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FINDINGS

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SEC. 2. The Congress makes the following findings:

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

(2) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

(3) Uncertainty of export control policy can inhibit the efforts of American business and work to the detri-

1 ment of the overall attempt to improve the trade bal-
2 ance of the United States.

3 (4) The failure to restrict the transfer of national
4 security sensitive technology and goods to the Soviet
5 Union and other countries where actions or policies are
6 adverse to the national security interests of the United
7 States, has led to the significant enhancement of Soviet
8 bloc military-industrial capabilities, thereby creating a
9 greater threat to the security of the United States, its
10 allies, and other friendly nations, and increasing the
11 defense budget of the United States.

12 (5) The failure to restrict the export of national
13 security sensitive technology and goods is attributable
14 in large part to the diffusion of decisionmaking respon-
15 sibilities regarding strategic trade matters among sev-
16 eral Federal agencies, and the lack of adequately
17 trained and disciplined personnel.

18 (6) Because of the overlapping and frequently con-
19 fusing responsibilities of the many Federal agencies
20 that administer controls over strategic trade, the
21 United States export control system has not served na-
22 tional security, foreign policy, or export interests effec-
23 tively.

24 (7) It is important that the administration of
25 export controls imposed for national security purposes

1 give special emphasis to the need to control exports of
2 goods and technology (and goods which contribute sig-
3 nificantly to the transfer of such technology) that could
4 make a significant contribution to the military potential
5 of any country or combination of countries which
6 would be detrimental to the national security of the
7 United States.

8 (8) Further, the availability of certain materials at
9 home and abroad varies so that the quantity and com-
10 position of United States exports and their distribution
11 among importing countries may affect the welfare of
12 the domestic economy and may have an important
13 bearing upon fulfillment of the foreign policy of the
14 United States.

15 (9) Minimization of restrictions for reasons of na-
16 tional security and/or foreign policy on exports of agri-
17 cultural commodities and products is of critical impor-
18 tance to the maintenance of a positive balance of pay-
19 ments, to reducing the level of Federal expenditures
20 for agricultural support programs, and to United States
21 cooperation in efforts to eliminate malnutrition and
22 world hunger.

23 DECLARATION OF POLICY

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

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

7 (2) It is the policy of the United States to use
8 export controls only after full consideration of the
9 impact on the economy of the United States—

10 (A) to restrict the export or re-export of
11 goods and technology which could make a signifi-
12 cant contribution to the military potential of any
13 other country or combination of countries which
14 would prove detrimental to the national security
15 of the United States;

16 (B) to restrict the export of goods and tech-
17 nology where necessary to further significantly
18 the foreign policy of the United States or to fulfill
19 its declared international obligations; and

20 (C) to restrict the export of goods where nec-
21 essary to protect the domestic economy from the
22 excessive drain of scarce materials.

23 (3) It is the policy of the United States (A) to
24 apply any necessary controls to the maximum extent
25 possible in cooperation with all nations, and (B) to en-

1 courage observance of a uniform export control policy
2 by all nations with which the United States has de-
3 fense treaty commitments or common strategic objec-
4 tives.

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

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

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

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

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

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

11 (7) It is the policy of the United States to use
12 export controls, including license fees, to secure the re-
13 moval by foreign countries of restrictions on access to
14 supplies where such restrictions have or may have a
15 serious domestic inflationary impact, have caused or
16 may cause a serious domestic shortage, or have been
17 imposed for purposes of influencing the foreign policy
18 of the United States. In effecting this policy, the Presi-
19 dent shall make reasonable prompt efforts to secure the
20 removal or reduction of such restrictions, policies, or
21 actions through international cooperation and agree-
22 ment before imposing controls on exports from the
23 United States. No action taken in fulfillment of the
24 policy set forth in this paragraph shall apply to the
25 export of medicine or medical supplies.

1 (8) It is the policy of the United States to use
2 export controls to encourage other countries to take
3 immediate steps to prevent the use of their territories
4 or resources to aid, encourage, or give sanctuary to
5 those persons involved in directing, supporting, or par-
6 ticipating in acts of international terrorism. To achieve
7 this objective, the President shall make reasonable and
8 prompt efforts to secure the removal or reduction of
9 such assistance to international terrorists through inter-
10 national cooperation and agreement before imposing
11 export controls.

12 (9) It is the policy of the United States to cooper-
13 ate with other countries with which the United States
14 has defense treaty commitments or common strategic
15 objectives in restricting the export of goods and tech-
16 nology which could make a significant contribution to
17 the military potential of any country or combination of
18 countries which would prove detrimental to the secu-
19 rity of the United States and of those countries with
20 which the United States has defense treaty commit-
21 ments or common strategic objectives.

22 (10) It is the policy of the United States to mini-
23 mize restrictions on the export of agricultural commod-
24 ities and products.

1 (4) the term “technology” means technological or
2 technical data, and shall include information or know-
3 how of any kind that can be used or adapted for use in
4 the design, production, manufacture, repair, overhaul,
5 processing, engineering, development, operation, main-
6 tenance, or restoration of goods or commodities, includ-
7 ing computer software. Information or know-how may
8 take tangible form, such as models, prototypes, draw-
9 ings, sketches, diagrams, blueprints, or manuals, or
10 take an intangible form, such as training or technical
11 services. Technological data shall also include all goods
12 or commodities that will be used in the industrial appli-
13 cation of the technological information, regardless of
14 the end-use classification of the goods or commodities;

15 (5) the term “export of goods” means—

16 (A) an actual shipment or transmission of
17 goods out of the United States, or

18 (B) an actual shipment or transmission of
19 goods, or portions thereof, originally exported
20 from the United States to any destination other
21 than the indicated to the appropriate United States
22 authority as the initial destination of the goods at
23 the time of original export from the United States.

24 (6) The term “export of technology” means—

1 (A) an actual shipment or transmission of
2 technology out of the United States; or

3 (B) any release of technology of United
4 States origin in a foreign country;

5 (7) the term "Director" means the Director of the
6 Office of Strategic Trade;

7 (8) the term "Office" means the Office of Strate-
8 gic Trade; and

9 (9) the term "United States" means the States of
10 the United States, its commonwealths, territories
11 (leased or owned), its dependencies, and the District of
12 Columbia.

13 ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND

14 STRUCTURE OF OFFICE OF STRATEGIC TRADE

15 SEC. 5. (a) ESTABLISHMENT AND PRINCIPAL OFFI-
16 CERS.—(1) There is established as an independent executive
17 agency an Office of Strategic Trade. The Office shall be
18 headed by a Director of Strategic Trade, who shall be ap-
19 pointed by the President by and with the advice and consent
20 of the Senate, and who shall serve for a term of four years,
21 and who shall be assisted in the fulfilling of his responsibil-
22 ities by a Deputy Director of Strategic Trade. The Office of
23 Strategic Trade shall be administered, in accordance with the
24 provisions of this Act, under the supervision and direction of
25 the Director. The Director shall exercise all of the executive

1 and administrative functions and authorities conferred in or
2 transferred to the Office of Strategic Trade by this Act. The
3 Director or his designee shall act as Chairman of the Inter-
4 agency Advisory Committee for Export Policy (ACEP),
5 which shall consist of representatives from the Department of
6 Commerce, the Department of State, the Department of De-
7 fense, the Department of Energy, the Department of the
8 Treasury, the Central Intelligence Agency, and the National
9 Aeronautics and Space Administration.

10 (2) There shall be in the Office of the Director of the
11 Office of Strategic Trade an Exporter Services Facility
12 which shall act as liaison with the business community and
13 shall receive and respond to inquiries from the public or inter-
14 ested persons.

15 (b) OTHER PRINCIPAL OFFICERS.—(1) There shall be
16 in the Office an Operations Division which shall be headed by
17 an Assistant Director for Operations. It shall be the function
18 of the Assistant Director for Operations to process incoming
19 applications for export licenses, to disseminate such applica-
20 tions to the licensing division for evaluation, and to forward
21 approved licenses to the applicant. In addition, the Oper-
22 ations Division shall monitor conformity of export applica-
23 tions and licenses with the terms and conditions applicable to
24 them. The Operations Division shall perform such other func-
25 tions as the Director may determine to be appropriate which

1 were carried out prior to the effective date of this Act by the
2 Office of Export Administration's Operating Division.

3 (2) There shall be in the Office a Compliance Division
4 which shall be headed by an Assistant Director for Compli-
5 ance and which shall carry out functions performed prior to
6 the effective date of this Act by the Deputy Assistant Secre-
7 tary of Commerce for Export Enforcement. The Compliance
8 Division may also conduct physical inspections for controlled
9 items, and shall monitor overseas compliance with the
10 Export Administration Act of 1979.

11 (3) There shall be in the Office a CoCom Division which
12 shall be headed by an Assistant Director for CoCom Affairs
13 and which shall carry out functions relating to the represen-
14 tation of technical positions (including those of military and
15 strategic significance) in connection with the Coordinating
16 Committee for Multilateral Export Controls (CoCom). The
17 CoCom Division shall also provide representatives to the De-
18 partment of State to assist in negotiations with other mem-
19 bers of the Coordinating Committee.

20 (4) There shall be in the Office a Licensing Division
21 which shall be headed by an Assistant Director for Licensing
22 and which shall be responsible to the Director for the evalua-
23 tion of criteria and establishment of policy relating to the
24 commodity control list, munitions control list, foreign policy
25 controls, and short supply controls. The Licensing Division

1 shall prepare draft documents and license criteria for license
2 applications and submit such documents to the Advisory
3 Committee for Export Policy for review. In addition, there
4 shall be within the Licensing Division—

5 (A) an Office of the Operating Committee, which
6 shall disseminate license documents from the licensing
7 officers to the interagency committee members, specify
8 deadlines, collect responses and recommendations from
9 the respective agencies, summarize each agency posi-
10 tion for the Office of the Director, and prepare cases
11 for review by the Export Administration Review
12 Board;

13 (B) an Office of Computer Licensing, which shall
14 prepare draft documents analyzing criteria for licensing
15 with respect to computers in accordance with the com-
16modity control list;

17 (C) an Office of Capital Goods Licensing which
18 shall prepare draft documents analyzing criteria for li-
19censing with respect to capital goods in accordance
20with the commodity control list;

21 (D) an Office of Electronics, which shall prepare
22 draft documents analyzing criteria for licensing with
23 respect to the field of electronics in accordance with
24 the commodity control list;

1 (E) an Office of Short Supply Licensing which
2 shall prepare draft documents analyzing criteria for li-
3 censing with respect to the field of short supplies;

4 (F) an Office of Munitions Control which shall
5 carry out the functions formerly carried out by the De-
6 partment of State's Office of Munitions Control in
7 maintaining the munitions control list;

8 (G) an Office of Technological Data which shall
9 monitor and review the transfer of unembodied technol-
10 ogy and knowledge through cultural exchange, educa-
11 tional, or other programs or means;

12 (H) an Office of Evaluation which shall monitor
13 and review exports under general and validated li-
14 censes to determine whether items should be added to
15 or deleted from commodity control lists, to assess for-
16 eign availability and comparability, and to make peri-
17 odic (not less often than quarterly) specific recommen-
18 dations, regarding additions to or deletions from the
19 commodity control list to the Assistant Director for Li-
20 censing; and

21 (I) an Office of Foreign Policy Controls which
22 shall formulate and maintain the list of foreign policy
23 controls, in consultation with the Export Administra-
24 tion Review Board.

25 (5) There shall be in the Office a General Counsel.

1 restriction from sources outside the United States in compa-
2 rable quantities and comparable in quality to those produced
3 in the United States, and that adequate evidence has been
4 presented to him demonstrating that the absence of such con-
5 trols would not prove detrimental to the foreign policy or
6 national security of the United States.

7 (d) **RIGHT OF EXPORT.**—No authority or permission to
8 export may be required under this Act, or under regulations
9 issued under this act, except to carry out the policies set forth
10 in section 3 of this Act.

