

96TH CONGRESS
1ST SESSION

S. 977

To amend the Export Administration Act of 1969, as amended, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23 (legislative day, APRIL 9), 1979

Mr. PROXMIRE (by request) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Export Administration Act of 1969, as amended, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Export Administration Act of 1969, as
4 amended (50 U.S.C. App. 2401), is further amended by—
5 (a) revising subsection (2) to read as follows:
6 “‘The export of goods or technology without regard to
7 whether it makes a significant contribution to the mili-
8 tary potential of individual countries or combinations of

1 countries may adversely affect the national security of
2 the United States.”;

3 (b) revising subsection (3) to read as follows:

4 “The restriction of exports from the United States can
5 have serious adverse effects on the balance of pay-
6 ments and on domestic employment, particularly when
7 restrictions applied by the United States are more ex-
8 tensive than those imposed by other countries.”; and

9 (c) adding at the end thereof the following two
10 new subsections:

11 “(6) Exports are important to the economic well-being
12 of the United States.

13 “(7) It is important that the administration of export
14 controls imposed for national security purposes give special
15 emphasis to the need to control exports of technology (and
16 goods which contribute significantly to the transfer of such
17 technology) which could make a significant contribution to
18 the military potential of any country or combination of coun-
19 tries which would be detrimental to the national security of
20 the United States.”.

21 SEC. 2. Section 3 of the Export Administration Act of
22 1969, as amended (50 U.S.C. App. 2402) is further amended
23 by—

24 (a) revising subsection (2) to read as follows: “It
25 is the policy of the United States to use export con-

1 trols to the extent necessary to restrict the export of
2 (A) goods and technology which would make a signifi-
3 cant contribution to the military potential of any coun-
4 try or combination of countries which would prove det-
5 rimental to the national security of the United States;
6 (B) goods and technology where necessary to further
7 significantly the foreign policy of the United States or
8 to fulfill its international responsibilities; and (C) goods
9 where necessary to protect the domestic economy from
10 the excessive drain of scarce materials and to reduce
11 the serious inflationary impact of foreign demand.”;

12 (b) deleting in subsection (5) “articles, materials,
13 supplies, or information” and inserting in lieu thereof,
14 “goods, technical data, or other information”;

15 (c) deleting in subsection (6) “articles, materials,
16 or supplies, including technical data or other informa-
17 tion,” and inserting in lieu thereof, “goods, technical
18 data, or other information”; and

19 (d) adding at the end thereof the following new
20 subsection:

21 “(9) It is the policy of the United States to cooperate
22 with other nations with which the United States has defense
23 treaty commitments in restricting the export of goods and
24 technical data which would make a significant contribution to
25 the military potential of any country or combination of coun-

1 tries which would prove detrimental to the security of the
2 United States and of those countries with which the United
3 States has defense treaty commitments.”.

4 SEC. 3. Section 4 of the Export Administration Act of
5 1969, as amended (50 U.S.C. App. 2403), is further amend-
6 ed by—

7 (a) deleting “nations with which the United
8 States is engaged in trade” in subsection (a), para-
9 graph (1), and inserting in lieu thereof “countries with
10 which the United States has diplomatic or trading rela-
11 tions”;

12 (b) deleting “articles, materials, or supplies, in-
13 cluding technical data or other information,” in subsec-
14 tion (a), paragraph (1), and inserting in lieu thereof
15 “goods and technical data”;

16 (c) deleting the last sentence of subsection (a),
17 paragraph (1);

18 (d) revising subsection (b), paragraph (1) to read
19 as follows: “To the extent necessary to carry out the
20 policies set forth in section 3 of this Act, the President,
21 by rule or regulation, may prohibit or curtail the
22 export of any goods, technology, or any other informa-
23 tion subject to the jurisdiction of the United States or
24 exported by any person subject to the jurisdiction of
25 the United States. To the extent necessary to achieve

1 effective enforcement of this Act, these rules and regu-
2 lations may apply to the financing, transporting, and
3 other servicing of exports and the participation therein
4 by any person. In curtailing exports to carry out the
5 policy set forth in section 3(2)(C) of this Act, the Presi-
6 dent is authorized and directed to allocate a portion of
7 export licenses on the basis of factors other than a
8 prior history of exportation.”;

9 (e) deleting “(C)” in subparagraph (A), paragraph
10 (2), subsection (b), and inserting in lieu thereof “(A),”
11 and by deleting the last sentence of that subparagraph;

12 (f) deleting “articles, materials, or supplies, in-
13 cluding technical data or other information” in subpar-
14 agraph (B), paragraph (2), subsection (b) and inserting
15 in lieu thereof “goods, technical data, or any other in-
16 formation,” and adding the following sentence at the
17 end of that subparagraph: “In administering export
18 controls for foreign policy purposes, weight will be
19 given to whether the goods or technology in question
20 are also available from countries other than the United
21 States.”;

22 (g) deleting “(A)” in paragraph (1), subsection (c),
23 and inserting in lieu thereof “(C)”;

24 (h) deleting “(C)” in paragraph (1), subsection (f),
25 and inserting in lieu thereof “(A)”;

1 (i) deleting "(A)" in paragraph (3), subsection (f),
2 and inserting in lieu thereof "(C)";

3 (j) inserting after the words "national security" in
4 the first sentence of subparagraph (A), paragraph (2),
5 subsection (g), the words "and foreign policy";

6 (k) deleting "(A)" as it appears in subsection (i)
7 and inserting in lieu thereof "(C)";

8 (l) relettering that subsection (m) which begins
9 with the words, "No article, material, or supply," as
10 subsection (n);

11 (m) deleting "article, material, or supply, includ-
12 ing technical data or other information," in relettered
13 subsection (n) and inserting in lieu thereof "goods,
14 technical data, or any other information,"; and

15 (n) adding at the end thereof the following two
16 new subsections:

17 "(o)(1) Any United States firm, enterprise, or other non-
18 governmental entity which, for commercial purposes, enters
19 into an agreement with an agency of a government in an-
20 other country to which exports are restricted for national se-
21 curity purposes, which agreement cites an intergovernmental
22 agreement calling for the encouragement of technical cooper-
23 ation and is intended to result in the export from the United
24 States to the other party of unpublished technical data of

1 United States origin, shall report such agreement to the Sec-
2 retary of 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 “(p) 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 sec-
14 tion 3(9) of this Act, as authorized under section 4(b)(1) of
15 this Act, including negotiations on the basis of approved ad-
16 ministration positions as to which goods and technologies
17 should be subject to multilaterally agreed export restrictions
18 and what conditions should apply for exceptions from those
19 restrictions.”.

20 SEC. 4. Section 5 of the Export Administration Act of
21 1969, as amended (50 U.S.C. App. 2404), is further amend-
22 ed by—

23 (a) deleting “Federal Energy Administration” in
24 subsection (a) and inserting in lieu thereof “Depart-
25 ment of Energy”;

1 (b) deleting "article, material, or supply" in para-
2 graph (2), subsection (b) and inserting in lieu thereof
3 "goods";

4 (c) deleting "(A)" in paragraph (2), subsection (b)
5 and inserting in lieu thereof "(C)";

6 (d) deleting "articles, materials, and supplies, in-
7 cluding technical data and other information" each
8 time it appears in paragraph (1), subsection (c) and in-
9 serting in lieu thereof "goods and technical data";

10 (e) deleting from paragraph (2), subsection (c) "ar-
11 ticles, materials, and supplies, including technical data
12 or other information" and inserting in lieu thereof,
13 "goods and technical data";

14 (f) deleting the following sentence from paragraph
15 (2) subsection (c): "The Secretary shall include in each
16 semiannual report required by section 10 of this Act an
17 accounting of the consultation undertaken pursuant to
18 this paragraph, the use made of the advice rendered by
19 the technical advisory committees pursuant to this
20 paragraph, and the contributions of the technical advi-
21 sory committees in carrying out the policies of this
22 Act."; and

23 (g) deleting from paragraph (5), subsection (c),
24 "articles, materials, and supplies" and inserting in lieu
25 thereof "goods and technical data".

1 SEC. 5. Section 6 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2405) is further amended
3 by—

4 (a) revising subsection (a) to read as follows:

5 “Except as provided in subsection (b) of this section,
6 whoever knowingly violates any provision of this Act
7 or any regulation, order, or license issued thereunder
8 shall be fined not more than five times the value of the
9 exports involved or \$50,000, whichever is greater, or
10 imprisoned not more than five years, or both.”;

11 (b) revising subsection (b) to read as follows:

12 “Whoever willfully exports anything contrary to any
13 provision of this Act or any regulation, order, or li-
14 cense issued thereunder, with knowledge that such ex-
15 ports will be used for the benefit of any country to
16 which exports are restricted for national security or
17 foreign policy purposes, shall be fined not more than
18 five times the value of the exports involved or
19 \$100,000, whichever is greater, or imprisoned not
20 more than ten years, or both.”; and

21 (c) deleting “articles, materials, supplies, or tech-
22 nical data or other information” from subparagraph
23 (A), paragraph (2), subsection (c) and inserting in lieu
24 thereof, “goods, technical data, or any other informa-
25 tion”.

1 SEC. 6. Section 7 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2406) is further amended
3 by—

4 (a) revising subsection (c) to read as follows:

5 “Except as otherwise provided by the third sentence of
6 section 4A(b)(2) and by section 6(c)((2)(C) of this Act,
7 information obtained under this Act which is deemed
8 confidential or with reference to which a request for
9 confidential treatment is made by the person furnishing
10 such information shall be exempt from disclosure under
11 section 552(b)(3)(B) of title 5, United States Code, and
12 such information shall not be published or disclosed
13 unless the Secretary of Commerce determines that the
14 withholding thereof is contrary to the national interest.
15 Nothing in this act shall be construed as authorizing
16 the withholding of information from Congress, and all
17 information obtained at any time under this Act or pre-
18 vious Acts regarding the control of exports, including
19 any report or license application required under section
20 4(b), shall be made available upon request to any com-
21 mittee or subcommittee of Congress of appropriate ju-
22 risdiction. No such committee or subcommittee shall
23 disclose any information obtained under this Act or
24 previous Acts regarding the control of exports which is
25 submitted on a confidential basis unless the full com-

1 mittee determines that the withholding thereof is con-
2 trary to the national interest.”;

3 (b) deleting the last sentence of subsection (d); and

4 (c) deleting subsection (e).

5 SEC. 7. Section 9 of the Export Administration Act of
6 1969, as amended (50 U.S.C. App. 2408), is repealed.

7 SEC. 8. Section 10 of the Export Administration Act of
8 1969, as amended (50 U.S.C. App. 2409) is revised to read
9 as follows:

10 “REPORT

11 “SEC. 9. (a) The Secretary of Commerce shall make an
12 annual report to the President and to the Congress on the
13 implementation of this Act.

14 “(b) Each annual report shall include an accounting
15 of—

16 “(1) actions taken by the President and the Secre-
17 tary of Commerce to effect the antiboycott policies set
18 forth in section 3(5) of this Act;

19 “(2) organizational and procedural changes insti-
20 tuted and any reviews undertaken in furtherance of the
21 policies set forth in this Act;

22 “(3) efforts to keep the business sector of the
23 Nation informed about policies and procedures adopted
24 under this Act;

1 “(4) any changes in the exercise of the authorities
2 of section 4(b) of this Act;

3 “(5) the results of review of United States policy
4 toward individual countries called for in section
5 4(b)(2)(A);

6 “(6) evidence demonstrating a need to impose
7 export controls for national security purposes in the
8 face of foreign availability as set forth in section
9 4(b)(2)(B);

10 “(7) the information contained in the reports re-
11 quired by section 4(c)(2) of this Act, together with an
12 analysis of—

13 “(A) the impact on the economy and world
14 trade of shortages or increased prices for com-
15 modities subject to monitoring under this Act or
16 section 812 of the Agricultural Act of 1970;

17 “(B) the worldwide supply of such commod-
18 ities; and

19 “(C) actions being taken by other nations in
20 response to such shortages or increased prices;

21 “(8) delegations of authority by the President as
22 provided for under section 4(e) of this Act;

23 “(9) the number and disposition of export license
24 applications taking more than ninety days to process
25 pursuant to section 4(g) of this Act;

1 “(10) consultations undertaken with technical ad-
2 visory committees pursuant to section 5(c) of this Act,
3 the use made of advice given, and the contribution
4 such committees made in carrying out the policies of
5 this Act;

6 “(11) violations of the provisions of this Act and
7 penalties imposed pursuant to this Act; and

8 “(12) any revisions to reporting requirements pre-
9 scribed in section 7(d).

10 “(c) The heads of other involved departments and agen-
11 cies shall fully cooperate with the Secretary of Commerce in
12 providing all information required by the Secretary of Com-
13 merce to complete the annual reports.”.

14 SEC. 9. Section 11 of the Export Administration Act of
15 1969, as amended (50 U.S.C. App. 2410), is renumbered as
16 section 10.

17 SEC. 10. Section 12 of the Export Administration Act
18 of 1969, as amended (50 U.S.C. App. 2411) is amended
19 by—

20 (a) renumbering it as section 11; and

21 (b) deleting “section 414 of the Mutual Security
22 Act of 1954 (22 U.S.C. 1934).” in subsection (b) and
23 inserting in lieu thereof “section 38 of the Arms
24 Export Control Act (22 U.S.C. 2778).”.

1 SEC. 11. Section 13 of the Export Administration Act
2 of 1969, as amended (50 U.S.C. App. 2411a) is further
3 amended by—

4 (a) renumbering it as section 12;

5 (b) revising subsection (a) to read as follows:

6 “(a) For fiscal years commencing on or after October 1,
7 1979, there are hereby authorized to be appropriated to the
8 Department of Commerce such sums as may be necessary to
9 carry out the purposes of this Act.”; and

10 (c) adding at the end thereof the following new
11 subsection:

12 “(c) For fiscal years commencing on or after October 1,
13 1979, there are hereby authorized to be appropriated to the
14 Department of State such sums as may be necessary to im-
15 plement the provisions of sections 3(9) and 4(p) of this Act.”.

16 SEC. 12. Section 15 of the Export Administration Act
17 of 1969, as amended (50 U.S.C. App. 2413), is further
18 amended by deleting “1979” and inserting in lieu thereof
19 “1983”.

20 SEC. 13. Sections 14 and 15 of the Export Administra-
21 tion Act of 1969, as amended (50 U.S.C. App. 2412 and
22 2413), are renumbered as section 13 and section 14, respec-
23 tively.

1 SEC. 14. As of October 1, 1979, the Mutual Defense
2 Assistance Control Act of 1951, as amended (22 U.S.C.
3 1611-1613d), is superseded.

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96TH CONGRESS
1ST SESSION

H. R. 2344

To extend the Export Administration Act prohibition on the export of Alaskan oil.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 1979

Mr. MCKINNEY introduced the following bill; which was referred to the
Committee on Foreign Affairs

A BILL

To extend the Export Administration Act prohibition on the
export of Alaskan oil.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 SECTION 1. Section 4 of the Export Administration Act
4 of 1969, as amended by section 110 of the Export Adminis-
5 tration Act Amendments of 1977, is further amended by de-
6 leting from subsection (l)(1) the following words: "during the
7 two-year period beginning on the date of enactment of this
8 subsection".

○

1 “(1) A large United States trade deficit weakens
2 the value of the United States dollar, intensifies infla-
3 tionary pressures in the domestic economy, and height-
4 ens instability in the world economy.

5 “(2) Poor export performance is an important
6 factor contributing to a United States trade deficit.

7 “(3) It is important for the national interest of the
8 United States that both the private sector and the Fed-
9 eral Government place a high priority on exports,
10 which would strengthen the Nation’s economy.

11 “(4) Because of the increased technological capa-
12 bilities of other countries friendly to the United States,
13 United States export controls can no longer significant-
14 ly retard the military capabilities of countries which
15 threaten the national security of the United States,
16 unless such export controls are imposed in cooperation
17 with such friendly countries.

18 “(5) The method by which certain exports are
19 regulated by the United States Government has cre-
20 ated uncertainties in the business community which are
21 detrimental to exports, domestic employment, and the
22 trade balance of the United States.

23 “(6) Some exports, if not restricted, could be det-
24 rimental to the military security or foreign policy of the
25 United States, or could exacerbate shortages and infla-

1 “(B) to further significantly the foreign policy
2 of the United States and to fulfill its international
3 responsibilities; or

4 “(C) to protect the domestic economy from
5 the excessive drain of scarce materials and reduce
6 the inflationary impact of foreign demand for
7 these materials;

8 “(4) to formulate, reformulate, and apply any nec-
9 essary controls in cooperation with other nations to the
10 maximum extent possible;

11 “(5)(A) to oppose restrictive trade practices or
12 boycotts fostered or imposed by foreign countries
13 against other countries friendly to the United States or
14 against any United States person, and (B) to encourage
15 and, in specified cases, to require United States per-
16 sons engaged in the export of any technology or prod-
17 uct to refuse to take actions, including furnishing infor-
18 mation or entering into or implementing agreements,
19 which have the effect of furthering or supporting re-
20 strictive trade practices or boycotts fostered or imposed
21 by any foreign country against a country friendly to
22 the United States or against any United States person;

23 “(6) to impose export controls on any technology
24 or product after consultation with, and review by, rep-

1 representatives of appropriate United States Government
2 agencies and qualified experts from private industry;

3 “(7) to use export controls to encourage other
4 countries to take immediate steps to prevent the use of
5 their territory or resources to aid, encourage, or give
6 sanctuary to those persons involved in directing, sup-
7 porting, or participating in acts of international terror-
8 ism; and

9 “(8) to permit any United States person to export
10 any technology or product, unless such export is con-
11 trolled under the provisions of this Act or any other
12 Act.”.

13 EXPORT LICENSES; TYPES OF CONTROLS

14 SEC. 4. (a) The Export Administration Act of 1969 is
15 amended—

16 (1) by redesignating section 4 as section 7;

17 (2) by striking out sections 5 and 9;

18 (3) by redesignating sections 6, 7, 8, 10, 11, 12,
19 13, 14, and 15 as sections 11, 12, 13, 15, 17, 18, 19,
20 20, and 21, respectively; and

21 (4) by redesignating sections 4A and 4B as sec-
22 tions 8 and 9, respectively.

23 (b) The Export Administration Act of 1969 is amended
24 by adding after section 3 the following new sections:

1 “EXPORT LICENSES; COMMODITY CONTROL LIST;

2 LIMITATION ON CONTROLLING EXPORTS

3 “SEC. 4. (a) TYPES OF EXPORT LICENSES.—The Sec-
4 retary of Commerce may, in accordance with the provisions
5 of this Act, issue any of the following export licenses:

6 “(1) A validated license, which shall be a docu-
7 ment issued pursuant to an application by an exporter
8 authorizing the export of a specific technology or prod-
9 uct, or both, to a specific consignee under specific con-
10 ditions, which license may be issued to cover a specific
11 transaction or, under procedures established by the
12 Secretary, a group of transactions.

13 “(2) A distribution license, which shall be a docu-
14 ment issued pursuant to an application by the exporter
15 authorizing the export, without specific application by
16 the exporter for each such export, of a category of
17 technologies or products to consignees specified in the
18 license, under specific conditions. Any such license
19 shall include a requirement that the exporter report to
20 the Secretary, under procedures established by the
21 Secretary, any export made under the license.

22 “(3) A general license, which shall be an authori-
23 zation to export, without specific application by the ex-
24 porter, and without any restriction as to consignee, a
25 category of technologies or products, subject to such

1 exceptions as may be set forth in the license. No
2 person shall be required under a general license to
3 report to the Secretary, or to any other official with
4 responsibilities under this Act, any export made under
5 the license.

6 “(b) COMMODITY CONTROL LIST.—The Secretary shall
7 establish and maintain a list (hereinafter in this Act referred
8 to as the ‘commodity control list’) consisting of any technol-
9 ogy or product subject to export control under this Act.

10 “(c) No authority or permission to export may be re-
11 quired under this Act, or under any rules or regulations
12 issued under this Act, except to carry out the policies set
13 forth in section 3 of this Act.

14 “MILITARY SECURITY CONTROLS

15 “SEC. 5. (a) AUTHORITY.—(1) In order to carry out the
16 policy set forth in section 3(3)(A) of this Act, the President
17 may, in accordance with the provisions of this section, pro-
18 hibit or curtail the export of any technology or product. The
19 authority contained in this subsection shall be exercised by
20 the Secretary, in consultation with the Secretary of Defense,
21 and shall be implemented by means of export licenses de-
22 scribed in section 4(a) of this Act.

23 “(2)(A) Whenever the Secretary imposes any export
24 control under this subsection, the Secretary shall publish in
25 the Federal Register a notice of the imposition of such con-

1 trol, and shall specify in such notice that such control is im-
2 posed under the authority contained in this subsection.

3 “(B) Whenever the Secretary denies any export license
4 under this subsection, the Secretary shall specify in the
5 notice to the applicant of the denial of such license that the
6 license was denied under the authority contained in this sub-
7 section.

8 “(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In
9 administering export controls under this section, United
10 States policy toward individual countries shall not be deter-
11 mined exclusively on the basis of a country’s Communist or
12 non-Communist status, but shall take into account such fac-
13 tors as the country’s present and potential relationship to the
14 United States, its present and potential relationship to coun-
15 tries friendly or hostile to the United States, its ability and
16 willingness to control retransfers of United States exports in
17 accordance with United States policy, and such other factors
18 as the President may deem appropriate. The President shall
19 periodically review United States policy toward individual
20 countries to determine whether such policy is appropriate in
21 light of factors specified in the preceding sentence. The re-
22 sults of such review, together with the justification for United
23 States policy in light of such factors, shall be reported to the
24 Congress in each annual report of the Secretary required by
25 section 15 of this Act.

1 “(c) ITEMS SUBJECT TO CONTROLS.—(1) The Secre-
2 tary may impose export controls under this section only on a
3 technology or product described in paragraph (2) with respect
4 to which—

5 “(A) the United States possesses capabilities sig-
6 nificantly greater than nations which threaten or may
7 threaten the military security of the United States; and

8 “(B) nations other than those described in subpar-
9 agraph (A) do not possess capabilities comparable to
10 those possessed by the United States or have agreed to
11 impose export controls on such technology or product
12 comparable to those imposed by the United States.

13 “(2) A technology or product referred to in paragraph
14 (1) is as follows:

15 “(A) Any technology which is critical to the mili-
16 tary capabilities of any nation which threatens or may
17 threaten the military security of the United States.

