



1           “(d) FOREIGN AVAILABILITY REPORT.—The Secre-  
2 tary and the Secretary of Defense shall jointly prepare and  
3 transmit to the Committee on Banking, Housing, and Urban  
4 Affairs of the Senate and the Committee on Foreign Affairs  
5 of the House of Representatives quarterly reports on the op-  
6 eration and improvement of the Government’s ability to  
7 assess foreign availability, including training of personnel,  
8 use of computers, and utilization of Foreign Commercial  
9 Service Officers.”.

10           (b) Section 4(c) of such Act is amended by adding at the  
11 end thereof the following: “The Secretary and the Secretary  
12 of Defense shall cooperate in the gathering and assessment of  
13 information relating to foreign availability, including the es-  
14 tablishment and maintenance of a jointly operated computer  
15 system.”.

16           (c) Section 6(g) of such Act is amended—

17                   (1) by inserting “(1)” after “FOREIGN AVAIL-  
18 ABILITY.—”; and

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

20           “(2) The Secretary, in consultation with appropriate  
21 Government agencies and with appropriate technical adviso-  
22 ry committees established pursuant to section 5(h), shall  
23 review, on a continuing basis, the availability, to countries to  
24 which exports are controlled under this section, from sources  
25 outside the United States, including countries which partici-

1 pate with the United States in multilateral export controls, of  
2 any goods or technology the export of which requires a vali-  
3 dated license under this section. In any case in which the  
4 Secretary determines, in accordance with procedures and cri-  
5 teria which the Secretary shall by regulation establish, that  
6 any such goods or technology are available in fact to such  
7 destinations from such sources in sufficient quantity and of  
8 sufficient quality so that the requirement of a validated li-  
9 cense for the export of such goods or technology is or would  
10 be ineffective in achieving the purpose set forth in subsection  
11 (a) of this section, the Secretary may not, after the determi-  
12 nation is made, require a validated license for the export of  
13 such goods or technology during the period of such foreign  
14 availability, unless the President determines that the absence  
15 of export controls under this section would prove detrimental  
16 to the foreign policy of the United States. In any case in  
17 which the President determines that export controls under  
18 this section must be maintained notwithstanding foreign  
19 availability, the Secretary shall publish that determination to-  
20 gether with a concise statement of its basis, and the estimat-  
21 ed economic impact of the decision.

22 “(3) The Secretary shall approve any application for a  
23 validated license which is required under this section for the  
24 export of any goods or technology to a particular country and  
25 which meets all other requirements for such an application, if

1 the Secretary determines that such goods or technology will,  
2 if the license is denied, be available in fact to such country  
3 from sources outside the United States, including countries  
4 which participate with the United States in multilateral  
5 export controls, in sufficient quantity and of sufficient quality  
6 so that denial of the license would be ineffective in achieving  
7 the purpose set forth in subsection (a) of this section, subject  
8 to the exception set forth in paragraph (2) of this subsection.  
9 In any case in which the Secretary makes a determination of  
10 foreign availability under this paragraph with respect to any  
11 goods or technology, the Secretary shall determine whether a  
12 determination of foreign availability under paragraph (2) with  
13 respect to such goods or technology is warranted.

14 “(4) With respect to export controls imposed under this  
15 section, in making any determination of foreign availability,  
16 the Secretary shall accept the representations of applicants  
17 unless such representations are contradicted by reliable evi-  
18 dence, including scientific or physical examination, expert  
19 opinion based upon adequate factual information, or intelli-  
20 gence information.”.

21 (d) Section 5(f)(3) of such Act is amended to read as  
22 follows:

23 “(3) With respect to export controls imposed under this  
24 section, in making any determination of foreign availability,  
25 the Secretary shall accept the representations of applicants

1 unless such representations are contradicted by reliable evi-  
2 dence, including scientific or physical examination, expert  
3 opinion based upon adequate factual information, or intelli-  
4 gence information.”.

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## VIOLATIONS

6 SEC. 3. Section 11(b)(1) of the Export Administration  
7 Act of 1979 (50 U.S.C. App. 2410(b)(1)) is amended by in-  
8 serting “, or possesses or attempts to possess anything with  
9 an intent to export such thing, or conspires to export,” after  
10 “anything”.