11 (e) **DELEGATION OF AUTHORITY.**—The President may
12 delegate the power, authority, and discretion conferred upon
13 him by this Act to such departments, agencies, or officials of
14 the Government as he may consider appropriate, except that
15 no authority under this Act may be delegated to, or exercised
16 by, any official of any department or agency the head of
17 which is not appointed by the President, by and with the
18 advice and consent of the Senate. The President may not
19 delegate or transfer his power, authority, and discretion to
20 overrule or modify any recommendation or decision made by
21 the Director, the Secretary of Defense, or the Secretary of
22 State pursuant to the provisions of this Act.

23 (f) **NOTIFICATION OF THE PUBLIC; CONSULTATION**
24 **WITH BUSINESS.**—The Director shall keep the public fully
25 apprised of changes in export control policy and procedures

1 instituted in conformity with this Act with a view to encour-
2 aging trade. The Director shall establish suitable procedures
3 for obtaining the views of a broad spectrum of enterprises,
4 labor organizations, and citizens interested in or impacted by
5 export controls on the United States export control policy
6 and the foreign availability of goods and technology.

7 NATIONAL SECURITY CONTROLS

8 SEC. 7. (a) AUTHORITY.—(1) In order to carry out the
9 policy set forth in section 3(2)(A) of this Act, the President
10 may, in accordance with the provisions of this section, pro-
11 hibit or curtail the export of any goods or technology subject
12 to the jurisdiction of the United States or exported by any
13 person subject to the jurisdiction of the United States. The
14 authorities and duties contained in this subsection shall be
15 exercised by the Director, in consultation with the Secretary
16 of Defense, and such other departments and agencies as the
17 Director considers appropriate, and shall be implemented by
18 means of export licenses described in section 6(a) of this Act.
19 In accordance with the provisions of section 12 of this Act,
20 the Secretary of Defense shall have the right to review any
21 export application under this section which the Secretary of
22 Defense requests to review.

23 (2)(A) Whenever the Director makes any revision with
24 respect to any goods or technology, or with respect to the
25 countries or destinations, affected by export controls imposed

1 under this section, the Director shall publish in the Federal
2 Register a notice of such revision and shall specify in such
3 notice that the revision relates to controls imposed under the
4 authority contained in this section.

5 (B) Whenever the Director denies any export license
6 under this section, the Director shall specify in the notice to
7 the applicant of the denial of such license that the license was
8 denied under the authority contained in this section. The Di-
9 rector shall also include in such notice what, if any, modifica-
10 tions in or restrictions on the goods or technology for which
11 the license was sought would allow such export to be com-
12 patible with controls imposed under this section, or the Di-
13 rector shall indicate in such notice which officers and employ-
14 ees of the Office who are familiar with the application will be
15 made reasonably available to the applicant for consultation
16 with regard to such modifications or restriction, if appropri-
17 ate.

18 (3) In issuing regulations to carry out this section, the
19 Director shall give particular attention to the devising of ef-
20 fective safeguards to prevent a country that poses a threat to
21 the security of the United States from diverting covered
22 goods and technologies to military use and to the need to
23 take effective measures to prevent the reexport of covered
24 goods and technologies from other countries to countries that
25 pose a threat to the security of the United States.

1 (b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In ad-
2 ministering export controls for national security purposes
3 under this section, United States policy toward individual
4 countries shall not be determined exclusively on the basis of a
5 country's Communist or non-Communist status but shall take
6 into account such factors as whether its policies are adverse
7 to the national security interests of the United States, the
8 country's present and potential relationship to the United
9 States, its present and potential relationship to countries
10 friendly or hostile to the United States, its ability and willing-
11 ness to control retransfers of United States exports in accord-
12 ance with United States policy, and such other factors as the
13 President considers appropriate. The President shall review
14 not less frequently than every three years in the case of con-
15 trols maintained cooperatively with other nations, and annu-
16 ally in the case of all other controls, United States policy
17 toward individual countries to determine whether such policy
18 is appropriate in light of the factors specified in the preceding
19 sentence.

20 (c) NATIONAL SECURITY CONTROL LIST.—(1) The Di-
21 rector shall establish and maintain, as part of the commodity
22 control list, a list of all goods and technology subject to
23 export controls under this section. Such goods and technol-
24 ogy shall be clearly identified as being subject to controls
25 under this section.

1 (2) The Secretary of Defense and other appropriate de-
2 partments and agencies shall identify goods and technology
3 for inclusion on the national security control portion of the
4 commodity control list. Those items on which the Director
5 and the Secretary of Defense concur shall be subject to
6 export controls under this section shall comprise such list. If
7 the Director and the Secretary of Defense are unable to
8 concur on such items, the matter shall be referred by the
9 Director to the President for resolution.

10 (3) The Director shall issue regulations providing for
11 review of the list established pursuant to this subsection not
12 less frequently than every three years in the case of controls
13 maintained cooperatively with other countries, and annually
14 in the case of all other controls, in order to carry out the
15 policy set forth in section 3(2)(A) and the provisions of this
16 section, and for the prompt issuance of such revisions of the
17 list as may be necessary. Such regulations shall provide in-
18 terested Government agencies and other affected or poten-
19 tially affected parties with an opportunity, during such
20 review, to submit written data, views, or arguments, with or
21 without oral presentation. Such regulations shall further pro-
22 vide that, as part of such review, an assessment be made of
23 the availability from sources outside the United States of
24 goods and technology comparable to those controlled under
25 this section. The Director and any agency rendering advice

1 with respect to export controls shall keep adequate records of
2 all decisions made with respect to revision of the list of con-
3 trolled goods and technology, including the factual and ana-
4 lytical basis for the decision, and, in the case of the Director,
5 any dissenting recommendations received from any agency.

6 (d) MILITARILY CRITICAL TECHNOLOGIES.—(1) The
7 Secretary of Defense, in consultation with the Director, shall
8 review and revise the national security control list established
9 pursuant to subsection (c), as prescribed in paragraph (3) of
10 such subsection, for the purpose of insuring that export con-
11 trols imposed under this section cover and (to the maximum
12 extent consistent with the purposes of this Act) are limited to
13 militarily critical goods and technologies and the mechanisms
14 through which such goods and technologies may be effective-
15 ly transferred.

16 (2) The Secretary of Defense shall bear primary respon-
17 sibility for inclusion in the national security control list of the
18 militarily critical technologies as described below. In develop-
19 ing such items for inclusion, primary emphasis shall be given
20 to—

21 (A) arrays of design and manufacturing know-
22 how,

23 (B) keystone manufacturing, inspection, and test
24 equipment,

1 (C) goods accompanied by sophisticated operation,
2 application, or maintenance know-how, and

3 (D) goods (i) which would extend, complete, main-
4 tain, or modernize a process line employed in the ap-
5 plication of a militarily critical technology, or (ii) the
6 analysis of which would reveal or give insight into a
7 United States military system and would thereby facili-
8 tate either the design and manufacture of that system
9 or the development of countermeasures against that
10 system,

11 which, as determined by the Secretary of Defense, are not
12 possessed and able to be utilized by countries to which ex-
13 ports are controlled under this section and which, if exported,
14 would permit a significant advance in a military system of
15 any such country.

16 (3) The description of the military critical technologies
17 referred to in paragraph (2) shall be sufficiently specific to
18 guide the determinations of any official exercising export li-
19 censing responsibilities under this Act.

20 (e) NATIONAL SECURITY CONTROL AGENCY.—To
21 assist in carrying out the policy and other authorities and
22 responsibilities of the Secretary of Defense under this section,
23 there shall be established within the office of the Under Sec-
24 retary of Defense for Policy a National Security Control
25 Agency. The Secretary of Defense may delegate such of

1 those authorities and responsibilities, together with such an-
2 cillary functions, as he may deem appropriate to the Agency.

3 (f) ANNUAL REPORT.—The Secretary of Defense shall
4 report annually to the Congress on actions taken to carry out
5 this section.

6 (g) EXPORT LICENSES.—(1) The Congress finds that
7 the effectiveness and efficiency of the process of making
8 export licensing determinations under this section is severely
9 hampered by the large volume of validated export license ap-
10 plications required to be submitted under this Act. Accord-
11 ingly, it is the intent of Congress in this subsection to encour-
12 age the use of a qualified general license in lieu of a validated
13 license.

14 (2) To the maximum extent practicable, consistent with
15 the national security of the United States, the Director may
16 require a qualified general license in lieu of a validated li-
17 cense under this section for the export of goods or technol-
18 ogy, except where—

19 (A) the export of such goods or technology is re-
20 stricted pursuant to a multilateral agreement, formal or
21 informal, to which the United States is a party and,
22 under the terms of such multilateral agreement, such
23 export requires the specific approval of the parties to
24 such multilateral agreement; or

1 (B) the United States is seeking the agreement of
2 other suppliers to apply comparable controls to such
3 goods or technology and, in the judgment of the Direc-
4 tor, United States export controls on such goods or
5 technology, by means of such validated license, are
6 necessary prior to the conclusion of such agreement.

7 (3) To the maximum extent practicable, consistent with
8 the national security of the United States, the Director may
9 require a qualified general license, in lieu of a validated li-
10 cense, under this section for the export of goods or technol-
11 ogy if the export of such goods or technology is restricted
12 pursuant to a multilateral agreement, formal or informal, to
13 which the United States is a party, but such export does not
14 require the specific approval of the parties to such multilater-
15 al agreement.

16 (h) FOREIGN AVAILABILITY.—(1) The Director, in con-
17 sultation with the Secretary of Defense and such other Gov-
18 ernment agencies as may be appropriate in the circumstances
19 as well as with such technical advisory committees estab-
20 lished pursuant to subsection (i) as the Director may deem
21 appropriate, shall review, on a continuing basis, the availabil-
22 ity, to countries to which exports are controlled under this
23 section, from sources outside the United States, including
24 countries which participate with the United States in multi-
25 lateral export controls, of any goods or technology the export

1 of which requires a validated license under this section. In
2 any case in which the Director determines, in accordance
3 with procedures and criteria which the Director shall by reg-
4 ulation establish, that any such goods or technologies are
5 available in fact to such destinations from such sources in
6 comparable quantity and of comparable quality so that the
7 requirement of a validated license for the export of such
8 goods or technology would have no effect in achieving the
9 purpose set forth in subsection (a) of this section, the Director
10 may not, after the determination is made, require a validated
11 license for the export of such goods or technology during the
12 period of such foreign availability, unless the President deter-
13 mines that the absence of export controls under this section
14 would prove detrimental to the national security of the
15 United States. In any case in which the President determines
16 that export controls under this section must be maintained
17 notwithstanding foreign availability, the Director shall pub-
18 lish that determination together with a concise statement of
19 its basis, and the estimated economic impact of the decision.

20 (2) Subject to paragraph (4), the Director shall approve
21 any application for a validated license which is required under
22 this section for the export of any goods or technology to a
23 particular country and which meets all other requirements for
24 such an application, if the Director determines that such
25 goods or technology will, if the license is denied, be available

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

13 (3) With respect to export controls imposed under this
14 section, any determination of foreign availability which is the
15 basis of a decision to grant a license for, or to remove a
16 control on, the export of a good or technology, shall be made
17 in writing and shall be supported by reliable evidence, includ-
18 ing scientific or physical examination, expert opinion based
19 upon adequate factual information, or intelligence informa-
20 tion. In assessing foreign availability with respect to license
21 applications, uncorroborated representations by applicants
22 shall not be deemed sufficient evidence of foreign availability.