18 “(B) Any product the exportation of which would
19 transfer a technology described in subparagraph (A) to
20 a nation described in such subparagraph.

21 “(d) CONTROL LIST.—(1) The Secretary shall establish
22 and maintain, as part of the commodity control list, a list of
23 every technology and product which is subject to export con-
24 trols under this section. Each such technology or product

1 shall be clearly identified as such, subject to controls under
2 this section.

3 “(2) The Secretary shall consult with the Secretary of
4 Defense in establishing and maintaining the list described in
5 paragraph (1). If the two Secretaries are unable to agree on
6 such list, the matter shall be referred to the President for
7 resolution.

8 “(3) The Secretary shall issue regulations providing for
9 periodic revision of the list established pursuant to this sub-
10 section for the purpose of eliminating any technology or prod-
11 uct from the list which no longer meets the criteria set forth
12 in paragraphs (1) and (2) of subsection (c).

13 “(e) VALIDATED LICENSES.—(1) The Secretary may
14 require a validated license under this section for the export of
15 a technology or product only if—

16 “(A) the export of such technology or product is
17 restricted pursuant to a multilateral agreement, formal
18 or informal, to which the United States is a party and,
19 under the terms of such multilateral agreement, such
20 export requires the specific approval of the parties to
21 such multilateral agreement; or

22 “(B) with respect to such technology or product
23 other nations do not possess capabilities comparable to
24 those possessed by the United States.

1 “(2)(A) The Secretary, in consultation with appropriate
2 Government agencies and with appropriate technical advi-
3 sory committees established pursuant to subsection (h), shall
4 review, on a continuing basis, the availability from sources
5 outside the United States of any technology or product the
6 export of which requires a validated license under this sec-
7 tion. In any case in which the Secretary determines, in ac-
8 cordance with procedures and criteria which the Secretary
9 shall by regulation establish, that any such technology or
10 product is or will imminently become available in fact from
11 sources outside the United States in sufficient quantity and of
12 sufficient quality so that the requirement of a validated li-
13 cense for the export of such technology or product is or
14 would be ineffective in achieving the purpose set forth in sub-
15 section (a), the Secretary may not, after the determination is
16 made, require a validated license for the export of such
17 technology or product, during the period of such foreign
18 availability.

19 “(B) The Secretary shall approve any application for a
20 validated license which is required under this section for the
21 export of any technology or product and which meets all
22 other requirements for such an application, if the Secretary
23 determines that such technology or product will, if such li-
24 cense is denied, be available in fact from sources outside the
25 United States in sufficient quantity and of sufficient quality so

1 that such denial would be ineffective in achieving the purpose
2 set forth in subsection (a). In any case in which the Secretary
3 makes a determination of foreign availability under this sub-
4 paragraph with respect to a technology or product, the Sec-
5 retary shall determine whether a determination under sub-
6 paragraph (A) with respect to such technology or product is
7 warranted.

8 “(f) DISTRIBUTION LICENSES.—The Secretary may re-
9 quire a distribution license under this section for the export of
10 a technology or product only if—

11 “(1) the export of such technology or product is
12 restricted pursuant to a multilateral agreement, formal
13 or informal, to which the United States is a party but
14 such export does not require the specific approval of
15 the parties to such multilateral agreement; or

16 “(2) with respect to such technology or product
17 other nations do not possess capabilities comparable to
18 those possessed by the United States.

19 “(g) INDEXING.—In order to ensure that requirements
20 for validated licenses and distribution licenses are periodically
21 removed as any technology or product subject to such re-
22 quirements become obsolete with respect to the military se-
23 curity of the United States, the Secretary shall, within ninety
24 days after the effective date of this subsection, issue regula-
25 tions providing for the establishment of a system of automatic

1 annual increases in the performance levels of any product or
2 technology subject to any such licensing requirement. Any
3 such technology or product which no longer meets the per-
4 formance levels established by the latest such increase shall
5 be removed from the list established pursuant to subsection
6 (d), unless, under such exceptions and under such procedures
7 as the Secretary shall prescribe, any other Government
8 agency objects to such removal and the Secretary deter-
9 mines, on the basis of such objection, that the technology or
10 product shall not be removed from the list.

11 “(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon
12 written request by representatives of a substantial segment of
13 any industry which produces any technology or product
14 which is subject to export controls under subsection (a) or
15 which is being considered for such controls because of its
16 significance to the military security of the United States, the
17 Secretary shall appoint a technical advisory committee for
18 any such technology or product which the Secretary deter-
19 mines is difficult to evaluate because of questions concerning
20 technical matters, worldwide availability, and actual utiliza-
21 tion of production and technology, or licensing procedures.
22 Each such committee shall consist of representatives of
23 United States industry and Government, including the De-
24 partments of Commerce, Defense, and State, and, in the dis-
25 cretion of the Secretary, other Government departments and

1 agencies. No person serving on any such committee who is
2 representative of industry shall serve on such committee for
3 more than four consecutive years.

4 “(2) Technical advisory committees established under
5 paragraph (1) shall advise and assist the Secretary and any
6 other department, agency, or official of the Government of
7 the United States to which the President delegates authority
8 under this Act with respect to actions designed to carry out
9 the policy set forth in section 3(3)(A) of this Act. Such com-
10 mittees, where they have expertise in such matters, shall be
11 consulted with respect to questions involving (A) technical
12 matters, (B) worldwide availability and actual utilization of
13 production technology, (C) licensing procedures which affect
14 the level of export controls applicable to any technology or
15 product, and (D) exports subject to multilateral controls in
16 which the United States participates, including proposed re-
17 visions of any such multilateral controls. Nothing in this sub-
18 section shall prevent the Secretary from consulting, at any
19 time, with any person representing industry or the general
20 public regardless of whether such person is a member of a
21 technical advisory committee. Members of the public shall be
22 given a reasonable opportunity, pursuant to regulations pre-
23 scribed by the Secretary, to present evidence to such
24 committees.

1 “(3) To facilitate the work of the technical advisory
2 committees, the Secretary, in conjunction with other depart-
3 ments and agencies participating in the administration of this
4 Act, shall disclose to each such committee adequate informa-
5 tion, consistent with national security, pertaining to the rea-
6 sons for the export controls which are in effect or contem-
7 plated for the technology or product with respect to which
8 that committee furnishes advice.

9 “(4) Whenever a technical advisory committee certifies
10 to the Secretary that a technology or product with respect to
11 which such committee was appointed has become or will im-
12 minently become available in fact from sources outside the
13 United States in sufficient quantity and of sufficient quality so
14 that requiring a validated license for the export of such tech-
15 nology or product would be ineffective in achieving the pur-
16 pose set forth in subsection (a), and provides adequate docu-
17 mentation for such certification, in accordance with the pro-
18 cedures established pursuant to subsection (e)(2)(A) of this
19 section, the Secretary shall take steps to verify such avail-
20 ability, and upon such verification shall remove the require-
21 ment of a validated license for the export of the technology or
22 product.

23 “(i) TREATY ON MULTILATERAL CONTROLS.—The
24 President shall enter into negotiations with countries friendly
25 to the United States for the purpose of concluding a treaty or

1 treaties providing for cooperation in controlling exports for
2 the purposes for which export controls are imposed under
3 subsection (a) of this section, with a view to the military se-
4 curity of both the United States and such friendly countries.
5 Such treaty or treaties shall provide that any agreement be-
6 tween or among the parties to such treaty which is entered
7 into pursuant to the treaty shall be made available to the
8 public. United States participation in the group known as the
9 Coordinating Committee of the Consultative Group shall ter-
10minate after the effective date of this section
11 unless the President has (1) submitted such a treaty to the
12 Senate for ratification, or (2) submitted to the Congress a
13 report certifying that he has been unable to negotiate such a
14 treaty and stating the reasons therefor. The provisions of sec-
15 tion 10(i) shall apply to United States participation in such
16 Committee until such time as such provisions are superseded
17 by a treaty concluded pursuant to this paragraph.

18 "FOREIGN POLICY CONTROLS

19 "SEC. 6. (a) AUTHORITY.—(1) In order to effectuate
20 the policy set forth in paragraphs (3)(B) and (7) of section 3
21 of this Act, the President may prohibit or curtail the exporta-
22 tion of any technology or product to the extent necessary to
23 further significantly the foreign policy of the United States
24 and fulfill its international responsibilities. The authority
25 granted by this subsection shall be exercised by the Secre-

1 tary, in consultation with the Secretary of State, and shall be
2 implemented by means of export licenses issued by the Secre-
3 tary.

4 “(2)(A) Whenever the Secretary imposes any export
5 control under this subsection, the Secretary shall publish in
6 the Federal Register a notice of the imposition of such con-
7 trol, and shall specify in such notice that such control is im-
8 posed under the authority contained in this subsection.

9 “(B) Whenever the Secretary denies any export license
10 under this subsection, the Secretary shall specify in the
11 notice to the applicant of the denial of such license that the
12 license was denied under the authority contained in this sub-
13 section and the reasons for such denial, with reference to the
14 criteria set forth in subsection (b).

15 “(b) CRITERIA.—In determining whether to apply
16 export controls under this section, or whether to approve or
17 deny an export license under this section, the President,
18 acting through the Secretary and the Secretary of State,
19 shall take fully into account—

20 “(1) the likely effectiveness of the proposed con-
21 trols in achieving their purpose, including the availabil-
22 ity from other countries of any technology or product
23 comparable to any technology or product proposed for
24 export controls under this section;

1 “(2) the compatibility of the proposed controls
2 with the foreign policy objectives of the United States
3 and with overall United States policy toward the coun-
4 try which is the proposed target of the controls;

5 “(3) the likely effects of the proposed controls on
6 the export performance of the United States, on the
7 competitive position of the United States in the inter-
8 national economy, and on individual United States
9 companies and their employees and communities, in-
10 cluding the effects of the controls on existing contracts;
11 and

12 “(4) the ability of the United States Government
13 to enforce the proposed controls effectively.

14 “(c) CONSULTATION WITH INDUSTRY.—The Secre-
15 tary, before imposing export controls under this section, shall
16 consult with such affected United States industries as the
17 Secretary considers appropriate.

18 “(d) PRIOR NEGOTIATION.—The President shall at-
19 tempt to secure the objectives of any proposed export control
20 under this section through negotiation or other diplomatic
21 means before resorting to the imposition of such control.

22 “(e) NOTIFICATION TO CONGRESS.—The President
23 shall consult with the Congress before imposing any export
24 control under this section. Whenever the President imposes
25 any export control with respect to any country under this

1 section, he shall immediately notify the Congress of the im-
2 position of such export control, and shall submit with such
3 notification a report specifying—

4 “(1) the reasons for the control, the purposes the
5 control is designed to achieve, and the conditions under
6 which the control will be removed;

7 “(2) those considerations of the criteria set forth
8 in subsection (b) which led him to determine that on
9 balance such export control would further the foreign
10 policy interests of the United States;

11 “(3) the nature and results of consultations with
12 industry undertaken pursuant to subsection (c); and

13 “(4) the nature and results of any negotiations un-
14 dertaken under subsection (d).

15 To the extent necessary to further the effectiveness of such
16 export control, portions of such report may be submitted on a
17 classified basis, as provided in section 14. If the Congress,
18 within sixty days after the receipt of such notification, adopts
19 a concurrent resolution disapproving such export control,
20 then such export control shall cease to be effective with the
21 adoption of such resolution. In the computation of such sixty-
22 day period, there shall be excluded the days on which either
23 House of Congress is not in session because of an adjourn-
24 ment of more than three days to a day certain or because of
25 an adjournment of the Congress sine die. The procedures set

1 forth in section 130 of the Atomic Energy Act of 1954 shall
2 apply to any concurrent resolution referred to in this subsec-
3 tion, except that any such resolution shall be reported by the
4 appropriate committees of both Houses of Congress not later
5 than forty-five days after the receipt of the notification sub-
6 mitted pursuant to this subsection.

7 “(f) TREATY COMMITMENTS.—The Secretary need not
8 comply with the requirements of this section with respect to
9 any export control which the United States is obligated to
10 impose on account of a decision or other action of an interna-
11 tional organization of which the United States is a member
12 by treaty.

13 “(g) EXCLUSION FOR FOOD AND MEDICINE.—This
14 section does not authorize export controls on food, medicine,
15 or medical supplies. It is the intent of the Congress that the
16 President not impose export controls under this section on
17 any technology or product if he determines that the principal
18 effect of the export of such technology or product would be to
19 help meet basic human needs.

20 “(h) TRADE EMBARGOES.—This section does not au-
21 thorize the imposition by the United States of a total trade
22 embargo on any country.

23 “(i) FOREIGN AVAILABILITY.—In applying export con-
24 trols under this section, the President shall take all feasible
25 steps to initiate and conclude negotiations with appropriate

1 foreign governments for the purpose of securing the coopera-
2 tion of such foreign governments in controlling the export of
3 any technology or product comparable to any technology or
4 product controlled for export under this section.

5 “(j) CONTROL LIST.—The Secretary shall establish and
6 maintain, as part of the commodity control list, a list of any
7 technology or product which is subject to export controls
8 under this section and the countries to which such controls
9 apply. Such technology or product shall be clearly identified
10 as subject to controls under this section. The Secretary shall
11 consult with the Secretary of State in establishing and main-
12 taining such list. If the Secretary and the Secretary of State
13 are unable to agree on such list, the matter shall be referred
14 to the President for resolution. The Secretary shall issue reg-
15 ulations providing for periodic revision of such list for the
16 purpose of eliminating export controls which are no longer
17 necessary to fulfill the purpose set forth in subsection (a) of
18 this section.”.

19 LICENSE PROCESSING PROCEDURES

20 SEC. 5. The Export Administration Act of 1969 is
21 amended by inserting after section 9, as redesignated by sec-
22 tion 4(a) of this Act, the following new section:

1 “PROCEDURES FOR PROCESSING VALIDATED AND
2 DISTRIBUTION LICENSE APPLICATIONS

3 “SEC. 10. (a)(1) GENERAL RESPONSIBILITY OF THE
4 SECRETARY; DESIGNATED OFFICIAL.—All export license
5 applications required under this Act shall be submitted by the
6 applicant to the Secretary. All determinations with respect to
7 any such application shall be made by the Secretary, subject
8 to the procedures provided in this section for objections by
9 other agencies. The Secretary may not delegate the authority
10 to deny any such application to any official holding a rank
11 lower than Deputy Assistant Secretary.

12 “(2) For purposes of this section, the term ‘designated
13 official’ means an official designated by the Secretary to
14 carry out functions under this Act with respect to the admin-
15 istration of export licenses.

16 “(b) APPLICATIONS TO BE REVIEWED BY OTHER
17 AGENCIES.—(1) It is the intent of Congress that a determi-
18 nation with respect to any export license application be made
19 to the maximum extent possible by the Secretary without
20 referral of such application to any other Government agency.

21 “(2) The head of any Government agency concerned
22 with export controls may, within ninety days after the effec-
23 tive date of this section, and periodically thereafter, in con-
24 sultation with the Secretary, determine the specific types and
25 categories of license applications to be reviewed by such

1 agency before the Secretary approves or disapproves any
2 such application. The Secretary shall, in accordance with the
3 provisions of this section, submit to the agency involved any
4 license application of any such type or category.

5 “(c) INITIAL SCREENING.—Within ten days after the
6 date on which any export license application is received, the
7 designated official shall—

8 “(1) send to the applicant an acknowledgement of
9 the receipt of the application and the date of the
10 receipt;

11 “(2) submit to the applicant a written description
12 of the procedures required by this section, the responsi-
13 bilities of the Secretary and of other agencies with re-
14 spect to the application, and the rights of the applicant;

15 “(3) return the application without action if the
16 application is improperly completed or if additional in-
17 formation is required, in which case if such application
18 is resubmitted, it shall be treated as a new application
19 for the purpose of calculating the time periods pre-
20 scribed in this section; and

21 “(4) determine whether it is necessary to submit
22 the application to any other agency and, if such sub-
23 mission is determined to be necessary, inform the ap-
24 plicant of the agency or agencies to which the applica-
25 tion will be referred.

1 “(d) ACTION BY THE DESIGNATED OFFICIAL.—Within
2 thirty days after the date on which an export license applica-
3 tion is received, the designated official shall—

4 “(1) approve or disapprove the application and
5 formally issue or deny the license, as the case may be;
6 or

7 “(2)(A) submit the application concurrently to any
8 other agencies pursuant to subsection (b)(2); and

9 “(B) if the applicant so requests, provide the ap-
10 plicant with an opportunity to review for accuracy any
11 documentation submitted to such other agency with re-
12 spect to such application.

13 “(e) ACTION BY OTHER AGENCIES.—Any agency to
14 which an application is submitted pursuant to subsection
15 (d)(2)(A) shall submit to the designated official, within thirty
16 days after the end of the thirty-day period referred to in sub-
17 section (d), any recommendation with respect to such applica-
18 tion. Any such agency which does not so submit its recom-
19 mendations within the time period prescribed in the preced-
20 ing sentence shall be deemed by the designated official to
21 have no objection to the approval of such application.

22 “(f) DETERMINATION BY THE DESIGNATED OFFI-
23 CIAL.—(1) The designated official shall take into account any
24 recommendation of an agency with respect to an application,
25 submitted to the designated official pursuant to subsection (e),

1 and, within twenty days after the end of the period specified
2 in subsection (e) for submission of such agency recommenda-
3 tions, shall—

4 “(A) approve or disapprove the application, and
5 inform such agency of such approval or disapproval; or

6 “(B) if unable to reach a decision with respect to
7 the application, refer the application to the Secretary
8 and notify such agency and the applicant of such
9 referral.

10 “(2) The designated official shall formally issue or deny
11 the license, as the case may be, not more than ten days after
12 such official makes a determination under paragraph (1)(A),
13 unless any agency which submitted a recommendation to the
14 designated official pursuant to subsection (e) with respect to
15 the license application, notifies such official, within such ten-
16 day period, that it objects to the determination of the desig-
17 nated official.

18 “(3) The designated official shall fully inform the appli-
19 cant—

20 “(A) at the time of a denial of the application, the
21 specific reasons for such denial; or

22 “(B) in the case of referral to the Secretary under
23 paragraph (1)(B) or an objection by an agency under
24 paragraph (2), the specific questions raised, and any
25 negative considerations or recommendations made by

1 an agency, and shall accord the applicant an opportu-
2 nity, before the final determination with respect to the
3 application is made, to respond in writing to such ques-
4 tions, considerations, or recommendations.

5 “(g) ACTION BY THE SECRETARY.—(1)(A) In the case
6 of an objection of an agency of which the designated official
7 is notified under subsection (f)(2), the designated official shall
8 refer the application to the Secretary. The Secretary shall
9 consult with the head of such agency, and, within twenty
10 days after such notification, shall approve or disapprove the
11 license application and immediately inform such agency head
12 of such approval or disapproval.

13 “(B) In the case of a referral to the Secretary under
14 subsection (f)(1)(B), the Secretary shall, within twenty days
15 after such notification is transmitted, approve or disapprove
16 the application and immediately inform any agency which
17 submitted recommendations with respect to the application,
18 of such approval or disapproval.

19 “(2) The Secretary shall formally issue or deny the li-
20 cense, as the case may be, within ten days after approving or
21 disapproving the application under paragraph (1), unless the
22 head of the agency referred to in paragraph (1)(A), or the
23 head of an agency described in paragraph (1)(B), as the case
24 may be, notifies the Secretary of his objection to the approval
25 or disapproval.

1 “(3) The Secretary shall immediately and fully inform
2 the applicant, in accordance with subsection (f)(3), of any
3 action taken under paragraphs (1) and (2) of this subsection.

4 “(4) The Secretary may not delegate the authority to
5 carry out the actions required by this subsection to any offi-
6 cial holding a rank lower than Deputy Assistant Secretary.

7 “(h) ACTION BY THE PRESIDENT.—In the case of noti-
8 fication by an agency head under subsection (g)(2) of an ob-
9 jection to the Secretary’s decision with respect to an applica-
10 tion, the Secretary shall immediately refer the application to
11 the President. Within thirty days after such notification, the
12 President shall approve or disapprove the application and the
13 Secretary shall immediately issue or deny the license, in ac-
14 cordance with the President’s decision. In any case in which
15 the President does not approve or disapprove the application
16 within such thirty-day period, the decision of the Secretary
17 shall be final and the Secretary shall immediately issue or
18 deny the license in accordance with the Secretary’s decision.

19 “(i) MULTILATERAL REVIEW.—(1) In any case in
20 which an application, which has been approved by the United
21 States Government, is required to be submitted to a multilat-
22 eral review process, pursuant to a multilateral agreement,
23 formal or informal, to which the United States is a party, the
24 Secretary shall notify the applicant of the approval (and the
25 date of such approval) of the application by the United States

1 Government subject to such multilateral review. If such mul-
2 tilateral review has not resulted in a determination with re-
3 spect to such application within thirty days after such date,
4 the Secretary's approval of the application shall be final and
5 the license shall be issued.

6 “(2) In any case in which the approval of the United
7 States Government is sought by a foreign government for the
8 export of a commodity, pursuant to a multilateral agreement,
9 formal or informal, to which the United States is a party, the
10 Secretary of State, after consulting with other appropriate
11 United States Government agencies, shall, within thirty days
12 after the date on which the request for such approval is
13 made, make a determination with respect to such request for
14 approval. Any such other agency which does not submit a
15 recommendation to the Secretary of State before the end of
16 such thirty-day period shall be deemed by the Secretary of
17 State to have no objection to the request for United States
18 Government approval. The Secretary of State may not dele-
19 gate the authority to disapprove a request for United States
20 Government approval under this paragraph to any official of
21 the Department of State holding a rank lower than Deputy
22 Assistant Secretary.

23 “(j) COURT ACTION.—In any case in which any action
24 prescribed in this section is not taken on a license application
25 within the time periods established by this section, the appli-

1 cant may bring an action in an appropriate United States
2 district court for a restraining order, a temporary or perma-
3 nent injunction, or other appropriate relief, to require compli-
4 ance with the requirements of this section. The United States
5 district courts shall have jurisdiction to provide such relief as
6 appropriate.

7 “(k) The Secretary and any agency to which any appli-
8 cation is referred under this section shall keep accurate rec-
9 ords with respect to all applications considered by the Secre-
10 tary or by any such agency.”

