMPTION FROM CERTAIN PROVISIONS RELATING TO  
12 ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

13 SEC. 10. The functions exercised under this Act shall be  
14 subject to the provisions of sections 551, 553 through 559,  
15 and 701 through 706 of title 5, United States Code, except in  
16 those cases described in regulations prescribed by the Secre-  
17 tary of Commerce where applicability of such provisions  
18 would be inconsistent with the purposes of this Act, but such  
19 regulations may not apply to any case described in section  
20 8(e)(2) or 9(e) of this Act.

21 ANNUAL REPORT

22 SEC. 11. (a) The Secretary of Commerce shall make an  
23 annual report to the President and to the Congress of his  
24 operations hereunder.

1 (b)(1) Each such report shall include summaries of the  
2 information contained in the reports required by section  
3 4(e)(2) of this Act, together with an analysis by the Secretary  
4 of Commerce of—

5 (A) the impact on the economy and world trade of  
6 shortages or increased prices for goods and technology  
7 subject to monitoring under this Act;

8 (B) the worldwide supply of such goods and tech-  
9 nology; and

10 (C) actions taken by other nations in response to  
11 such shortages or increased prices.

12 (2) Each such report shall also contain an analysis by  
13 the Secretary of Commerce of—

14 (A) the impact on the economy and world trade of  
15 shortages or increased prices for commodities subject  
16 to the reporting requirements of section 812 of the Ag-  
17 ricultural Act of 1970;

18 (B) the worldwide supply of such commodities;  
19 and

20 (C) actions being taken by other nations in re-  
21 sponse to such shortages or increased prices.

22 The Secretary of Agriculture shall fully cooperate with the  
23 Secretary of Commerce in providing all information required  
24 by the Secretary of Commerce in making such analysis.

25 (c) Each such report shall include—





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

5 AUTHORIZATION OF APPROPRIATIONS

6 SEC. 14. (a) Notwithstanding any other provision of  
7 law, no appropriation shall be made under any law to the  
8 Department of Commerce for expenses to carry out the pur-  
9 poses of this Act for any fiscal year commencing on or after  
10 October 1, 1980, unless previously and specifically author-  
11 ized by legislation.

12 (b) There are authorized to be appropriated to the De-  
13 partment of Commerce \$8,000,000 (and such additional  
14 amounts as may be necessary for increases in salary, pay,  
15 retirement, other employee benefits authorized by law, and  
16 other nondiscretionary costs) for fiscal year 1980 to carry out  
17 the purposes of this Act, of which \$1,250,000 shall be availa-  
18 ble only for the Office of Foreign Product and Technology  
19 Assessment.

20 EFFECTIVE DATE

21 SEC. 15. (a) This Act takes effect upon the expiration of  
22 the Export Administration Act of 1969.

23 (b) All outstanding delegations, rules, regulations,  
24 orders, licenses, or other forms of administrative action under  
25 the Export Control Act of 1949 or section 6 of the Act of

1 July 2, 1940 (54 Stat. 714), of the Export Administration  
2 Act of 1969 shall, until amended or revoked, remain in full  
3 force and effect, the same as if promulgated under this Act.

4 **TERMINATION DATE**

5 **SEC. 16.** The authority granted by this Act terminates  
6 on September 30, 1983, or upon any prior date which the  
7 President by proclamation may designate.

8 *That this Act may be cited as the "Export Administration*  
9 *Act of 1979".*

10 **FINDINGS**

11 **SEC. 2.** *The Congress makes the following findings:*

12 *(1) The ability of United States citizens to engage*  
13 *in international commerce is a fundamental concern of*  
14 *United States policy.*

15 *(2) Exports contribute significantly to the balance*  
16 *of trade, employment, and production of the United*  
17 *States.*

18 *(3) The availability of certain materials at home*  
19 *and abroad varies so that the quantity and composition*  
20 *of United States exports and their distribution among*  
21 *importing countries may affect the welfare of the do-*  
22 *mestic economy and may have an important bearing*  
23 *upon fulfillment of the foreign policy of the United*  
24 *States.*

1           (4) *Exports of goods or technology without regard*  
2 *to whether they make a significant contribution to the*  
3 *military potential of individual countries or combina-*  
4 *tions of countries may adversely affect the national se-*  
5 *curity of the United States.*

6           (5) *The restriction of exports from the United*  
7 *States can have serious adverse effects on the balance*  
8 *of payments and on domestic employment, particularly*  
9 *when restrictions applied by the United States are*  
10 *more extensive than those imposed by other countries.*

11          (6) *Uncertainty of export control policy can cur-*  
12 *tail the efforts of American business to the detriment of*  
13 *the overall attempt to improve the trade balance of the*  
14 *United States and to decrease domestic unemployment.*

15          (7) *Unreasonable restrictions on access to world*  
16 *supplies can cause worldwide political and economic*  
17 *instability, interfere with free international trade, and*  
18 *retard the growth and development of nations.*

19          (8) *It is important that the administration of*  
20 *export controls imposed for national security purposes*  
21 *give special emphasis to the need to control exports of*  
22 *technology (and goods which contribute significantly to*  
23 *the transfer of such technology) which could make a*  
24 *significant contribution to the military potential of any*  
25 *country or combination of countries which would be*

1       *detrimental to the national security of the United*  
2       *States.*

3                               *DECLARATION OF POLICY*

4       *SEC. 3. The Congress makes the following declarations:*

5               *(1) It is the policy of the United States to mini-*  
6       *mize uncertainties in export control policy and to en-*  
7       *courage trade with all countries with which we have*  
8       *diplomatic or trading relations, except those countries*  
9       *with which such trade has been determined by the*  
10       *President to be against the national interest.*

11              *(2) It is the policy of the United States to restrict*  
12       *the ability to export only after full consideration of the*  
13       *impact on the economy of the United States and only*  
14       *to the extent necessary—*

15                      *(A) to prevent the export of goods and tech-*  
16       *nology which would make a significant contribu-*  
17       *tion to the military potential of any other nation*  
18       *or nations which would prove detrimental to the*  
19       *national security of the United States;*

20                      *(B) to further significantly the foreign policy*  
21       *of the United States or to fulfill its declared in-*  
22       *ternational obligations; and*

23                      *(C) to protect the domestic economy from the*  
24       *excessive drain of scarce materials and to reduce*  
25       *the serious inflationary impact of foreign demand.*

1           (3) *It is the policy of the United States (A) to*  
2           *apply any necessary controls to the maximum extent*  
3           *possible in cooperation with all nations, and (B) to en-*  
4           *courage observance of a uniform export control policy*  
5           *by all nations with which the United States has de-*  
6           *fense treaty commitments.*

7           (4) *It is the policy of the United States to use its*  
8           *economic resources and trade potential to further the*  
9           *sound growth and stability of its economy as well as to*  
10          *further its national security and foreign policy objec-*  
11          *tives.*

12          (5) *It is the policy of the United States—*

13                 (A) *to oppose restrictive trade practices or*  
14                 *boycotts fostered or imposed by foreign countries*  
15                 *against other countries friendly to the United*  
16                 *States or against any United States person;*

17                 (B) *to encourage and, in specified cases, re-*  
18                 *quire United States persons engaged in the export*  
19                 *of goods and technology or other information to*  
20                 *refuse to take actions, including furnishing infor-*  
21                 *mation or entering into or implementing agree-*  
22                 *ments, which have the effect of furthering or sup-*  
23                 *porting the restrictive trade practices or boycotts*  
24                 *fostered or imposed by any foreign country*

1           *against a country friendly to the United States or*  
2           *against any United States person; and*

3                   *(C) to foster international cooperation and*  
4           *the development of international rules and institu-*  
5           *tions to assure reasonable access to world sup-*  
6           *plies.*

7           *(6) It is the policy of the United States that the*  
8           *desirability of subjecting, or continuing to subject, par-*  
9           *ticular goods or technology or other information to*  
10          *United States export controls should be subjected to*  
11          *review by and consultation with representatives of ap-*  
12          *propriate United States Government agencies and pri-*  
13          *vate industry.*

14                  *(7) It is the policy of the United States to use*  
15          *export controls, including license fees, to secure the re-*  
16          *moval by foreign countries of restrictions on access to*  
17          *supplies where such restrictions have or may have a*  
18          *serious domestic inflationary impact, have caused or*  
19          *may cause a serious domestic shortage, or have been*  
20          *imposed for purposes of influencing the foreign policy*  
21          *of the United States. In effecting this policy, the*  
22          *President shall make every reasonable effort to secure*  
23          *the removal or reduction of such restrictions, policies,*  
24          *or actions through international cooperation and agree-*  
25          *ment before resorting to the imposition of controls on*

1        *exports from the United States. No action taken in ful-*  
2        *fillment of the policy set forth in this paragraph shall*  
3        *apply to the export of medicine or medical supplies.*