23 (4) A technology or good proposed for, or subject to,
24 export control for national security purposes, which is not
25 possessed in comparable quantity or quality by a nation or

1 combination of nations threatening to the national security of
2 the United States, shall not be deemed to be available to that
3 nation or combination of nations from foreign sources until
4 the Secretary of State verifies that negotiations with the ap-
5 propriate foreign governments have been undertaken. For
6 purposes of this Act, assessment of comparable quantity or
7 quality shall include but not be limited to the following fac-
8 tors: cost, reliability, the availability and reliability of spare
9 parts and the cost and quality thereof, maintenance pro-
10 grams, technological data packages, backup packages, long-
11 term durability, scale of production, ease with which machin-
12 ery will be integrated in the mode of production, and spoil-
13 ages and tolerance factors for end products produced by the
14 machinery. In any case in which, in accordance with this
15 subsection, export controls are imposed under this section
16 notwithstanding foreign availability, the President shall take
17 steps to initiate negotiations with the governments of the ap-
18 propriate foreign countries for the purpose of eliminating such
19 availability. Whenever the President has reason to believe
20 goods or technology subject to export control for national se-
21 curity purposes by the United States may become available
22 from other countries to countries to which exports are con-
23 trolled under this section and that such availability can be
24 prevented or eliminated by means of negotiations with such
25 other countries, the President shall promptly initiate negotia-

1 tions with the governments of such other countries to prevent
2 such foreign availability.

3 (5) In order to further carry out the policies set forth in
4 this Act, the Director shall establish within the Office a capa-
5 bility to monitor and gather information with respect to the
6 foreign availability of any goods or technology subject to
7 export controls under this Act.

8 (6) Each department or agency of the United States
9 with responsibilities with respect to export controls, including
10 intelligence agencies, shall, consistent with the protection of
11 intelligence sources and methods, furnish information to the
12 Office concerning foreign availability of goods and technology
13 subject to export controls under this Act, and the Office,
14 upon request or where appropriate, shall furnish to such de-
15 partments and agencies the information it gathers and re-
16 ceives concerning foreign availability.

17 (i) 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 this section or being considered for
21 such controls because of their significance to the national se-
22 curity of the United States, the Director shall appoint a tech-
23 nical advisory committee for any such goods or technology
24 which the Director determines are difficult to evaluate be-
25 cause 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 Defense, State, Com-
5 merce, the intelligence community, and, in the discretion of
6 the Director, other Government departments and agencies.
7 No person serving on any such committee who is a repre-
8 sentative of industry shall serve on such committee for more
9 than four consecutive years.

10 (2) Technical advisory committees established under
11 paragraph (1) shall advise and assist the Director, the Secre-
12 tary of Defense, and any other department, agency, or official
13 of the Government of the United States to which the Presi-
14 dent delegates authority under this Act, with respect to ac-
15 tions designed to carry out the policy set forth in section
16 3(2)(A) of this Act. Nothing in this subsection shall prevent
17 the Director or the Secretary of Defense from consulting, at
18 any time, with any person representing industry or the gener-
19 al public, regardless of whether such person is a member of a
20 technical advisory committee. Members of the public shall be
21 given a reasonable opportunity, pursuant to regulations pre-
22 scribed by the Director, to present relevant material to such
23 committees.

24 (3) Upon request of any member of any such committee,
25 the Director may, if the Director determines it appropriate,

1 reimburse such member for travel, subsistence, and other
2 necessary expenses incurred by such member in connection
3 with the duties of such member.

4 (4) Each such committee shall elect a chairman, and
5 shall meet at least every three months at the call of the
6 chairman, unless the chairman determines, in consultation
7 with the other members of the committee, that such a meet-
8 ing is not necessary to achieve the purposes of this subsec-
9 tion. Each such committee shall be terminated after a period
10 of two years, unless extended by the Director for additional
11 periods of two years. The Director shall consult each such
12 committee with respect to such termination or extension of
13 that committee.

14 (5) To facilitate the work of the technical advisory com-
15 mittees, the Director, in conjunction with other departments
16 and agencies participating in the administration of this Act,
17 shall disclose to each such committee adequate information,
18 consistent with national security, pertaining to the reasons
19 for the export controls which are in effect or contemplated for
20 the goods or technology with respect to which that commit-
21 tee furnishes advice.

22 (6) Subject to subsection (h)(4) of this section, whenever
23 a technical advisory committee certifies to the Director that
24 goods or technology with respect to which such committee
25 was appointed have become available in fact, to countries to

1 which exports are controlled under this section, from sources
2 outside the United States, including countries which partici-
3 pate with the United States in multilateral export controls, in
4 comparable quantity and of comparable quality so that requir-
5 ing a validated license for the export of such goods or tech-
6 nology would be ineffective in achieving the purpose set forth
7 in subsection (a) of this section, and provides adequate docu-
8 mentation for such certification, in accordance with the pro-
9 cedures established pursuant to subsection (h)(1) of this sec-
10 tion, the Director shall investigate such availability, and if
11 such availability is verified, the Director shall remove the
12 requirement of a validated license for the export of the goods
13 or technology, unless the President determines that the ab-
14 sence of export controls under this section would prove detri-
15 mental to the national security of the United States. In any
16 case in which the President determines that export controls
17 under this section must be maintained notwithstanding for-
18 eign availability, the Director shall publish that determination
19 together with a concise statement of its basis and the esti-
20 mated economic impact of the decision.

21 (j) MULTILATERAL EXPORT CONTROLS.—The Presi-
22 dent shall enter into negotiations with the governments par-
23 ticipating in the group known as the Coordinating Committee
24 (hereinafter in this subsection referred to as the “Commit-

1 tee'') with a view toward accomplishing the following objec-
2 tives:

3 (1) Agreement to publish the list of items con-
4 trolled for export by agreement of the Committee.

5 (2) Agreement to hold periodic meetings with
6 high-level representatives of such governments, for the
7 purpose of discussing export control policy issues and
8 issuing policy guidance to the Committee.

9 (3) Agreement on more effective procedures for
10 enforcing the export controls referred to in paragraph
11 (1).

12 (k) COMMERCIAL AGREEMENTS WITH CERTAIN
13 COUNTRIES.—(1) Any United States firm, enterprise, or
14 other nongovernmental entity which enters into any agree-
15 ment with any agency of the government of a country to
16 which exports are restricted for national security purposes,
17 which calls for the encouragement of technical cooperation
18 and is intended to result in the export from the United States
19 to the other party of unpublished technical data of United
20 States origin, shall report the agreement with such agency
21 with sufficient detail to the Director.

22 (2) The provisions of paragraph (1) shall not apply to
23 colleges, universities, or other educational institutions, except
24 where the unpublished technical data involve a technology

1 identified by the Secretary of Defense as a militarily critical
2 technology.

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

14 (m) DIVERSION TO MILITARY USE OF CONTROLLED
15 GOODS OR TECHNOLOGY.—(1) Whenever there is reliable
16 evidence that goods or technology which were exported sub-
17 ject to national security controls under this section to a coun-
18 try to which exports are controlled for national security pur-
19 poses have been diverted to an unauthorized use or consignee
20 in violation of the conditions of an export license, the Direc-
21 tor for as long as that diversion continues—

22 (A) shall deny all further exports to or by the
23 party or parties responsible for that diversion of any
24 goods or technology subject to national security con-
25 trols under this section to an unauthorized use or con-

1 signee regardless of whether such goods or technology
2 are available to that country from sources outside the
3 United States; and

4 (B) may take such additional steps under this Act
5 with respect to the party or parties referred to in sub-
6 paragraph (A) as he determines are appropriate in the
7 circumstances to deter the further unauthorized use of
8 the previously exported goods or technology.

9 (2) As used in this subsection, the term “diversion to an
10 unauthorized use or consignee” means the use of United
11 States goods or technology to design or produce or maintain
12 or contribute to the design, production, or maintenance of
13 any item on the United States Munitions List, or the transfer
14 of United States goods or technology to any consignee or end
15 user engaged in or contributing to such design, production, or
16 maintenance.

17 (n) RECORDKEEPING.—The Director, the Secretary of
18 Defense, and any other department or agency consulted in
19 connection with a license application or revision of a list of
20 controlled commodities, goods, or technologies, shall make
21 and keep records of their respective advice, recommenda-
22 tions, or decisions, including the factual and analytical basis
23 of the advice, recommendations, or decisions.

FOREIGN POLICY CONTROLS

1
2 SEC. 8. (a) AUTHORITY.—(1) In order to carry out the
3 policy set forth in paragraph (2)(B), (7), or (8) of section 3 of
4 this Act, the President may prohibit or curtail the exportation
5 of any goods, technology, or other information subject to the
6 jurisdiction of the United States or exported by any person
7 subject to the jurisdiction of the United States, to the extent
8 necessary to further significantly the foreign policy of the
9 United States or to fulfill its declared international obliga-
10 tions. The authority granted by this subsection shall be exer-
11 cised by the Director, in consultation with the Secretary of
12 State and such other departments and agencies as the Direc-
13 tor considers appropriate, and shall be implemented by means
14 of export licenses issued by the Director.

15 (2) Export controls maintained for foreign policy pur-
16 poses shall expire one year after imposition unless extended
17 by the President in accordance with subsections (b) and (e).
18 Any such extension and any subsequent extension shall not
19 be for a period of more than one year.

20 (3) Whenever the Director denies any export license
21 under this subsection, the Director shall specify in the notice
22 to the applicant of the denial of such license that the license
23 was denied under the authority contained in this subsection,
24 and the reasons for such denial, with reference to the criteria
25 set forth in subsection (b) of this section. The Director shall

1 also include in such notice what, if any, modifications in or
2 restrictions on the goods or technology for which the license
3 was sought would allow such export to be compatible with
4 controls implemented under this section, or the Director shall
5 indicate in such notice which officers and employees of the
6 Office who are familiar with the application will be made
7 reasonably available to the applicant for consultation with
8 regard to such modifications or restrictions, if appropriate.

9 (4) In accordance with the provisions of section 12 of
10 this Act, the Secretary of State shall have the right to review
11 any export license application under this section which the
12 Secretary of State requests to review.

13 (b) CRITERIA.—When imposing, expanding, or
14 extending export controls under this section, the President
15 shall consider—

16 (1) the probability that such controls will achieve
17 the intended foreign policy purpose, in light of other
18 factors, including the availability from other countries
19 of the goods of technology proposed for such controls;

20 (2) the compatibility of the proposed controls with
21 the foreign policy objectives of the United States, in-
22 cluding the effort to counter international terrorism,
23 and with overall United States policy toward the coun-
24 try which is the proposed target of the controls;

1 (3) the reaction of other countries to the imposi-
2 tion or expansion of such export controls by the United
3 States;

4 (4) the likely effects of the proposed controls on
5 the export performance of the United States, on the
6 competitive position of the United States in the inter-
7 national economy, on the international reputation of
8 the United States as a supplier of goods and technol-
9 ogy, and on individual United States companies and
10 their employees and communities, including the effects
11 of the controls on existing contracts;

12 (5) the ability of the United States to enforce the
13 proposed controls effectively; and

14 (6) the foreign policy consequences of not impos-
15 ing controls.

16 (c) **CONSULTATION WITH INDUSTRY.**—The Director,
17 before imposing export controls under this section, shall con-
18 sult with such affected United States industries as the Direc-
19 tor considers appropriate, with respect to the criteria set
20 forth in paragraphs (1) and (4) of subsection (b) and such
21 other matters as the Director considers appropriate.

22 (d) **ALTERNATIVE MEANS.**—Before resorting to the im-
23 position of export controls under this section, the President
24 shall determine that reasonable efforts have been made to

1 achieve the purposes of the controls through negotiations or
2 other alternative means.

3 (e) NOTIFICATION TO CONGRESS.—The President in
4 every possible instance shall consult with the Congress before
5 imposing any export control under this section. Except as
6 provided in section 9(g)(3) of this Act, whenever the Presi-
7 dent imposes, expands, or extends export controls under this
8 section, the President shall immediately notify the Congress
9 of such action and shall submit with such notification a report
10 specifying—

11 (1) the conclusions of the President with respect
12 to each of the criteria set forth in subsection (b); and

13 (2) the nature and results of any alternative
14 means attempted under subsection (d), or the reasons
15 for imposing, extending, or expanding the control with-
16 out attempting any such alternative means.