11 **CONFIDENTIALITY PROVISIONS**

12 **SEC. 6.** The Export Administration Act of 1969 is
13 amended by inserting after section 13, as redesignated by
14 section 4(a) of this Act, the following new section:

15 **“CONFIDENTIALITY**

16 **“SEC. 14. (a) PROHIBITION ON PUBLIC DISCLO-**
17 **SURE.—**Except as provided by the third sentence of section
18 8(b)(2) and by section 11(c)(2)(C) of this Act, no department,
19 agency, or official exercising any functions under this Act
20 shall publish or publicly disclose information obtained under
21 this Act or the Export Control Act of 1949, which the Secre-
22 tary deems confidential.

23 **“(b) INFORMATION TO CONGRESS.—**Nothing in this
24 Act shall be construed as authorizing the withholding of in-
25 formation from Congress, and any department, agency, or

1 official exercising any functions under this Act shall, upon
2 the request of any committee or subcommittee of Congress of
3 appropriate jurisdiction, make available, without restriction,
4 to such committee or subcommittee any information obtained
5 (before, on, or after the effective date of this Act) under the
6 Export Control Act of 1949 or under this Act, including any
7 report or license application required under such Acts. No
8 such information which is deemed confidential on the date of
9 the request of such committee or subcommittee shall be pub-
10 licly disclosed by such committee or subcommittee unless the
11 full committee votes to disclose publicly such information.”.

12

REPORT TO CONGRESS

13 SEC. 7. Section 15 of the Export Administration Act of
14 1969, as redesignated by section 4(a) of this Act, is amended
15 to read as follows:

16

“ANNUAL REPORT

17 “SEC. 15. Not later than December 31 of each year, the
18 Secretary shall submit to the Congress a report on the ad-
19 ministration of this Act. All agencies shall cooperate fully
20 with the Secretary in providing information for such report.
21 Such report shall include detailed information with respect
22 to—

23

“(1) the implementation of the policies of section

24

3;

1 “(2) general licensing activities under sections 5,
2 6, and 7;

3 “(3) changes in categories of items under export
4 control referred to in subsections (e) and (f) of section
5 5;

6 “(4) the operation of the indexing system under
7 section 5(g);

8 “(5) determinations of foreign availability made
9 under section 5(e)(2), the criteria used to make such
10 determinations, and the removal of any export controls
11 under such section;

12 “(6) consultations with the technical advisory
13 committees established pursuant to section 5(h), the
14 use made of the advice rendered by such committees,
15 and the contributions of such committees toward imple-
16 menting the policies set forth in this Act;

17 “(7) changes in policies toward individual coun-
18 tries under section 5(b);

19 “(8) the effectiveness of export controls imposed
20 under section 6 in furthering the foreign policy of the
21 United States;

22 “(9) the implementation of section 8;

23 “(10) export controls and monitoring under sec-
24 tion 7;

1 “(1) ‘product’ means any article, material, or
2 supply;

3 “(2) ‘person’ includes the singular and the plural
4 and means any individual, partnership, corporation, or
5 other form of association, including any government or
6 agency thereof;

7 “(3) ‘Secretary’ means the Secretary of Com-
8 merce;

9 “(4) ‘technology’ means the knowledge required
10 to design and manufacture products and services and
11 includes technical data and any other information; and

12 “(5) ‘United States person’ means any United
13 States resident or national (other than an individual
14 resident outside the United States and employed by
15 other than a United States person), any domestic con-
16 cern (including any permanent domestic establishment
17 of any foreign concern) and any foreign subsidiary or
18 affiliate (including any permanent foreign establish-
19 ment) of any domestic concern which is controlled in
20 fact by such domestic concern, as determined under
21 regulations of the President.”.

22 AUTHORIZATION OF APPROPRIATIONS

23 SEC. 10. Section 19 of the Export Administration Act
24 of 1969, as redesignated by section 4(a) of this Act, is
25 amended to read as follows:

1 “AUTHORIZATION OF APPROPRIATIONS

2 “SEC. 19. (a) REQUIREMENT OF AUTHORIZING LEGIS-
3 LATION.—Notwithstanding any other provision of law, no
4 appropriation shall be made under any law to the Depart-
5 ment of Commerce for expenses to carry out the purposes of
6 this Act unless previously and specifically authorized by law.

7 “(b) AUTHORIZATION.—There is hereby authorized to
8 be appropriated to the Department of Commerce to carry out
9 the purposes of this Act \$7,070,000 for the fiscal year 1980
10 and \$7,777,000 for the fiscal year 1981 (and such additional
11 amounts as may be necessary for increases in salary, pay,
12 retirement, other employee benefits authorized by law, and
13 other nondiscretionary costs).”

14 TERMINATION DATE

15 SEC. 11. Section 21 of the Export Administration Act
16 of 1969, as redesignated by section 4(a) of this Act, is
17 amended to read as follows:

18 “TERMINATION DATE

19 “SEC. 21. The authority granted by this Act shall ter-
20minate on September 30, 1983.”

21 TECHNICAL AMENDMENTS

22 SEC. 12. (a) For purposes of this section, an amendment
23 which is expressed in terms of an amendment to a section or
24 other provision, shall be considered to be a section, as red-

1 ignited by section 4(a) of this Act, or other provision of the
2 Export Administration Act of 1969.

3 (b) Section 7 is amended—

4 (1) in the section heading by striking out “AU-
5 THORITY” and inserting in lieu thereof “OTHER CON-
6 TROLS”;

7 (2) in subsection (b)—

8 (A) in paragraph (1)—

9 (i) by inserting “(3)(C)” immediately
10 after “section 3” the first time it appears,

11 (ii) by striking out “articles, materials,
12 or supplies, including technical data on any
13 other information” and inserting in lieu
14 thereof “product”,

15 (iii) by striking out “articles, materials,
16 or supplies” and inserting in lieu thereof
17 “product”, and

18 (iv) by striking out “(2)(A)” and insert-
19 ing in lieu thereof “(3)(C)”; and

20 (B) by striking out paragraph (2) and inserting in
21 lieu thereof the following:

22 “(2) Upon imposing quantitative restrictions on exports
23 of any product to carry out the policy stated in section
24 3(3)(C) of this Act, the Secretary shall include in a notice
25 published in the Federal Register with respect to such re-

1 strictions an invitation to all interested parties to submit
2 written comments within fifteen days from the date of publi-
3 cation on the impact of such restrictions and the method of
4 licensing used to implement them.”;

5 (3) in subsection (c)—

6 (A) in paragraph (1)—

7 (i) by striking out “(2)(A)” and inserting
8 in lieu thereof “(3)(C)”;

9 (ii) by striking out “of Commerce”, and

10 (iii) by striking out “the last two sen-
11 tences of section 7(c)” and inserting in lieu
12 thereof “section 14(b)”;

13 (B) by striking out “article, material, or
14 supply” each place it appears and inserting in lieu
15 thereof “product”; and

16 (C) by adding at the end thereof the follow-
17 ing new paragraph:

18 “(3) The Secretary shall consult with the Secretary of
19 Energy to determine whether monitoring under this subsec-
20 tion is warranted with respect to exports of facilities, machin-
21 ery, or equipment normally and principally used, or intended
22 to be used, in the production, conversion, or transportation of
23 fuels and energy (except nuclear energy), including but not
24 limited to, drilling rigs, platforms, and equipment; petroleum
25 refineries, natural gas processing, liquefaction, and gasifica-

1 tion plants; facilities for production of synthetic natural gas
2 or synthetic crude oil; oil and gas pipelines, pumping stations,
3 and associated equipment; and vessels for transporting oil,
4 gas, coal, and other fuels.”;

5 (4) in subsection (f)—

6 (A) in paragraph (1) by striking out “clause
7 (B) or (C) of paragraph (2)” and inserting in lieu
8 thereof “subparagraph (A) or (B) of paragraph
9 (3)”;

10 (B) in paragraph (2)—

11 (i) by striking out “of Commerce” each
12 place it appears, and

13 (ii) by striking out “(2)(A)” and insert-
14 ing in lieu thereof “(3)(C)”;

15 (C) in paragraph (3) by striking out “clause
16 (A) or (B) of paragraph (2)” and inserting in lieu
17 thereof “paragraph (3)(C)”;

18 (5) in subsection (i) by striking out “(2)(A)” and
19 inserting in lieu thereof “(3)(C)”;

20 (6) in subsection (j)—

21 (A) by striking out “(2)(A)” and inserting in
22 lieu thereof “(3)(C)”;

23 (B) by striking out “of Commerce” each
24 place it appears,

1 (7) by striking out subsections (a), (d), (e), (g), (h),
2 and (k); and

3 (8) by redesignating subsections (b), (c), (f), (i), (j),
4 and (l) as subsections (a), (b), (c), (d), (e), and (f), re-
5 spectively.

6 (c) Section 8 is amended—

7 (1) in paragraphs (1)(D) and (5) of subsection (a)
8 by striking out “of Commerce”; and

9 (2) in subsection (b)—

10 (A) in paragraph (1) by striking out “4(b)”
11 and inserting in lieu thereof “6(a)”; and

12 (B) in paragraph (2) by striking out “of Com-
13 merce” each place it appears.

14 (d) Section 9 is amended—

15 (1) by striking out “of Commerce” each place it
16 appears; and

17 (2) by striking out “commodity” each place it ap-
18 pears and inserting in lieu thereof “product”.

19 (e) Subsection (c)(2) of section 11 is amended—

20 (1) in subparagraph (A) by striking out “articles,
21 materials, supplies, or technical data or other informa-
22 tion,” and inserting in lieu thereof “any technology or
23 product”; and

24 (2) by striking out “4A” each place it appears
25 and inserting in lieu thereof “8”.

1 (f) Section 12 is amended—

2 (1) in subsection (b) by striking out “the Compul-
3 sory Testimony Act of February 11, 1893 (27 Stat.
4 443; 49 U.S.C. 46)” and inserting in lieu thereof “sec-
5 tion 6002 of title 18, United States Code”;

6 (2) in subsection (d)—

7 (A) by striking out “quarterly”; and

8 (B) by striking out “10” and inserting in lieu
9 thereof “15”; and

10 (3) by striking out subsections (c) and (e) and by
11 redesignating subsection (d) as subsection (c).

12 (g) Section 13 is amended by striking out “6” and in-
13 serting in lieu thereof “11”.

14 (h) Section 18 is amended—

15 (1) in subsection (a) by striking out “(a)”; and

16 (2) by striking out subsection (b).

17 TECHNICAL AMENDMENTS TO OTHER ACTS

18 SEC. 13. (a) Section 38(e) of the Arms Export Control
19 Act (22 U.S.C. 2778(e)) is amended by striking out “sections
20 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Adminis-
21 tration Act of 1969” and inserting in lieu thereof “subsec-
22 tions (c), (d), (e), and (f) of section 11 of the Export Adminis-
23 tration Act of 1969, and by sections 12(a) and 14 of such
24 Act”.

1 (b)(1) Section 103 of the Energy Policy and Conserva-
2 tion Act (42 U.S.C. 6212) is amended in subsection (c) by
3 striking out “serious” and all that follows through “3(2)(A)”
4 and inserting in lieu thereof “‘inflationary impact of foreign
5 demand for these materials’ in section 3(3)(C) of such Act”.

6 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))
7 is amended to read as follows:

8 “(3) section 14 of the Export Administration Act
9 of 1969;”.

10 (c) Section 993(c)(2)(D) of the Internal Revenue Code of
11 1954 (26 U.S.C. 993(c)(2)(D) is amended—

12 (1) by striking out “4(b)” and inserting in lieu
13 thereof “7(a)”;

14 (2) by striking out “(50 U.S.C. App. 2403(b))”;
15 and

16 (3) by striking out “(2)(A)” and inserting in lieu
17 thereof “(3)(C)”.

18 **SAVINGS PROVISIONS**

19 **SEC. 14.** (a) All delegations, rules, regulations, orders,
20 determinations, licenses, or other forms of administrative
21 action which have been made, issued, conducted, or allowed
22 to become effective under the Export Administration Act of
23 1969 and which are in effect at the time this Act takes effect
24 shall continue in effect according to their terms until modi-

1 fied, superseded, set aside, or revoked under the amendments
2 made by this Act.

3 (b) The amendments made by this Act shall not apply to
4 any administrative proceedings commenced or any applica-
5 tion for a license made, under the Export Administration Act
6 of 1969, which is pending at the time this Act takes effect;

7 (c) This Act shall not affect any investigation, suit,
8 action, or other judicial proceeding commenced under the
9 Export Administration Act of 1969 which is pending at the
10 time this Act takes effect; but such investigation, suit, action,
11 or proceeding shall be continued as if this Act had not been
12 enacted.

13

EFFECTIVE DATE

14 **SEC. 15.** This Act shall take effect on October 1, 1979.



96TH CONGRESS
1ST SESSION

H. R. 3154

To provide for the administration of export controls.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1979

Mr. GIBBONS (for himself and Mr. CONABLE) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To provide for the administration of export controls.

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

3

SHORT TITLE

4 SECTION 1. This Act may be cited as the "Export Ad-
5 ministration Act of 1979".

6

FINDINGS

7 SEC. 2. The Congress makes the following findings:

8

(1) The right of United States citizens to engage

9

in international commerce is a fundamental concern of

10

United States trade policy.

1 (2) The stimulation of United States exports is
2 vital to the national interests of the United States, in-
3 cluding military security and foreign policy.

4 (3) The unrestricted right of United States enter-
5 prises to export materials, information, and technology
6 without regard to whether they make a significant con-
7 tribution to the military power of any other nation or
8 nations may adversely affect the military security and
9 foreign policy of the United States.

10 (4) The uncertainty of policy regarding certain
11 categories of exports and delays in the approval or dis-
12 approval of specific transactions have (A) curtailed the
13 efforts of American businesses to export and (B) raised
14 absolute barriers to exports by small businesses unable
15 to absorb the risks and costs of exporting.

16 (5) The restriction of exports and the costs of
17 export regulation to United States businesses may
18 cause significant economic injury or foreclose signifi-
19 cant economic opportunities in particular States.

20 (6) The restriction of certain exports from the
21 United States may hinder American businesses without
22 significantly furthering national interests when such ex-
23 ports are available in other countries.

24 (7) The availability of certain materials at home
25 and abroad varies so that the quantity and composition

1 of United States exports and their distribution among
2 importing countries may affect the welfare of their do-
3 mestic economy and may have an important bearing
4 upon fulfillment of the foreign policy of the United
5 States.

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

10 **DECLARATION OF POLICY**

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

12 (1) It is the policy of the United States that all
13 persons shall have the right to engage in domestic and
14 international commerce.

15 (2) It is the policy of the United States to pro-
16 mote the expansion of exports to further the economic,
17 political, and social interests of the United States, in-
18 cluding military security and foreign policy.

19 (3) It is the policy of the United States that the
20 right to export should be restricted only when the na-
21 tional interests which would be served by certain ex-
22 ports are outweighed by the dangers which such ex-
23 ports would pose to military, economic, or foreign
24 policy interests, and (A) the President has personally
25 determined that trade with certain countries is against

1 the national security of the United States, (B) it is nec-
2 essary to prevent the export of goods and technology
3 that would make a significant contribution to the mili-
4 tary power of any other nation or nations which would
5 prove detrimental to the national security of the United
6 States, (C) it is necessary to fulfill declared internation-
7 al obligations of the United States, or (D) it is neces-
8 sary to protect the domestic economy from the exces-
9 sive drain of scarce resources and to reduce the serious
10 inflationary impact of foreign demand.

11 (4) It is the policy of the United States that
12 export controls should not be imposed on the export of
13 any product or technology to a particular country with-
14 out consideration of the such economic impact of such
15 controls on the individual States.

16 (5) It is the policy of the United States (A) to for-
17 mulate, reformulate, and apply any necessary controls
18 to the maximum extent possible in cooperation with all
19 nations with which the United States has a common
20 interest, and (B) to formulate a unified trade control
21 policy to be observed by all such nations.

22 (6) It is the policy of the United States (A) to
23 oppose restrictive trade practices or boycotts fostered
24 or imposed by foreign countries against other countries
25 friendly to the United States or against any United

1 States person, (B) to encourage and, in specified cases,
2 to require United States persons engaged in the export
3 of articles, materials, supplies, or information to refuse
4 to take actions, including furnishing information or en-
5 tering into or implementing agreements, which have
6 the effect of furthering or supporting the restrictive
7 trade practices or boycotts fostered or imposed by any
8 foreign country against a country friendly to the
9 United States or against any United States person, (C)
10 to foster international cooperation and the development
11 of international rules and institutions to assure reason-
12 able access to world supplies.

13 (7) It is the policy of the United States that the
14 desirability of subjecting, or continuing to subject, par-
15 ticular articles, materials, or supplies, including techni-
16 cal data or other information, to United States export
17 controls should be subjected to periodic review in hear-
18 ings which permit the participation of representatives
19 of appropriate United States Government agencies,
20 States and other affected parties.

21 AUTHORITY

22 SEC. 4. (a) There shall be established a National Export
23 Administration Board (hereinafter in this Act referred to as
24 the "Board") composed of three voting members, each desig-
25 nated by the Secretaries of Commerce, Defense, and State,

1 respectively, and nonvoting, advisory members named by the
2 heads of such other departments and agencies as the Presi-
3 dent may designate from time to time. The voting repre-
4 sentative from the Department of Commerce shall preside
5 over all Board meetings. The Board shall, by a positive vote
6 of at least two of its three voting members, make the deci-
7 sions provided for under this Act or the rules and regulations
8 promulgated by the Secretary of Commerce pursuant to this
9 Act.

10 (b) There shall be established an Export Administration
11 Review Council (hereinafter in this Act referred to as the
12 "Review Council") composed of the Secretaries of Com-
13 merce, Defense, and State. The Secretary of Commerce shall
14 preside over all Review Council meetings. The Review
15 Council shall, by a positive vote of at least two of its three
16 members, make the decisions provided for under this Act or
17 the rules and regulations promulgated by the Secretary of
18 Commerce pursuant to this Act.

19 (c) The President shall (1) decide appeals from decisions
20 of the Review Council made pursuant to this Act, (2) annual-
21 ly review the activities of the Board, Review Council, and
22 the Secretary of Commerce to insure efficient implementation
23 of the policies of this Act, and (3) coordinate activities of
24 governmental agencies with responsibilities in international

1 trade, so as to insure that there is full and effective compli-
2 ance at all times with the policies of this Act.

3 (d) The Secretary of Commerce shall (1) maintain the
4 organizational and procedural arrangements within the De-
5 partment of Commerce necessary to support fully the deci-
6 sionmaking functions of the Board and to implement Board
7 decisions and other orders, rules, and regulations promulgat-
8 ed by the Secretary pursuant to this Act, and (2) issue and
9 maintain rules which provide for the licensing of the exporta-
10 tion of all articles, materials, information, or technology sub-
11 ject to the jurisdiction of the United States. These rules shall
12 establish two classes of export licenses:

13 (A) Validated licenses, authorizing the export of
14 articles, materials, information, or technology pursuant
15 to a certificate issued by the Board upon the applica-
16 tion of an exporter, subject to the rules and regulations
17 prescribed by the Secretary of Commerce pursuant to
18 this Act, and,

19 (B) General licenses, authorizing the export of ar-
20 ticles, materials, information, or technology without
21 specific approval if the export is in accordance with the
22 rules and regulations prescribed by the Secretary of
23 Commerce pursuant to this Act. All articles, materials,
24 information, or technology not subject to control by a

1 validated license shall be exportable under a general li-
2 cense.

3 (e) The Secretary of Commerce may prescribe additional
4 rules and regulations necessary for effective and efficient op-
5 eration of the licensing procedure. To the extent necessary to
6 achieve effective enforcement of this Act, these rules and
7 regulations may apply to the financing, transportation, and
8 other servicing of exports and the participation therein by
9 any person.

10 PROCEDURES FOR ADOPTION OF RULES

11 SEC. 5. (a)(1) Proposed rules and regulations pertaining
12 to general and validated licenses, including the identification
13 of items subject to each license, shall be published in the
14 Federal Register and the Export Administration Bulletin.

15 (2) Notice of proposed rules and regulations shall in-
16 clude—

17 (A) a statement of the time, place and nature of
18 public rulemaking proceedings;

19 (B) a statement of the policies, as enumerated in
20 section 3 of this Act, which the proposed rule is in-
21 tended to effectuate;

22 (C) either the terms or substance of the proposed
23 rule or a description of the subjects, issues, and exports
24 involved, including the nature of any proposed restric-

1 tions on exports and the export destinations to which
2 the restrictions will apply; and

3 (D) a description of the probable economic, politi-
4 cal and social consequences of the proposed rule.

5 (3) This subsection does not apply—

6 (A) to interpretive rules, general statements of
7 policy, or rules of agency organization, procedure or
8 practice; or

9 (B) when the agency finds (and incorporates the
10 finding and a brief statement of the reasons therefor in
11 the rules issued) that because of urgent circumstances
12 endangering United States military security, notice and
13 public procedure thereon is contrary to the public inter-
14 est.

15 (b) After notice required by this section, the Board shall
16 give interested Federal agencies, States and other persons an
17 opportunity to participate in the rulemaking proceedings
18 through submission of written data, views or arguments with
19 or without opportunity for oral presentation. The Secretary
20 of Commerce shall designate interested parties with due con-
21 sideration for the special concern of such parties, the prob-
22 able impact of the proposed rules, and the special con-
23 tribution which such parties may make to the rulemaking
24 proceedings.

1 (c) After consideration of the relevant matter presented,
2 the Board shall make its decision by majority vote. The
3 Board shall incorporate in the rules adopted a concise state-
4 ment of their basis and the policies, as enumerated in section
5 3 of this Act, which the rules are intended to effectuate, and
6 the estimated economic, social and political impact of the
7 rules. Each rule which is reviewable under subsection (e) of
8 this section shall include a statement of the date when the
9 rule will be subject to such review.

10 (d) The required publication shall be made not less than
11 30 days before its effective date, except—

12 (1) when the adopted rule is a substantive rule
13 which grants or recognizes an exemption or relieves a
14 restriction;

15 (2) when the adopted rule is an interpretive rule
16 or statement of policy; or,

17 (3) when the agency finds (and incorporates the
18 finding and a brief statement of the reasons therefor in
19 the rules issued) that because of urgent circumstances
20 endangering United States military security, enforce-
21 ment of the rule must not be delayed.