11

## ENFORCEMENT OF EXPORT CONTROLS

12 SEC. 4. (a) Section 12 of the Export Administration Act  
13 of 1979 (50 U.S.C. App. 2411) is amended—

14 (1) by striking out “head” and all that follows  
15 through “thereof)” and inserting in lieu thereof “Com-  
16 missioner of the United States Customs Service of the  
17 Department of the Treasury (and officers or employees  
18 of the Service specifically designated by the Commis-  
19 sioner)” in subsection (a); and

20 (2) in the first sentence of subsection (c)(3), by  
21 striking out “department or agency with enforcement  
22 responsibilities under this Act” and inserting in lieu  
23 thereof “United States Customs Service of the Depart-  
24 ment of the Treasury”.

1           (b) The amendments made by subsection (a) shall  
2 become effective six months after the date of enactment of  
3 this Act. After the date of enactment of this Act, the Secre-  
4 tary of Commerce and the Commissioner of the United States  
5 Customs Service of the Department of the Treasury shall  
6 consult with each other to effect an orderly transfer of re-  
7 sponsibility for the enforcement of the Export Administration  
8 Act of 1979 pursuant to this section.

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#### DENIAL OF LICENSES

10           SEC. 5. Section 11(c) of the Export Administration Act  
11 of 1979 is amended by adding at the end thereof the follow-  
12 ing:

13           “(3) In addition to any other authority under this Act,  
14 the Secretary may revoke or suspend the authority to export  
15 of any person convicted of a violation of any other provision  
16 of Federal law arising out of the export of goods or technol-  
17 ogy prohibited by or under this Act.”.

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#### IMPORT CONTROLS

19           SEC. 6. Section 6(a) of the Export Administration Act  
20 of 1979 is amended by inserting after the first sentence the  
21 following: “Whenever the authority conferred by this section  
22 is exercised with respect to a country, the President shall  
23 prohibit all imports from that country to the United States  
24 and its territories and possessions, subject to such exemptions

1 for specified goods and technology as the President may pre-  
2 scribe.”.

3 FOREIGN POLICY CONTROL CRITERIA

4 SEC. 7. Section 6(b) of the Export Administration Act  
5 of 1979 is amended to read as follows:

6 “(b) CRITERIA.—The President may impose, expand,  
7 or extend export controls under this section only if he deter-  
8 mines that—

9 “(1) such controls will achieve the intended for-  
10 eign policy purpose, in light of other factors, including  
11 the availability from other countries of the goods or  
12 technology proposed for such controls;

13 “(2) the proposed controls are compatible with the  
14 foreign policy objectives of the United States, including  
15 the effort to counter international terrorism, and with  
16 overall United States policy toward the country which  
17 is the proposed target of the controls;

18 “(3) other countries support the imposition or ex-  
19 pansion of such export controls by the United States;

20 “(4) the proposed controls will not have an ad-  
21 verse extraterritorial effect on countries friendly to the  
22 United States;

23 “(5) the proposed controls will not have an ad-  
24 verse effect on the export performance of the United  
25 States, on the competitive position of the United States

1 in the international economy, on the international repu-  
2 tation of the United States as a supplier of goods and  
3 technology, and on individual United States companies  
4 and their employees and communities, taking into ac-  
5 count the effects of the controls on existing contracts;  
6 and

7 “(6) the United States has the ability to enforce  
8 the proposed controls effectively.

9 A report setting forth such determinations shall be transmit-  
10 ted to the Congress not later than the date on which controls  
11 are imposed.”.

12 DENIAL OF IMPORT AUTHORITY

13 SEC. 8. Section 11(c) of the Export Administration Act  
14 of 1979 is amended by adding at the end thereof the follow-  
15 ing:

16 “(4) The Secretary may prohibit any person found to  
17 have violated this Act or any regulation, order, or license  
18 issued under this Act from importing goods or technology  
19 into the United States or its territories and possessions.”.

20 ADVISORY COMMITTEES

21 SEC. 9. Section 4(f) of the Export Administration Act of  
22 1979 is amended—

23 (1) by inserting “(1)” after “BUSINESS.—”; and  
24 (2) by adding at the end thereof the following:

1           “(2) In carrying out the provisions of this Act, the Sec-  
2   retary shall consult on a continuing basis with the advisory  
3   committees established under section 135 of the Trade Act of  
4   1974.”.

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LICENSING PROCEDURE

6           SEC. 10. Section 10 of the Export Administration Act  
7   of 1979 is amended—

8           (1) by striking out “90” each place it appears and  
9   inserting in lieu thereof “60”;

10          (2) by striking out “30” each place it appears and  
11   inserting in lieu thereof “20”; and

12          (3) by striking out “60” and inserting in lieu  
13   thereof “40”.