17 Such report shall also indicate how such controls will further
18 significantly the foreign policy of the United States or will
19 further its declared international obligations. To the extent
20 necessary to further the effectiveness of such export control,
21 portions of such report may be submitted on a classified basis,
22 and shall be subject to the provisions of section 14(c) of this
23 Act.

24 (f) EXCLUSION FOR MEDICINE AND MEDICAL SUP-
25 PLIES AND FOR CERTAIN FOOD EXPORTS.—This section

1 does not authorize export controls on medicine, or medical
2 supplies. Before export controls on food are imposed, expand-
3 ed, or extended under this section, the Director shall notify
4 the Secretary of State in the case of export controls applica-
5 ble with respect to any developed country and shall notify the
6 Director of the United States International Development Co-
7 operation Agency (IDCA) in the case of export controls ap-
8 plicable with respect to any developing country. The Secre-
9 tary of State with respect to developed countries, and the
10 Director of the IDCA with respect to developing countries,
11 shall determine whether the proposed export controls on food
12 would cause measurable malnutrition and shall inform the Di-
13 rector of that determination. If the Director is informed that
14 the proposed export controls on food would cause measurable
15 malnutrition, then those controls may not be imposed, ex-
16 panded, or extended, as the case may be, unless the Presi-
17 dent determines that those controls are necessary to protect
18 the national security interests of the United States, or unless
19 the President determines that arrangements are insufficient
20 to ensure that the food will reach those most in need. Each
21 such determination by the Secretary of State or the Director
22 of the United States International Development Cooperation
23 Agency, and any such determination by the President, shall
24 be reported to the Congress, together with a statement of the
25 reasons for that determination. It is the intent of Congress

1 that the President not impose export controls under this sec-
2 tion on any goods or technology if he determines that the
3 principal effect of the export of such goods or technology
4 would be to help meet basic human needs. This subsection
5 shall not be construed to prohibit the President from impos-
6 ing restrictions on the export of medicine or medical supplies
7 or of food under the International Emergency Economic
8 Powers Act. This subsection does not apply to any export
9 control on medicine or medical supplies which is in effect on
10 the effective date of the Export Administration Act of 1979
11 or to any export control on food which is in effect on the date
12 of the enactment of the Export Administration Amendments
13 Act of 1981.

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

22 (h) INTERNATIONAL OBLIGATIONS.—The provisions of
23 subsections (b), (c), (d), (f), and (g) shall not apply in any case
24 in which the President exercises the authority contained in
25 this section to impose export controls, or to approve or deny

1 export license applications, in order to fulfill obligations of
2 the United States pursuant to treaties to which the United
3 States is a party or pursuant to other international agree-
4 ments.

5 (i) COUNTRIES SUPPORTING INTERNATIONAL TER-
6 RORISM.—The Director and the Secretary of State shall
7 notify the Committee on Foreign Affairs of the House of
8 Representatives and the Committee on Banking, Housing,
9 and Urban Affairs of the Senate before any license is ap-
10 proved for the export of goods or technology valued at more
11 than \$7,000,000 to any country concerning which the Secre-
12 tary of State has made the following determinations:

13 (1) Such country has repeatedly provided support
14 for acts of international terrorism.

15 (2) Such exports would make a significant contri-
16 bution to the military potential of such country, includ-
17 ing its military logistics capability, or would enhance
18 the ability of such country to support acts of interna-
19 tional terrorism.

20 (j) CRIME CONTROL INSTRUMENTS.—(1) Crime control
21 and detection instruments and equipment shall be approved
22 for export by the Director only pursuant to a validated export
23 license.

24 (2) The provisions of this subsection shall not apply with
25 respect to exports to countries which are members of the

1 North Atlantic Treaty Organization or to Japan, Australia,
2 or New Zealand, or to such other countries as the President
3 shall designate consistent with the purposes of this subsection
4 and section 502B of the Foreign Assistance Act of 1961.

5 (k) CONTROL LIST.—The Director shall establish and
6 maintain, as part of the commodity control list, a list of any
7 goods or technology subject to export controls under this sec-
8 tion, and the countries to which such controls apply. Such
9 goods or technology shall be clearly identified as subject to
10 controls under this section. Such list shall consist of goods
11 and technology identified by the Secretary of State, with the
12 concurrence of the Director. If the Director and the Secre-
13 tary of State are unable to agree on the list, the matter shall
14 be referred by the Director to the President. Such list shall
15 be reviewed not less frequently than every three years in the
16 case of controls maintained cooperatively with other coun-
17 tries, and annually in the case of all other controls, for the
18 purpose of making such revisions as are necessary in order to
19 carry out this section. During the course of such review, an
20 assessment shall be made periodically of the availability from
21 sources outside the United States, or any of its territories or
22 possessions, of goods and technology comparable to those
23 controlled for export from the United States under this
24 section.

SHORT SUPPLY CONTROLS

1
2 SEC. 9. (a) AUTHORITY.—(1) In order to carry out the
3 policy set forth in section 3(2)(C) of this Act, the President
4 may prohibit or curtail the export of any goods subject to the
5 jurisdiction of the United States or exported by any person
6 subject to the jurisdiction of the United States. In curtailing
7 exports to carry out the policy set forth in section 3(2)(C) of
8 this Act, the President shall allocate a portion of export li-
9 censes on the basis of factors other than a prior history of
10 exportation. Such factors shall include the extent to which a
11 country engages in equitable trade practices with respect to
12 United States goods and treats the United States equitably in
13 times of short supply.

14 (2) Upon imposing quantitative restrictions on exports of
15 any goods to carry out the policy set forth in section 3(2)(C)
16 of this Act, the Director shall include in a notice published in
17 the Federal Register with respect to such restrictions an invi-
18 tation to all interested parties to submit written comments
19 within fifteen days from the date of publication on the impact
20 of such restrictions and the method of licensing used to imple-
21 ment them.

22 (3) In imposing export controls under this section, the
23 President's authority shall include, but not be limited to, the
24 imposition of export license fees.

1 (b) MONITORING.—(1) In order to carry out the policy
2 set forth in section 3(2)(C) of this Act, the Secretary of Com-
3 merce shall monitor exports, and contracts for exports, of any
4 good (other than a commodity which is subject to the report-
5 ing requirements of section 812 of the Agricultural Act of
6 1970) when the volume of such exports in relation to domes-
7 tic supply contributes, or may contribute, to an increase in
8 domestic prices or a domestic shortage, and such price in-
9 crease or shortage has, or may have, a serious adverse
10 impact on the economy or any sector thereof. Any such moni-
11 toring shall commence at a time adequate to assure that the
12 monitoring will result in a data base sufficient to enable poli-
13 cies to be developed, in accordance with section 3(2)(C) of
14 this Act, to mitigate a short supply situation or serious infla-
15 tionary price rise or, if export controls are needed, to permit
16 imposition of such controls in a timely manner. Information
17 which the Secretary of Commerce requires to be furnished in
18 effecting such monitoring shall be confidential, except as pro-
19 vided in paragraph (2) of this subsection.

20 (2) The results of such monitoring shall, to the extent
21 practicable, be aggregated and included in weekly reports
22 setting forth, with respect to each item monitored, actual and
23 anticipated exports, the destination by country, and the do-
24 mestic and worldwide price, supply, and demand. Such re-
25 ports may be made monthly if the Secretary of Commerce

1 determines that there is insufficient information to justify
2 weekly reports.

3 (3) The Director shall consult with the Secretary of
4 Energy to determine whether monitoring or export controls
5 under this section are warranted with respect to exports of
6 facilities, machinery, or equipment normally and principally
7 used, or intended to be used, in the production, conversion, or
8 transportation of fuels and energy (except nuclear energy),
9 including, but not limited to, drilling rigs, platforms, and
10 equipment; petroleum refineries, natural gas processing, liq-
11 uefaction, and gasification plants; facilities for production of
12 synthetic natural gas or synthetic crude oil; oil and gas pipe-
13 lines, pumping stations, and associated equipment; and ves-
14 sels for transporting oil, gas, coal, and other fuels.

15 (c) PETITIONS FOR MONITORING OR CONTROLS.—
16 (1)(A) Any entity, including a trade association, firm, or certi-
17 fied or recognized union or group of workers, which is repre-
18 sentative of an industry or a substantial segment of an indus-
19 try which processes metallic materials capable of being recy-
20 cled with respect to which an increase in domestic prices or a
21 domestic shortage, either of which results from increased ex-
22 ports, has or may have a significant adverse effect on the
23 national economy or any sector thereof, may transmit a writ-
24 ten petition to the Director requesting the monitoring of ex-
25 ports, or the imposition of export controls, or both, with re-

1 spect to such material, in order to carry out the policy set
2 forth in section 3(2)(C) of this Act.

3 (B) Each petition shall be in such form as the Director
4 shall prescribe and shall contain information in support of the
5 action requested. The petition shall include any information
6 reasonably available to the petitioner indicating (i) that there
7 has been a significant increase, in relation to a specific period
8 of time, in exports of such material in relation to domestic
9 supply, and (ii) that there has been a significant increase in
10 the price of such material or a domestic shortage of such
11 material under circumstances indicating the price increase or
12 domestic shortage may be related to exports.

13 (2) Within fifteen days after receipt of any petition de-
14 scribed in paragraph (1), the Director shall publish a notice in
15 the Federal Register. The notice shall (A) include the name
16 of the material which is the subject of the petition, (B) in-
17 clude the Schedule B number of the material as set forth in
18 the Statistical Classification of Domestic and Foreign Com-
19 modities Exported from the United States, (C) indicate
20 whether the petitioner is requesting that controls or monitor-
21 ing, or both, be imposed with respect to the exportation of
22 such material, and (D) provide that interested persons shall
23 have a period of thirty days commencing with the date of
24 publication of such notice to submit to the Director written
25 data, views, or arguments, with or without opportunity for

1 oral presentation, with respect to the matter involved. At the
2 request of the petitioner or any other entity described in
3 paragraph (1)(A) with respect to the material which is the
4 subject of the petition, or at the request of any entity repre-
5 sentative of producers or exporters of such material, the Di-
6 rector shall conduct public hearings with respect to the sub-
7 ject of the petition, in which case the thirty-day period may
8 be extended to forty-five days.

9 (3) Within forty-five days after the end of the thirty- or
10 forty-five-day period described in paragraph (2), as the case
11 may be, the Director, in consultation with the Secretary of
12 Commerce, shall—

13 (A) determine to impose monitoring or controls, or
14 both, on the export of such material, in order to carry
15 out the policy set forth in section 3(2)(C) of this Act;
16 and

17 (B) publish in the Federal Register a detailed
18 statement of the reasons for such determination.

19 (4) Within fifteen days after making a determination
20 under paragraph (3) to impose monitoring or controls on the
21 export of a material, the Director shall publish in the Federal
22 Register proposed regulations with respect to such monitor-
23 ing or controls. Within thirty days following the publication
24 of such proposed regulations, and after considering any public

1 comments thereon, the Director shall publish and implement
2 final regulations with respect to such monitoring or controls.

3 (5) For purposes of publishing notices in the Federal
4 Register and scheduling public hearings pursuant to this sub-
5 section, the Director may consolidate petitions, and responses
6 thereto, which involve the same or related materials.

7 (6) If a petition with respect to a particular material or
8 group of materials has been considered in accordance with all
9 the procedures prescribed in this subsection, the Director
10 may determine, in the absence of significantly changed cir-
11 cumstances, that any other petition with respect to the same
12 material or group of materials which is filed within 6 months
13 after consideration of the prior petition has been completed
14 does not merit complete consideration under this subsection.

15 (7) The procedures and time limits set forth in this sub-
16 section with respect to a petition filed under this subsection
17 shall take precedence over any review undertaken at the ini-
18 tiative of the Director with respect to the same subject as
19 that of the petition.

20 (8) The Director may impose monitoring or controls on
21 a temporary basis after a petition is filed under paragraph
22 (1)(A) but before the Director makes a determination under
23 paragraph (3) if the Director considers such action to be nec-
24 essary to carry out the policy set forth in section 3(2)(C) of
25 this Act.