4                *(8) It is the policy of the United States to use*  
5        *export controls to encourage other countries to take im-*  
6        *mediate steps to prevent the use of their territories or*  
7        *resources to aid, encourage, or give sanctuary to those*  
8        *persons involved in directing, supporting, or participat-*  
9        *ing in acts of international terrorism. To achieve this*  
10       *objective, the President shall make every reasonable*  
11       *effort to secure the removal or reduction of such assist-*  
12       *ance to international terrorists through international*  
13       *cooperation and agreement before resorting to the impo-*  
14       *sition of export controls.*

15                *(9) It is the policy of the United States to cooper-*  
16       *ate with other nations with which the United States*  
17       *has defense treaty commitments in restricting the*  
18       *export of goods and technology which would make a*  
19       *significant contribution to the military potential of any*  
20       *country or combination of countries which would prove*  
21       *detrimental to the security of the United States or to*  
22       *the security of those countries with which the United*  
23       *States has defense treaty commitments.*

## AUTHORITY

1  
2       *SEC. 4. (a)(1) To the extent necessary to carry out the*  
3 *policies set forth in section 3 of this Act, the President, by*  
4 *rule or regulation, may prohibit or curtail the export of any*  
5 *goods or technology, or for the purpose of section 5 informa-*  
6 *tion, subject to the jurisdiction of the United States or ex-*  
7 *ported by any person subject to the jurisdiction of the United*  
8 *States. To the extent necessary to achieve effective enforce-*  
9 *ment of this Act, these rules and regulations may apply to the*  
10 *financing, transporting, and other servicing of exports and*  
11 *the participation therein by any person. In curtailing exports*  
12 *to carry out the policy set forth in section 3(2)(C) of this Act,*  
13 *the President is authorized and directed to allocate a portion*  
14 *of export licenses on the basis of factors other than a prior*  
15 *history of exportation.*

16       *(2)(A) In administering export controls for national se-*  
17 *curity purposes as prescribed in section 3(2)(A) of this Act,*  
18 *United States policy toward individual countries shall not be*  
19 *determined exclusively on the basis of a country's Commu-*  
20 *nist or non-Communist status but shall take into account*  
21 *such factors as the country's present and potential relation-*  
22 *ship to the United States, its present and potential relation-*  
23 *ship to countries friendly or hostile to the United States, its*  
24 *ability and willingness to control retransfers of United*  
25 *States exports in accordance with United States policy, and*

1 *such other factors as the President may deem appropriate.*  
2 *The President shall review not less frequently than every*  
3 *three years in the case of controls maintained cooperatively*  
4 *with other nations, and annually in the case of all other con-*  
5 *trols, United States policy toward individual countries to de-*  
6 *termine whether such policy is appropriate in light of the*  
7 *factors specified in the preceding sentence.*

8       *(B) Rules and regulations under this subsection to*  
9 *carry out the policy set forth in section 3(2)(A) of this Act*  
10 *may provide for denial of any request or application for au-*  
11 *thority to export goods or technology from the United States,*  
12 *its territories and possessions, which would make a signifi-*  
13 *cant contribution to the military potential of any nation or*  
14 *combination of nations threatening the national security of*  
15 *the United States if the President determines that their*  
16 *export could prove detrimental to the national security of the*  
17 *United States. In administering export controls for national*  
18 *security purposes as prescribed in section 3(2)(A) of this Act,*  
19 *priority shall be given to preventing the effective transfer to*  
20 *countries to which exports are controlled for national security*  
21 *purposes of goods and technology critical to the design, devel-*  
22 *opment, production, or use of military systems which would*  
23 *make a significant contribution to the military potential of*  
24 *any nation or nations which could prove detrimental to the*  
25 *national security of the United States. The Secretary of*

1 *Commerce, in consultation with the Secretary of Defense,*  
2 *shall review and revise not less frequently than every three*  
3 *years in the case of controls maintained cooperatively with*  
4 *other nations, and annually in the case of all other controls,*  
5 *export controls maintained for national security purposes*  
6 *pursuant to this Act for the purpose of insuring that such*  
7 *controls are limited, to the maximum extent possible consist-*  
8 *ent with the purposes of this Act, to such militarily critical*  
9 *goods and technologies and the mechanisms through which*  
10 *they may be effectively transferred.*

11 *(C) Export controls maintained for foreign policy pur-*  
12 *poses shall expire on December 31, 1979, or one year after*  
13 *imposition, whichever is later, unless extended by the Presi-*  
14 *dent in accordance with this subparagraph and subparagraph*  
15 *(D). Any such extension and any subsequent extension shall*  
16 *not be for a period of more than one year. When imposing,*  
17 *increasing, or extending export controls for foreign policy*  
18 *purposes pursuant to the authority provided by this Act, the*  
19 *President shall consider—*

20 *(i) alternative means to further the foreign policy*  
21 *purposes in question;*

22 *(ii) the likelihood that foreign competitors will*  
23 *join the United States in effectively controlling such*  
24 *exports;*

1           (iii) the probability that such controls will achieve  
2           the intended foreign policy purpose;

3           (iv) the effect of such controls on United States  
4           exports, employment, and production, and on the inter-  
5           national reputation of the United States as a supplier  
6           of goods and technology;

7           (v) the reaction of other countries to the imposi-  
8           tion or enlargement of such export controls by the  
9           United States; and

10          (vi) the foreign policy consequences of not impos-  
11          ing controls.

12          (D) Whenever the President imposes, increases, or ex-  
13          tends export controls for foreign policy purposes pursuant to  
14          authority provided by this Act, he shall inform the Congress  
15          of his action within thirty days and, to the extent consistent  
16          with the national interest, make public a report specifying  
17          his conclusions with respect to each of the matters considered  
18          as provided in subparagraph (C) of this paragraph and indi-  
19          cating how such export controls will further significantly the  
20          foreign policy of the United States or fulfill its declared in-  
21          ternational obligations.

22          (E) The President shall not impose export controls for  
23          foreign policy or national security purposes on the export  
24          from the United States of goods or technology which he deter-  
25          mines are available without restriction from sources outside

1 *the United States in significant quantities and comparable*  
2 *in quality to those produced in the United States, unless the*  
3 *President determines that adequate evidence has been pre-*  
4 *sented to him demonstrating that the absence of such controls*  
5 *would prove detrimental to the foreign policy or national se-*  
6 *curity of the United States. Where, in accordance with this*  
7 *paragraph, export controls are imposed for foreign policy or*  
8 *national security purposes notwithstanding foreign availabil-*  
9 *ity, the President shall take steps to initiate negotiations with*  
10 *the governments of the appropriate foreign countries for the*  
11 *purpose of eliminating such availability.*

12       **(b)(1)** *Except as otherwise provided in this Act, the Sec-*  
13 *retary of Commerce shall reorganize the Department of Com-*  
14 *merce as necessary to effectuate the policies set forth in this*  
15 *Act. The Secretary of Commerce shall prepare and maintain*  
16 *a list of goods and technology the export of which from the*  
17 *United States, its territories and possessions, is prohibited or*  
18 *regulated pursuant to this Act. The Secretary shall review*  
19 *such list not less frequently than every three years in the case*  
20 *of controls maintained cooperatively with other nations, and*  
21 *annually in the case of all other controls, in order to make*  
22 *promptly such changes and revisions as may be necessary or*  
23 *desirable in furtherance of the policies set forth in this Act.*  
24 *The Secretary shall include in each review an assessment of*  
25 *the availability from sources outside the United States, its*

1 territories and possessions, of goods and technology in sig-  
2 nificant quantities and comparable in quality to those items  
3 included on such list. In order to further effectuate the poli-  
4 cies set forth in this Act, the Secretary shall establish within  
5 the Office of Export Administration a capability for monitor-  
6 ing and gathering information on the foreign availability of  
7 goods and technology subject to export control.

8 (2) The Secretary of Commerce shall keep the public  
9 fully apprised of changes in export control policy and proce-  
10 dures instituted in conformity with this Act with a view to  
11 encouraging trade. The Secretary shall meet regularly with  
12 representatives of the business sector in order to obtain their  
13 views on export control policy and the foreign availability of  
14 goods and technology.

15 (c)(1)(A) To effectuate the policies set forth in this Act,  
16 the Secretary of Commerce shall establish at least the follow-  
17 ing three types of licenses in addition to such other types as  
18 the Secretary may deem appropriate:

19 (i) A validated license.

20 (ii) A qualified general license.

21 (iii) A general license.