22 (e) Any party substantially affected by the proposed
23 rule, or any interested agency, shall have the right to appeal
24 to the Review Council on the grounds that a rule enacted or
25 reenacted by the Board—

1 (1) violates the policies set forth in section 3 of
2 this Act; or,

3 (2) was enacted or reenacted in violation of the
4 procedural requirements of this Act.

5 No appeal shall be taken more than 30 days after the effec-
6 tive date of the rule. The Review Council may in its discre-
7 tion suspend the effect of the rule until the appeal is decided.
8 Decisions of the Review Council shall be by a majority vote.
9 Decisions shall either adopt the findings of the Board or shall
10 include a brief statement of the basis for the decision.

11 (f) Any party appealing a rule adopted by the Board
12 shall be provided on request a copy of any documents on
13 which the decision of the Board is based, unless such docu-
14 ments are classified as secret for purposes of national
15 security.

16 (g) The Secretaries of Commerce, Defense, or State
17 may petition the President for a review of any decision of the
18 Council under subsection (e) of this section. The President
19 may accept or reject such petition for review. The decision of
20 the President with regard to the rule on which the petition
21 for review is based shall be final.

22 (h) The Board shall review any rule restricting the ex-
23 portation of any article, material, information, or technology
24 one year after the adoption of the restriction, and at two-year
25 intervals thereafter. Rules under review shall be terminated

1 unless approved by a majority vote of the Board. The Board
2 shall give interested persons an opportunity to submit written
3 data, views or arguments with or without opportunity for
4 oral presentation. The Board shall republish any rules ap-
5 proved under review, together with a concise statement of
6 their basis and the policies, as enumerated in section 3 of this
7 Act, which the rules are intended to effectuate, and the esti-
8 mated economic, social, and political impact of the rules.

9 (i) To effectuate the policy set forth in section 3(3)(D) of
10 this Act, the Secretary of Commerce shall monitor exports,
11 and contracts for exports, of any article, material, or supply
12 (other than a commodity which is subject to the reporting
13 requirements of section 812 of the Agricultural Act of 1970)
14 when the volume of such exports in relation to domestic
15 supply contributes, or may contribute, to an increase in do-
16 mestic prices or a domestic shortage, and such price increase
17 or shortage has, or may have, a serious adverse impact on
18 the economy or any sector thereof. Such monitoring shall
19 commence at a time adequate to insure that data will be
20 available which is sufficient to permit achievement of the
21 policies of this Act. Information which the Secretary requires
22 to be furnished in effecting such monitoring shall be confiden-
23 tial, except as provided in paragraph (2) of this subsection
24 and in the last two sentences of section 7(c) of this Export
25 Administration Act of 1969.

1 (2) The results of such monitoring shall, to the extent
2 practicable, be aggregated and included in weekly reports
3 setting forth, with respect to each article, material, or supply
4 monitored, actual and anticipated exports, the destination by
5 country, and the domestic and worldwide price, supply, and
6 demand. Such reports may be made monthly if the Secretary
7 determines that there is insufficient information to justify
8 weekly reports.

9 **PROCEDURES FOR VALIDATED LICENSE APPLICATIONS**

10 **SEC. 6. (a)** The Board shall approve or deny licenses
11 under this Act, subject to review by the Review Council.

12 **(b)** Each application for a validated export license re-
13 quired under this Act shall be finally approved or denied
14 within ninety calendar days of its receipt.

15 **(c)(1)** The Export Administration Office may automati-
16 cally approve any application for a validated license under
17 regulations promulgated by the Secretary of Commerce pur-
18 suant to this Act. Applications not automatically approved
19 shall be placed on the agenda of any meeting of the Board
20 which occurs on or before the forty-fifth calendar day after
21 receipt of the license application. The applicant shall receive
22 timely written notice of the meeting and shall, to the maxi-
23 mum extent consistent with the national security of the
24 United States, be informed in writing of specific questions
25 raised and specific negative considerations or recommenda-

1 tions made by any agency or department of the Government
2 with respect to such license application, and of any descrip-
3 tions of the items to be exported provided by any Govern-
4 ment agency to the Board. The applicant shall have the op-
5 portunity to make written submissions to the Board respond-
6 ing to any Government submissions within time for the meet-
7 ing. In its deliberations, the Board shall take fully into ac-
8 count the applicant's submissions concerning any description
9 of the items and concerning the destination or end-user of the
10 items.

11 (2) Approval or denial by the Board of all validated
12 export license applications shall be made by a majority vote
13 of the representatives of the Departments of State, Com-
14 merce, and Defense.

15 (3)(A) In the event that the validated license application
16 is denied, the applicant shall be informed in writing within
17 five days of such decision of the statutory basis for denial, the
18 policies in section 3 of this Act which led to denial, and the
19 specific circumstances, to the extent consistent with national
20 security, which led to the denial, and of the applicant's right
21 to appeal the denial under subsection (d) below.

22 (B) In the event that the export license is approved, the
23 representative of any of the three Departments represented
24 on the Board may appeal the decision to the Review Council.

1 (C) If, through oversight or neglect, no action is taken
2 on a validated license application, the application shall be
3 considered appealed to the Review Council.

4 (d)(1) If any party, including the applicant, appeals a
5 decision of the Board or, if no decision is made within forty-
6 five days of the date of receipt of the application, the applica-
7 tion shall proceed to the Review Council. The Review Coun-
8 cil may review an export license application in any adminis-
9 tratively convenient way, including sequential review. Within
10 seventy-five days of application, the Review Council shall
11 approve or deny the license application by majority vote. In
12 its deliberations the Review Council shall take fully into ac-
13 count all written submissions made by the applicant.

14 (2)(A) The decision of the Review Council shall be final
15 except that the Secretaries of Defense, State, and Commerce
16 shall have the right to ask the President to reverse the deci-
17 sion of the Review Council within ninety days from the date
18 of the application. The President's decision shall be final.

19 (B) In the event that the application is denied, the appli-
20 cant shall be entitled to an explanation in writing of the stat-
21 utory basis for denial, the policies in section 3 of this Act
22 which led to the denial, and the specific circumstances, to the
23 extent consistent with national security, which led to denial
24 of the application.

1 (C) In the event that the Review Council sustains the
2 action taken by the Board, it may simply adopt the findings,
3 reasoning and result of the Board.

4 (D) In any decision under this subsection, the Review
5 Council shall endeavor to set forth guidelines, as to both ex-
6 ported items and destinations, under which similar license ap-
7 plications can be approved automatically under section 6(c) of
8 this Act.

9 (e) Upon the expiration of the ninety-day calendar
10 period beginning on the date of its receipt, any export license
11 application required under this Act which has not been ap-
12 proved or disapproved shall be conclusively deemed to be ap-
13 proved and the license shall be issued.

14 (f) In any denial of an export license application except
15 for Presidential veto, the applicant shall be informed in writ-
16 ing of the statutory basis for denial, the policies in section 3
17 of this Act which led to denial, and the specific circum-
18 stances, to the extent consistent with national security,
19 which led to denial of the application.

20

FOREIGN BOYCOTTS

21 SEC. 7. (a)(1) For the purpose of implementing the poli-
22 cies set forth in section 3(6) (A) and (B) the President shall
23 issue rules and regulations prohibiting any United States
24 person, with respect to his activities in the interstate or for-
25 eign commerce of the United States, from taking or knowing-

1 ly agreeing to take any of the following actions with intent to
2 comply with, further, or support any boycott fostered or im-
3 posed by a foreign country against a country which is friendly
4 to the United States and which is not itself the object of any
5 form of boycott pursuant to United States law or regulation:

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

20 (B) Refusing, or requiring any other person to
21 refuse, to employ or otherwise discriminating against
22 any United States person on the basis of race, religion,
23 sex, or national origin of that person or of any owner,
24 officer, director, or employee of such person.

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

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

19 (E) compliance by an individual or agreement by
20 an individual to comply with the immigration or pass-
21 port requirements of any country with respect to such
22 individual or any member of such individual's family or
23 with requests for information regarding requirements of
24 employment of such individual within the boycotting
25 country; and

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

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

16 (4) Nothing in this subsection may be construed to su-
17 persede or limit the operation of the antitrust or civil rights
18 laws of the United States.

19 (5) Rules and regulations pursuant to this subsection
20 shall be issued not later than ninety days after the date of
21 enactment of this section (June 22, 1977) and shall be issued
22 in final form and become effective not later than one hundred
23 and twenty days after they are first issued, except that (A)
24 rules and regulations prohibiting negative certification may
25 take effect not later than one year after the date of enactment

1 of this section (June 22, 1977), and (B) a grace period shall
2 be provided for the application of the rules and regulations
3 issued pursuant to this subsection to actions taken pursuant
4 to a written contract or other agreement entered into on or
5 before May 16, 1977. Such grace period shall end on Decem-
6 ber 31, 1978, except that the Secretary of Commerce may
7 extend the grace period for not to exceed one additional year
8 in any case in which the Secretary finds that good faith ef-
9 forts are being made to renegotiate the contract or agreement
10 in order to eliminate the provisions which are inconsistent
11 with the rules and regulations issued pursuant to paragraph
12 (1).

13 (6) This Act shall apply to any transaction or activity
14 undertaken, by or through a United States or other person,
15 with intent to evade the provisions of this Act as implement-
16 ed by the rules and regulations issued pursuant to this sub-
17 section, and such rules and regulations shall expressly pro-
18 vide that the exceptions set forth in paragraph (2) shall not
19 permit activities or agreements (expressed or implied by a
20 course of conduct, including a pattern of responses) otherwise
21 prohibited, which are not within the intent of such excep-
22 tions.

23 (b)(1) In addition to the rules and regulations issued pur-
24 suant to subsection (a) of this section, rules and regulations

1 issued under section 4(b) of this Act shall implement the poli-
2 cies set forth in section 3(5).

3 (2) Such rules and regulations shall require that any
4 United States person receiving a request for the furnishing of
5 information, the entering into or implementing of agreements,
6 or the taking of any other action referred to in section 3(6)
7 shall report that fact to the Secretary of Commerce, together
8 with such other information concerning such request as the
9 Secretary may require for such action as he may deem appro-
10 priate for carrying out the policies of that section. Such
11 person shall also report to the Secretary of Commerce
12 whether he intends to comply and whether he has complied
13 with such request. Any report filed pursuant to this para-
14 graph after the date of enactment of this section (June 22,
15 1977) shall be made available promptly for public inspection
16 and copying, except that information regarding the quantity,
17 description, and value of any articles, materials, and supplies,
18 including technical data and other information, to which such
19 report relates may be kept confidential if the Secretary deter-
20 mines that disclosure thereof would place the United States
21 person involved at a competitive disadvantage. The Secre-
22 tary of Commerce shall periodically transmit summaries of
23 the information contained in such reports to the Secretary of
24 State for such action as the Secretary of State, in consulta-
25 tion with the Secretary of Commerce, may deem appropriate

1 for carrying out the policies set forth in section 3(6) of this
2 Act.

3 VIOLATIONS AND PENALTIES—GENERALLY; SUBSEQUENT
4 OFFENSES

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

13 Export to Nations to Which Exports Have Been Restricted
14 for National Security or Foreign Policy Purposes; Penalties

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

1 Civil Penalties; Suspension or Revocation of Authority To
2 Export; Administrative Proceedings

3 (c)(1) The head of any department or agency exercising
4 any functions under this Act, or any officer or employee of
5 such department or agency specifically designated by the
6 head thereof, may impose a civil penalty not to exceed
7 \$10,000 for each violation of this Act or any regulation,
8 order, or license issued under this Act either in addition to or
9 in lieu of any other liability or penalty which may be im-
10 posed.

11 (2)(A) The authority of this Act to suspend or revoke
12 the authority of any United States person to export articles,
13 materials, supplies, or technical data or other information,
14 may be used with respect to any violation of the rules and
15 regulations issued pursuant to section 7(a) of this Act.

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

23 (C) Any charging letter or other document initiating ad-
24 ministrative proceedings for the imposition of sanctions for
25 violations of the rules and regulations issued pursuant to sec-

1 tion 7(a) of this Act shall be made available for public inspec-
2 tion and copying.

3 Penalties as Conditions for Grant, Restoration, or Validity
4 of License; Deferral or Suspension of Penalties

5 (d) The payment of any penalty imposed pursuant to
6 subsection (c) may be made a condition, for a period not ex-
7 ceeding one year after the imposition of such penalty, to the
8 granting, restoration, or continuing validity of any export li-
9 cense, permission, or privilege granted or to be granted to
10 the person upon whom such penalty is imposed. In addition,
11 the payment of any penalty imposed under subsection (c) may
12 be deferred or suspended in whole or in part for a period of
13 time no longer than any probation period (which may exceed
14 one year) that may be imposed upon such person. Such a
15 deferral or suspension shall not operate as a bar to the collec-
16 tion of the penalty in the event that the conditions of the
17 suspension, deferral, or probation are not fulfilled.

18 Discretion To Refund Civil Penalty

19 (e) Any amount paid in satisfaction of any penalty im-
20 posed pursuant to subsection (c) shall be covered into the
21 Treasury as a miscellaneous receipt. The head of the depart-
22 ment or agency concerned may, in his discretion, refund any
23 such penalty, within two years after payment, on the ground
24 of a material error of fact or law in the imposition. Notwith-
25 standing section 1346(a) of title 28 of the United States

1 Code, no action for the refund of any such penalty may be
2 maintained in any court.

3 Action for Recovery of Civil Penalty

4 (f) In the event of the failure of any person to pay a
5 penalty imposed pursuant to subsection (c), a civil action for
6 the recovery thereof may, in the discretion of the head of the
7 department or agency concerned, be brought in the name of
8 the United States. In any such action, the court shall deter-
9 mine de novo all issues necessary to the establishment of
10 liability. Except as provided in this subsection and in subsec-
11 tion (d), no such liability shall be asserted, claimed, or recov-
12 ered upon by the United States in any way unless it has
13 previously been reduced to judgment.

14 Availability of Other Remedies

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

16 (1) the availability of other administrative or judi-
17 cial remedies with respect to violations of this Act, or
18 any regulation, order, or license issued under this Act;

19 (2) the authority to compromise and settle admin-
20 istrative proceedings brought with respect to violations
21 of this Act, or any regulation, order, or license issued
22 under this Act; or

23 (3) the authority to compromise, remit, or miti-
24 gate seizures and forfeitures pursuant to section 1(b) of

1 title VI of the Act of June 15, 1917 (22 U.S.C.
2 401(b)).

3 ENFORCEMENT—COMPLIANCE WITH REQUIREMENTS;

4 SUBPENA OF WITNESSES AND RECORDS

5 SEC. 9. (a) To the extent necessary or appropriate to
6 the enforcement of this Act or to the imposition of any penal-
7 ty, forfeiture, or liability arising under the Export Control
8 Act of 1949, the head of any department or agency exercis-
9 ing any function thereunder (and officers or employees of
10 such department or agency specifically designated by the
11 head thereof) may make such investigations and obtain such
12 information from, require such reports or the keeping of such
13 records by, make such inspection of the books, records, and
14 other writings, premises, or property of, and take the sworn
15 testimony of, any person. In addition, such officers or em-
16 ployees may administer oaths or affirmations, and may by
17 subpena require any person to appear and testify or to appear
18 and produce books, records, and other writings, or both, and
19 in the case of contumacy by, or refusal to obey a subpena
20 issued to, any such person, the district court of the United
21 States for any district in which such person is found or re-
22 sides or transacts business, upon application, and after notice
23 to any such person and hearing, shall have jurisdiction to
24 issue an order requiring such person to appear and give testi-
25 mony or to appear and produce books, records, and other

1 writings, or both, and any failure to obey such order of the
2 court may be punished by such court as a contempt thereof.

3 Self-incrimination; Exception

4 (b) No person shall be excused from complying with any
5 requirements under this section because of his privilege
6 against self-incrimination, but the immunity provisions of the
7 Compulsory Testimony Act of February 11, 1893 (27 Stat.
8 443; 49 U.S.C. 46), shall apply with respect to any individu-
9 al who specifically claims such privilege.

10 Disclosure of Confidential Information

11 (c) Except as otherwise provided by the third sentence
12 of section 7(b)(2) and by section 8(c)(2)(C) of this Act no de-
13 partment, agency, or official exercising any functions under
14 this Act shall publish or disclose information obtained here-
15 under which is deemed confidential or with reference to
16 which a request for confidential treatment is made by the
17 person furnishing such information, unless the head of such
18 department or agency determines that the withholding there-
19 of is contrary to the national interest. Nothing in this Act
20 shall be construed as authorizing the withholding of informa-
21 tion from Congress, and any information obtained under this
22 Act including any report or license application required under
23 sections 4 through 6 shall be made available upon request to
24 any committee or subcommittee of Congress of appropriate
25 jurisdiction. No such committee or subcommittee shall dis-

1 close any information obtained under this Act which is sub-
2 mitted on a confidential basis unless the full committee deter-
3 mines that the withholding thereof is contrary to the national
4 interest.

5 Simplification of Reporting Requirements

6 (d) In the administration of this Act reporting require-
7 ments shall be so designed as to reduce the cost of reporting,
8 recordkeeping, and export documentation required under this
9 Act to the extent feasible consistent with effective enforce-
10 ment and compilation of useful trade statistics. Reporting,
11 recordkeeping, and export documentation requirements shall
12 be periodically reviewed and revised in the light of develop-
13 ments in the field of information technology. A detailed state-
14 ment with respect to any action taken in compliance with this
15 subsection shall be included in the first quarterly report made
16 pursuant to section 10 after such action is taken.

17 EXEMPTION FROM ADMINISTRATIVE PROCEDURAL AND 18 JUDICIAL REVIEW PROVISIONS

19 SEC. 10. Except as provided in section 8(c)(2), the func-
20 tions exercised under this Act are excluded from the oper-
21 ation of sections 551, 553 through 559, and 701 through
22 706, of title 5, United States Code.

23 ANNUAL REPORT

24 SEC. 11. Not later than December 31 of each year, the
25 Secretary shall submit to the Congress a report on the ad-

1 ministration of this Act. All agencies shall cooperate fully
2 with the Secretary in providing information for such report.
3 Such report shall include detailed information with respect
4 to—

5 (1) the implementation of the policies of section 3;

6 (2) general licensing activities under sections 4, 5,
7 and 6;

8 (3) changes in categories of items under export
9 control referred to in section 5;

10 (4) changes in policies toward individual countries
11 under section 5;

12 (5) the effectiveness of export controls imposed
13 under sections 5 and 6 in furthering the foreign policy
14 of the United States;

15 (6) the implementation of section 7;

16 (7) organization and procedural changes undertak-
17 en to increase the efficiency of the export licensing
18 process and to fulfill the requirements of section 9 in-
19 cluding an analysis of the time required to process li-
20 cense applications; and

21 (8) violations under section 9 and enforcement ac-
22 tivities under section 9.

23 **DEFINITIONS**

24 **SEC. 12. As used in this Act—**

1 (1) "product" means any article, material, or
2 supply;

3 (2) "person" includes the singular and the plural
4 and means any individual, partnership, corporation, or
5 other form of association, including any government or
6 agency thereof;

7 (3) "Secretary" means the Secretary of Com-
8 merce;

9 (4) "technology" means the knowledge required
10 to design and manufacture products and services and
11 includes technical data and any other information; and

12 (5) "United States person" means any United
13 States resident or national (other than an individual
14 resident outside the United States and employed by
15 other than a United States person), any domestic con-
16 cern (including any permanent domestic establishment
17 of any foreign concern) and any foreign subsidiary or
18 affiliate (including any permanent foreign establish-
19 ment) of any domestic concern which is controlled in
20 fact by such domestic concern, as determined under
21 regulations of the President.

22 **AUTHORIZATION OF APPROPRIATIONS**

23 **SEC. 13. (a) REQUIREMENT OF AUTHORIZING LEGIS-**
24 **LATION.**—Notwithstanding any other provision of law, no
25 appropriation shall be made under any law to the Depart-

1 ment of Commerce for expenses to carry out the purposes of
2 this Act unless previously and specifically authorized by law.

3 (b) AUTHORIZATION.—There is hereby authorized to be
4 appropriated to the Department of Commerce to carry out
5 the purposes of this Act \$7,070,000 for the fiscal year 1980
6 and \$7,777,000 for the fiscal year 1981 (and such additional
7 amounts as may be necessary for increases in salary, pay,
8 retirement, other employee benefits authorized by law, and
9 other nondiscretionary costs).

10

EFFECTIVE DATE

11 SEC. 14. This Act shall take effect on October 1, 1979.

12

TERMINATION DATE

13 SEC. 15. The authority granted by this Act shall termi-
14 nate on September 30, 1983.

15

SAVINGS PROVISIONS

16 SEC. 16. (a) All delegations, rules, regulations, orders,
17 determinations, licenses, or other forms of administrative
18 action which have been made, issued, conducted, or allowed
19 to become effective under the Export Administration Act of
20 1969 and which are in effect at the time this Act takes effect
21 shall continue in effect according to their terms until modi-
22 fied, superseded, set aside, or revoked under the amendments
23 made by this Act.

24

(b) The amendments made by this Act shall not apply to
25 any administrative proceedings commenced or any applica-

1 tion for a license made, under the Export Administration Act
2 of 1969, which is pending at the time this Act takes effect.

3 (c) This Act shall not affect any investigation, suit,
4 action, or other judicial proceeding commenced under the
5 Export Administration Act of 1969 which is pending at the
6 time this Act takes effect; but such investigation, suit, action,
7 or proceeding shall be continued as if this Act had not been
8 enacted.



To amend the Export Administration Act of 1969 to improve the administration of export controls by assigning to the Secretary of Defense the primary responsibility for identifying the types of technologies and goods which shall be controlled for national security purposes; by providing for a comprehensive and continuing review of export controls with a view to strengthening controls over exports of critical technologies and goods while facilitating exports of any technologies and goods which will not significantly adversely affect the national security of the United States; and by providing for congressional oversight of such exports; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1979

Mr. WOLFF (for himself, Mr. MILLER of Ohio, Mr. ICHORD, Mr. DOERNAN, Mr. PRICE, Mr. ADDABBO, Mr. CHAPPELL, Mr. COTTEE, Mr. DAN DANIEL, Mr. IRELAND, Mr. LUKEN, Mr. MONTGOMERY, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NICHOLS, Mr. YATRON, Mr. DERWINSKI, Mr. GILMAN, Mr. GUYER, Mr. BEARD of Tennessee, Mr. MOORHEAD of California, Mr. DUNCAN of Tennessee, Mr. ROUSSELOT, Mr. LOTT, and Mr. CARTER) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Armed Services

A BILL

To amend the Export Administration Act of 1969 to improve the administration of export controls by assigning to the Secretary of Defense the primary responsibility for identifying the types of technologies and goods which shall be controlled for national security purposes; by providing for a comprehensive and continuing review of export controls

with a view to strengthening controls over exports of critical technologies and goods while facilitating exports of any technologies and goods which will not significantly adversely affect the national security of the United States; and by providing for congressional oversight of such exports; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Export Administration
4 Reform Act of 1979".