1 (9) The authority under this subsection shall not be con-
2 strued to affect the authority of the Director under any other
3 provision of this Act.

4 (10) Nothing contained in this subsection shall be con-
5 strued to preclude submission on a confidential basis to the
6 Director of information relevant to a decision to impose or
7 remove monitoring or controls under the authority of this
8 Act, or to preclude consideration of such information by the
9 Director in reaching decisions required under this subsection.
10 The provisions of this paragraph shall not be construed to
11 affect the applicability of section 552(b) of title 5, United
12 States Code.

13 (d) DOMESTICALLY PRODUCED CRUDE OIL.—(1) Not-
14 withstanding any other provision of this Act and notwith-
15 standing subsection (u) of section 28 of the Mineral Leasing
16 Act of 1920 (30 U.S.C. 185), no domestically produced crude
17 oil transported by pipeline over right-of-way granted pursu-
18 ant to section 203 of the Trans-Alaska Pipeline Authoriza-
19 tion Act (43 U.S.C. 1652) (except any such crude oil which
20 (A) is exported to an adjacent foreign country to be refined
21 and consumed therein in exchange for the same quantity of
22 crude oil being exported from that country to the United
23 States; such exchange must result through convenience or
24 increased efficiency of transportation in lower prices for con-
25 sumers of petroleum products in the United States as de-

1 scribed in paragraph (2)(A)(ii) of this subsection, or (B) is
2 temporarily exported for convenience or increased efficiency
3 of transportation across parts of an adjacent foreign country
4 and reenters the United States) may be exported from the
5 United States, or any of its territories and possessions, unless
6 the requirements of paragraph (2) of this subsection are met.

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

9 (A) the President makes and publishes express
10 findings that exports of such crude oil, including ex-
11 changes—

12 (i) will not diminish the total quantity or
13 quality of petroleum refined within, stored within,
14 or legally committed to be transported to and sold
15 within the United States;

16 (ii) will, within three months following the
17 initiation of such exports or exchanges, result in
18 (I) acquisition costs to the refiners which purchase
19 the imported crude oil being lower than the acqui-
20 sition costs such refiners would have to pay for
21 the domestically produced oil in the absence of
22 such an export or exchange, and (II) not less than
23 75 per centum of such savings in costs being re-
24 flected in wholesale and retail prices of products
25 refined from such imported crude oil;

1 (iii) will be made only pursuant to contracts
2 which may be terminated if the crude oil supplies
3 of the United States are interrupted, threatened,
4 or diminished;

5 (iv) are clearly necessary to protect the na-
6 tional interest; and

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

9 (B) the President reports such findings to the
10 Congress and the Congress, within fifty days thereaf-
11 ter, agrees to a concurrent resolution approving such
12 exports on the basis of the findings.

13 (3) Notwithstanding any other provision of this section
14 or any other provision of law, including subsection (u) of sec-
15 tion 28 of the Mineral Leasing Act of 1920, the President
16 may export oil to any country pursuant to a bilateral interna-
17 tional oil supply agreement entered into by the United States
18 with such nation before June 25, 1979, or to any country
19 pursuant to the International Emergency Oil Sharing Plan of
20 the International Energy Agency.

21 (e) REFINED PETROLEUM PRODUCTS.—(1) No refined
22 petroleum product may be exported except pursuant to an
23 export license specifically authorizing such export. Not later
24 than five days after an application for a license to export any
25 refined petroleum product or residual fuel oil is received, the

1 Director shall notify the Congress of such application, togeth-
2 er with the name of the exporter, the destination of the pro-
3 posed export, and the amount and price of the proposed
4 export. Such notification shall be made to the chairman of the
5 Committee on Foreign Affairs of the House of Representa-
6 tives and the chairman of the Committee on Banking, Hous-
7 ing, and Urban Affairs of the Senate.

8 (2) The Director may not grant such license during the
9 thirty-day period beginning on the date on which notification
10 to the Congress under paragraph (1) is received, unless the
11 President certifies in writing to the Speaker of the House of
12 Representatives and the President pro tempore of the Senate
13 that the proposed export is vital to the national interest and
14 that a delay in issuing the license would adversely affect that
15 interest.

16 (3) This subsection shall not apply to (A) any export
17 license application for exports to a country with respect to
18 which historical export quotas established on the basis of past
19 trading relationships apply, or (B) any license application for
20 exports to a country if exports under the license would not
21 result in more than two hundred and fifty thousand barrels of
22 refined petroleum products being exported from the United
23 States to such country in any fiscal year.

24 (4) For purposes of this subsection, "refined petroleum
25 product" means gasoline, kerosene, distillates, propane or

1 butane gas, diesel fuel, and residual fuel oil refined within the
2 United States or entered for consumption within the United
3 States.

4 (5) The Director may extend any time period prescribed
5 in section 12 of this Act to the extent necessary to take into
6 account delays in action by the Director on a license applica-
7 tion on account of the provisions of this subsection.

8 (f) CERTAIN PETROLEUM PRODUCTS.—Petroleum
9 products refined in United States Foreign Trade Zones, or in
10 the United States Territory of Guam, from foreign crude oil
11 shall be excluded from any quantitative restrictions imposed
12 under this section except that, if the Director finds that a
13 product is in short supply, the Director may issue such regu-
14 lations as may be necessary to limit exports.

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

1 in subparagraph (A) or (B) of paragraph (2) of section 3 of
2 this Act. The Secretary of Agriculture shall, by exercising
3 the authorities which the Secretary of Agriculture has under
4 other applicable provisions of law, collect data with respect
5 to export sales of animal hides and skins.

6 (2) Upon approval of the Director, in consultation with
7 the Secretary of Agriculture, agricultural commodities pur-
8 chased by or for use in a foreign country may remain in the
9 United States for export at a later date free from any quanti-
10 tative limitations on export which may be imposed to carry
11 out the policy set forth in section 3(2)(C) of this Act subse-
12 quent to such approval. The Director may not grant such
13 approval unless the Director receives adequate assurance
14 and, in conjunction with the Secretary of Agriculture, finds
15 (A) that such commodities will eventually be exported, (B)
16 that neither the sale nor export thereof will result in an ex-
17 cessive drain of scarce materials and have a serious domestic
18 inflationary impact, (C) that storage of such commodities in
19 the United States will not unduly limit the space available for
20 storage of domestically owned commodities, and (D) that the
21 purpose of such storage is to establish a reserve of such com-
22 modities for later use, not including resale to or use by an-
23 other country. The Director may issue such regulations as
24 may be necessary to implement this paragraph.

1 (3) If the authority conferred by this section or section is
2 exercised to prohibit or curtail the export of any agricultural
3 commodity in order to carry out the policies set forth in sub-
4 paragraph (B) or (C) of paragraph (2) of section 3 of this Act,
5 the President shall immediately report such prohibition or
6 curtailment to the Congress, setting forth the reasons there-
7 for in detail. If the Congress, within thirty days after the date
8 of its receipt of such report, adopts a concurrent resolution
9 disapproving such prohibition or curtailment, then such prohi-
10 bition or curtailment shall cease to be effective with the
11 adoption of such resolution. In the computation of such
12 thirty-day period, there shall be excluded the days on which
13 either House is not in session because of an adjournment of
14 more than three days to a day certain or because of an ad-
15 journment of the Congress sine die.

16 (h) BARTER AGREEMENTS.—(1) The exportation pur-
17 suant to a barter agreement of any goods which may lawfully
18 be exported from the United States, for any goods which may
19 lawfully be imported into the United States, may be exempt-
20 ed, in accordance with paragraph (2) of this subsection, from
21 any quantitative limitation on exports (other than any report-
22 ing requirement) imposed to carry out the policy set forth in
23 section 3(2)(C) of this Act.

24 (2) The Director shall grant an exemption under para-
25 graph (1) if the Director finds, after consultation with the

1 appropriate department or agency of the United States,
2 that—

3 (A) for the period during which the barter agree-
4 ment is to be performed—

5 (i) the average annual quantity of the goods
6 to be exported pursuant to the barter agreement
7 will not be required to satisfy the average amount
8 of such goods estimated to be required annually
9 by the domestic economy and will be surplus
10 thereto; and

11 (ii) the average annual quantity of the goods
12 to be imported will be less than the average
13 amount of such goods estimated to be required an-
14 nually to supplement domestic production; and

15 (B) the parties to such barter agreement have
16 demonstrated adequately that they intend, and have
17 the capacity, to perform such barter agreement.

18 (3) For purposes of this subsection, the term “barter
19 agreement” means any agreement which is made for the ex-
20 change, without monetary consideration, of any goods pro-
21 duced in the United States for any goods produced outside of
22 the United States.

23 (4) This subsection shall apply only with respect to
24 barter agreements entered into after the effective date of the
25 Export Administration Act of 1979.

1 (i) UNPROCESSED RED CEDAR.—(1) The Director shall
2 require a validated license, under the authority contained in
3 subsection (a) of this section, for the export of unprocessed
4 western red cedar (*thuja plicata*) logs, harvested from State
5 or Federal lands. The Director shall impose quantitative re-
6 strictions upon the export of unprocessed western red cedar
7 logs during the three-year period beginning on the effective
8 date of the Export Administration Act of 1979 as follows:

9 (A) Not more than thirty million board feet
10 scribner of such logs may be exported during the first
11 year of such three-year period.

12 (B) Not more than fifteen million board feet
13 scribner of such logs may be exported during the
14 second year of such period.

15 (C) Not more than five million board feet scribner
16 of such logs may be exported during the third year of
17 such period.

18 After the end of such three-year period, no unprocessed west-
19 ern red cedar logs may be exported from the United States.

20 (2) The Director shall allocate export licenses to export-
21 ers pursuant to this subsection on the basis of a prior history
22 of exportation by such exporters and such other factors as the
23 Director considers necessary and appropriate to minimize any
24 hardship to the producers of western red cedar and to further
25 the foreign policy of the United States.

1 (3) Unprocessed western red cedar logs shall not be con-
2 sidered to be an agricultural commodity for purposes of sub-
3 section (g) of this section.

4 (4) As used in this subsection, the term “unprocessed
5 western red cedar” means red cedar timber which has not
6 been processed into—

7 (A) lumber without wane;

8 (B) chips, pulp, and pulp products;

9 (C) veneer and plywood;

10 (D) poles, posts, or pilings cut or treated with
11 preservative for use as such and not intended to be fur-
12 ther processed; or

13 (E) shakes and shingles.

14 (j) EXPORT OF HORSES.—(1) Notwithstanding any
15 other provision of this Act, no horse may be exported by sea
16 from the United States, or any of its territories and posses-
17 sions, unless such horse is part of a consignment of horses
18 with respect to which a waiver has been granted under para-
19 graph (2) of this subsection.

20 (2) The Director, in consultation with the Secretary of
21 Agriculture, may issue regulations providing for the granting
22 of waivers permitting the export by sea of a specified con-
23 signment of horses, if the Director, in consultation with the
24 Secretary of Agriculture, determines that no horse in that
25 consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

1
2 SEC. 10. (a) PROHIBITIONS AND EXCEPTIONS.—(1)
3 For the purpose of implementing the policies set forth in sub-
4 paragraph (A) or (B) of paragraph (5) of section 3 of this Act,
5 the President shall issue regulations prohibiting any United
6 States person, with respect to his activities in the interstate
7 or foreign commerce of the United States, from taking or
8 knowingly agreeing to take any of the following actions with
9 intent to comply with, further, or support any boycott fos-
10 tered or imposed by a foreign country against a country
11 which is friendly to the United States and which is not itself
12 the object of any form of boycott pursuant to United States
13 law or regulation:

14 (A) Refusing, or requiring any other person to
15 refuse, to do business with or in the boycotted country,
16 with any business concern organized under the laws of
17 the boycotted country, with any national or resident of
18 the boycotted country, or with any other person, pur-
19 suant to an agreement with, a requirement of, or a re-
20 quest from or on behalf of the boycotting country. The
21 mere absence of a business relationship with or in the
22 boycotted country with any business concern organized
23 under the laws of the boycotted country, with any na-
24 tional or resident of the boycotted country, or with any
25 other person, does not indicate the existence of the

1 intent required to establish a violation of regulations
2 issued to carry out this subparagraph.