22 (B) As used in this subsection—

23 (i) a “validated license” is a license authorizing  
24 the export of goods or technology pursuant to an appli-  
25 cation by an exporter in accordance with rules and

1 regulations issued pursuant to this Act. A validated li-  
2 cense may be required for the export of goods and tech-  
3 nology subject to multilateral controls in which the  
4 United States participates or as determined pursuant  
5 to paragraph (2) of this subsection;

6 (ii) a "qualified general license" is a license au-  
7 thORIZING the export to any destination of goods or tech-  
8 nology, or a class of goods or technology, subject to the  
9 conditions contained in rules and regulations issued  
10 pursuant to this Act, including conditions pertaining to  
11 approval of the particular consignee and end-use of the  
12 goods or technology. The goods and technology subject  
13 to control by qualified general license shall be deter-  
14 mined pursuant to paragraph (2) of this subsection;  
15 and

16 (iii) a "general license" is a license authorizing  
17 the export of a class of goods or technology without spe-  
18 cific approval if the export is effected in accordance  
19 with the conditions contained in rules and regulations  
20 issued pursuant to this Act.

21 (2) To effectuate the policies set forth in section 3 of this  
22 Act, it is the intent of Congress that the use of validated  
23 licenses be limited to the greatest extent possible to the control  
24 of the export of goods and technology which are subject to  
25 multilateral controls in which the United States participates.

1 *To the extent that the President determines that the policies*  
2 *set forth in section 3 of this Act require the control of the*  
3 *export of other goods and technology, or more stringent con-*  
4 *trols than the multilateral controls, he will report to the Con-*  
5 *gress not later than six months after the date of enactment of*  
6 *this Act, and thereafter in each annual report, the reasons for*  
7 *the need to impose, or to continue to impose, such controls. It*  
8 *is further the intent of Congress that export controls which*  
9 *exceed the multilateral controls shall be effected to the great-*  
10 *est extent possible consistent with the purposes of this Act by*  
11 *means of qualified general licenses.*

12       (3) *Not later than sixty days after the date of enactment*  
13 *of this Act, the Secretary of Commerce shall establish proce-*  
14 *dures for the approval of goods and technology that may be*  
15 *exported pursuant to a qualified general license.*

16       (d)(1)(A) *All export license applications required under*  
17 *this Act shall be submitted by the applicant to the Secretary.*  
18 *All determinations with respect to any such application shall*  
19 *be made by the Secretary, subject to the procedures provided*  
20 *in this subsection.*

21       (B) *It is the intent of Congress that a determination*  
22 *with respect to any export license application be made to the*  
23 *maximum extent possible by the Secretary without referral of*  
24 *such application to any other Government agency.*

1           (C) To the extent necessary, the Secretary shall seek  
2 information and recommendations from the several executive  
3 departments and independent agencies concerned with aspects  
4 of our domestic and foreign policies and operations having an  
5 important bearing on exports. These departments and agen-  
6 cies shall cooperate fully in rendering such information and  
7 recommendations.

8           (2) Within ten days after the date on which any export  
9 license application is received, the Secretary shall—

10           (A) send the applicant an acknowledgement of the  
11 receipt of the application and the date of the receipt;

12           (B) submit to the applicant a written description  
13 of the procedures required by this subsection, the re-  
14 sponsibilities of the Secretary and of other agencies  
15 with respect to the application, and the rights of the  
16 applicant;

17           (C) return the application without action if the  
18 application is improperly completed or if additional in-  
19 formation is required, with sufficient information to  
20 permit the application to be properly resubmitted, in  
21 which case if such application is resubmitted, it shall  
22 be treated as a new application for the purpose of cal-  
23 culating the time periods prescribed in this subsection;

24           (D) determine whether it is necessary to submit  
25 the application to any other agency and, if such sub-

1       mission is determined to be necessary, inform the ap-  
2       plicant of the agency or agencies to which the applica-  
3       tion will be referred; and

4               (E) determine whether it is necessary to submit  
5       the application to a multilateral review process, pursu-  
6       ant to a multilateral agreement, formal or informal, to  
7       which the United States is a party and, if so, inform  
8       the applicant of this requirement.

9       (3) In each case in which the Secretary determines that  
10      it is not necessary to submit an application to any other  
11      agency for its information and recommendations, a license  
12      shall be formally issued or denied within ninety days of the  
13      receipt of a properly completed application, unless additional  
14      time is required and the applicant specifically requests an  
15      extension.

16       (4) In each case in which the Secretary determines that  
17      it is necessary to submit an application to any other agency  
18      for its information and recommendations, the Secretary  
19      shall, within thirty days of the receipt of a properly complet-  
20      ed application—

21               (A) submit the application together with all neces-  
22       sary analysis and recommendations of the Department  
23       of Commerce concurrently to other appropriate agen-  
24       cies; and

1           (B) if the applicant so requests, provide the appli-  
2           cant with an opportunity to review for accuracy any  
3           documentation to be submitted to such other agencies  
4           with respect to such application for the purpose of de-  
5           scribing the export in question in order to determine  
6           whether such documentation accurately describes the  
7           proposed export.

8           (5)(A) Any agency to which an application is submitted  
9           pursuant to paragraph (4) shall submit to the Secretary,  
10          within thirty days after its receipt of the application, the in-  
11          formation or recommendations requested with respect to such  
12          application. Except as provided in subparagraph (B), any  
13          such agency which does not submit its recommendations  
14          within the time period prescribed in the preceding sentence  
15          shall be deemed by the Secretary to have no objection to the  
16          approval of such application.

17          (B) If the head or acting head of any such agency noti-  
18          fies the Secretary before the expiration of the time period  
19          provided in subparagraph (A) for submission of its recom-  
20          mendations that more time is required for review by such  
21          agency, such agency shall have an additional thirty-day  
22          period to submit its recommendations to the Secretary. If  
23          such agency does not so submit its recommendations within  
24          the time period prescribed by the preceding sentence, it shall

1 *be deemed by the Secretary to have no objection to the ap-*  
2 *proval of such application.*

3       (6)(A) *Within ninety days after receipt of other agency*  
4 *recommendations, as provided for in paragraph (5), the Sec-*  
5 *retary shall formally issue or deny a license, unless addition-*  
6 *al time is required and the applicant specifically requests an*  
7 *extension. In deciding whether to issue or deny a license, the*  
8 *Secretary shall take into account any recommendation of an*  
9 *agency advising on the application in question. In cases*  
10 *where the Secretary receives conflicting recommendations,*  
11 *the Secretary shall, within the ninety days provided for in*  
12 *this subsection, take such action as may be necessary to re-*  
13 *solve such conflicting recommendations.*

14       (B) *In cases where the Secretary receives questions or*  
15 *negative considerations or recommendations from other agen-*  
16 *cies advising on an application, the Secretary shall, to the*  
17 *maximum extent consistent with the national security or for-*  
18 *eign policy of the United States, inform the applicant of the*  
19 *specific questions raised and any negative considerations or*  
20 *recommendations made by an agency, and shall accord the*  
21 *applicant an opportunity, before the final determination with*  
22 *respect to the application is made, to respond in writing to*  
23 *such questions, considerations, or recommendations.*

24       (C) *In cases where the Secretary has determined that*  
25 *an application should be denied, at the time of the formal*

1 denial, the applicant shall be informed, to the maximum  
2 extent consistent with the national security or foreign policy  
3 of the United States, of the specific reasons for such denial.

4 (7)(A) Notwithstanding any other provision of this sub-  
5 section, the Secretary of Defense is authorized to review any  
6 proposed export of any goods or technology to any country to  
7 which exports are controlled for national security purposes  
8 and, whenever he determines that the export of such goods or  
9 technology will make a significant contribution, which would  
10 prove detrimental to the national security of the United  
11 States, to the military potential of any such country, to rec-  
12 ommend to the President that such export be disapproved.