5 SEC. 2. Subsection (a) of section 4 of the Export Ad-
6 ministration Act of 1969 (50 U.S.C. App. 2403(a)) is
7 amended—

8 (1) in paragraph (1), in the second sentence by in-
9 serting after "In addition," the following: "subject to
10 the provisions of paragraph (3) of this subsection,"; and

11 (2) by adding at the end thereof the following:

12 “(3)(A) The Secretary of Defense shall have the respon-
13 sibility for identifying technologies and goods which shall be
14 controlled for national security purposes as prescribed in sec-
15 tion 3(2)(C) of this Act. The Secretary of Defense shall con-
16 duct a comprehensive review of any list, which is in effect on
17 the effective date of this paragraph, of technologies and
18 goods which are controlled for such national security pur-
19 poses. The Secretary shall conduct such review in consulta-
20 tion with the Secretary of Commerce, with intelligence agen-

1 cies, and, as appropriate, with the heads of other depart-
2 ments and agencies concerned with aspects of domestic and
3 foreign policy having an important bearing on exports and
4 national security, and with technical advisory committees es-
5 tablished pursuant to section 5(c) of this Act. The Secretary
6 shall, on the basis of such review, make such additions, dele-
7 tions, and modifications as may be necessary or desirable in
8 furtherance of the policy set forth in section 3(2)(C) of this
9 Act. The Secretary of Defense shall classify any item on any
10 such list as a (i) critical technology, (ii) critical good, (iii)
11 significant technology, or (iv) significant good. The Secretary
12 shall complete and publish in the Federal Register such list of
13 items so classified, with any such additions, deletions, or
14 modifications, not later than 180 days after the effective date
15 of this subsection. The Secretary of Defense shall continu-
16 ously monitor technological developments within and outside
17 of the United States and shall amend such list so that it
18 adequately reflects such developments and shall publish in
19 the Federal Register any such amendments.

20 “(B) The Secretary of Defense shall include, in the list
21 of amendments published pursuant to subparagraph (A) of
22 this paragraph, a statement concerning each item on such list
23 which is potentially available without restriction from foreign
24 sources in sufficient usable quantity and of comparable qual-
25 ity. Such statement shall identify all such potential foreign

1 suppliers and the countries involved. In accordance with sec-
2 tion 5(a) of the Act, the Secretary of Defense shall seek from
3 appropriate executive departments and agencies, including
4 intelligence agencies, and such departments and agencies
5 shall furnish to the Secretary information and advice con-
6 cerning foreign availability of items under consideration for
7 inclusion on the list referred to in subparagraph (A).

8 “(C) The Secretary shall include, in the reports made
9 pursuant to section 10 of this Act, a detailed statement of
10 actions taken to carry out the provisions of this paragraph.

11 “(4) The Secretary of Defense shall establish, within the
12 Office of the Under Secretary of Defense for Research and
13 Engineering, an Office of Technology Export which shall be
14 given primary responsibility for assisting the Secretary in
15 carrying out his responsibilities under this Act. Any request
16 of the executive branch for appropriations for the Department
17 of Defense for any fiscal year, which request is submitted to
18 the Congress, shall specify the amount of funds requested for
19 the Office of Technology Export.”.

20 SEC. 3. (a) Subsection (b) of section 4 of the Export
21 Administration Act of 1969 (50 U.S.C. App. 2403(b)) is
22 amended—

23 (1) in paragraph (1), by striking out the first sen-
24 tence and inserting in lieu thereof the following: “To
25 implement the policies set forth in section 3 of this

1 Act, the President, as provided in such rules, regula-
2 tions, and orders as he may prescribe, may prohibit,
3 curtail, or control the exportation of any articles, mate-
4 rials, supplies (including technical data or any other in-
5 formation, in whatever form or of whatever type) sub-
6 ject to the jurisdiction of the United States or exported
7 by any person subject to the jurisdiction of the United
8 States.”.

9 (b) Subsection (b) of section 4 of the Export Administra-
10 tion Act of 1969 is further amended by striking out subpara-
11 graph (B) of paragraph (2) and inserting in lieu thereof the
12 following:

13 “(B) Rules and regulations issued under this subsection
14 for national security purposes shall include provisions—

15 “(i) prohibiting the export of any critical technol-
16 ogy or critical good to any controlled nation;

17 “(ii) prohibiting the export of any critical technol-
18 ogy or critical good to any nation (other than a con-
19 trolled nation) except pursuant to a validated license,
20 and prohibiting any such license to be issued for the
21 export of a critical technology or critical good to such
22 a nation the government of which fails to provide ade-
23 quate assurances that the technology or good will not
24 be transferred to any controlled nation; and

1 “(iii) prohibiting the export of any significant tech-
2 nology or significant good to any controlled nation
3 except pursuant to a validated license.

4 “(C) The President, in issuing rules and regulations
5 under this subsection for national security purposes, shall
6 take into account all technology transfers, including (but not
7 limited to) turnkey factories, engineering and design docu-
8 mentation, training, commercial visits, and technology ex-
9 changes. Rules and regulations shall be issued under this
10 subsection to conform to the classification of items on and
11 revisions of the list referred to in subsection (a)(3) of this
12 section, and to conform to any subsequent amendment
13 thereto. Such rules and regulations shall take effect not later
14 than 60 days after the publication, under subsection (a)(3), of
15 the revised list or subsequent amendment thereto, as the case
16 may be. The President may not modify the classification of
17 any item which is classified by the Secretary of Defense as a
18 critical technology, critical good, significant technology, or
19 significant good unless the President determines that ade-
20 quate evidence has been presented demonstrating that such
21 technology or good no longer meets the criteria for such clas-
22 sification in the definition set forth in paragraph (3) of this
23 subsection. The President may not, for national security pur-
24 poses, prohibit the export of, or deny a license application to
25 an otherwise eligible applicant for the export of, any signifi-

1 cant technology or significant good which he finds to be
2 available from foreign sources without restriction and in suffi-
3 cient and usable quantity and of comparable quality, unless
4 the President determines that adequate evidence has been
5 presented demonstrating that permitting such export would
6 prove detrimental to the national security of the United
7 States. The nature of such evidence shall be included in the
8 semiannual report required by section 10 of this Act. In any
9 case in which, notwithstanding such foreign availability, the
10 export of any item classified as a critical technology, critical
11 good, significant technology, or significant good is prohibited
12 for national security purposes, or a license application to
13 export a significant technology or significant good is denied
14 to an otherwise eligible applicant, the President shall at-
15 tempt, by negotiations with the foreign government or gov-
16 ernments concerned, to eliminate such availability. If such
17 negotiations fail, the President may take any steps which he
18 considers appropriate, including the withdrawal of United
19 States economic and military assistance, to urge such foreign
20 government or governments to reconsider its export policies
21 with respect to such technology or good. If at such time the
22 President determines that foreign availability cannot be
23 eliminated, the President shall direct the Secretary of De-
24 fense to review the classification of the technology or good
25 concerned. The nature of such efforts to eliminate foreign

1 availability and of any such review of the classification of a
2 technology or good shall be included in the semiannual
3 report required by section 10 of this Act.”.

4 (c) Subsection (b) of section 4 of the Export Administra-
5 tion Act of 1969 is further amended by adding at the end
6 thereof the following new paragraph:

7 “(3) As used in this subsection the term—

8 “(A) ‘critical technology’ means a state of the art
9 or emerging technology possessed by the United States
10 which is indispensable to current or projected United
11 States military systems, and which is significantly su-
12 perior to that of any controlled nation, so that the
13 United States has a present or probable military ad-
14 vantage;

15 “(B) ‘critical good’ means any good which would
16 contribute significantly to the transfer of a critical tech-
17 nology because—

18 “(i) analysis of the good would give insight
19 into such critical technology and thereby facilitate
20 the design and manufacture of such good,

21 “(ii) the good would complete or extend a
22 process line employed in the application of such
23 critical technology, or

24 “(iii) analysis of the good would reveal all or
25 part of a United States military system and would

1 thereby facilitate the development of countermeas-
2 ures;

3 “(C) ‘significant technology’ means a United
4 States technology, other than a critical technology,
5 which would make a significant contribution to the
6 military potential of a controlled nation, including, but
7 not limited to, a technology which is obsolete by
8 United States standards, but which is superior to a
9 controlled nation’s technology;

10 “(D) ‘significant good’ means a good, other than a
11 critical good, which would contribute significantly to
12 the transfer of a significant technology because—

13 “(i) analysis of the good would give insight
14 into such significant technology and thereby facili-
15 tate the design and manufacture of such good; or

16 “(ii) the good would complete or extend a
17 process line employed in the application of such
18 significant technology; and

19 “(E) ‘controlled nation’ means a nation designated
20 by the President in accordance with subsection
21 (b)(2)(A) to be a threat to the national security of the
22 United States.”.

23 SEC. 4. Subsection (e) of section 4 of the Export Admin-
24 istration Act of 1969 (50 U.S.C. App. 2403(e)) is amended to
25 read as follows:

1 “(e) The President may delegate the power, authority,
2 and discretion conferred upon him by this Act to such depart-
3 ments, agencies, or officials of the Government as he may
4 deem appropriate. The President may not delegate or trans-
5 fer either the power, authority, and discretion conferred upon
6 the Secretary of Defense under this Act, or any authority to
7 modify determinations or decisions made by the Secretary of
8 Defense pursuant to the provisions of the Act.”.

9 SEC. 5. Section 4 of the Export Administration Act of
10 1969 (50 U.S.C. App. 2403) is amended by adding at the
11 end thereof the following new subsection:

12 “(m)(1) No decision of the President to overrule or
13 modify (A) any classification made by the Secretary of De-
14 fense pursuant to subparagraph (A) of subsection (a)(3) of this
15 section, or (B) any finding with respect to foreign availability
16 made by the Secretary pursuant to subparagraph (B) of such
17 subsection, shall become effective unless the President sub-
18 mits to the Congress a national security impact statement
19 relating to such action of the Secretary, together with the
20 reasons for the decision of the President, and unless, within
21 30 days after the date on which such national security impact
22 statement is submitted to the Congress, neither House of
23 Congress adopts a resolution disapproving the decision of the
24 President.

1 “(2) No decision of the President overruling or modify-
2 ing a recommendation made by the Secretary of Defense pur-
3 suant to subsection (h) of this section shall become effective
4 unless the President submits to the Congress a national secu-
5 rity impact statement relating to such recommendation, to-
6 gether with the reasons for the decision of the President, and
7 unless, within 30 days after the date on which such national
8 security impact statement is submitted to the Congress,
9 neither House of Congress adopts a resolution disapproving
10 the decision of the President.

11 “(3) The President, the Secretary of Defense, or any
12 Federal department or agency, as the case may be, shall,
13 within 10 days after any committee or subcommittee of either
14 House of Congress which has jurisdiction over domestic or
15 foreign policies relating to export trade or national security
16 requests a national security impact statement with respect to
17 any action taken under this Act, submit to such committee or
18 subcommittee such national security impact statement.

19 “(4) For purposes of this subsection, ‘national security
20 impact statement’ means a complete record of any action
21 taken pursuant to this Act (including the approval or disap-
22 proval of a validated license application and the modification
23 of any list of items controlled for national security purposes
24 and of any classification) with respect to the administration of
25 export controls for national security purposes as prescribed

1 by section 3(2)(C) of this Act. Such record shall include the
2 following, as appropriate:

3 “(A) with respect to a technology or good in-
4 volved in the action—

5 “(i) the technical facts upon which the action
6 was based, including (but not limited to) the
7 nature and strategic importance of the technology
8 or good, and the analysis of such facts,

9 “(ii) the extent of the technological lead of
10 the United States,

11 “(iii) foreign availability of such technology
12 or good, and

13 “(iv) the safeguards against the transfer of
14 the technology involved to a controlled nation;

15 “(B) material factual and policy issues;

16 “(C) each department or agency which partici-
17 pated in the action and the recommendations of such
18 department or agency with respect to the action; and

19 “(D) such other information as is necessary and
20 appropriate to an understanding of the action.

21 The national security impact statement shall be prepared by
22 the head of the agency primarily responsible for the action,
23 and shall include information gathered by any other agency
24 with respect to such action. Each national security impact
25 statement shall be written in clear and plain language with a

1 minimum of technical jargon and, if appropriate, a technical
2 appendix may be included in the statement.

3 “(5) Each department and agency participating in any
4 action taken under this Act with respect to export controls
5 for national security purposes as prescribed in section 3(2)(C)
6 of this Act shall retain for at least 5 years any information,
7 pertaining to its participation in such action, which would be
8 necessary for the preparation of a national security impact
9 statement with respect to such action.

10 “(6) In the computation of any 30-day period under
11 paragraph (1) or (2) of this subsection, there shall be excluded
12 the days on which either House of Congress is not in session
13 because of an adjournment of more than 3 days.”.

14 SEC. 6. Subsection (c) of section 5 of the Export Admin-
15 istration Act of 1969 (50 U.S.C. App. 2404) is amended—

16 (1) in the first sentence of paragraph (1) by strik-
17 ing out “of Commerce” and inserting in lieu thereof
18 “of Defense”;

19 (2) in the first sentence of paragraph (2) by strik-
20 ing out “of Commerce” and inserting in lieu thereof
21 “of Defense”;

22 (3) in the third sentence of paragraph (2) by in-
23 serting “of Commerce” after “the Secretary”;

1 (4) in the fourth sentence of paragraph (2) by in-
2 serting “of Commerce or the Secretary of Defense”
3 after “the Secretary”;

4 (5) in the fifth sentence of paragraph (2) by insert-
5 ing “in consultation with the Secretary of Defense”
6 after “Secretary of Commerce”;

7 (6) in paragraph (3) by inserting “of Defense”
8 after “the Secretary”;

9 (7) in the second sentence of paragraph (4) by in-
10 serting “of Defense” after “the Secretary”; and

11 (8) in paragraph (5) by striking out “Secretary of
12 Commerce” and inserting in lieu thereof “Secretary of
13 Defense”.

14 SEC. 7. The amendments made by this Act shall take
15 effect upon enactment.

96TH CONGRESS
1ST SESSION

H. R. 3301

To extend and strengthen subsection (l) of section 2403 of the appendix of title 50 United States Code (the McKinney amendment to the Export Administration Amendments of 1977).

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1979

Mr. MCKINNEY introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To extend and strengthen subsection (l) of section 2403 of the appendix of title 50 United States Code (the McKinney amendment to the Export Administration Amendments of 1977).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 4 of the Export Administration Act of 1969, as
4 amended by section 110 of the Export Administration
5 Amendments of 1977 (50 U.S.C. App. 2403(l)) is further
6 amended by:

I—E

1 (a) In paragraph (1) striking subpart (A) and inserting in
2 lieu thereof the following:

3 “(A) is exported to the territory of an adja-
4 cent foreign state to be refined and consumed
5 therein in exchange for the same quantity of crude
6 oil being exported from that country to the United
7 States, such exchange achieving, through conven-
8 ience or increased efficiency of transportation,
9 lower oil prices as defined in subparagraph 2(A)(ii)
10 herein for consumers in the United States, or”.

11 (b) In paragraph (1) striking the words “during the 2-
12 year period beginning on the date of enactment of this
13 subsection”.

14 (c) Striking paragraph (2) including the last sentence of
15 subsection 2403(l) and inserting in lieu thereof the following:

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

18 “(A) the President makes and publishes an
19 express finding that exports of such crude oil, in-
20 cluding exchanges—

21 “(i) will not diminish the total quantity
22 or quality of petroleum refined within, stored
23 within, or legally committed to be transport-
24 ed to and sold within the United States,

1 “(ii) will, within 3 months following the
2 initiation of such exports or exchanges, result
3 not only in (a) acquisition costs to the refin-
4 eries which purchase the imported crude oil
5 being lower than the acquisition costs such
6 refiners would have to pay for the domesti-
7 cally produced oil which is exported but also
8 (b) commensurately reduced wholesale and
9 retail prices for products refined from such
10 imported crude oil. Findings of such lower
11 costs and prices should be audited and veri-
12 fied by the General Accounting Office no less
13 frequently than semiannually.

14 “(iii) will be made only pursuant to con-
15 tracts which may be terminated if the crude
16 oil supplies of the United States are inter-
17 rupted, threatened, or diminished,

18 “(iv) are clearly necessary to protect
19 the national interest, and

20 “(v) are in accordance with the provi-
21 sions of this Act; and

22 “(B) the President reports such findings to
23 the Congress and Congress within 60 days there-
24 after passes a concurrent resolution of approval.
25 No such exports shall occur until such approval.”.

1 (d) Adding the following new paragraph:

2 “(3) In the event the President first makes and
3 reports to Congress and express finding or findings
4 that bilateral international agreements in effect on the
5 date of enactment of this amendment legally require
6 the United States to immediately supply oil to a friend-
7 ly foreign state and that the immediate export from a
8 particular United States location directly to the terri-
9 tory of such foreign state of domestically produced
10 crude oil subject to this subsection is the most eco-
11 nomically efficient method of supplying such oil, such
12 exports may proceed for no more than 180 days,
13 during which time the President shall keep the Con-
14 gress promptly, continually, and fully advised of the
15 volume of such exports and the circumstances requiring
16 such exports. Notwithstanding the foregoing, if either
17 House of Congress at any time within this period
18 passes a resolution of disapproval stating disagreement
19 with the President’s finding(s), further oil exports made
20 pursuant to this paragraph shall thereupon cease to the
21 extent the resolution directs.”

96TH CONGRESS
1ST SESSION

H. R. 3652

To amend the Export Administration Act of 1969, as amended, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1979

Mr. BINGHAM (by request) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To amend the Export Administration Act of 1969, as amended, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Export Administration Act of 1969, as
4 amended (50 U.S.C. App. 2401), is further amended by—
5 (a) revising subsection (2) to read as follows:
6 “The export of goods or technology without regard to
7 whether it makes a significant contribution to the mili-
8 tary potential of individual countries may adversely
9 affect the national security of the United States.”;

1 (b) revising subsection (3) to read as follows:

2 “The restriction of exports from the United States can
3 have serious adverse effects on the balance of pay-
4 ments and on domestic employment, particularly when
5 restrictions applied by the United States are more ex-
6 tensive than those imposed by other countries.”; and

7 (c) adding at the end thereof the following two
8 new subsections:

9 “(6) Exports are important to the economic well-being
10 of the United States.

11 “(7) It is important that the administration of export
12 controls imposed for national security purposes give special
13 emphasis to the need to control exports of technology (and
14 goods which contribute significantly to the transfer of such
15 technology) which could make a significant contribution to
16 the military potential of any country or combination of coun-
17 tries which would be detrimental to the national security of
18 the United States.”.

19 SEC. 2. Section 3 of the Export Administration Act of
20 1969, as amended (50 U.S.C. App. 2402) is further amended
21 by—

22 (a) revising subsection (2) to read as follows: “It
23 is the policy of the United States to use export con-
24 trols to the extent necessary to restrict the export of
25 (A) goods and technology which would make a signifi-

1 cant contribution to the military potential of any coun-
2 try or combination of countries which would prove det-
3 rimental to the national security of the United States;
4 (B) goods and technology where necessary to further
5 significantly the foreign policy of the United States or
6 to fulfill its international responsibilities; and (C) goods
7 where necessary to protect the domestic economy from
8 the excessive drain of scarce materials and to reduce
9 the serious inflationary impact of foreign demand.”;

10 (b) deleting in subsection (5) “articles, materials,
11 supplies, or information” and inserting in lieu thereof,
12 “goods, technical data, or other information”;

13 (c) deleting in subsection (6) “articles, materials,
14 or supplies, including technical data or other informa-
15 tion,” and inserting in lieu thereof, “goods, technical
16 data, or other information”; and

17 (d) adding at the end thereof the following new
18 subsection:

19 “(9) It is the policy of the United States to cooperate
20 with other nations with which the United States has defense
21 treaty commitments in restricting the export of goods and
22 technical data which would make a significant contribution to
23 the military potential of any country or combination of coun-
24 tries which would prove detrimental to the security of the

1 United States and of those countries with which the United
2 States has defense treaty commitments.”.

3 SEC. 3. Section 4 of the Export Administration Act of
4 1969, as amended (50 U.S.C. App. 2403), is further amend-
5 ed by—

6 (a) deleting “nations with which the United States
7 is engaged in trade” in subsection (a), paragraph (1),
8 and inserting in lieu thereof “countries with which the
9 United States has diplomatic or trading relations”;

10 (b) deleting “articles, materials, or supplies, in-
11 cluding technical data or other information,” in subsec-
12 tion (a), paragraph (1), and inserting in lieu thereof
13 “goods and technical data”;

14 (c) deleting the last sentence of subsection (a),
15 paragraph (1);

16 (d) revising subsection (b), paragraph (1) to read
17 as follows: “To the extent necessary to carry out the
18 policies set forth in section 3 of this act, the President,
19 by rule or regulation, may prohibit or curtail the
20 export of any goods, technology, or any other informa-
21 tion subject to the jurisdiction of the United States or
22 exported by any person subject to the jurisdiction of
23 the United States. To the extent necessary to achieve
24 effective enforcement of this Act, these rules and regu-
25 lations may apply to the financing, transporting, and

1 other servicing of exports and the participation therein
2 by any person. In curtailing exports to carry out the
3 policy set forth in section 3(2)(C) of this Act, the Presi-
4 dent is authorized and directed to allocate a portion of
5 export licenses on the basis of factors other than a
6 prior history of exportation.”;

7 (e) deleting “C” in subparagraph (A), paragraph
8 (2), subsection (b), and inserting in lieu thereof “(A),”
9 and by deleting the last sentence of that subparagraph;

10 (f) deleting “articles, materials, or supplies, in-
11 cluding technical data or other information” in subpar-
12 agraph (B), paragraph (2), subsection (b) and inserting
13 in lieu thereof “goods, technical data, or any other in-
14 formation,” and adding the following sentence at the
15 end of that subparagraph: “In administering export
16 controls for foreign policy purposes, weight will be
17 given to whether the goods or technology in question
18 are also available from countries other than the United
19 States.”;

20 (g) deleting “(A)” in paragraph (1), subsection (c),
21 and inserting in lieu thereof “(C)”;

22 (h) deleting “(C)” in paragraph (1), subsection (f),
23 and inserting in lieu thereof “(A)”;

24 (i) deleting “(A)” in paragraph (3), subsection (f),
25 and inserting in lieu thereof “(C)”;

1 (j) inserting after the words "national security" in
2 the first sentence of subparagraph (A), paragraph (2),
3 subsection (g), the words "and foreign policy";

4 (k) deleting "(A)" as it appears in subsection (i)
5 and inserting in lieu thereof "(C)";

6 (l) relettering that subsection (m) which begins
7 with the words, "No article, material, or supply," as
8 subsection (n);

9 (m) deleting "article, material, or supply, includ-
10 ing technical data or other information," in relettered
11 subsection (n) and inserting in lieu thereof "goods,
12 technical data, or any other information,"; and

13 (n) adding at the end thereof the following two
14 new subsections:

15 "(o)(1) Any United States firm, enterprise, or other non-
16 governmental entity which, for commercial purposes, enters
17 into an agreement with an agency of a government in an-
18 other country to which exports are restricted for national se-
19 curity purposes, which agreement cites an intergovernmental
20 agreement calling for the encouragement of technical cooper-
21 ation and is intended to result in the export from the United
22 States to the other party of unpublished technical data of
23 United States origin, shall report such agreement to the Sec-
24 retary of Commerce.