3 (B) Refusing, or requiring any other person to
4 refuse, to employ or otherwise discriminating against
5 any United States person on the basis of race, religion,
6 sex, or national origin of that person or of any owner,
7 officer, director, or employee of such person.

8 (C) Furnishing information with respect to the
9 race, religion, sex, or national origin of any United
10 States person or of any owner, officer, director, or em-
11 ployee of such person.

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

1 (E) Furnishing information about whether any
2 person is a member of, has made contributions to, or is
3 otherwise associated with or involved in the activities
4 of any charitable or fraternal organization which sup-
5 ports the boycotted country.

6 (F) Paying, honoring, confirming, or otherwise im-
7 plementing a letter of credit which contains any condi-
8 tion or requirement compliance with which is prohibit-
9 ed by regulations issued pursuant to this paragraph,
10 and no United States person shall, as a result of the
11 application of this paragraph, be obligated to pay or
12 otherwise honor or implement such letter of credit.

13 (2) Regulations issued pursuant to paragraph (1) shall
14 provide exceptions for—

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

1 (B) complying or agreeing to comply with import
2 and shipping document requirements with respect to
3 the country of origin, the name of the carrier and route
4 of shipment, the name of the supplier of the shipment
5 or the name of the provider of other services, except
6 that no information knowingly furnished or conveyed in
7 response to such requirements may be stated in nega-
8 tive, blacklisting, or similar exclusionary terms, other
9 than with respect to carriers or route of shipment as
10 may be permitted by such regulations in order to
11 comply with precautionary requirements protecting
12 against war risks and confiscation;

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

21 (D) complying or agreeing to comply with export
22 requirements of the boycotting country relating to ship-
23 ments or transshipments of exports to the boycotted
24 country, to any business concern of or organized under

1 the laws of the boycotted country, or to any national
2 or resident of the boycotted country;

3 (E) compliance by an individual or agreement by
4 an individual to comply with the immigration or pass-
5 port requirements of any country with respect to such
6 individual or any member of such individual's family or
7 with requests for information regarding requirements of
8 employment of such individual within the boycotting
9 country; and

10 (F) compliance by a United States person resident
11 in a foreign country or agreement by such person to
12 comply with the laws of that country with respect to
13 his activities exclusively therein, and such regulations
14 may contain exceptions for such resident complying
15 with the laws or regulations of that foreign country
16 governing imports into such country of trademarked,
17 trade named, or similarly specifically identifiable prod-
18 ucts, or components of products for his own use, in-
19 cluding the performance of contractual services within
20 that country, as may be defined by such regulations.

21 (3) Regulations issued pursuant to paragraphs (2)(C) and
22 (2)(F) shall not provide exceptions from paragraphs (1)(B) and
23 (1)(C).

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

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

13 (b) Foreign Policy Controls.—(1) In addition to the reg-
14 ulations issued pursuant to subsection (a) of this section, reg-
15 ulations issued under section 8 of this Act shall implement
16 the policies set forth in section 3(5).

17 (2) Such regulations shall require that any United States
18 person receiving a request for the furnishing of information,
19 the entering into or implementing of agreements, or the
20 taking of any other action referred to in section 3(5) shall
21 report that fact to the Director, together with such other
22 information concerning such request as the Director may re-
23 quire for such action as the Director considers appropriate for
24 carrying out the policies of that section. Such person shall
25 also report to the Director whether such person intends to

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

14 (c) PREEMPTION.—The provisions of this section and
15 the regulations issued pursuant thereto shall preempt any
16 law, rule, or regulation of any of the several States or the
17 District of Columbia, or any of the territories or possessions
18 of the United States, or of any governmental subdivision
19 thereof, which law, rule, or regulation pertains to participa-
20 tion in, compliance with, implementation of, or the furnishing
21 of information regarding restrictive trade practices or boy-
22 cotts fostered or imposed by foreign countries against other
23 countries.

1 indirectly from the imposition of export controls shall reflect
2 the Director's consideration of factors such as the following:

3 (1) Whether denial would cause a unique hardship
4 to the petitioner which can be alleviated only by grant-
5 ing an exception to the applicable regulations. In de-
6 termining whether relief shall be granted, the Director
7 shall take into account—

8 (A) ownership of material for which there is
9 no practicable domestic market by virtue of the
10 location or nature of the material;

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

13 (C) inability to obtain, except through
14 import, an item essential for domestic use which
15 is produced abroad from the good under control;

16 (D) the extent to which denial would conflict,
17 to the particular detriment^v of the applicant, with
18 other national policies including those reflected in
19 any international agreement to which the United
20 States is a party;

21 (E) possible adverse effects on the economy
22 (including unemployment) in any locality or region
23 of the United States; and

24 (F) other relevant factors, including the ap-
25 plicant's lack of an exporting history during any

1 base period that may be established with respect
2 to export quotas for the particular good.

3 (2) The effect a finding in favor of the applicant
4 would have on attainment of the basic objectives of the
5 short supply control program.

6 In all cases, the desire to sell at higher prices and thereby
7 obtain greater profits shall not be considered as evidence of a
8 unique hardship, nor will circumstances where the hardship is
9 due to imprudent acts or failure to act on the part of the
10 petitioner.

11 PROCEDURES FOR PROCESSING EXPORT LICENSE

12 APPLICATIONS

13 SEC. 12. (a) PRIMARY RESPONSIBILITY OF THE DI-
14 RECTOR.—(1) All export license applications required under
15 this Act shall be submitted by the applicant to the Director.
16 All determinations with respect to any such application shall
17 be made by the Director, subject to the procedures provided
18 in this section.

19 (2) It is the intent of the Congress that a determination
20 with respect to any export license application be made to the
21 maximum extent possible by the Director without referral of
22 such application to any other department or agency of the
23 Government.

24 (3) To the extent necessary, the Director shall seek in-
25 formation and recommendations from the Government de-

1 departments and agencies concerned with aspects of United
2 States domestic and foreign policies and operations having an
3 important bearing on exports. Such departments and agen-
4 cies shall cooperate fully in rendering such information and
5 recommendations.

6 (b) INITIAL SCREENING.—Within ten days after the
7 date on which any export license application is submitted
8 pursuant to subsection (a)(1), the Director shall—

9 (1) send the applicant an acknowledgment of the
10 receipt of the application and the date of the receipt;

11 (2) submit to the applicant a written description of
12 the procedures required by this section, the responsibil-
13 ities of the Director and of other departments and
14 agencies with respect to the application, and the rights
15 of the applicant;

16 (3) return the application without action if the ap-
17 plication is improperly completed or if additional infor-
18 mation is required, with sufficient information to permit
19 the application to be properly resubmitted, in which
20 case if such application is resubmitted, it shall be treat-
21 ed as a new application for the purpose of calculating
22 the time periods prescribed in this section;

23 (4) determine whether it is necessary to refer the
24 application to any other department or agency and, if
25 such referral is determined to be necessary, inform the

1 applicant of any such department or agency to which
2 the application will be referred; and

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

8 (c) ACTION ON CERTAIN APPLICATIONS.—In each
9 case in which the Director determines that it is not necessary
10 to refer an application to any other department or agency for
11 its information and recommendations, a license shall be for-
12 mally issued or denied within ninety days after a properly
13 completed application has been submitted pursuant to this
14 section.

15 (d) REFERRAL TO OTHER DEPARTMENTS AND AGEN-
16 CIES.—In each case in which the Director determines that it
17 is necessary to refer an application to any other department
18 or agency for its information and recommendations, the Di-
19 rector shall, within thirty days after the submission of a prop-
20 erly completed application—

21 (1) refer the application, together with all neces-
22 sary analysis and recommendations of the Office, con-
23 currently to all such departments or agencies; and

24 (2) if the applicant so requests, provide the appli-
25 cant with an opportunity to review for accuracy any

1 documentation to be referred to any such department
2 or agency with respect to such application for the pur-
3 pose of describing the export in question in order to de-
4 termine whether such documentation accurately de-
5 scribes the proposed export.

6 (e) ACTION BY OTHER DEPARTMENTS AND AGEN-
7 CIES.—(1) Any department or agency to which an applica-
8 tion is referred pursuant to subsection (d) shall submit to the
9 Director, within thirty days after its receipt of the applica-
10 tion, the information or recommendations requested with re-
11 spect to such application. Except as provided in paragraph
12 (2), any such department or agency which does not submit its
13 recommendations within the time period prescribed in the
14 preceding sentence shall be deemed by the Director to have
15 no objection to the approval of such application.

16 (2) If the head of any such department or agency noti-
17 fies the Director before the expiration of the time period pro-
18 vided in paragraph (1) for submission of its recommendations
19 that more time is required for review by such department or
20 agency, such department or agency shall have an additional
21 thirty-day period to submit its recommendations to the Direc-
22 tor. If such department or agency does not submit its recom-
23 mendations within the time period prescribed by the preced-
24 ing sentence, it shall be deemed by the Director to have no
25 objection to the approval of such application.

1 (f) ACTION BY THE DIRECTOR.—(1) Within ninety days
2 after receipt of the recommendations of other departments
3 and agencies with respect to a license application, as pro-
4 vided in subsection (e), the Director shall formally issue or
5 deny the license. In deciding whether to issue or deny a li-
6 cense, the Director shall take into account any recommenda-
7 tion of a department or agency with respect to the applica-
8 tion in question. In cases where the Director receives con-
9 flicting recommendations, the Director shall, within the
10 ninety-day period provided for in this subsection, take such
11 action as may be necessary to resolve such conflicting recom-
12 mendations.

13 (2) In cases where the Director receives questions or
14 negative considerations or recommendations from any other
15 department or agency with respect to an application, the Di-
16 rector shall, to the maximum extent consistent with the na-
17 tional security and foreign policy of the United States, inform
18 the applicant of the specific questions raised and any such
19 negative considerations or recommendations, and shall accord
20 the applicant an opportunity, before the final determination
21 with respect to the application is made, to respond in writing
22 to such questions, considerations, or recommendations.

23 (3) In cases where the Director has determined that an
24 application should be denied, the applicant shall be informed
25 in writing, within five days after such determination is made,

1 of the determination, of the statutory basis for denial, the
2 policies set forth in section 3 of the Act which would be
3 furthered by denial, and, to the extent consistent with the
4 national security and foreign policy of the United States, the
5 specific considerations which led to the denial, and of the
6 availability of appeal procedures. In the event decisions on
7 license applications are deferred inconsistent with the provi-
8 sions of this section, the applicant shall be so informed in
9 writing within five days after such deferral.

10 (4) If the Director determines that a particular applica-
11 tion or set of applications is of exceptional importance and
12 complexity, and that additional time is required for negotia-
13 tions to modify the application or applications, the director
14 may extend any time period prescribed in this section. The
15 Director shall notify the Congress and the applicant of such
16 extension and the reasons therefor.

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

1 such country, to recommend to the President that such
2 export be disapproved.

3 (2) Notwithstanding any other provision of law, the Sec-
4 retary of Defense shall determine, in consultation with the
5 Director, and confirm in writing the types and categories of
6 transactions which should be reviewed by the Secretary of
7 Defense in order to make a determination referred to in para-
8 graph (1). Whenever a license or other authority is requested
9 for the export to any country to which exports are controlled
10 for national security purposes of goods or technology within
11 any such type or category, the Director shall notify the Sec-
12 retary of Defense of such request, and the Director may not
13 issue any license or other authority pursuant to such request
14 before the expiration of the period within which the President
15 may disapprove such export. The Secretary of Defense shall
16 carefully consider any notification submitted by the Director
17 pursuant to this paragraph and, not later than thirty days
18 after notification of the request, shall—

19 (A) recommend to the President that he disap-
20 prove any request for the export of the goods or tech-
21 nology involved to the particular country if the Secre-
22 tary of Defense determines that the export of such
23 goods or technology will make a significant contribu-
24 tion, which would prove detrimental to the national se-

1 curity of the United States, to the military potential of
2 such country or any other country;

3 (B) notify the Director that he would recommend
4 approval subject to specified conditions; or

5 (C) recommend to the Director that the export of
6 goods or technology be approved.