13 (B) Notwithstanding any other provision of law, the  
14 Secretary of Defense shall determine, in consultation with  
15 the Secretary, and confirm in writing the types and catego-  
16 ries of transactions which should be reviewed by him in order  
17 to make a determination referred to in subparagraph (A).  
18 Whenever a license or other authority is requested for the  
19 export to any country to which exports are controlled for na-  
20 tional security purposes of goods or technology within any  
21 such type or category, the Secretary shall notify the Secre-  
22 tary of Defense of such request, and the Secretary may not  
23 issue any license or other authority pursuant to such request  
24 before the expiration of the period within which the President  
25 may disapprove such export. The Secretary of Defense shall

1 *carefully consider all notifications submitted to him pursuant*  
2 *to this subparagraph and, not later than thirty days after*  
3 *notification of the request, shall—*

4 *(i) recommend to the President that he disapprove*  
5 *any request for the export of any goods or technology to*  
6 *any such country if he determines that the export of*  
7 *such goods or technology will make a significant con-*  
8 *tribution, which would prove detrimental to the nation-*  
9 *al security of the United States, to the military poten-*  
10 *tial of such country or any other country;*

11 *(ii) notify the Secretary that he would recommend*  
12 *approval subject to specified conditions; or*

13 *(iii) recommend to the Secretary that the export of*  
14 *goods or technology be approved.*

15 *If the President notifies the Secretary, within thirty days*  
16 *after receiving a recommendation from the Secretary of De-*  
17 *fense, that he disapproves such export, no license or other*  
18 *authority may be issued for the export of such goods or tech-*  
19 *nology to such country.*

20 *(C) The Secretary shall approve or disapprove a license*  
21 *application, and issue or deny a license, in accordance with*  
22 *the provisions of this paragraph, and, to the extent applica-*  
23 *ble, in accordance with the time periods and procedures other-*  
24 *wise set forth in this subsection.*

1       (8) *In any case in which an application, which has*  
2 *been finally approved under paragraph (4), (7), or (8) of this*  
3 *subsection, is required to be submitted to a multilateral*  
4 *review process, pursuant to a multilateral agreement, formal*  
5 *or informal, to which the United States is a party, the license*  
6 *shall not be issued as prescribed in such paragraphs, but the*  
7 *Secretary shall notify the applicant of the approval (and the*  
8 *date of such approval) of the application by the Secretary.*  
9 *subject to such multilateral review. The license shall be*  
10 *issued upon approval of the application under such multilat-*  
11 *eral review.*

12       (9) *The Secretary and any agency to which any appli-*  
13 *cation is referred under this subsection shall keep accurate*  
14 *records with respect to all applications considered by the Sec-*  
15 *retary or by any such agency.*

16       (e)(1) *To effectuate the policy set forth in section*  
17 *3(2)(C) of this Act, the Secretary of Commerce shall monitor*  
18 *exports, and contracts for exports, of any goods (other than a*  
19 *commodity which is subject to the reporting requirements of*  
20 *section 812 of the Agricultural Act of 1970) when the volume*  
21 *of such exports in relation to domestic supply contributes, or*  
22 *may contribute, to an increase in domestic prices or a domes-*  
23 *tic shortage, and such price increase or shortage has, or may*  
24 *have, a serious adverse impact on the economy, any sector*  
25 *thereof, or any industry or substantial segment thereof. Such*

1 monitoring shall commence at a time adequate to insure that  
2 data will be available which is sufficient to permit achieve-  
3 ment of the policies of this Act, and shall include the gather-  
4 ing of data concerning the volume of exports indicated under  
5 all contracts providing for the export of such goods following  
6 the date of the filing of the petition under section 7(a)(1).  
7 Information which the Secretary requires to be furnished in  
8 effecting such monitoring shall be confidential, except as pro-  
9 vided in paragraph (2) of this subsection and in the last two  
10 sentences of section 10(c) of this Act.

11 (2) The results of such monitoring shall, to the extent  
12 practicable, be aggregated and included in weekly reports set-  
13 ting forth, with respect to each item monitored, actual and  
14 anticipated exports, the destination by country, and the do-  
15 mestic and worldwide price, supply, and demand. Such re-  
16 ports may be made monthly if the Secretary determines that  
17 there is insufficient information to justify weekly reports.

18 (f) In imposing export controls to effectuate the policy  
19 stated in section 3(2)(C) of this Act, the President's authori-  
20 ty shall include but not be limited to, the imposition of export  
21 license fees.

22 (g)(1) Notwithstanding any other provision of this Act  
23 and notwithstanding subsection (u) of section 28 of the Min-  
24 eral Leasing Act of 1920, as amended (30 U.S.C. 185), no  
25 domestically produced crude oil transported by pipeline over

1 *right-of-way granted pursuant to the requirements of section*  
2 *203 of the Trans-Alaska Pipeline Authorization Act (43*  
3 *U.S.C. 1653) (except any such crude oil which (A) is ex-*  
4 *ported, for the purpose of effectuating an exchange in which*  
5 *the crude oil is exported to an adjacent foreign state to be*  
6 *refined and consumed therein, in exchange for the same*  
7 *quantity of crude oil being exported from that state to the*  
8 *United States; such exchange must result through conven-*  
9 *ience or increased efficiency of transportation in lower prices*  
10 *for consumers of petroleum products in the United States as*  
11 *described in paragraph (2)(A)(ii) of this subsection, or (B) is*  
12 *temporarily exported for convenience or increased efficiency*  
13 *of transportation across parts of an adjacent foreign state and*  
14 *reenters the United States) may be exported from the United*  
15 *States, its territories and possessions, unless the require-*  
16 *ments of paragraph (2) of this subsection are met.*

17 (2) *Crude oil subject to the prohibition contained in*  
18 *paragraph (1) may be exported only if—*

19 (A) *the President makes and publishes an express*  
20 *finding that exports of such crude oil, including ex-*  
21 *changes—*

22 (i) *will not diminish the total quantity or*  
23 *quality of petroleum refined within, stored within,*  
24 *or legally committed to be transported to and sold*  
25 *within the United States;*

1           (ii) will, within three months following the  
2 initiation of such exports or exchanges, result in  
3 (a) acquisition costs to the refiners being lower  
4 than the acquisition costs such refiners would  
5 have to pay for the domestically produced crude  
6 oil in the absence of such an export of exchange  
7 and (b) that not less than 75 per centum of the  
8 savings shall be reflected in reduced wholesale  
9 and retail prices of products refined from such  
10 imported crude oil;

11           (iii) will be made only pursuant to contract  
12 which may be terminated if the crude oil supplies  
13 of the United States are interrupted, threatened,  
14 or diminished;

15           (iv) are clearly necessary to protect the na-  
16 tional interest; and

17           (v) are in accordance with the provisions of  
18 this Act; and

19           (B) the President reports such finding to the Con-  
20 gress and the Congress within sixty days thereafter  
21 passes a concurrent resolution of approval.

22           (3) Notwithstanding the foregoing provisions of this  
23 subsection or any other provision of law including subsection  
24 (u) of section 28 of the Mineral Leasing Act of 1920, the  
25 President may export oil otherwise subject to this subsection

1 to any foreign nation with whom the United States has en-  
2 tered into a bilateral international oil supply agreement prior  
3 to June 25, 1979, or to any foreign nation with whom the  
4 United States has entered into a multilateral supply ar-  
5 rangement pursuant to section 251(d) of the Energy Policy  
6 and Conservation Act, provided, that the President promptly  
7 notifies Congress of each such agreement.

8 (h) Petroleum products refined in United States For-  
9 eign Trade Zones, or in the United States Territory of  
10 Guam, from foreign crude oil shall be excluded from any  
11 quantitative restrictions imposed pursuant to section 3(2)(C)  
12 of this Act, except that, if the Secretary of Commerce finds  
13 that a product is in short supply, the Secretary of Commerce  
14 may issue such rules and regulations as may be necessary to  
15 limit exports.

16 (i)(1) The authority conferred by this section shall not  
17 be exercised with respect to any agricultural commodity, in-  
18 cluding fats and oils or animal hides or skins, without the  
19 approval of the Secretary of Agriculture. The Secretary of  
20 Agriculture shall not approve the exercise of such authority  
21 with respect to any such commodity during any period for  
22 which the supply of such commodity is determined by him to  
23 be in excess of the requirements of the domestic economy,  
24 except to the extent the President determines that such exer-  
25 cise of authority is required to effectuate the policies set forth

1 in sections 3(2) (A) or (B) of this Act. The Secretary of  
2 Agriculture shall not approve the exercise of such authority  
3 with respect to any such commodity unless he has (i) given  
4 full consideration to the alternative of using the Commodity  
5 Credit Corporation to purchase such commodity and arrange  
6 sales to foreign governments in accordance with the provi-  
7 sions of the Commodity Credit Corporation Charter Act so  
8 as to stabilize markets and maximize returns to agricultural  
9 producers, and (ii) determined that export controls are prefer-  
10 able to such use of the authority granted by the Commodity  
11 Credit Corporation Charter Act.