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

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

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

18 SEC. 4. Section 5 of the Export Administration Act of
19 1969, as amended (50 U.S.C. App. 2404), is further amend-
20 ed by—

21 (a) deleting “Federal Energy Administration” in
22 subsection (a) and inserting in lieu thereof “Depart-
23 ment of Energy”;

1 (b) deleting "article, material, or supply" in para-
2 graph (2), subsection (b) and inserting in lieu thereof
3 "goods";

4 (c) deleting "(A)" in paragraph (2), subsection (b)
5 and inserting in lieu thereof "(C)";

6 (d) deleting "articles, materials, supplies, includ-
7 ing technical data and other information" each time it
8 appears in paragraph (1), subsection (c) and inserting
9 in lieu thereof "goods and technical data";

10 (e) deleting from paragraph (2), subsection (c) "ar-
11 ticles, materials, and supplies, including technical data
12 or other information" and inserting in lieu thereof,
13 "goods and technical data";

14 (f) deleting the following sentence from paragraph
15 (2), subsection (c): "The Secretary shall include in each
16 semiannual report required by section 10 of this Act an
17 accounting of the consultation undertaken pursuant to
18 this paragraph, the use made of the advice rendered by
19 the technical advisory committees pursuant to this
20 paragraph, and the contributions of the technical advi-
21 sory committees in carrying out the policies of this
22 Act."; and

23 (g) deleting from paragraph (5), subsection (c),
24 "articles, materials, and supplies" and inserting in lieu
25 thereof "goods and technical data".

1 SEC. 5. Section 6 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2405) is further amended
3 by—

4 (a) revising subsection (a) to read as follows:
5 “Except as provided in subsection (b) of this section,
6 whoever knowingly violates any provision of this Act
7 or any regulation, order, or license issued thereunder
8 shall be fined not more than five times the value of the
9 exports involved or \$50,000, whichever is greater, or
10 imprisoned not more than five years, or both.”;

11 (b) revising subsection (b) to read as follows:
12 “Whoever willfully exports anything contrary to any
13 provision of this Act or any regulation, order, or li-
14 cense issued thereunder, with knowledge that such ex-
15 ports will be used for the benefit of any country to
16 which exports are restricted for national security or
17 foreign policy purposes, shall be fined not more than
18 five times the value of the exports involved or
19 \$100,000, whichever is greater, or imprisoned not
20 more than ten years, or both.”; and

21 (c) deleting “articles, materials, supplies, or tech-
22 nical data or other information” from subparagraph
23 (A), paragraph (2), subsection (c) and inserting in lieu
24 thereof, “goods, technical data, or any other informa-
25 tion”.

1 SEC. 6. Section 7 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2406) is further amended
3 by—

4 (a) revising subsection (c) to read as follows:
5 “Except as otherwise provided by the third sentence of
6 section 4A(b)(2) and by section 6(c)(2)(C) of this Act,
7 information obtained under this Act which is deemed
8 confidential or with reference to which a request for
9 confidential treatment is made by the person furnishing
10 such information shall be exempt from disclosure under
11 section 552(b)(3)(B) of title 5, United States Code, and
12 such information shall not be published or disclosed
13 unless the Secretary of Commerce determines that the
14 withholding thereof is contrary to the national interest.
15 Nothing in this Act shall be construed as authorizing
16 the withholding of information from Congress, and all
17 information obtained at any time under this Act or pre-
18 vious Acts regarding the control of exports, including
19 any report or license application required under section
20 4(b), shall be made available upon request to any com-
21 mittee or subcommittee of Congress of appropriate ju-
22 risdiction. No such committee or subcommittee shall
23 disclose any information obtained under this Act or
24 previous Acts regarding the control of exports which is
25 submitted on a confidential basis unless the full com-

1 mittee determines that the withholding thereof is con-
2 trary to the national interest.”;

3 (b) deleting the last sentence of subsection (d); and

4 (c) deleting subsection (e).

5 SEC. 7. Section 9 of the Export Administration Act of
6 1969, as amended (50 U.S.C. App. 2408), is repealed.

7 SEC. 8. Section 10 of the Export Administration Act of
8 1969, as amended (50 U.S.C. App. 2409) is revised to read
9 as follows:

10 “REPORT

11 “SEC. 9. (a) The Secretary of Commerce shall make an
12 annual report to the President and to the Congress on the
13 implementation of this Act.

14 “(b) Each annual report shall include an accounting
15 of—

16 “(1) actions taken by the President and the Secre-
17 tary of Commerce to effect the antiboycott policies set
18 forth in section 3(5) of this Act;

19 “(2) organizational and procedural changes insti-
20 tuted and any reviews undertaken in furtherance of the
21 policies set forth in this Act;

22 “(3) efforts to keep the business sector of the
23 Nation informed about policies and procedures adopted
24 under this Act;

1 “(4) any changes in the exercise of the authorities
2 of section 4(b) of this Act;

3 “(5) the results of review of United States policy
4 toward individual countries called for in section
5 4(b)(2)(A);

6 “(6) evidence demonstrating a need to impose
7 export controls for national security purposes in the
8 face of foreign availability as set forth in section
9 4(b)(2)(B);

10 “(7) the information contained in the reports re-
11 quired by section 4(c)(2) of this Act, together with an
12 analysis of—

13 “(A) the impact on the economy and world
14 trade of shortages or increased prices for com-
15 modities subject to monitoring under this Act or
16 section 812 of the Agricultural Act of 1970;

17 “(B) the worldwide supply of such commod-
18 ities; and

19 “(C) actions being taken by other nations in
20 response to such shortages or increased prices;

21 “(8) delegations of authority by the President as
22 provided for under section 4(e) of this Act;

23 “(9) the number and disposition of export license
24 applications taking more than ninety days to process
25 pursuant to section 4(g) of this Act;

1 “(10) consultations undertaken with technical ad-
2 visory committees pursuant to section 5(c) of this Act,
3 the use made of advice given, and the contribution
4 such committees made in carrying out the policies of
5 this Act;

6 “(11) violations of the provisions of this Act and
7 penalties imposed pursuant to this Act; and

8 “(12) any revisions to reporting requirements pre-
9 scribed in section 7(d).

10 “(c) The heads of other involved departments and agen-
11 cies shall fully cooperate with the Secretary of Commerce in
12 providing all information required by the Secretary of Com-
13 merce to complete the annual reports.”.

14 SEC. 9. Section 11 of the Export Administration Act of
15 1969, as amended (50 U.S.C. App. 2410), is renumbered as
16 section 10.

17 SEC. 10. Section 12 of the Export Administration Act
18 of 1969, as amended (50 U.S.C. App. 2411) is amended
19 by—

20 (a) renumbering it as section 11; and

21 (b) deleting “section 414 of the Mutual Security
22 Act of 1954 (22 U.S.C. 1934).” in subsection (b) and
23 inserting in lieu thereof “section 38 of the Arms
24 Export Control Act (22 U.S.C. 2778).”.

1 SEC. 11. Section 13 of the Export Administration Act
2 of 1969, as amended (50 U.S.C. App. 2411a) is further
3 amended by—

4 (a) renumbering it as section 12;

5 (b) revising subsection (a) to read as follows:

6 “(a) For fiscal years commencing on or after October 1,
7 1979, there are hereby authorized to be appropriated to the
8 Department of Commerce such sums as may be necessary to
9 carry out the purposes of this Act.”; and

10 (c) adding at the end thereof the following new
11 subsection:

12 “(c) for fiscal years commencing on or after October 1,
13 1979, there are hereby authorized to be appropriated to the
14 Department of State such sums as may be necessary to im-
15 plement the provisions of sections 3(9) and 4(p) of this Act.”.

16 SEC. 12. Section 15 of the Export Administration Act
17 of 1969, as amended (50 U.S.C. App. 2413), is further
18 amended by deleting “1979” and inserting in lieu thereof
19 “1983”.

20 SEC. 13. Sections 14 and 15 of the Export Administra-
21 tion Act of 1969, as amended (50 U.S.C. App. 2412 and
22 2413), are renumbered as section 13 and section 14 respec-
23 tively.

24 SEC. 14. As of October 1, 1979, the Mutual Defense
25 Assistance Control Act of 1951, as amended (22 U.S.C.
26 1611-1613d), is superseded.

96TH CONGRESS
1ST SESSION

H. R. 3653

To authorize appropriations for the fiscal years 1980 and 1981 under the International Investment Survey Act of 1976, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1979

Mr. BINGHAM (for himself, Mr. LAGOMARINO, and Mr. GILMAN) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To authorize appropriations for the fiscal years 1980 and 1981 under the International Investment Survey Act of 1976, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 9 of the International Investment Survey Act of
4 1976 (90 Stat. 2059) is amended to read as follows:
5 "SEC. 9. To carry out this Act, there is authorized to be
6 appropriated \$4,400,000 for the fiscal year ending Septem-
7 ber 30, 1980, and \$4,500,000 for the fiscal year ending Sep-
8 tember 30, 1981."

96TH CONGRESS
1ST SESSION

H. R. 3783

To provide for continuation of authority to regulate exports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1979

Mr. BINGHAM introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To provide for continuation of authority to regulate exports, and for other purposes.

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

3 TITLE I—EXPORT ADMINISTRATION

4 SHORT TITLE

5 SECTION 101. This title may be cited as the “Export
6 Administration Act Amendments of 1979”.

1 FINDINGS

2 SEC. 102. Section 2 of the Export Administration Act
3 of 1969 (50 U.S.C. App. 2401) is amended to read as
4 follows:

5 "FINDINGS

6 "SEC. 2. The Congress makes the following findings:

7 "(1) Exports are important to the economic well-
8 being of the United States.

9 "(2) A large United States trade deficit weakens
10 the value of the United States dollar, intensifies infla-
11 tionary pressures in the domestic economy, and height-
12 ens instability in the world economy.

13 "(3) Poor export performance is an important
14 factor contributing to a United States trade deficit.

15 "(4) It is important for the national interest of the
16 United States that both the private sector and the Fed-
17 eral Government place a high priority on exports,
18 which would strengthen the Nation's economy.

19 "(5) The restriction of exports from the United
20 States can have serious adverse effects on the balance
21 of payments and on domestic employment, particularly
22 when restrictions applied by the United States are
23 more extensive than those imposed by other countries.

24 "(6) The uncertainty of policy toward certain cat-
25 egories of exports has curtailed the efforts of American

1 business in those categories to the detriment of the
2 overall attempt to improve the trade balance of the
3 United States.

4 “(7) The availability of certain materials at home
5 and abroad varies so that the quantity and composition
6 of United States exports and their distribution among
7 importing countries may affect the welfare of the do-
8 mestic economy and may have an important bearing
9 upon fulfillment of the foreign policy of the United
10 States.

11 “(8) Unreasonable restrictions on access to world
12 supplies can cause worldwide political and economic in-
13 stability, interfere with free international trade, and
14 retard the growth and development of nations.

15 “(9) The export of goods or technology without
16 regard to whether such export makes a significant con-
17 tribution to the military potential of individual coun-
18 tries may adversely affect the national security of the
19 United States.

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

1 country or combinations of countries which would be
2 detrimental to the national security of the United
3 States.”.

4 POLICY

5 SEC. 103. (a) Section 3 of the Export Administration
6 Act of 1969 (50 U.S.C. App. 2402) is amended by amending
7 paragraph (2) to read as follows:

8 “(2) It is the policy of the United States to use export
9 controls to the extent necessary (A) to restrict the export of
10 goods and technology which would make a significant contri-
11 bution to the military potential of any country or combination
12 of countries which would prove detrimental to the national
13 security of the United States; (B) to restrict the export of
14 goods and technology where necessary to further significant-
15 ly the foreign policy of the United States or to fulfill its inter-
16 national responsibilities; and (C) to restrict the export of
17 goods where necessary to protect the domestic economy from
18 the excessive drain of scarce materials and to reduce the seri-
19 ous inflationary impact of foreign demand.”.

20 (b) Such section is further amended—

21 (1) in paragraph (5) by striking out “articles, ma-
22 terials, supplies, or information” and inserting in lieu
23 thereof “goods, technology, or other information”;

24 (2) in paragraph (6) by striking out “articles, ma-
25 terials, or supplies, including technical data or other in-

1 formation,” and inserting in lieu thereof “goods, tech-
2 nology, or other information”; and

3 (3) by adding at the end thereof the following new
4 paragraph:

5 “(9) It is the policy of the United States to cooperate
6 with other nations with which the United States has defense
7 treaty commitments in restricting the export of goods and
8 technology which would make a significant contribution,
9 which would prove detrimental to the security of the United
10 States and of those countries with which the United States
11 has defense treaty commitments to the military potential of
12 any country or combination of countries.”.

13 EXPORT LICENSES; TYPES OF CONTROLS

14 SEC. 104. (a) The Export Administration Act of 1969 is
15 amended—

16 (1) by redesignating section 4 as section 7;

17 (2) by repealing sections 5 and 9;

18 (3) by redesignating sections 6, 7, 8, 10, 11, 12,
19 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18,
20 19, and 20, respectively; and

21 (4) by redesignating sections 4A and 4B as sec-
22 tions 8 and 9, respectively.

23 (b) The Export Administration Act of 1969 is amended
24 by adding after section 3 the following new sections:

1 "EXPORT LICENSES; COMMODITY CONTROL LIST;

2 LIMITATION ON CONTROLLING EXPORTS

3 "SEC. 4. (a) TYPES OF LICENSES.—The Secretary
4 may, in accordance with the provisions of this Act, issue any
5 of the following export licenses:

6 "(1) A validated license, which shall be a docu-
7 ment issued pursuant to an application by an exporter
8 authorizing a specific export or, under procedures es-
9 tablished by the Secretary, a group of exports, to any
10 destination.

11 "(2) A qualified general license, which shall be a
12 document issued pursuant to an application by the ex-
13 porter authorizing the export to any destination, with-
14 out specific application by the exporter for each such
15 export, of a category of goods or technology under
16 such conditions as may be imposed by the Secretary.

17 "(3) A general license, which shall be a standing
18 authorization to export, without application by the ex-
19 porter, a category of goods or technology subject to
20 such conditions as may be set forth in the license.

21 "(4) Such other licenses, consistent with this sub-
22 section and this Act, as the Secretary considers neces-
23 sary for the effective and efficient implementation of
24 this Act.

1 “(b) COMMODITY CONTROL LIST.—The Secretary shall
2 establish and maintain a list (hereinafter in this Act referred
3 to as the ‘commodity control list’) consisting of any goods or
4 technology subject to export control, under this Act.

5 “(c) RIGHT OF EXPORT.—No authority or permission
6 to export may be required under this Act, or under any rules
7 or regulations issued under this Act, except to carry out the
8 policies set forth in section 3 of this Act.

9 “NATIONAL SECURITY CONTROLS

10 “SEC. 5. (a) AUTHORITY.—(1) In order to carry out the
11 policy set forth in section 3(2)(A) of this Act, the President
12 may, in accordance with the provisions of this section, pro-
13 hibit or curtail the export of any goods or technology subject
14 to the jurisdiction of the United States or exported by any
15 person subject to the jurisdiction of the United States. The
16 authority contained in this subsection shall be exercised by
17 the Secretary, in consultation with the Secretary of Defense,
18 and such other departments and agencies as the Secretary
19 considers appropriate, and shall be implemented by means of
20 export licenses described in section 4(a) of this Act.

21 “(2)(A) Whenever the Secretary makes any revision
22 with respect to any goods or technology, or with respect to
23 the countries or destinations, affected by export controls im-
24 posed under this subsection, the Secretary shall publish in the
25 Federal Register a notice of such revision and shall specify in

1 such notice that such revision relates to controls imposed
2 under the authority contained in this section.

3 “(B) Whenever the Secretary denies any export license
4 under this subsection, the Secretary shall specify in the
5 notice to the applicant of the denial of such license that the
6 license was denied under the authority contained in this
7 section.

8 “(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In
9 administering export controls under this section, United
10 States policy toward individual countries shall not be deter-
11 mined exclusively on the basis of a country’s Communist or
12 non-Communist status, but shall take into account such fac-
13 tors as the country’s present and potential relationship to the
14 United States, its present and potential relationship to coun-
15 tries friendly or hostile to the United States, its ability and
16 willingness to control retransfers of United States exports in
17 accordance with United States policy, and such other factors
18 as the President may consider appropriate. The President
19 shall periodically review United States policy toward individ-
20 ual countries to determine whether such policy is appropriate
21 in light of factors specified in the preceding sentence.

22 “(c) CONTROL LIST.—(1) The Secretary shall establish
23 and maintain, as part of the commodity control list, a list of
24 all goods and technology subject to export controls under this

1 section. Such goods and technology shall be clearly identified
2 as being subject to controls under this section.

3 “(2) The Secretary of Defense and other appropriate de-
4 partments and agencies shall identify goods and technology
5 for possible inclusion on the list referred to in paragraph (1).
6 Items which the Secretary and the Secretary of Defense
7 concur shall be subject to export controls under this section
8 shall comprise such list.

9 “(3) The Secretary shall issue regulations providing for
10 periodic revision of the list established pursuant to this sub-
11 section in order to carry out the policy set forth in section
12 3(2)(A) and the provisions of this section.

13 “(d) **MILITARY CRITICAL TECHNOLOGIES.**—(1) The
14 Congress finds that the national interest requires that export
15 controls under this section be focused primarily on military
16 critical technologies, and that export controls under this sec-
17 tion be removed insofar as possible from goods the export of
18 which would not transfer military critical technologies to
19 countries to which exports are controlled under this section.

20 “(2) The Secretary of Defense shall develop a list of
21 military critical technologies. In developing such list, primary
22 emphasis shall be given to—

23 “(A) arrays of design and manufacturing know-
24 how;

1 “(B) keystone manufacturing, inspection, and test
2 equipment; and

3 “(C) goods accompanied by sophisticated oper-
4 ation, application, or maintenance know-how,
5 which are not possessed by countries to which exports are
6 controlled under this section and which, if exported, would
7 permit a major advance in a weapons system of any such
8 country.

9 “(3) The list referred to in paragraph (2) shall—

10 “(A) be sufficiently specific to guide the determi-
11 nations of any official exercising export licensing re-
12 sponsibilities under this Act;

13 “(B) provide for the removal of export controls
14 under this section from goods the export of which
15 would not transfer military critical technology to coun-
16 tries to which exports are controlled under this section,
17 except for goods with intrinsic military utility; and

18 “(C) be developed in cooperation with other na-
19 tions which cooperate with the United States in con-
20 trolling exports to countries to which exports are con-
21 trolled under this section.

22 “(4) The list of military critical technologies developed
23 by the Secretary of Defense pursuant to paragraph (2) shall
24 not become a part of the commodity control list except in
25 accordance with subsection (c) of this section.

1 “(5) The Secretary of Defense shall report annually to
2 the Congress on actions taken to carry out this subsection.

3 “(e) EXPORT LICENSES.—(1) The Secretary may re-
4 quire a qualified general license under this section for the
5 export of goods or technology only if—

6 “(A) the export of such goods or technology is re-
7 stricted pursuant to a multilateral agreement, formal or
8 informal, to which the United States is a party; or

9 “(B) with respect to such goods or technology
10 other nations do not possess capabilities comparable to
11 those possessed by the United States.

12 “(2) The Secretary may require a validated license
13 under this section for the export of goods or technology only
14 if—

15 “(A) the export of such goods or technology is re-
16 stricted pursuant to a multilateral agreement, formal or
17 informal, to which the United States is a party, and
18 such license is necessary to enable the United States
19 to meet its commitments under such multilateral agree-
20 ment;

21 “(B) with respect to such goods or technology
22 other nations do not possess capabilities comparable to
23 those possessed by the United States; or

24 “(C) the United States is seeking the agreement
25 of other suppliers to apply comparable controls to such

1 goods or technology, and, in the judgment of the Sec-
2 retary, United States export controls on such goods or
3 technology, by means of such license, are necessary
4 pending the conclusion of such agreement.

5 “(3) The Secretary shall require a qualified general li-
6 cense under this section, in lieu of a validated license, to the
7 maximum extent practicable for the export of goods or tech-
8 nology where—

9 “(A) the export of such goods or technology is re-
10 stricted pursuant to a multilateral agreement, formal or
11 informal, to which the United States is a party but
12 such export does not require the specific approval of
13 the parties to such multilateral agreement; or

14 “(B) with respect to such goods or technology
15 other nations do not possess capabilities comparable to
16 those possessed by the United States.