7 If the President notifies the Director, within thirty days after
8 receiving a recommendation from the Secretary of Defense,
9 that he disapproves such export, no license or other authority
10 may be issued for the export of such goods or technology to
11 such country.

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

17 (4) Whenever the President exercises his authority
18 under this subsection to modify or overrule a recommendation
19 made by the Secretary of Defense or exercises his authority
20 to modify or overrule any recommendation made by the Sec-
21 retary of Defense under subsection (c) or (d) of section 7 of
22 this Act with respect to the list of goods and technologies
23 controlled for national security purposes, the President shall
24 promptly transmit to the Congress a statement indicating his

1 decision, together with the recommendation of the Secretary
2 of Defense.

3 (h) MULTILATERAL CONTROLS.—In any case in which
4 an application, which has been finally approved under subsec-
5 tion (e), (f), or (g) of this section, is required to be submitted
6 to a multilateral review process, pursuant to a multilateral
7 agreement, formal or informal, to which the United States is
8 a party, the license shall not be issued as prescribed in such
9 subsections, but the Director shall notify the applicant of the
10 approval of the application (and the date of such approval) by
11 the Director subject to such multilateral review. The license
12 shall be issued upon approval of the application under such
13 multilateral review. If such multilateral review has not re-
14 sulted in a determination with respect to the application
15 within sixty days after such date, the Director's approval of
16 the license shall be final and the license shall be issued,
17 unless the Director determines that issuance of the license
18 would prove detrimental to the national security of the
19 United States. At the time at which the Director makes such
20 a determination, the Director shall notify the applicant of the
21 determination and shall notify the Congress of the determina-
22 tion, the reasons for the determination, the reasons for which
23 the multilateral review could not be concluded within such
24 sixty-day period, and the actions planned or being taken by
25 the United States Government to secure conclusion of the

1 multilateral review. At the end of every sixty-day period
2 after such notification to Congress, the Director shall advise
3 the applicant and the Congress of the status of the applica-
4 tion, and shall report to the Congress in detail on the reasons
5 for the further delay and any further actions being taken by
6 the United States Government to secure conclusion of the
7 multilateral review. In addition, at the time at which the Di-
8 rector issues or denies the license upon conclusion of the mul-
9 tilateral review, the Director shall notify the Congress of
10 such issuance or denial and of the total time required for the
11 multilateral review.

12 (i) RECORDS.—The Director and any department or
13 agency to which any application is referred under this section
14 shall keep accurate records with respect to all applications
15 considered by the Director or by any such department or
16 agency, including, in the case of the Director, any dissenting
17 recommendations received from any such department or
18 agency.

19 (j) APPEAL AND COURT ACTION.—(1) The Director
20 shall establish appropriate procedures for any applicant to
21 appeal to the Director the denial of an export license applica-
22 tion of the applicant.

23 (2) In any case in which any action prescribed in this
24 section is not taken on a license application within the time
25 periods established by this section (except in the case of a

1 time period extended under subsection (f)(4) of which the ap-
2 plicant is notified), the applicant may file a petition with the
3 Director requesting compliance with the requirements of this
4 section. When such petition is filed, the Director shall take
5 immediate steps to correct the situation giving rise to the
6 petition and shall immediately notify the applicant of such
7 steps.

8 (3) If, within thirty days after a petition is filed under
9 paragraph (2), the processing of the application has not been
10 brought into conformity with the requirements of this section,
11 or the application has been brought into conformity with such
12 requirements but the director has not so notified the appli-
13 cant, the applicant may bring an action in an appropriate
14 United States district court for a restraining order, a tempo-
15 rary or permanent injunction, or other appropriate relief, to
16 require compliance with the requirements of this section. The
17 United States district courts shall have jurisdiction to provide
18 such relief, as appropriate.

19 **VIOLATIONS**

20 **SEC. 13. (a) IN GENERAL.**—Except as provided in sub-
21 section (b) of this section, whoever knowingly violates any
22 provision of this Act or any regulation, order, or license
23 issued thereunder shall be fined not more than five times the
24 value of the exports involved or \$50,000, whichever is
25 greater, or imprisoned not more than five years, or both.

1 (b) WILLFUL VIOLATIONS.—(1) Whoever willfully ex-
2 ports anything contrary to any provision of this Act or any
3 regulation, order, or license issued thereunder, with knowl-
4 edge that such exports will be used for the benefit of any
5 country to which exports are restricted for national security
6 or foreign policy purposes—

7 (A) except in the case of an individual, shall be
8 fined not more than five times the value of the exports
9 involved or \$1,000,000, whichever is greater; and

10 (B) in the case of an individual, shall be fined not
11 more than \$250,000, or imprisoned not more than ten
12 years, or both.

13 (2) Any person who is issued a validated license under
14 this Act for the export of any good or technology to a con-
15 trolled country and who, with knowledge that such a good or
16 technology is being used by such controlled country for mili-
17 tary or intelligence gathering purposes contrary to the condi-
18 tions under which the license was issued, willfully fails to
19 report such use to the Secretary of Defense—

20 (A) except in the case of an individual, shall be
21 fined not more than five times the value of the exports
22 involved or \$1,000,000, whichever is greater; and

23 (B) in the case of an individual, shall be fined not
24 more than \$250,000, or imprisoned not more than five
25 years, or both.

1 For the purpose of this paragraph, the term “controlled coun-
2 try” means any country described in section 620(f) of the
3 Foreign Assistance Act of 1961.

4 (c) CIVIL PENALTIES; ADMINISTRATIVE SAN-
5 TIONS.—(1) The head of any department or agency exercis-
6 ing any functions under this Act, or any officer or employee
7 of such department or agency specifically designated by the
8 head thereof, may impose a civil penalty not to exceed
9 \$10,000 for each violation of this Act or any regulation,
10 order, or license issued under this Act, either in addition to or
11 in lieu of any other liability or penalty which may be im-
12 posed, except that the civil penalty for each such violation
13 involving national security controls imposed under section 7
14 of this Act or controls imposed on the export of defense arti-
15 cles and defense services under section 38 of the Arms
16 Export Control Act may not exceed \$100,000.

17 (2)(A) The authority under this Act to suspend or
18 revoke the authority of any United States person to export
19 goods or technology may be used with respect to any viola-
20 tion of the regulations issued pursuant to section 10(a) of this
21 Act.

22 (B) Any administrative sanction (including any civil pen-
23 alty or any suspension or revocation of authority to export)
24 imposed under this Act for a violation of the regulations
25 issued pursuant to section 10(a) of this Act may be imposed

1 only after notice and opportunity for an agency hearing on
2 the record in accordance with sections 554 through 557 of
3 title 5, United States Code.

4 (C) Any charging letter or other document initiating ad-
5 ministrative proceedings for the imposition of sanctions for
6 violations of the regulations issued pursuant to section 10(a)
7 of this Act shall be made available for public inspection and
8 copying.

9 (d) PAYMENT OF PENALTIES.—The payment of any
10 penalty imposed pursuant to subsection (c) may be made a
11 condition, for a period not exceeding one year after the im-
12 position of such penalty, to the granting, restoration, or con-
13 tinuing validity of any export license, permission, or privilege
14 granted or to be granted to the person upon whom such pen-
15 alty is imposed. In addition, the payment of any penalty im-
16 posed under subsection (c) may be deferred or suspended in
17 whole or in part for a period of time no longer than any
18 probation period (which may exceed one year) that may be
19 imposed upon such person. Such a deferral or suspension
20 shall not operate as a bar to the collection of the penalty in
21 the event that the conditions of the suspension, deferral, or
22 probation are not fulfilled.

23 (e) REFUNDS.—Any amount paid in satisfaction of any
24 penalty imposed pursuant to subsection (c) shall be covered
25 into the Treasury as a miscellaneous receipt. The head of the

1 department or agency concerned may, in his discretion,
2 refund any such penalty, within two years after payment, on
3 the ground of a material error of fact or law in the imposition
4 of the penalty. Notwithstanding section 1346(a) of title 28,
5 United States Code, no action for the refund of any such
6 penalty may be maintained in any court.

7 (f) ACTIONS FOR RECOVERY OF PENALTIES.—In the
8 event of the failure of any person to pay a penalty imposed
9 pursuant to subsection (c), a civil action for the recovery
10 thereof may, in the discretion of the head of the department
11 or agency concerned, be brought in the name of the United
12 States. Except as provided in this subsection and in subsec-
13 tion (d), no such liability shall be asserted, claimed, or recov-
14 ered upon by the United States in any way unless it has
15 previously been reduced to judgment.

16 (g) OTHER AUTHORITIES.—Nothing in subsection (c),
17 (d), or (f) limits—

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

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

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 (b) IMMUNITY.—No person shall be excused from com-
4 plying with any requirements under this section because of
5 his privilege against self-incrimination, but the immunity pro-
6 visions of section 6002 of title 18, United States Code, shall
7 apply with respect to any individual who specifically claims
8 such privilege.

9 (c) CONFIDENTIALITY.—(1) Except as otherwise pro-
10 vided by the third sentence of section 10(b)(2) and by section
11 13(c)(2)(C) of this Act, information obtained under this Act
12 on or before the date of enactment of this Act, which is
13 deemed confidential, including Shippers' Export Declara-
14 tions, or with reference to which a request for confidential
15 treatment is made by the person furnishing such information,
16 shall be exempt from disclosure under section 552 of title 5,
17 United States Code, and such information shall not be pub-
18 lished or disclosed unless the Director in his sole discretion
19 determines that the withholding thereof is contrary to the
20 national interest. Information obtained under this Act or the
21 Export Administration Act of 1979 after June 30, 1980, may
22 be withheld only to the extent permitted by statute, except
23 that information obtained for the purpose of consideration of,
24 or concerning, license applications under this Act or the
25 Export Administration Act of 1979 shall be withheld from

1 public disclosure unless the release of such information is de-
2 termined by the Director in his sole discretion to be in the
3 national interest. This subsection shall not affect any judicial
4 proceeding commenced under section 552 of title 5, United
5 States Code, to obtain access to boycott reports submitted
6 prior to October 31, 1976, which was pending on May 15,
7 1979; but such proceeding shall be continued as if this Act
8 had not been enacted.

9 (2) Nothing in this Act shall be construed as authorizing
10 the withholding of information from the Congress or from the
11 General Accounting Office. All information obtained at any
12 time under this Act or previous Acts regarding the control of
13 exports, including any report or license application required
14 under this Act, shall be made available to any committee or
15 subcommittee of Congress of appropriate jurisdiction upon re-
16 quest of the chairman or ranking minority member of such
17 committee or subcommittee. No such committee or subcom-
18 mittee, or member thereof, shall disclose any information ob-
19 tained under this Act or previous Acts regarding the control
20 of exports which is submitted on a confidential basis unless
21 the full committee determines that the withholding of that
22 information is contrary to the national interest. Notwith-
23 standing paragraph (1) of this subsection, information re-
24 ferred to in the second sentence of this paragraph shall, con-
25 sistent with the protection of intelligence, counterintelligence,

1 and law enforcement sources, methods, and activities, as de-
2 termined by the agency that originally obtained the informa-
3 tion, and consistent with the provisions of section 313 of the
4 Budget and Accounting Act, 1921, be make available only by
5 that agency, upon request, to the Comptroller General of the
6 United States or to any officer or employee of the General
7 Accounting Office who is authorized by the Comptroller Gen-
8 eral to have access to such information. No officer or employ-
9 ee of the General Accounting Office shall disclose, except to
10 the Congress in accordance with this paragraph, any such
11 information which is submitted on a confidential basis and
12 from which any individual can be identified.