12 (2) Upon approval of the Secretary of Commerce, in  
13 consultation with the Secretary of Agriculture, agricultural  
14 commodities purchased by or for use in a foreign country  
15 may remain in the United States for export at a later date  
16 free from any quantitative limitations on export which may  
17 be imposed pursuant to section 3(2)(C) of this Act subsequent  
18 to such approval. The Secretary of Commerce may not grant  
19 approval hereunder unless he receives adequate assurance  
20 and, in conjunction with the Secretary of Agriculture, finds  
21 (A) that such commodities will eventually be exported, (B)  
22 that neither the sale nor export thereof will result in an ex-  
23 cessive drain of scarce materials and have a serious domestic  
24 inflationary impact, (C) that storage of such commodities in  
25 the United States will not unduly limit the space available

1 *for storage of domestically owned commodities, and (D) that*  
2 *the purpose of such storage is to establish a reserve of such*  
3 *commodities for later use, not including resale to or use by*  
4 *another country. The Secretary of Commerce is authorized to*  
5 *issue such rules and regulations as may be necessary to im-*  
6 *plement this paragraph.*

7       *(j) Nothing in this Act or the rules or regulations there-*  
8 *under shall be construed to require authority or permission to*  
9 *export, except where required by the President to effect the*  
10 *policies set forth in section 3 of this Act.*

11       *(k) The President may delegate the power, authority,*  
12 *and discretion conferred upon him by this Act to such depart-*  
13 *ments, agencies, or officials of the Government as he may*  
14 *deem appropriate, except that no authority under this Act*  
15 *may be delegated to, or exercised by, any official of any de-*  
16 *partment or agency the head of which is not appointed by and*  
17 *with the advice and consent of the Senate.*

18       *(l)(1) Any United States firm, enterprise, or other non-*  
19 *governmental entity which, for commercial purposes, enters*  
20 *into an agreement with an agency of a government in another*  
21 *country to which exports are restricted for national security*  
22 *purposes, which agreement cites an intergovernmental agree-*  
23 *ment calling for the encouragement of technical cooperation*  
24 *and is intended to result in the export from the United States*  
25 *to the other party of unpublished technical data of United*

1 *States origin, shall report such agreement to the Secretary of*  
2 *Commerce.*

3 (2) *The provisions of this subsection shall not apply to*  
4 *colleges, universities, or other educational institutions.*

5 (3) *The Secretary of Commerce is authorized to issue*  
6 *such rules and regulations as are necessary to implement the*  
7 *provisions of this subsection.*

8 (m) *The Secretary of State, in consultation with the*  
9 *Secretary of Defense, the Secretary of Commerce, and the*  
10 *heads of other appropriate departments and agencies, shall be*  
11 *responsible for negotiations with other countries regarding*  
12 *their cooperation in restricting the export of goods and tech-*  
13 *nologies whose export should be restricted pursuant to section*  
14 *3(9) of this Act, as authorized under section 4(a)(1) of this*  
15 *Act, including negotiations on the basis of approved adminis-*  
16 *tration positions as to which goods and technologies should be*  
17 *subject to multilaterally agreed export restrictions and what*  
18 *conditions should apply for exceptions from those restrictions.*

19 (n) *The President shall enter into negotiations with the*  
20 *governments participating in the group known as the Coordi-*  
21 *nating Committee (hereinafter in this subsection referred to*  
22 *as the "Committee") with a view toward reaching—*

23 (A) *an agreement to publish the list of items con-*  
24 *trolled for export by agreement of the Committee, to-*

1        *gether with all notes, understandings, and other aspects*  
2        *of such list, and all changes thereto;*

3            *(B) an agreement to hold periodic meetings of*  
4        *such governments with high-level representation from*  
5        *such governments, for the purpose of providing guid-*  
6        *ance on export control policy issues to the Committee;*

7            *(C) an agreement to modify the scope of the*  
8        *export controls imposed by agreement of the Committee*  
9        *to a level accepted and enforced by all governments*  
10       *participating in the Committee; and*

11           *(D) an agreement on more effective procedures for*  
12        *enforcing the export controls agreed to pursuant to sub-*  
13        *paragraph (C).*

14        *(o) In order to ensure that requirements for validated*  
15        *licenses and qualified general licenses are periodically re-*  
16        *moved as goods or technology subject to such requirements*  
17        *become obsolete with respect to the national security of the*  
18        *United States, regulations issued by the Secretary may,*  
19        *where appropriate, provide for annual increases in the per-*  
20        *formance levels of goods or technology subject to any such*  
21        *licensing requirement. Any such goods or technology which*  
22        *no longer meet the performance levels established by the latest*  
23        *such increase shall be removed from the list established pur-*  
24        *suant to subsection (b)(1) of this section unless, under such*  
25        *exceptions and under such procedures as the Secretary shall*



1 *or foreign commerce of the United States, from taking or*  
2 *knowingly agreeing to take any of the following actions with*  
3 *intent to comply with, further, or support any boycott fostered*  
4 *or imposed by a foreign country against a country which is*  
5 *friendly to the United States and which is not itself the*  
6 *object of any form of boycott pursuant to United States law*  
7 *or regulation:*

8           (A) *Refusing, or requiring any other person to*  
9           *refuse, to do business with or in the boycotted country,*  
10           *with any business concern organized under the laws of*  
11           *the boycotted country, with any national or resident of*  
12           *the boycotted country, or with any other person, pursu-*  
13           *ant to an agreement with, a requirement of, or a re-*  
14           *quest from or on behalf of the boycotting country. The*  
15           *mere absence of a business relationship with or in the*  
16           *boycotted country with any business concern organized*  
17           *under the laws of the boycotted country, with any na-*  
18           *tional or resident of the boycotted country, or with any*  
19           *other person, does not indicate the existence of the*  
20           *intent required to establish a violation of rules and reg-*  
21           *ulations issued to carry out this subparagraph.*

22           (B) *Refusing, or requiring any other person to*  
23           *refuse, to employ or otherwise discriminating against*  
24           *any United States person on the basis of race, religion,*

1       *sex, or national origin of that person or of any owner,*  
2       *officer, director, or employee of such person.*

3           (C) *Furnishing information with respect to the*  
4       *race, religion, sex, or national origin of any United*  
5       *States person or of any owner, officer, director, or em-*  
6       *ployee of such person.*

7           (D) *Furnishing information about whether any*  
8       *person has, has had, or proposes to have any business*  
9       *relationship (including a relationship by way of sale,*  
10      *purchase, legal or commercial representation, shipping*  
11      *or other transport, insurance, investment, or supply)*  
12      *with or in the boycotted country, with any business*  
13      *concern organized under the laws of the boycotted*  
14      *country, with any national or resident of the boycotted*  
15      *country, or with any other person which is known or*  
16      *believed to be restricted from having any business rela-*  
17      *tionship with or in the boycotting country. Nothing in*  
18      *this paragraph shall prohibit the furnishing of normal*  
19      *business information in a commercial context as de-*  
20      *finied by the Secretary of Commerce.*

21           (E) *Furnishing information about whether any*  
22      *person is a member of, has made contributions to, or is*  
23      *otherwise associated with or involved in the activities*  
24      *of any charitable or fraternal organization which sup-*  
25      *ports the boycotted country.*

1           (F) *Paying, honoring, confirming, or otherwise*  
2           *implementing a letter of credit which contains any con-*  
3           *dition or requirement compliance with which is prohib-*  
4           *ited by rules and regulations issued pursuant to this*  
5           *paragraph, and no United States person shall, as a*  
6           *result of the application of this paragraph, be obligated*  
7           *to pay or otherwise honor or implement such letter of*  
8           *credit.*

9           (2) *Rules and regulations issued pursuant to paragraph*  
10          (1) *shall provide exceptions for—*

11           (A) *complying or agreeing to comply with require-*  
12           *ments (i) prohibiting the import of goods or services*  
13           *from the boycotted country or goods produced or serv-*  
14           *ices provided by any business concern organized under*  
15           *the laws of the boycotted country or by nationals or*  
16           *residents of the boycotted country, or (ii) prohibiting*  
17           *the shipment of goods to the boycotting country on a*  
18           *carrier of the boycotted country, or by a route other*  
19           *than that prescribed by the boycotting country or the*  
20           *recipient of the shipment;*

21           (B) *complying or agreeing to comply with import*  
22           *and shipping document requirements with respect to*  
23           *the country of origin, the name of the carrier and route*  
24           *of shipment, the name of the supplier of the shipment*  
25           *or the name of the provider of other services, except*

1       *that no information knowingly furnished or conveyed*  
2       *in response to such requirements may be stated in neg-*  
3       *ative, blacklisting, or similar exclusionary terms on or*  
4       *after June 22, 1978, other than with respect to carriers*  
5       *or route of shipment as may be permitted by such rules*  
6       *and regulations in order to comply with precautionary*  
7       *requirements protecting against war risks and confisca-*  
8       *tion;*

9               *(C) complying or agreeing to comply in the*  
10       *normal course of business with the unilateral and spe-*  
11       *cific selection by a boycotting country, or national or*  
12       *resident thereof, of carriers, insurers, suppliers of serv-*  
13       *ices to be performed within the boycotting country or*  
14       *specific goods which, in the normal course of business,*  
15       *are identifiable by source when imported into the boy-*  
16       *cotting country;*

17               *(D) complying or agreeing to comply with export*  
18       *requirements of the boycotting country relating to ship-*  
19       *ments or transshipments of exports to the boycotted*  
20       *country, to any business concern of or organized under*  
21       *the laws of the boycotted country, or to any national or*  
22       *resident of the boycotted country;*

23               *(E) compliance by an individual or agreement by*  
24       *an individual to comply with the immigration or pass-*  
25       *port requirements of any country with respect to such*

1 individual or any member of such individual's family  
2 or with requests for information regarding require-  
3 ments of employment of such individual within the  
4 boycotting country; and

5 (F) compliance by a United States person resi-  
6 dent in a foreign country or agreement by such person  
7 to comply with the laws of that country with respect to  
8 his activities exclusively therein, and such rules and  
9 regulations may contain exceptions for such resident  
10 complying with the laws or regulations of that foreign  
11 country governing imports into such country of trade-  
12 marked, trade named, or similarly specifically identifi-  
13 able products, or components of products for his own  
14 use, including the performance of contractual services  
15 within that country, as may be defined by such rules  
16 and regulations.