17 “(f) FOREIGN AVAILABILITY.—(1) The Secretary, in
18 consultation with appropriate Government agencies and with
19 appropriate technical advisory committees established pursu-
20 ant to subsection (h) of this section, shall review, on a con-
21 tinuing basis, the availability, to countries to which exports
22 are controlled under this section, from sources outside the
23 United States, including countries which participate with the
24 United States in multilateral export controls, of any goods or
25 technology the export of which requires a validated license

1 under this section. In any case in which the Secretary deter-
2 mines, in accordance with procedures and criteria which the
3 Secretary shall by regulation establish, that any such goods
4 or technology are available in fact to such destinations from
5 such sources in sufficient quantity and of sufficient quality so
6 that the requirement of a validated license for the export of
7 such goods or technology is or would be ineffective in achiev-
8 ing the purpose set forth in subsection (a) of this section, the
9 Secretary may not, after the determination is made, require a
10 validated license for the export of such goods or technology
11 during the period of such foreign availability, unless the
12 President determines that the absence of export controls
13 under this section would prove detrimental to the national
14 security of the United States.

15 “(2) The Secretary shall approve any application for a
16 validated license which is required under this section for the
17 export of any goods or technology to a particular country and
18 which meets all other requirements for such an application, if
19 the Secretary determines that such goods or technology will,
20 if license is denied, be available in fact to such country from
21 sources outside the United States, including countries which
22 participate with the United States in multilateral export con-
23 trols, in sufficient quantity and of sufficient quality so that
24 denial of the license would be ineffective in achieving the
25 purpose set forth in subsection (a) of this section. In any case

1 in which the Secretary makes a determination of foreign
2 availability under this paragraph with respect to any goods or
3 technology, the Secretary shall determine whether a determi-
4 nation under paragraph (1) with respect to such goods or
5 technology is warranted.

6 “(3) Whenever the Secretary of State, in consultation
7 with the Secretary, has reason to believe that the availability
8 of any goods or technology from sources outside the United
9 States can be prevented or eliminated by means of negotia-
10 tions with other countries, the Secretary of State shall under-
11 take such negotiations. The Secretary shall not make any
12 determination under this subsection with respect to such
13 goods or technology until the Secretary of State has had a
14 reasonable amount of time to conclude such negotiations.

15 “(4) In order to further effectuate the policies set forth
16 in this paragraph, the Secretary shall establish, within the
17 Office of Export Administration of the Department of Com-
18 merce, a capability to monitor and gather information with
19 respect to the foreign availability of any goods or technology
20 subject to export controls under this section. The Secretary
21 shall include a detailed statement with respect to actions
22 taken in compliance with the provisions of this paragraph in
23 each report to the Congress made pursuant to section 15 of
24 this Act.

1 “(g) INDEXING.—In order to ensure that requirements
2 for validated licenses and qualified licenses are periodically
3 removed as goods or technology subject to such requirements
4 become obsolete with respect to the national security of the
5 United States, regulations issued by the Secretary may,
6 where appropriate, provide for annual increases in the per-
7 formance levels of goods or technology subject to any such
8 licensing requirement. Any such goods or technology which
9 no longer meet the performance levels established by the
10 latest such increase shall be removed from the list established
11 pursuant to subsection (c) of this section unless, under such
12 exceptions and under such procedures as the Secretary shall
13 prescribe, any other Government agency objects to such re-
14 moval and the Secretary determines, on the basis of such
15 objection, that the goods or technology shall not be removed
16 from the list.

17 “(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon
18 written request by representatives of a substantial segment of
19 any industry which produces any goods or technology subject
20 to export controls under subsection (a) or being considered for
21 such controls because of their significance to the national se-
22 curity of the United States, the Secretary shall appoint a
23 technical advisory committee for any such goods or technol-
24 ogy which the Secretary determines are difficult to evaluate
25 because of questions concerning technical matters, worldwide

1 availability, and actual utilization of production and technol-
2 ogy, or licensing procedures. Each such committee shall con-
3 sist of representatives of United States industry and Govern-
4 ment, including the Departments of Commerce, Defense, and
5 State, and, in the discretion of the Secretary, other Govern-
6 ment departments and agencies. No person serving on any
7 such committee who is representative of industry shall serve
8 on such committee for more than four consecutive years.

9 “(2) Technical advisory committees established under
10 paragraph (1) shall advise and assist the Secretary and any
11 other department, agency, or official of the Government of
12 the United States to which the President delegates authority
13 under this Act with respect to actions designed to carry out
14 the policy set forth in section 3(2)(A) of this Act. Such com-
15 mittees, where they have expertise in such matters, shall be
16 consulted with respect to questions involving (A) technical
17 matters, (B) worldwide availability and actual utilization of
18 production technology, (C) licensing procedures which affect
19 the level of export controls applicable to any goods or tech-
20 nology, and (D) exports subject to multilateral controls in
21 which the United States participates, including proposed re-
22 visions of any such multilateral controls. Nothing in this sub-
23 section shall prevent the Secretary from consulting, at any
24 time, with any person representing industry or the general
25 public regardless of whether such person is a member of a

1 technical advisory committee. Members of the public shall be
2 given a reasonable opportunity, pursuant to regulations
3 prescribed by the Secretary, to present evidence to such
4 committees.

5 “(3) To facilitate the work of the technical advisory
6 committees, the Secretary, in conjunction with other depart-
7 ments and agencies participating in the administration of this
8 Act, shall disclose to each such committee adequate informa-
9 tion, consistent with national security, pertaining to the rea-
10 sons for the export controls which are in effect or contem-
11 plated for the goods or technology with respect to which that
12 committee furnishes advice.

13 “(4) Whenever a technical advisory committee certifies
14 to the Secretary that goods or technology with respect to
15 which such committee was appointed have become available
16 in fact, to countries to which exports are controlled under
17 this section, from sources outside the United States, includ-
18 ing countries which participate with the United States in
19 multilateral export controls, in sufficient quantity and of suffi-
20 cient quality so that requiring a validated license for the
21 export of such goods or technology would be ineffective in
22 achieving the purpose set forth in subsection (a), and provides
23 adequate documentation for such certification, in accordance
24 with the procedures established pursuant to subsection (f)(1)
25 of this section, the Secretary shall take steps to verify such

1 availability, and upon such verification shall remove the re-
2 quirement of a validated license for the export of the goods or
3 technology, unless the President determines that the absence
4 of export controls under this section would prove detrimental
5 to the national security of the United States.

6 “(i) MULTILATERAL EXPORT CONTROLS.—(1) The
7 President shall enter into negotiations with the governments
8 participating in the group known as the Coordinating Com-
9 mittee of the Consultative Group (hereinafter in this subsec-
10 tion referred to as the ‘Committee’) with a view toward ac-
11 complishing the following objectives:

12 “(A) agreement to publish the list of items con-
13 trolled for export by agreement of the Committee, to-
14 gether with all notes, understandings, and other as-
15 pects of such agreement, and all changes thereto;

16 “(B) agreement to hold periodic meetings of such
17 governments with high-level representation from such
18 governments, for the purpose of discussing export con-
19 trol policy issues and issuing policy guidance to the
20 Committee;

21 “(C) agreement to reduce the scope of the export
22 controls imposed by agreement of the Committee to a
23 level acceptable to and enforceable by all governments
24 participating in the Committee; and

1 “(D) agreement on more effective procedures for
2 enforcing the export controls agreed to pursuant to
3 subparagraph (C).

4 “(2) The President shall report in detail, in each annual
5 report required by section 14 of this Act, until the negotia-
6 tions required by paragraph (1) are concluded, on the prog-
7 ress of such negotiations.

8 “(3) In any case in which goods or technology con-
9 trolled for export by agreement of the Committee are export-
10 ed from the United States to countries which participate in
11 the Committee, no condition shall be imposed by the United
12 States with respect to the further export of such goods or
13 technology from such countries.

14 “(j) **COMMERCIAL AGREEMENTS WITH CERTAIN**
15 **COUNTRIES.**—(1) Any United States person who, for com-
16 mercial purposes, enters into any agreement with any agency
17 of the government of a country to which exports are restrict-
18 ed for national security purposes, which agreement cites an
19 intergovernmental agreement (to which the United States
20 and such countries are parties) calling for the encouragement
21 of technical cooperation, and which agreement is intended to
22 result in the export from the United States to the other party
23 of unpublished technical data of United States origin, shall
24 report such agreement to the Secretary.

1 “(2) The provisions of paragraph (1) shall not apply to
2 colleges, universities, or other educational institutions.

3 “(3) The Secretary of Commerce may issue such rules
4 and regulations as are necessary to implement the provisions
5 of this subsection.

6 “(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The
7 Secretary of State, in consultation with the Secretary of De-
8 fense, the Secretary of Commerce, and the heads of other
9 appropriate departments and agencies, shall be responsible for
10 conducting negotiations with other countries regarding their
11 cooperation in restricting the export of goods and technology
12 in order to carry out the policy set forth in section 3(9) of this
13 Act, as authorized by subsection (a) of this section, including
14 negotiations with respect to which goods and technology
15 should be subject to multilaterally agreed export restrictions
16 and what conditions should apply for exceptions from those
17 restrictions.

18 “FOREIGN POLICY CONTROLS

19 SEC. 6. (a) AUTHORITY.—(1) In order to effectuate the
20 policy set forth in paragraphs (2)(B), (7), and (8) of section 3
21 of this Act, the President may prohibit or curtail the exporta-
22 tion of any goods, technology, or other information subject to
23 the jurisdiction of the United States or exported by any
24 person subject to the jurisdiction of the United States, to the
25 extent necessary to further significantly the foreign policy of

1 the United States and to fulfill its international responsibil-
2 ities. The authority granted by this subsection shall be exer-
3 cised by the Secretary, in consultation with the Secretary of
4 State and such other departments and agencies as the Secre-
5 tary considers appropriate, and shall be implemented by
6 means of export licenses issued by the Secretary.

7 “(2)(A) Whenever the Secretary makes any revision
8 with respect to any goods, technology, or other information,
9 or with respect to the countries of destinations affected by
10 export controls imposed under this subsection, the Secretary
11 shall publish in the Federal Register a notice of such revi-
12 sion, and shall specify in notice that revision relates to con-
13 trols imposed under the authority contained in this subsec-
14 tion.

15 “(B) Whenever the Secretary denies any export license
16 under this subsection, the Secretary shall specify in the
17 notice to the applicant of the denial of such license that the
18 license was denied under the authority contained in this sub-
19 section and the reasons for such denial, with reference to the
20 criteria set forth in subsection (b) of this section.

21 “(3) In accordance with the provisions of section 10 of
22 this Act, the Secretary of State shall have the right to review
23 any export license under this section that the Secretary re-
24 quests to review, and to appeal to the President any decision
25 of the Secretary with respect to such license application.

1 “(b) CRITERIA.—In determining whether to impose
2 export controls under this section, the President, acting
3 through the Secretary and the Secretary of State, shall con-
4 sider—

5 “(1) the likely effectiveness of the proposed con-
6 trols in achieving their purpose, including the availabil-
7 ity from other countries of any goods or technology
8 comparable to goods or technology proposed for export
9 controls under this section;

10 “(2) the compatibility of the proposed controls
11 with the foreign policy objectives of the United States
12 and with overall United States policy toward the coun-
13 try which is the proposed target of the controls;

14 “(3) the likely effects of the proposed controls on
15 the export performance of the United States, on the
16 competitive position of the United States in the inter-
17 national economy, and on individual United States
18 companies and their employees and communities, in-
19 cluding the effects of the controls on existing contracts;
20 and

21 “(4) the ability of the United States Government
22 to enforce the proposed controls effectively.

23 “CONSULTATION WITH INDUSTRY.—The Secretary,
24 before imposing export controls under this section, shall con-
25 sult with such affected United States industries as the Secre-

1 tary considers appropriate, with respect to the criteria set
2 forth in paragraphs (1) and (3) of subsection (b) and such
3 other matters as the Secretary considers appropriate.

4 “(d) ALTERNATIVE MEANS.—Before resorting to the
5 imposition of export controls under this section, the President
6 shall determine that reasonable efforts have been made to
7 achieve the purposes of the controls through negotiations or
8 other alternative means.

9 “(e) NOTIFICATION TO CONGRESS.—The President in
10 every possible instance shall consult with the Congress
11 before imposing any export control under this section. When-
12 ever the President imposes any export control with respect to
13 any country under this section, he shall immediately notify
14 the Congress of the imposition of such export control, and
15 shall submit with such notification a report specifying—

16 “(1) the reasons for the control, the purposes the
17 control is designed to achieve, and the conditions under
18 which the control will be removed;

19 “(2) those considerations of the criteria set forth
20 in subsection (b) which led him to determine that on
21 balance such export control would further the foreign
22 policy interests of the United States or fulfil its inter-
23 national responsibilities, including those criteria which
24 were determined to be inapplicable;

1 “(3) the nature and results of consultations with
2 industry undertaken pursuant to subsection (c); and

3 “(4) the nature and results of any alternative
4 means attempted under subsection (d), or the reasons
5 for imposing the control without attempting any such
6 alternative means.

7 To the extent necessary to further the effectiveness of such
8 export control, portions of such report may be submitted on a
9 classified basis, and shall be subject to the provisions of sec-
10 tion 12(c) of this Act. If the Congress, within sixty days after
11 the receipt of such notification, adopts a concurrent resolu-
12 tion disapproving such export control, then such export con-
13 trol shall cease to be effective with the adoption of the resolu-
14 tion. In the computation of such sixty-day period, there shall
15 be excluded the days on which either House of Congress is
16 not in session because of an adjournment of more than three
17 days to a day certain or because of an adjournment of the
18 Congress sine die. The procedures set forth in section 130 of
19 the Atomic Energy Act of 1954 shall apply to any concur-
20 rent resolution referred to in this subsection, except that any
21 such resolution shall be reported by the appropriate commit-
22 tees of both Houses of Congress not later than forty-five days
23 after the receipt of the notification submitted pursuant to this
24 subsection.

1 “(f) EXCLUSION FOR FOOD AND MEDICINE.—This sec-
2 tion does not authorize export controls on food, medicine, or
3 medical supplies. It is the intent of Congress that the Presi-
4 dent not impose export controls under this section on any
5 goods or technology if he determines that the principal effect
6 of the export of such goods or technology would be to help
7 meet the basic human needs.

8 “(g) TRADE EMBARGOES.—This section does not au-
9 thorize the imposition by the United States of a total trade
10 embargo on any country.

11 “(h) FOREIGN AVAILABILITY.—In applying export con-
12 trols under this section, the President shall take all feasible
13 steps to initiate and conclude negotiations with appropriate
14 foreign governments for the purpose of securing the coopera-
15 tion of such foreign governments in controlling the export to
16 countries and consignees to which the United States export
17 controls apply of any goods or technology comparable to
18 goods or technology controlled for export under this section.

19 “(i) TREATY OBLIGATIONS.—The limitations contained
20 in subsections (b), (f), (g), and (h) shall not apply in any case
21 in which the President exercises the authority contained in
22 this section to impose export controls or to approve or deny
23 export license applications in order to fulfill commitments of
24 the United States pursuant to treaties to which the United
25 States is a party, or to comply with decisions or other actions

1 of international organizations of which the United States is a
2 member by treaty.

3 “(j) EXISTING CONTROLS.—The provisions of subsec-
4 tions (f) and (g) shall not apply to any export controls on food
5 or medicine or to any trade embargo in effect on the date of
6 enactment of the Export Administration Act Amendments of
7 1979.

8 “(k) CONTROL LIST.—The Secretary shall establish
9 and maintain, as part of the commodity control list, a list of
10 any goods or technology subject to export controls under this
11 section and the countries to which such controls apply. Such
12 goods or technology shall be clearly identified as subject to
13 controls under this section. Such list shall consist of goods
14 and technology identified by the Secretary of State, with the
15 concurrence of the Secretary. If the Secretary and the Secre-
16 tary of State are unable to agree on such list, the matter
17 shall be referred to the President for resolution. The Secre-
18 tary shall issue regulations providing for periodic revision of
19 such list for the purpose of eliminating export controls which
20 are no longer necessary to fulfill the purpose set forth in sub-
21 section (a) of this section or are no longer advisable under the
22 criteria set forth in subsection (b) of this section.

23 (c) The Export Administration Act of 1969 is amended
24 by inserting after section 9, as redesignated by subsection (a)
25 of this section, the following new section:

1 “PROCEDURES FOR PROCESSING VALIDATED AND
2 QUALIFIED GENERAL LICENSE APPLICATIONS

3 “SEC. 10. (a)(1) GENERAL RESPONSIBILITY OF THE
4 SECRETARY; DESIGNATED OFFICIAL.—All export license
5 applications required under this Act shall be submitted by the
6 applicant to the Secretary. All determinations with respect to
7 any such application shall be made by the Secretary, subject
8 to the procedures provided in this section for objections by
9 other agencies. The Secretary may not delegate the authority
10 to deny any such application to any official holding a rank
11 lower than Deputy Assistant Secretary.

12 “(2) For purposes of this section, the term ‘designated
13 official’ means an official designated by the Secretary to
14 carry out functions under this Act with respect to the admin-
15 istration of export licenses.

16 “(b) APPLICATIONS TO BE REVIEWED BY OTHER
17 AGENCIES.—(1) It is the intent of Congress that a determi-
18 nation with respect to any export license application be made
19 to the maximum extent possible by the Secretary without
20 referral of such application to any other Government agency.
21 If the President notifies such office or agency, within thirty
22 days after receiving a recommendation from the Secretary,
23 that he disapproves such export, no license or other authority
24 may be issued for the export of such goods or technology to
25 such country.

1 “(2) The head of any Government agency concerned
2 with export controls may, within ninety days after the effec-
3 tive date of this section, and periodically thereafter, in con-
4 sultation with the Secretary, determine the specific types and
5 categories of license applications to be reviewed by such
6 agency before the Secretary approves or disapproves any
7 such application. The Secretary shall, in accordance with the
8 provisions of this section, submit to the agency involved any
9 license application of any such type or category.

10 “(c) INITIAL SCREENING.—Within ten days after the
11 date on which any export license application is received, the
12 designated official shall—

13 “(1) send to the applicant an acknowledgment of
14 the receipt of the application and the date of the re-
15 ceipt;

16 “(2) submit to the applicant a written description
17 of the procedures required by this section, the responsi-
18 bilities of the Secretary and of other agencies with re-
19 spect to the application, and the rights of the applicant;

20 “(3) return the application without action if the
21 application is improperly completed or if additional in-
22 formation is required, with sufficient information to
23 permit the application to be properly resubmitted, in
24 which case if such application is resubmitted, it shall

1 be treated as a new application for the purpose of cal-
2 culating the time periods prescribed in this section; and

3 “(4) determine whether it is necessary to submit
4 the application to any other agency and, if such sub-
5 mission is determined to be necessary, inform the ap-
6 plicant of the agency or agencies to which the applica-
7 tion will be referred.

8 “(d) ACTION BY THE DESIGNATED OFFICIAL.—Within
9 thirty days after the date on which an export license applica-
10 tion is received, the designated official shall—

11 “(1) approve or disapprove the application and
12 formally issue or deny the license, as the case may be;
13 or

14 “(2)(A) submit the application together with all
15 necessary analysis and recommendations of the Depart-
16 ment of Commerce concurrently to any other agencies
17 pursuant to subsection (b)(2); and

18 “(B) if the applicant so requests, provide the ap-
19 plicant with an opportunity to review for accuracy any
20 documentation submitted to such other agency with re-
21 spect to such application.

22 “(e) ACTION BY OTHER AGENCIES.—(1) Any agency
23 to which an application is submitted pursuant to subsection
24 (d)(2)(A) shall submit to the designated official, within thirty
25 days after the end of the thirty-day period referred to in sub-

1 section (d), any recommendations with respect to such appli-
2 cation. Except as provided in paragraph (2), any such agency
3 which does not so submit its recommendations within the
4 time period prescribed in the preceding sentence shall be
5 deemed by the designated official to have no objection to the
6 approval of such application.

7 “(2) If the head or acting head of any such agency noti-
8 fies the Secretary before the expiration of the time period
9 provided in paragraph (1) for submission of its recommenda-
10 tions that more time is required for review by such agency,
11 such agency shall have an additional thirty-day period to
12 submit its recommendations to the designated official. If such
13 agency does not so submit its recommendations within the
14 time period prescribed by the preceding sentence, it shall be
15 deemed by the designated official to have no objection to the
16 approval of such application.

17 “(f) DETERMINATION BY THE DESIGNATED OFFI-
18 CIAL.—(1) The designated official shall take into account any
19 recommendation of an agency submitted with respect to an
20 application to the designated official pursuant to subsection
21 (e), and within twenty days after the end of the appropriate
22 period specified in subsection (e) for submission of such
23 agency recommendations, shall—

24 “(A) approve or disapprove the application and
25 inform such agency of such approval or disapproval; or

1 “(B) if unable to reach a decision with respect to
2 the application, refer the application to the Secretary
3 and notify such agency and the application of such
4 referral.

5 “(2) The designated official shall formally issue or deny
6 the license, as the case may be, not more than ten days after
7 such official makes a determination under paragraph (1)(A),
8 unless any agency which submitted a recommendation to the
9 designated official pursuant to subsection (e) with respect to
10 the license application, notifies such official, within such ten-
11 day period, that it objects to the determination of the desig-
12 nated official.

13 “(3) The designated official shall fully inform the appli-
14 cant, to the maximum extent consistent with the national se-
15 curity and foreign policy of the United States—

16 “(A) at the time of a denial of the application, the
17 specific reasons for such denial; or

18 “(B) in the case of a referral to the Secretary
19 under paragraph (1)(B) or an objection by an agency
20 under paragraph (2), the specific questions raised and
21 any negative considerations or recommendations made
22 by an agency, and shall accord the applicant an oppor-
23 tunity, before the final determination with respect to
24 the application is made, to respond in writing to such
25 questions, considerations, or recommendations.

1 “(g) ACTION BY THE SECRETARY.—(1)(A) In the case
2 of an objection of an agency of which the designated official
3 is notified under subsection (f)(2), the designated official shall
4 refer the application to the Secretary. The Secretary shall
5 consult with the head of such agency, and, within twenty
6 days after such notification, shall approve or disapprove the
7 license application and immediately inform such agency head
8 of such approval or disapproval.

9 “(B) In the case of a referral to the Secretary under
10 subsection (f)(1)(B), the Secretary shall, within twenty days
11 after such notification is transmitted, approve or disapprove
12 the application and immediately inform any agency which
13 submitted recommendations with respect to the application,
14 of such approval or disapproval.

15 “(2) The Secretary shall formally issue or deny the li-
16 cense, as the case may be, within ten days after approving or
17 disapproving the application under paragraph (1), unless the
18 head of the agency referred to in paragraph (1)(A), or the
19 head of an agency described in paragraph (1)(B), as the case
20 may be, notifies the Secretary of his objection to the approval
21 or disapproval.