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SECURITY MEASURES

15          SEC. 11. Section 5 of the Export Administration Act of  
16   1979 is amended by adding at the end thereof the following:

17          “(m) SECURITY MEASURES.—The Commissioner of  
18   Customs, in consultation with the Secretary and the Director  
19   of the Federal Bureau of Investigation, shall provide advice  
20   and technical assistance to persons engaged in the manufac-  
21   ture or handling of goods or technology subject to controls  
22   under this section to develop security systems to prevent vio-  
23   lations or evasion of controls imposed under this section.”.

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SHORT SUPPLY CONTROLS

SEC. 12. Section 7 of the Export Administration Act of 1979 is amended by striking out subsections (i) and (j).

AVAILABILITY OF INFORMATION

SEC. 13. (a) Section 12(c)(3) of the Export Administration Act of 1979 is amended—

(1) by inserting “, including information pertaining to subjects of ongoing investigations,” after “enforcement of this Act” in the first sentence; and

(2) by adding at the end thereof the following:  
“The Secretary shall consult on a continuing basis with the Attorney General, the Commissioner of Customs, and the heads of other departments and agencies which obtain information subject to this paragraph to facilitate the sharing of such information.”.

NEGOTIATIONS

SEC. 14. The President shall enter into negotiations—

(1) with the governments which are participants in the group known as the Coordinating Committee in order to reach agreement on a multilateral treaty among the participants; and

(2) with the governments of other countries in order to achieve bilateral agreements;  
to provide for improved enforcement and administration of export control laws.

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## SANCTITY OF CONTRACTS

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SEC. 15. Section 6 of the Export Administration Act of  
3 1979 is amended by adding at the end thereof the following:

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“(1) EFFECT ON EXISTING CONTRACTS.—Export con-  
5 trols imposed under this section shall not apply to exports  
6 pursuant to a contract or other agreement entered into prior  
7 to the imposition of such controls.”.

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## EXPIRATION OF FOREIGN POLICY CONTROLS

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SEC. 16. Section 6(a)(2) of such Act is amended—

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(1) by striking out “1979, or one year” and in-  
11 serting in lieu thereof “1983, or six months”; and

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(2) by striking out “one year” and inserting in  
13 lieu thereof “six months”.

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## SPECIAL LICENSING PROCEDURES

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SEC. 17. Section 5(e) of the Export Administration Act  
16 of 1979 is amended—

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(1) by striking out paragraph (3) and inserting in  
18 lieu thereof the following:

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“(3) To the maximum extent practicable, consistent  
20 with the national security of the United States, the Secretary  
21 shall—

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“(A) require a qualified general license in lieu of a  
23 validated license under this section for the export of  
24 goods or technology if the export of such goods or  
25 technology is restricted pursuant to a multilateral

1 agreement, formal or informal, to which the United  
 2 States is a party, but such export does not require the  
 3 specific approval of the parties to such multilateral  
 4 agreement;

5 “(B) develop and encourage the use of special li-  
 6 censing procedures under which qualified exporters re-  
 7 ceive approval to conduct a series of transactions under  
 8 which goods or technology may be exported or reex-  
 9 ported to approved consignees outside the United  
 10 States without having to apply for and receive individ-  
 11 ually validated export licenses; and

12 “(C) exempt transactions of limited value from in-  
 13 dividually validated license requirements.

14 The Secretary shall periodically review the various special  
 15 licensing procedures taking appropriate action to increase uti-  
 16 lization by reducing qualification requirements or lowering  
 17 minimal thresholds, to combine procedures which overlap,  
 18 and to eliminate those procedures which appear to be of mar-  
 19 ginal utility.”; and

20 (2) by striking out paragraph (4).

21 AUTHORIZATION

22 SEC. 18. Section 18(b)(1) of the Export Administration  
 23 Act of 1979 is amended to read as follows:

24 “(1) § for each of the fiscal years  
 25 1982 through 1989, of which § shall be

1 available each year for foreign availability assessment;  
2 and”.

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EXTENSION OF ACT

4 SEC. 19. Section 20 of the Export Administration Act  
5 of 1979 is amended by striking out “September 30, 1983”  
6 and inserting in lieu thereof “September 30, 1989”.

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