17 (3) Rules and regulations issued pursuant to para-  
18 graphs (2)(C) and (2)(F) shall not provide exceptions from  
19 paragraphs (1)(B) and (1)(C).

20 (4) Nothing in this subsection may be construed to su-  
21 percede or limit the operation of the antitrust or civil rights  
22 laws of the United States.

23 (5) Rules and regulations pursuant to this subsection  
24 shall be issued not later than ninety days after the date of  
25 enactment of this section and shall be issued in final form

1 and become effective not later than one hundred and twenty  
2 days after they are first issued, except that (A) rules and  
3 regulations prohibiting negative certification may take effect  
4 not later than one year after the date of enactment of this  
5 section, and (B) a grace period shall be provided for the ap-  
6 plication of the rules and regulations issued pursuant to this  
7 subsection to actions taken pursuant to a written contract or  
8 other agreement entered into on or before May 16, 1977.  
9 Such grace period shall end on December 31, 1978, except  
10 that the Secretary of Commerce may extend the grace period  
11 for not to exceed one additional year in any case in which the  
12 Secretary finds that good faith efforts are being made to re-  
13 negotiate the contract or agreement in order to eliminate the  
14 provisions which are inconsistent with the rules and regula-  
15 tions issued pursuant to paragraph (1).

16 (6) This Act shall apply to any transaction or activity  
17 undertaken, by or through a United States or other person,  
18 with intent to evade the provisions of this Act as implemented  
19 by the rules and regulations issued pursuant to this subsec-  
20 tion, and such rules and regulations shall expressly provide  
21 that the exceptions set forth in paragraph (2) shall not permit  
22 activities or agreements (expressed or implied by a course of  
23 conduct, including a pattern of responses) otherwise prohibit-  
24 ed, which are not within the intent of such exceptions.

1           (b)(1) *In addition to the rules and regulations issued*  
2 *pursuant to subsection (a) of this section, rules and regula-*  
3 *tions issued under section 4(a) of this Act shall implement*  
4 *the policies set forth in section 3(5).*

5           (2) *Such rules and regulations shall require that any*  
6 *United States person receiving a request for the furnishing of*  
7 *information, the entering into or implementing of agreements,*  
8 *or the taking of any other action referred to in section 3(5)*  
9 *shall report that fact to the Secretary of Commerce, together*  
10 *with such other information concerning such request as the*  
11 *Secretary may require for such action as he may deem ap-*  
12 *propriate for carrying out the policies of that section. Such*  
13 *person shall also report to the Secretary of Commerce wheth-*  
14 *er he intends to comply and whether he has complied with*  
15 *such request. Any report filed pursuant to this paragraph*  
16 *after the date of enactment of this section shall be made avail-*  
17 *able promptly for public inspection and copying, except that*  
18 *information regarding the quantity, description, and value of*  
19 *any goods or technology to which such report relates may be*  
20 *kept confidential if the Secretary determines that disclosure*  
21 *thereof would place the United States person involved at a*  
22 *competitive disadvantage. The Secretary of Commerce shall*  
23 *periodically transmit summaries of the information contained*  
24 *in such reports to the Secretary of State for such action as*  
25 *the Secretary of State, in consultation with the Secretary of*

1 *Commerce, may deem appropriate for carrying out the poli-*  
2 *cies set forth in section 3(5) of this Act.*

3       (c) *The provisions of this section and the rules and reg-*  
4 *ulations issued pursuant thereto shall preempt any law, rule,*  
5 *or regulation of any of the several States or the District of*  
6 *Columbia, and any of the territories or possessions of the*  
7 *United States, or of any governmental subdivision thereof,*  
8 *which law, rule, or regulation pertains to participation in,*  
9 *compliance with, implementation of, or the furnishing of in-*  
10 *formation regarding restrictive trade practices or boycotts fos-*  
11 *tered or imposed by foreign countries against other countries.*

12       *PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT*

13                       *CONTROLS*

14       *SEC. 6. (a) Any person who, in his domestic manufac-*  
15 *turing process or other domestic business operation, utilizes a*  
16 *product produced abroad in whole or in part from a commod-*  
17 *ity historically obtained from the United States but which*  
18 *has been made subject to export controls, or any person who*  
19 *historically has exported such a commodity, may transmit a*  
20 *petition of hardship to the Secretary of Commerce requesting*  
21 *an exemption from such controls in order to alleviate any*  
22 *unique hardship resulting from the imposition of such con-*  
23 *trols. A petition under this section shall be in such form as*  
24 *the Secretary of Commerce shall prescribe and shall contain*  
25 *information demonstrating the need for the relief requested.*

1           (b) *Not later than thirty days after receipt of any peti-*  
2 *tion under subsection (a), the Secretary of Commerce shall*  
3 *transmit a written decision to the petitioner granting or deny-*  
4 *ing the requested relief. Such decision shall contain a state-*  
5 *ment setting forth the Secretary's basis for the grant or*  
6 *denial. Any exemption granted may be subject to such condi-*  
7 *tions as the Secretary deems appropriate.*

8           (c) *For purposes of this section, the Secretary's decision*  
9 *with respect to the grant or denial of relief from unique hard-*  
10 *ship resulting directly or indirectly from the imposition of*  
11 *controls shall reflect the Secretary's consideration of such*  
12 *factors as—*

13           (1) *whether denial would cause a unique hardship*  
14 *to the petitioner which can be alleviated only by grant-*  
15 *ing an exception to the applicable regulations. In deter-*  
16 *mining whether relief shall be granted, the Secretary*  
17 *will take into account:*

18           (A) *ownership of material for which there is*  
19 *no practicable domestic market by virtue of the lo-*  
20 *cation or nature of the material;*

21           (B) *potential serious financial loss to the ap-*  
22 *plicant if not granted an exception;*

23           (C) *inability to obtain, except through*  
24 *import, an item essential for domestic use which*

1           is produced abroad from the commodity under  
2           control;

3           (D) the extent to which denial would con-  
4           flict, to the particular detriment of the applicant,  
5           with other national policies including those re-  
6           flected in any international agreement to which  
7           the United States is a party;

8           (E) possible adverse effects on the economy  
9           (including unemployment) in any locality or  
10          region of the United States; and

11          (F) other relevant factors, including the ap-  
12          plicant's lack of an exporting history during any  
13          base period that may be established with respect  
14          to export quotas for the particular commodity; and

15          (2) the effect a finding in favor of the applicant  
16          would have on attainment of the basic objectives of the  
17          short supply control program.

18       *In all cases, the desire to sell at higher prices and thereby*  
19       *obtain greater profits will not be considered as evidence of a*  
20       *unique hardship, nor will circumstances where the hardship*  
21       *is due to imprudent acts or failure to act on the part of the*  
22       *petitioner.*

23                    PETITIONS FOR MONITORING OR CONTROLS

24       SEC. 7. (a)(1) Any entity, including a trade associ-  
25       ation, firm, or certified or recognized union or group of work-

1 *ers, which is representative of an industry or a substantial*  
2 *segment of an industry which processes any material or com-*  
3 *modity may transmit a written petition to the Secretary of*  
4 *Commerce requesting the imposition of export controls, or the*  
5 *monitoring of exports, or both, with respect to such material*  
6 *or commodity.*

7       (2) *Each petition shall be in such form as the Secretary*  
8 *of Commerce shall prescribe and shall contain information in*  
9 *support of the action requested.*

10       (b) *Within fifteen days of receipt of any petition de-*  
11 *scribed in subsection (a), the Secretary of Commerce shall*  
12 *cause to be published a notice in the Federal Register. The*  
13 *notice shall include (1) the name of the material or commod-*  
14 *ity which is the subject of the petition, (2) the Schedule B*  
15 *number of the material or commodity as set forth in the Sta-*  
16 *tistical Classification of Domestic and Foreign Commodities*  
17 *Exported from the United States, (3) whether the petitioner*  
18 *is requesting that control or monitoring, or both, be imposed*  
19 *with respect to the exportation of such material or commod-*  
20 *ity, and (4) provide that interested persons shall have a*  
21 *period of thirty days commencing with the date of publication*  
22 *of such notice to submit to the Secretary of Commerce writ-*  
23 *ten data, views, or arguments, with or without opportunity*  
24 *for oral presentation. At the request of any person, the Secre-*  
25 *tary shall conduct public hearings with respect to the subject*

1 of the petition, in which event the thirty-day period shall be  
2 extended to forty-five days.