22 “(3) The Secretary shall immediately and fully inform
23 the applicant, in accordance with subsection (f)(3), of any
24 action taken under paragraph (1) or (2) of this subsection.

1 “(4) The Secretary may not delegate the authority to
2 carry out the actions required by this subsection to any offi-
3 cial holding a rank lower than Deputy Assistant Secretary.

4 “(h) ACTION BY THE PRESIDENT.—In the case of noti-
5 fication by an agency head under subsection (g)(2) of an ob-
6 jection to the Secretary’s decision with respect to an applica-
7 tion, the Secretary shall immediately refer the application to
8 the President. Within thirty days after such notification, the
9 President shall approve or disapprove the application and the
10 Secretary shall immediately issue or deny the license, in ac-
11 cordance with the President’s decision. In any case in which
12 the President does not approve or disapprove the application
13 within such thirty-day period, the decision of the Secretary
14 shall be final and the Secretary shall immediately issue or
15 deny the license in accordance with the Secretary’s decision.

16 “(i) SPECIAL PROCEDURES FOR SECRETARY OF DE-
17 FENSE.—(1) Notwithstanding any other provision of this sec-
18 tion, the Secretary of Defense is authorized to review any
19 proposed export of any goods or technology to any country to
20 which exports are controlled for national security purposes
21 and, whenever he determines that the export of such goods
22 or technology will make a significant contribution, which
23 would prove detrimental to the national security of the
24 United States, to the military potential of any such country,

1 to recommend to the President that such export be dis-
2 proved.

3 “(2) Notwithstanding any other provision of law, the
4 Secretary of Defense shall determine, in consultation with
5 the export control office to which licensing requests are
6 made, the types and categories of transactions which should
7 be reviewed by him in order to make a determination referred
8 to in paragraph (1). Whenever a license or other authority is
9 requested for the export to any country to which exports are
10 controlled for national security purposes of goods or technol-
11 ogy within any such type or category, the appropriate export
12 control office or agency to which such request is made shall
13 notify the Secretary of Defense of such request, and such
14 office may not issue any license or other authority pursuant
15 to such request before the expiration of the period within
16 which the President may disapprove such export. The Secre-
17 tary of Defense shall carefully consider all notifications sub-
18 mitted to him pursuant to this subparagraph and, not later
19 than thirty days after notification of the request, shall—

20 “(i) recommend to the President that he disap-
21 prove any request for the export of any goods or tech-
22 nology to any such country if he determines that the
23 export of such goods or technology will make a signifi-
24 cant contribution, which would prove detrimental to

1 the national security of the United States, to the mili-
2 tary potential of such country or any other country;

3 “(ii) notify such office or agency that he will in-
4 terpose no objection if appropriate conditions designed
5 to achieve the purposes of this Act are imposed; or

6 “(iii) indicate that he does not intend to interpose
7 an objection to the export of such goods or technical
8 data.

9 “(3) The Secretary shall approve or disapprove a license
10 application, and issue or deny a license, in accordance with
11 the provisions of this subsection, and, to the extent applica-
12 ble, in accordance with the time periods and procedures oth-
13 erwise set forth in this section.

14 “(j) MULTILATERAL REVIEW.—(1) In any case in
15 which an application, which has been finally approved under
16 subsection (d), (f), (g), (h), or (i) of this section, is required to
17 be submitted to a multilateral review process, pursuant to a
18 multilateral agreement, formal or informal, to which the
19 United States is a party, the license shall not be issued as
20 prescribed in such subsections, but the Secretary shall notify
21 the applicant of the approval (and the date of such approval)
22 of the application by the United States Government subject
23 to such multilateral review. The license shall be issued upon
24 approval of the application under such multilateral review. If
25 such multilateral review has not resulted in a determination

1 with respect to such application within sixty days after such
2 date, the Secretary's approval of the application shall be final
3 and the license shall be issued. The Secretary shall institute
4 such procedures for preparation of necessary documentation
5 before final approval of the application by the United States
6 Government as the Secretary considers necessary to imple-
7 ment this paragraph.

8 “(2) In any case in which the approval of the United
9 States Government is sought by a foreign government for the
10 export of goods or technology pursuant to a multilateral
11 agreement, formal or informal, to which the United States is
12 a party, the Secretary of State, after consulting with other
13 appropriate United States Government agencies, shall,
14 within sixty days after the date on which the request for such
15 approval is made, make a determination with respect to such
16 request for approval. Any such other agency which does not
17 submit a recommendation to the Secretary of State before the
18 end of such sixty-day period shall be deemed by the Secre-
19 tary of State to have no objection to the request for United
20 States Government approval. The Secretary of State may
21 not delegate the authority to disapprove a request for United
22 States Government approval under this paragraph to any of-
23 ficial of the Department of State holding a rank lower than
24 Deputy Assistant Secretary.

1 amended by amending paragraph (1) of subsection (c) to read
2 as follows:

3 “(c)(1) To effectuate the policy set forth in section
4 3(2)(C) of this Act, the Secretary shall monitor exports, and
5 contracts for exports, of any goods (other than a commodity
6 which is subject to the reporting requirements of section 812
7 of the Agricultural Act of 1970) when the volume of such
8 exports in relation to domestic supply contributes, or may
9 contribute, to an increase in domestic prices or a domestic
10 shortage, and such price increase or shortage has, or may
11 have, a serious adverse impact on the economy or any sector
12 thereof. Any such monitoring shall commence at a time ade-
13 quate to assure that the monitoring will result in a data base
14 sufficient to enable policies to be developed in accordance
15 with section 3(2)(C) of this Act to mitigate a short supply
16 situation or serious inflationary price rise or, if export con-
17 trols are needed, to permit imposition of such controls in a
18 timely manner. Information which the Secretary requires to
19 be furnished in effecting such monitoring shall be confidential,
20 except as provided in paragraph (2) of this subsection.”.

21

DOMESTIC CRUDE OIL

22 SEC. 106. Subsection (l) of section 7 of the Export Ad-
23 ministration Act of 1969, as such section is redesignated by
24 section 104(a) of this Act, is amended—

25

(1) in paragraph (1)—

1 (A) by striking out clause (A) and inserting
2 in lieu thereof the following: “(A) is exported to
3 the territory of an adjacent foreign state to be re-
4 fined and consumed therein in exchange for the
5 same quantity of crude oil being exported from
6 that country to the United States, such exchange
7 achieving, through convenience or increased effi-
8 ciency of transportation, lower oil prices described
9 in paragraph (2)(A)(ii) of this subsection for con-
10 sumers in the United States, or”, and

11 (B) by striking out “during the two-year
12 period beginning on the date of enactment of this
13 subsection”; and

14 (2) by striking out paragraph (2) and inserting in
15 lieu thereof the following:

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

18 “(A) the President makes and publishes express
19 findings that exports of such crude oil, including ex-
20 changes—

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

1 “(ii) will, within three months following the
2 initiation of such exports or exchanges, result in
3 (I) acquisition costs to the refineries which pur-
4 chase the imported crude oil being lower than the
5 acquisition costs such refiners would have to pay
6 for the domestically produced oil which is export-
7 ed and (II) commensurately reduced wholesale
8 and retail prices of products refined from such im-
9 ported crude oil;

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

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

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

18 “(B) the President reports such findings to the
19 Congress and the Congress within sixty days thereafter
20 passes a concurrent resolution approving such exports
21 on the basis of the findings.

22 Findings of lower costs and prices described in subparagraph
23 (A)(ii) should be audited and verified by the General Account-
24 ing Office at least semiannually.

1 “(3) Notwithstanding any other provision of this section
2 and notwithstanding subsection (u) of section 28 of the Min-
3 eral Leasing Act of 1920, the President may export oil other-
4 wise subject to this subsection to any nation with which the
5 United States has entered into a bilateral international oil
6 supply agreement prior to June 22, 1979: *Provided*, That the
7 President promptly notifies the Congress of each such agree-
8 ment: *And provided further*, That neither House of Congress,
9 within sixty calendar days after such notification, adopts a
10 resolution disapproving such export.”.

11

UNPROCESSED RED CEDAR

12 SEC. 107. (a) The Secretary of Commerce shall require
13 a validated license, under section 7 of the Export Adminis-
14 tration Act of 1969, for the export of unprocessed western
15 red cedar (*Thuja plicata*) logs, harvested from State or Fed-
16 eral lands. The Secretary shall impose quantitative restric-
17 tions upon the export of unprocessed western red cedar logs
18 during the three-year period beginning on the effective date
19 of this subsection as follows:

20 (1) Not more than thirty million board feet
21 scribner of such logs may be exported during the first
22 year of such three-year period.

23 (2) Not more than fifteen million board feet
24 scribner of such logs may be exported during the
25 second year of such period.

1 (3) Not more than five million board feet scribner
2 of such logs may be exported during the third year of
3 such period.

4 After the end of such three-year period, no unprocessed
5 western red cedar logs may be exported from the United
6 States.

7 (b) The Secretary of Commerce shall allocate export li-
8 censes to exporters pursuant to this section on the basis of
9 prior history of exportation by such exporters and such other
10 factors as the Secretary considers necessary and appropriate
11 to minimize any hardship to the producers of western red
12 cedar and to further the foreign policy of the United States.

13 (c) Unprocessed western red cedar logs shall not be con-
14 sidered to be an agricultural commodity for the purposes of
15 section 7(f) of the Export Administration Act of 1969.

16 (d) As used in this subsection, the term "unprocessed
17 western red cedar" means red cedar timber which has not
18 been processed into—

19 (1) lumber without wane;

20 (2) chips, pulp, and pulp products;

21 (3) veneer and plywood;

22 (4) poles, posts, or pilings cut or treated with pre-
23 servative for use as such and not intended to be further
24 processed; or

25 (5) shakes and shingles.

1 be fined not more than five times the value of the exports
2 involved or \$100,000, whichever is greater, or imprisoned
3 not more than ten years, or both.”.

4 (3) Subsection (c)(2)(A) is amended by striking out
5 “articles, materials, supplies, or technical data or other
6 information” and inserting in lieu thereof, “goods,
7 technology, or other information”.

8 REPORT TO CONGRESS

9 SEC. 110. Section 14 of the Export Administration Act
10 of 1969, as redesignated by section 104(a) of this Act, is
11 amended to read as follows:

12 “ANNUAL REPORT

13 “SEC. 14. Not later than December 31 of each year, the
14 Secretary shall submit to the Congress a report on the ad-
15 ministration of this Act during the preceding fiscal year. All
16 agencies shall cooperate fully with the Secretary in providing
17 information for such report. Such report shall include detailed
18 information with respect to—

19 “(1) the implementation of the policies set forth in
20 section 3;

21 “(2) general licensing activities under section 5, 6,
22 and 7;

23 “(3) changes in categories of items under export
24 control referred to in section 5(e);

1 “(4) the operation of the indexing system under
2 section 5(g);

3 “(5) determinations of foreign availability made
4 under section 5(f), the criteria used to make such de-
5 terminations, the removal of any export controls under
6 such section, and any evidence demonstrating a need
7 to impose export controls for national security purposes
8 notwithstanding foreign availability;

9 “(6) consultations with the technical advisory
10 committees established pursuant to section 5(h), the
11 use made of the advice rendered by such committees,
12 and the contributions of such committees toward imple-
13 menting the policies set forth in this Act;

14 “(7) changes in policies toward individual coun-
15 tries under section 5(b);

16 “(8) actions taken to carry out section 5(d);

17 “(9) the effectiveness of export controls imposed
18 under section 6 in furthering the foreign policy of the
19 United States;

20 “(10) the implementation of section 8;

21 “(11) export controls and monitoring under sec-
22 tion 7;

23 “(12) organizational and procedural changes un-
24 dertaken to increase the efficiency of the export licens-
25 ing process and to fulfill the requirements of section

1 10, including an analysis of the time required to proc-
2 ess license applications and an accounting of appeals
3 received, court orders issued, and actions taken pursu-
4 ant thereto under subsection (k) of such section; and
5 “(13) violations under section 11 and enforcement
6 activities under section 12.”.

7 RULES AND REGULATIONS

8 SEC. 111. The Export Administration Act of 1969 is
9 amended by inserting after section 14, as redesignated by
10 section 104(a) of this Act, the following new section:

11 “REGULATORY AUTHORITY

12 “SEC. 15. The President and the Secretary may issue
13 such rules and regulations as are necessary to carry out the
14 provisions of this Act. Any such rules or regulations issued to
15 carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may
16 apply to the financing, transporting, or other servicing of ex-
17 ports and the participation therein by any person.”.

18 DEFINITION

19 SEC. 112. Section 16 of the Export Administration Act
20 of 1969, as redesignated by section 104(a) of this Act, is
21 amended—

22 (1) in paragraph (1) by striking out “and” after
23 the semicolon;

1 ment of Commerce for expenses to carry out the purposes of
2 this Act unless previously and specifically authorized by law.

3 “(b) AUTHORIZATION.—(1) There is authorized to be
4 appropriated to the Department of Commerce to carry out
5 the purposes of this Act \$7,070,000 for the fiscal year 1980
6 (and such additional amounts as may be necessary for in-
7 creases in salary, pay, retirement, other employee benefits
8 authorized by law, and other nondiscretionary costs).

9 “(2) For any fiscal year commencing on or after October
10 1, 1979, there are authorized to be appropriated to the De-
11 partment of State such sums as may be necessary to carry
12 out the provisions of section 5(k) of this Act.”.

13

TERMINATION DATE

14 SEC. 115. Section 20 of the Export Administration Act
15 of 1969, as redesignated by section 104(a) of this Act, is
16 amended by striking out “1979” and inserting in lieu thereof
17 “1983”.

18

TECHNICAL AMENDMENTS

19 SEC. 116. (a) For purposes of this section, an amend-
20 ment which is expressed in terms of an amendment to a sec-
21 tion or other provision, shall be considered to be a section, as
22 redesignated by section 104(a) of this Act, or other provision
23 of the Export Administration Act of 1969.

24

(b) Section 7 is amended—

1 (1) in the section heading by striking out “AU-
2 THORITY” and inserting in lieu thereof “OTHER CON-
3 TROLS”;

4 (2) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) by inserting “(2)(C)” immediately
7 after “section 3” the first time it appears,

8 (ii) by striking out “articles, materials,
9 or supplies, including technical data on any
10 other information” and inserting in lieu
11 thereof “goods”,

12 (iii) by striking out “articles, materials,
13 or supplies” and inserting in lieu thereof
14 “goods”, and

15 (iv) by striking out “(A)” and inserting
16 in lieu thereof “(C)”; and

17 (B) by striking out paragraph (2) and insert-
18 ing in lieu thereof the following:

19 “(2) Upon imposing quantitative restrictions on exports
20 of any goods to carry out the policy stated in section 3(2)(C)
21 of this Act, the Secretary shall include in a notice published
22 in the Federal Register with respect to such restrictions an
23 invitation to all interested parties to submit written com-
24 ments within fifteen days from the date of publication on the

1 impact of such restrictions and the method of licensing used
2 to implement them.”;

3 (3) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking out “(A)” and inserting in
6 lieu thereof “(C)”,

7 (ii) by striking out “of Commerce”,

8 (iii) by striking out “7(c)” and inserting
9 in lieu thereof “12(c)”, and

10 (iv) by striking out “article, material, or
11 supply” and inserting in lieu thereof goods”;

12 (B) in paragraph (2) by striking out “each
13 article, material, or supply” and inserting in lieu
14 thereof “goods”; and

15 (C) by adding at the end thereof the follow-
16 ing new paragraph:

17 “(3) The Secretary shall consult with the Secretary of
18 Energy to determine whether monitoring under this subsec-
19 tion is warranted with respect to exports of facilities, machin-
20 ery, or equipment normally and principally used, or intended
21 to be used, in the production, conversion, or transportation of
22 fuels and energy (except nuclear energy), including but not
23 limited to, drilling rigs, platforms, and equipment; petroleum
24 refineries, natural gas processing, liquefaction, and gasifica-
25 tion plants; facilities for production of synthetic natural gas

1 or synthetic crude oil; oil and gas pipelines, pumping stations,
2 and associated equipment; and vessels for transporting oil,
3 gas, coal, and other fuels.”;

4 (4) in subsection (f)—

5 (A) in paragraph (1) by striking out “(B) or
6 (C)” and inserting in lieu thereof “(A) or (B)”;

7 (B) in paragraph (2)—

8 (i) by striking out “of Commerce” each
9 place it appears, and

10 (ii) by striking out “(A)” and inserting
11 in lieu thereof “(C)”;

12 (C) in paragraph (3) by striking out “clause
13 (A) or (B) of paragraph (2)” and inserting in lieu
14 thereof “paragraph (2)(C)”;

15 (5) in subsection (i) by striking out “(A)” and in-
16 serting in lieu thereof “(C)”;

17 (6) in subsection (j)—

18 (A) by striking out “(A)” and inserting in
19 lieu thereof “(C)”;

20 (B) by striking out “of Commerce” each
21 place it appears; and

22 (7) by striking out subsections (a), (d), (e), (g), (h),
23 and (k), and redesignating subsections (b), (c), (f), (i),
24 (j), and (l) and the two subsections designated (m) as

1 subsections (a), (b), (c), (d), (e), (f), (g), and (h), respec-
2 tively.

3 (c) Section 8 is amended—

4 (1) in paragraphs (1)(D) and (5) of subsection (a)
5 by striking out “of Commerce”; and

6 (2) in subsection (b)—

7 (A) in paragraph (1) by striking out “4(b)”
8 and inserting in lieu thereof “6(a)”; and

9 (B) in paragraph (2) by striking out “of Com-
10 merce” each place it appears.

11 (d) Section 9 is amended—

12 (1) by striking out “of Commerce” each place it
13 appears; and

14 (2) by striking out “commodity” each place it ap-
15 pears and inserting in lieu thereof “good”.

16 (e) Subsection (c)(2) of section 11 is amended by striking
17 out “4A” each place it appears and inserting in lieu thereof
18 “8”.

19 (f) Section 12 is amended—

20 (1) in subsection (b) by striking out “the Compul-
21 sory Testimony Act of February 11, 1893 (27 Stat.
22 443; 49 U.S.C. 46)” and inserting in lieu thereof “sec-
23 tion 6002 of title 18, United States Code”;

24 (2) in subsection (c)—

1 (A) by striking out “4A” and inserting in
2 lieu thereof “8”;

3 (B) by striking out “6” and inserting in lieu
4 thereof “11”; and

5 (C) by striking out “section 4(b)” and insert-
6 ing in lieu thereof “this Act”;

7 (3) in subsection (d)—

8 (A) by striking out “quarterly”; and

9 (B) by striking out “10” and inserting in lieu
10 thereof “14”; and

11 (4) in subsection (e)—

12 (A) by striking out “of Commerce”;

13 (B) by striking out “(c)” and inserting in lieu
14 thereof “(h)”;

15 (C) by striking out “articles, materials, and
16 supplies” and inserting in lieu thereof “goods and
17 technology”; and

18 (D) by striking out the last two sentences
19 and inserting in lieu thereof the following: “The
20 Secretary shall include, in the annual report re-
21 quired by section 14 of this Act, actions taken on
22 the basis of such review, to simplify such rules
23 and regulations.”.

24 (g) Section 13 is amended by striking out “6” and in-
25 serting in lieu thereof “11”.

1 TECHNICAL AMENDMENTS TO OTHER ACTS

2 SEC. 117. (a) Section 38(e) of the Arms Export Control
3 Act (22 U.S.C. 2778(e)) is amended by striking out “sections
4 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Adminis-
5 tration Act of 1969” and inserting in lieu thereof “subsec-
6 tions (c), (d), (e), and (f) of section 11 of the Export Adminis-
7 tration Act of 1969, and by subsections (a) and (c) of section
8 12 of such Act”.

9 (b)(1) Section 103(c) of the Energy Policy and Conser-
10 vation Act (42 U.S.C. 6212(c)) is amended in subsection (c)
11 by striking out “(A)” each place it appears and inserting in
12 lieu thereof “(C)”.

13 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))
14 is amended—

15 (A) by striking out “7” and inserting in lieu
16 thereof “12”; and

17 (B) by striking out “(50 App. U.S.C. 2406)”.

18 (c) Section 993(c)(2)(D) of the Internal Revenue Code of
19 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

20 (1) by striking out “4(b)” and inserting in lieu
21 thereof “7(a)”;

22 (2) by striking out “(50 U.S.C. App. 2403(b))”;
23 and

24 (3) by striking out “(A)” and inserting in lieu
25 thereof “(C)”.

SAVINGS PROVISIONS

1

2 SEC. 118. (a) All delegations, rules, regulations, orders,
3 determinations, licenses, or other forms of administrative
4 action which have been made, issued, conducted, or allowed
5 to become effective under the Export Control Act of 1949 or
6 the Export Administration Act of 1969 and which are in
7 effect at the time this Act takes effect shall continue in effect
8 according to their terms until modified, superseded, set aside,
9 or revoked under the amendments made by this Act.

10 (b) The amendments made by this Act shall not apply to
11 any administrative proceedings commenced or any applica-
12 tion for a license made, under the Export Administration Act
13 of 1969, which is pending at the time this Act takes effect.

14 (c) This Act shall not affect any investigation, suit,
15 action, or other judicial proceeding commenced under the
16 Export Administration Act of 1969 which is pending at the
17 time this Act takes effect; but such investigation, suit, action,
18 or proceeding shall be continued as if this Act had not been
19 enacted.

20

EFFECTIVE DATE

21 SEC. 119. (a) Except as provided in subsection (b), this
22 title and the amendments made by this title shall take effect
23 on October 1, 1979.

24 (b) The amendments made by section 106 of this Act
25 shall take effect on the date of enactment of this Act.

1 **TITLE II—INTERNATIONAL INVESTMENT**

2 **SURVEY ACT**

3 **AUTHORIZATION OF APPROPRIATIONS**

4 **SEC. 201. (a)** Section 9 of the International Investment
5 Survey Act of 1976 (90 Stat. 2059) is amended to read as
6 follows:

7 “**SEC. 9.** To carry out this Act, there is authorized to be
8 appropriated \$4,400,000 for the fiscal year ending Septem-
9 ber 30, 1980.”.

10 **(b)** The amendment made by subsection (a) shall take
11 effect on October 1, 1979.

○