3 (c) Within thirty days after the end of the thirty-day or  
4 forty-five-day period described in subsection (b), the Secre-  
5 tary of Commerce shall—

6 (1) determine whether to impose monitoring or  
7 controls or both on the exportation of such material or  
8 commodity; or

9 (2) publish in the Federal Register a detailed  
10 statement of the reasons for such determination.

11 (d) Within fifteen days following a decision under sub-  
12 section (c) to impose monitoring or controls on the exporta-  
13 tion of a material or commodity, the Secretary shall publish  
14 in the Federal Register proposed regulations with respect to  
15 such monitoring or controls. Within thirty days following the  
16 publication of such notice, and after considering any public  
17 comments, the Secretary shall publish and implement final  
18 regulations.

19 (e) The procedures and time limits set forth in this sec-  
20 tion shall take precedence over any review undertaken at the  
21 initiative of the Secretary.

22 (f) The Secretary shall have the authority to impose  
23 monitoring or controls on a temporary basis during the  
24 period following the filing of a petition under subsection  
25 (a)(1) and his determination under subsection (c) if he deems

1 *such action to be necessary to effectuate the policy set forth in*  
2 *section 3(2)(C) of this Act.*

3 *(g) The authority under this section shall not be con-*  
4 *strued to affect the authority of the Secretary of Commerce*  
5 *under any other provision of this Act.*

6 *CONSULTATION AND STANDARDS*

7 *SEC. 8. (a) In determining what shall be controlled or*  
8 *monitored under this Act, and in determining the extent to*  
9 *which exports shall be limited, any department, agency, or*  
10 *official making these determinations shall seek information*  
11 *and advice from the several executive departments and inde-*  
12 *pendent agencies concerned with aspects of our domestic and*  
13 *foreign policies and operations having an important bearing*  
14 *on exports. Such departments and agencies shall fully coop-*  
15 *erate in rendering such advice and information. Consistent*  
16 *with considerations of national security, the President shall*  
17 *seek information and advice from various segments of private*  
18 *industry in connection with the making of these determina-*  
19 *tions. In addition, the Secretary of Commerce shall consult*  
20 *with the Secretary of Energy to determine whether, in order*  
21 *to effectuate the policy stated in section 3(2)(C) of this Act,*  
22 *monitoring or controls are necessary with respect to exports*  
23 *of facilities, machinery, or equipment normally and princi-*  
24 *pally used, or intended to be used, in the production, conver-*  
25 *sion, or transportation of fuels and energy (except nuclear*

1 energy), including but not limited to, drilling rigs, platforms,  
2 and equipment; petroleum refineries, natural gas processing,  
3 liquefaction, and gasification plants; facilities for production  
4 of synthetic natural gas or synthetic crude oil; oil and gas  
5 pipelines, pumping stations, and associated equipment; and  
6 vessels for transporting oil, gas, coal, and other fuels.

7 (b)(1) In authorizing exports, full utilization of private  
8 competitive trade channels shall be encouraged insofar as  
9 practicable, giving consideration to the interests of small  
10 business, merchant exporters as well as producers, and estab-  
11 lished and new exporters, and provision shall be made for  
12 representative trade consultation to that end. In addition,  
13 there may be applied such other standards or criteria as may  
14 be deemed necessary by the head of such department, or  
15 agency, or official to carry out the policies of this Act.

16 (2) Upon imposing quantitative restrictions on exports  
17 of any goods to carry out the policy stated in section 3(2)(C)  
18 of this Act, the Secretary of Commerce shall include in the  
19 notice published in the Federal Register an invitation to all  
20 interested parties to submit written comments within fifteen  
21 days from the date of publication of the impact of such re-  
22 strictions and the method of licensing used to implement  
23 them.

24 (c)(1) Upon written request by representatives of a sub-  
25 stantial segment of any industry which produces goods or

1 *technology which are subject to export controls or are being*  
2 *considered for such controls because of their significance to*  
3 *the national security of the United States, or whenever he*  
4 *deems appropriate to further the purposes of this Act, the*  
5 *Secretary of Commerce shall appoint a technical advisory*  
6 *committee for any grouping of such goods or technology*  
7 *which he determines is difficult to evaluate because of ques-*  
8 *tions concerning technical matters, worldwide availability*  
9 *and actual utilization of production and technology, or licens-*  
10 *ing procedures. Each such committee shall consist of repre-*  
11 *sentatives of United States industry and government, includ-*  
12 *ing the Departments of Commerce, Defense, and State, and,*  
13 *when appropriate, other Government departments and agen-*  
14 *cies. No person serving on any such committee who is repre-*  
15 *sentative of industry shall serve on such committee for more*  
16 *than four consecutive years.*

17       (2) *It shall be the duty and function of the technical*  
18 *advisory committees established under paragraph (1) to*  
19 *advise and assist the Secretary of Commerce and any other*  
20 *department, agency, or official of the Government of the*  
21 *United States to which the President has delegated power,*  
22 *authority, and discretion under section 4(e) with respect to*  
23 *actions designed to carry out the policy set forth in section 3*  
24 *of this Act. Such committees, where they have expertise in*  
25 *such matters, shall be consulted with respect to questions in-*

1 *volving (A) technical matters, (B) worldwide availability and*  
2 *actual utilization of production technology, (C) licensing pro-*  
3 *cedures which affect the level of export controls applicable to*  
4 *any goods or technology, and (D) exports subject to multilat-*  
5 *eral controls in which the United States participates includ-*  
6 *ing proposed revisions of any such multilateral controls.*  
7 *Nothing in this subsection shall prevent the Secretary from*  
8 *consulting, at any time, with any person representing indus-*  
9 *try or the general public regardless of whether such person is*  
10 *a member of a technical advisory committee. Members of the*  
11 *public shall be given a reasonable opportunity, pursuant to*  
12 *regulations prescribed by the Secretary of Commerce, to pre-*  
13 *sent evidence to such committees.*

14       (3) *Upon request of any member of any such committee,*  
15 *the Secretary may, if he determines it appropriate, reimburse*  
16 *such member for travel, subsistence, and other necessary ex-*  
17 *penses incurred by him in connection with his duties as a*  
18 *member.*

19       (4) *Each such committee shall elect a chairman, and*  
20 *shall meet at least every three months at the call of the Chair-*  
21 *man, unless the Chairman determines, in consultation with*  
22 *the other members of the committee, that such a meeting is*  
23 *not necessary to achieve the purposes of this Act. Each such*  
24 *committee shall be terminated after a period of two years,*  
25 *unless extended by the Secretary for additional periods of*

1 *two years. The Secretary shall consult each such committee*  
2 *with regard to such termination or extension of that*  
3 *committee.*

4       (5) *To facilitate the work of the technical advisory com-*  
5 *mittees, the Secretary of Commerce, in conjunction with*  
6 *other departments and agencies participating in the adminis-*  
7 *tration of this Act, shall disclose to each such committee ade-*  
8 *quate information, consistent with national security and for-*  
9 *ign policy, pertaining to the reasons for the export controls*  
10 *which are in effect or contemplated for the grouping of goods*  
11 *or technology with respect to which that committee furnishes*  
12 *advice.*

13       (6) *Whenever a technical advisory committee certifies to*  
14 *the Secretary of Commerce that goods or technology are*  
15 *available in fact from sources outside the United States in*  
16 *sufficient quantity and of comparable quality so as to render*  
17 *United States export controls ineffective in achieving the*  
18 *purposes of this Act, and provides adequate documentation*  
19 *for such certification, the Secretary of Commerce shall inves-*  
20 *tigate and report to the technical advisory committee on*  
21 *whether the Secretary concurs with the certification. If the*  
22 *Secretary concurs, the Secretary shall submit a recommen-*  
23 *dation to the President who shall act in accordance with sec-*  
24 *tion 4(a)(2)(E) of this Act.*

## VIOLATIONS

1

2       *SEC. 9. (a) Except as provided in subsection (b) of this*  
3 *section, whoever knowingly violates any provision of this Act*  
4 *or any regulation, order, or license issued thereunder shall be*  
5 *fined not more than five times the value of the exports in-*  
6 *olved or \$50,000, whichever is greater, or imprisoned not*  
7 *more than five years, or both.*

8       *(b) Whoever willfully exports anything contrary to any*  
9 *provision of this Act or any regulation, order, or license*  
10 *issued thereunder, with knowledge that such exports will be*  
11 *used for the benefit of any country to which exports are re-*  
12 *stricted for national security or foreign policy purposes, shall*  
13 *be fined not more than five times the value of the exports*  
14 *involved or \$100,000, whichever is greater, or imprisoned not*  
15 *more than ten years, or both.*

16       *(c)(1) The head of any department or agency exercising*  
17 *any functions under this Act, or any officer or employee of*  
18 *such department or agency specifically designated by the*  
19 *head thereof, may impose a civil penalty not to exceed*  
20 *\$10,000 for each violation of this Act or any regulation,*  
21 *order, or license issued under this Act, either in addition to*  
22 *or in lieu of any other liability or penalty which may be*  
23 *imposed.*

24       *(2)(A) The authority under this Act to suspend or*  
25 *revoke the authority of any United States person to export*

1 *goods or technology may be used with respect to any violation*  
2 *of the rules and regulations issued pursuant to section 5(a) of*  
3 *this Act.*

4 *(B) Any administrative sanction (including any civil*  
5 *penalty or any suspension or revocation of authority to*  
6 *export) imposed under this Act for a violation of the rules*  
7 *and regulations issued pursuant to section 5(a) of this Act*  
8 *may be imposed only after notice and opportunity for an*  
9 *agency hearing on the record in accordance with sections 554*  
10 *through 557 of title 5, United States Code.*

11 *(C) Any charging letter or other document initiating ad-*  
12 *ministrative proceedings for the imposition of sanctions for*  
13 *violations of the rules and regulations issued pursuant to sec-*  
14 *tion 5(a) of this Act shall be made available for public in-*  
15 *spection and copying.*

16 *(d) The payment of any penalty imposed pursuant to*  
17 *subsection (c) may be made a condition, for a period not*  
18 *exceeding one year after the imposition of such penalty, to the*  
19 *granting, restoration, or continuing validity of any export*  
20 *license, permission, or privilege granted or to be granted to*  
21 *the person upon whom such penalty is imposed. In addition,*  
22 *the payment of any penalty imposed under subsection (c)*  
23 *may be deferred or suspended in whole or in part for a period*  
24 *of time no longer than any probation period (which may*  
25 *exceed one year) that may be imposed upon such person.*

1 *Such a deferral or suspension shall not operate as a bar to*  
2 *the collection of the penalty in the event that the conditions of*  
3 *the suspension, deferral, or probation are not fulfilled.*

4       *(e) Any amount paid in satisfaction of any penalty im-*  
5 *posed pursuant to subsection (c) shall be covered into the*  
6 *Treasury as a miscellaneous receipt. The head of the depart-*  
7 *ment or agency concerned may, in his discretion, refund any*  
8 *such penalty, within two years after payment, on the ground*  
9 *of a material error of fact or law in the imposition. Notwith-*  
10 *standing section 1346(a) of title 28, United States Code, no*  
11 *action for the refund of any such penalty may be maintained*  
12 *in any court.*

13       *(f) In the event of the failure of any person to pay a*  
14 *penalty imposed pursuant to subsection (c), a civil action for*  
15 *the recovery thereof may, in the discretion of the head of the*  
16 *department or agency concerned, be brought in the name of*  
17 *the United States. In any such action, the court shall deter-*  
18 *mine de novo all issues necessary to the establishment of lia-*  
19 *bility. Except as provided in this subsection and in subsec-*  
20 *tion (d), no such liability shall be asserted, claimed, or recov-*  
21 *ered upon by the United States in any way unless it has*  
22 *previously been reduced to judgment.*

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



1 *the case of contumacy by, or refusal to obey a subpoena issued*  
2 *to, any such person, the district court of the United States for*  
3 *any district in which such person is found or resides or*  
4 *transacts business, upon application, and after notice to any*  
5 *such person and hearing, shall have jurisdiction to issue an*  
6 *order requiring such person to appear and give testimony or*  
7 *to appear and produce books, records, and other writings, or*  
8 *both, and any failure to obey such order of the court may be*  
9 *punished by such court as a contempt thereof.*

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

16       **(c)** *Except as otherwise provided by the third sentence of*  
17 *section 5(b)(2) and by section 9(c)(2)(C) of this Act, infor-*  
18 *mation obtained under this Act, which is deemed confidential*  
19 *or with reference to which a request for confidential treatment*  
20 *is made by the person furnishing such information, shall be*  
21 *exempt from disclosure under section 552(b)(3)(B) of title 5,*  
22 *United States Code, and such information shall not be pub-*  
23 *lished or disclosed unless the Secretary of Commerce deter-*  
24 *mines that the withholding thereof is contrary to the national*  
25 *interest. Nothing in this Act shall be construed as authoriz-*

1 *ing the withholding of information from Congress, and all*  
2 *information obtained at any time under this Act or previous*  
3 *Acts regarding the control of exports, including any report or*  
4 *license application required under section 4(b), shall be made*  
5 *available upon request to any committee or subcommittee of*  
6 *Congress of appropriate jurisdiction. No such committee or*  
7 *subcommittee shall disclose any information obtained under*  
8 *this Act or previous Acts regarding the control of exports*  
9 *which is submitted on a confidential basis unless the full*  
10 *committee determines that the withholding thereof is contrary*  
11 *to the national interest.*

12 *(d) In the administration of this Act, reporting require-*  
13 *ments shall be so designed as to reduce the cost of reporting,*  
14 *recordkeeping, and export documentation required under this*  
15 *Act to the extent feasible consistent with effective enforcement*  
16 *and compilation of useful trade statistics. Reporting, record-*  
17 *keeping, and export documentation requirements shall be pe-*  
18 *riodically reviewed and revised in the light of developments*  
19 *in the field of information technology.*

20 *EXEMPTION FROM CERTAIN PROVISIONS RELATING TO*  
21 *ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW*

22 *SEC. 11. (a) Except as provided in section 9(c)(2), the*  
23 *functions exercised under this Act are excluded from the op-*  
24 *eration of sections 551, 553 through 559, and 701 through*  
25 *706 of title 5, United States Code.*



1           (2) *organizational and procedural changes insti-*  
2           *tuted and any reviews undertaken in furtherance of the*  
3           *policies set forth in this Act;*

4           (3) *efforts to keep the business sector of the*  
5           *Nation informed about policies and procedures adopted*  
6           *under this Act;*

7           (4) *any changes in the exercise of the authorities*  
8           *of section 4(a) of this Act;*

9           (5) *the results of review of United States policy*  
10          *toward individual countries called for in section*  
11          *4(a)(2)(A);*

12          (6) *the results, in as much detail as may be in-*  
13          *cluded consistent with the national security and the*  
14          *need to maintain the confidentiality of proprietary in-*  
15          *formation, of the actions, including reviews and revi-*  
16          *sions of export controls maintained for national secu-*  
17          *rity purposes, required by section 4(a)(2)(B);*

18          (7) *actions taken pursuant to section 4(b)(1), in-*  
19          *cluding changes made in control lists and assessments*  
20          *of foreign availability;*

21          (8) *evidence demonstrating a need to impose*  
22          *export controls for national security or foreign policy*  
23          *purposes in the face of foreign availability as set forth*  
24          *in section 4(a)(2)(E);*

1           (9) *the information contained in the reports re-*  
2 *quired by section 4(e)(2) of this Act, together with an*  
3 *analysis of—*

4           (A) *the impact on the economy and world*  
5 *trade of shortages or increased prices for commod-*  
6 *ities subject to monitoring under this Act or sec-*  
7 *tion 812 of the Agricultural Act of 1970;*

8           (B) *the worldwide supply of such commod-*  
9 *ities; and*

10          (C) *actions being taken by other nations in*  
11 *response to such shortages or increased prices;*

12          (10) *delegations of authority by the President as*  
13 *provided for under section 4(k) of this Act;*

14          (11) *the progress of negotiations under section*  
15 *4(n) of this Act;*

16          (12) *the number and disposition of export license*  
17 *applications taking more than 90 days to process pur-*  
18 *suant to section 4(d) of this Act;*

19          (13) *consultations undertaken with technical advi-*  
20 *sory committees pursuant to section 8(c) of this Act,*  
21 *the use made of advice given, and the contribution such*  
22 *committees made in carrying out the policies of this*  
23 *Act;*

24          (14) *violations of the provisions of this Act and*  
25 *penalties imposed pursuant to this Act; and*







export regulation, and to minimize interference with the ability to engage in commerce.”.

Calendar No. 181

96TH CONGRESS  
1ST SESSION

**S. 737**

[Report No. 96-169]

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## A BILL

To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

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MARCH 22 (legislative day, FEBRUARY 22), 1979

Read twice and referred to the Committee on Banking,  
Housing, and Urban Affairs

MAY 15 (legislative day, APRIL 9), 1979

Reported with an amendment to the text and an amendment  
to the title