13 (3) Departments or agencies which obtain information
14 which is relevant to the enforcement of this Act shall furnish
15 such information to the department or agency with enforce-
16 ment responsibilities under this Act to the extent consistent
17 with the protection of intelligence, counterintelligence, and
18 law enforcement sources, methods, and activities, except
19 that—

20 (A) the provisions of this paragraph shall not
21 apply to information subject to the restrictions set forth
22 in section 9 of title 13, United States Code; and

23 (B) return information, as defined in subsection (b)
24 of section 6103 of the Internal Revenue Code of 1954,
25 may be disclosed only as authorized by such section.

1 (d) **REPORTING REQUIREMENTS.**—In the administra-
2 tion of this Act, reporting requirements shall be so designed
3 as to reduce the cost of reporting, recordkeeping, and export
4 documentation required under this Act to the extent feasible
5 consistent with effective enforcement and compilation of
6 useful trade statistics. Reporting, recordkeeping, and export
7 documentation requirements shall be periodically reviewed
8 and revised in the light of developments in the field of infor-
9 mation technology.

10 (e) **SIMPLIFICATION OF REGULATIONS.**—The Director,
11 in consultation with appropriate United States Government
12 departments and agencies and with appropriate technical ad-
13 visory committees established under section 7(g), shall review
14 the regulations issued under this Act and the commodity con-
15 trol list in order to determine how compliance with the provi-
16 sions of this Act can be facilitated by simplifying such regula-
17 tions, by simplifying or clarifying such list, or by any other
18 means.

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

21 **SEC. 15. (a) EXEMPTION.**—Except as provided in sec-
22 tion 13(c)(2), the functions exercised under this Act are ex-
23 cluded from the operation of sections 551, 553 through 559,
24 and 701 through 706 of title 5, United States Code.

1 (b) PUBLIC PARTICIPATION.—It is the intent of the
2 Congress that, to the extent practicable, all regulations im-
3 posing controls on exports under this Act be issued in pro-
4 posed form with meaningful opportunity for public comment
5 before taking effect. In cases where a regulation imposing
6 controls under this Act is issued with immediate effect, it is
7 the intent of the Congress that meaningful opportunity for
8 public comment also be provided and that the regulation be
9 reissued in final form after public comments have been fully
10 considered.

11 ANNUAL REPORT

12 SEC. 16. (a) CONTENTS.—Not later than December 31
13 of each year, the Director shall submit to the Congress a
14 report on the administration of this Act during the preceding
15 fiscal year. All agencies shall cooperate fully with the Direc-
16 tor in providing information for such report. Such report shall
17 include detailed information with respect to—

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

20 (2) general licensing activities under sections 7, 8,
21 and 9, and any changes in the exercise of the authori-
22 ties contained in sections 7(a), 8(a), and 9(a);

23 (3) the results of the review of United States
24 policy toward individual countries pursuant to section
25 7(b);

- 1 (4) the results, in as much detail as may be in-
2 cluded consistent with the national security and the
3 need to maintain the confidentiality of proprietary in-
4 formation, of the actions, including reviews and revi-
5 sions of export controls maintained for national security
6 purposes, required by section 7(c)(3);
- 7 (5) actions taken to carry out section 7(b);
- 8 (6) changes in categories of items under export
9 control referred to in section 7(e);
- 10 (7) determinations of foreign availability made
11 under section 7(f), the criteria used to make such de-
12 terminations, the removal of any export controls under
13 such section, and any evidence demonstrating a need
14 to impose export controls for national security purposes
15 notwithstanding foreign availability;
- 16 (8) actions taken in compliance with section
17 7(f)(5);
- 18 (9) consultations with the technical advisory com-
19 mittees established pursuant to section 7(g), the use
20 made of the advice rendered by such committees, and
21 the contributions of such committees toward imple-
22 menting the policies set forth in this Act;
- 23 (10) the effectiveness of export controls imposed
24 under section 8 in furthering the foreign policy of the
25 United States;

1 (11) export controls and monitoring under section
2 9;

3 (12) the information contained in the reports re-
4 quired by section 9(b)(2), together with an analysis
5 of—

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

10 (B) the worldwide supply of such commod-
11 ities; and

12 (C) actions being taken by other countries in
13 response to such shortages or increased prices;

14 (13) actions taken by the President and the Direc-
15 tor to carry out the antiboycott policies set forth in
16 section 3(5) of this Act;

17 (14) organizational and procedural changes under-
18 taken in furtherance of the policies set forth in this
19 Act, including changes to increase the efficiency of the
20 export licensing process and to fulfill the requirements
21 of section 12, including an analysis of the time required
22 to process license applications, the number and disposi-
23 tion of export license applications taking more than
24 ninety days to process, and an accounting of appeals

1 received, court orders issued, and actions taken pursu-
2 ant thereto under subsection (j) of such section;

3 (15) delegations of authority by the President as
4 provided in section 6(e) of this Act;

5 (16) efforts to keep the business sector of the
6 Nation informed with respect to policies and proce-
7 dures adopted under this Act;

8 (17) any reviews undertaken in furtherance of the
9 policies of this Act, including the results of the review
10 required by section 14(d), and any action taken, on the
11 basis of the review required by section 14(e), to sim-
12 plify regulations issued under this Act;

13 (18) violations under section 13 and enforcement
14 activities under section 14; and

15 (19) the issuance of regulations under the authori-
16 ty of this Act, including an explanation of each case in
17 which regulations were not issued in accordance with
18 the first sentence of section 15(b).

19 (b) **REPORT ON CERTAIN EXPORT CONTROLS.**—To
20 the extent that the President determines that the policies set
21 forth in section 3 of this Act require the control of the export
22 of goods and technology other than those subject to multilat-
23 eral controls, or require more stringent controls than the mul-
24 tilateral controls, the President shall include in each annual
25 report the reasons for the need to impose, or to continue to

1 impose, such controls and the estimated domestic economic
2 impact on the various industries affected by such controls.

3 (c) REPORT ON NEGOTIATIONS.—The President shall
4 include in each annual report a detailed report on the prog-
5 ress of the negotiations required by section 7(j), until such
6 negotiations are concluded.

7 **REGULATORY AUTHORITY**

8 SEC. 17. The President and the Director may issue such
9 regulations as are necessary to carry out the provisions of
10 this Act. Any such regulations issued to carry out the provi-
11 sions of section 7(a), 8(a), 9(a), or 10(b) may apply to the
12 financing, transporting, or other servicing of exports and the
13 participation therein by any person.

14 **TRANSFER OF FUNCTIONS**

15 SEC. 18. (a) TRANSFERS TO DIRECTOR.—In addition
16 to authorities and responsibilities elsewhere provided for in
17 this Act, there are transferred to the Office of Strategic
18 Trade the following functions and authorities:

19 (1) those of the Offices of East-West Trade and
20 Munitions Control of the Department of State with re-
21 spect to the munitions list pursuant to the Arms
22 Export Control Act; and

23 (2) such other functions and authorities, not spe-
24 cifically or otherwise vested or delegated by statute, as
25 the Director, in consultation with the Director of the

1 Office of Management and Budget, determine to be ap-
2 propriate.

3 (b) INCIDENTAL TRANSFERS.—The Director of the
4 Office of Management and Budget, in consultation with the
5 Director, is authorized and directed to make such determina-
6 tions as may be necessary with regard to the transfer of func-
7 tions which relate to or are utilized by an agency, commis-
8 sion or other body, or component thereof affected by this Act,
9 to make such additional incidental dispositions of personnel,
10 assets, liabilities, contracts, property, records, and unexpend-
11 ed balances of appropriations, authorizations, allocations, and
12 other funds held, used, arising from, available to, or to be
13 made available in connection with the functions transferred
14 by this Act, as he may deem necessary to accomplish the
15 purposes of this Act.

16 EFFECT ON OTHER ACTS

17 SEC. 19. (a) IN GENERAL.—Nothing contained in this
18 Act shall be construed to modify, repeal, supersede, or other-
19 wise affect the provisions of any other laws authorizing con-
20 trol over exports of any commodity.

21 (b) COORDINATION OF CONTROLS.—The authority
22 granted to the President under this Act shall be exercised in
23 such manner as to achieve effective coordination with the
24 authority exercised under section 38 of the Arms Export
25 Control Act (22 U.S.C. 2778).

1 (c) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding
2 any other provision of law, any product (1) which is standard
3 equipment, certified by the Federal Aviation Administration,
4 in civil aircraft and is an integral part of such aircraft, and (2)
5 which is to be exported to a country other than a controlled
6 country, shall be subject to export controls exclusively under
7 this Act. Any such product shall not be subject to controls
8 under section 38(b)(2) of the Arms Export Control Act. For
9 purposes of this subsection, the term “controlled country”
10 means any country described in section 620(f) of the Foreign
11 Assistance Act of 1961.

12 (d) NONPROLIFERATION CONTROLS.—(1) Nothing in
13 section 7 or 8 of this Act shall be construed to supersede the
14 procedures published by the President pursuant to section
15 309(c) of the Nuclear Non-Proliferation Act of 1978.

16 (2) With respect to any export license application which,
17 under the procedures published by the President pursuant to
18 section 309(c) of the Nuclear Non-Proliferation Act of 1978,
19 is referred to the Subgroup on Nuclear Export Coordination
20 or other interagency group, the provisions of section 12 of
21 this Act shall apply with respect to such license application
22 only to the extent that they are consistent with such pub-
23 lished procedures, except that if the processing of any such
24 application under such procedures is not completed within
25 one hundred and eighty days after the receipt of the applica-

1 tion by the Director, the applicant shall have the rights of
2 appeal and court action provided in section 12(j) of this Act.

3 (e) TERMINATION OF OTHER AUTHORITY.—On Octo-
4 ber 1, 1979, the Mutual Defense Assistance Control Act of
5 1951 (22 U.S.C. 1611–1613d), is superseded.

6 AUTHORIZATION OF APPROPRIATIONS

7 SEC. 20. (a) REQUIREMENT OF AUTHORIZING LEGIS-
8 LATION.—Notwithstanding any other provision of law, no
9 appropriation shall be made under any law to the Depart-
10 ment of Commerce for expenses to carry out the purposes of
11 this Act unless previously and specifically authorized by law.

12 (b) AUTHORIZATION.—There are authorized to be ap-
13 propriated to carry out the purposes of this Act—

14 (1) \$, for each of the fiscal years 1984
15 through 1987; and

16 (2) such additional amounts, for each such fiscal
17 year, as may be necessary for increases in salary, pay,
18 retirement, other employee benefits authorized by law,
19 and other nondiscretionary costs.

20 EFFECTIVE DATE

21 SEC. 21. This Act shall take effect upon the expiration
22 of the Export Administration Act of 1979.

1 of 1983 and by subsections (a) and (c) of section 14 of such
2 Act”.

3 (b)(1) Section 103(c) of the Energy Policy and Conser-
4 vation Act (42 U.S.C. 6212(c)) is amended by striking out
5 “Export Administration Act of 1979” and inserting in lieu
6 thereof “Office of Strategic Trade Act of 1983”.

7 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))
8 is amended by striking out “section 12 of the Export Admin-
9 istration Act of 1979” and inserting in lieu thereof “section
10 14 of the Office of Strategic Trade Act of 1983”.

11 (c) Section 993(c)(2)(D) of the Internal Revenue Code of
12 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

13 (1) by striking out “7(a) of the Export Adminis-
14 tration Act of 1979” and inserting in lieu thereof “9(a)
15 of the Office of Strategic Trade Act of 1983”; and

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

18 (d) Section 5313 of title 5, United States Code, is
19 amended by adding at the end thereof the following item:

20 “Director of Strategic Trade.”.

21 (e) Section 5315 of such title is amended by adding at
22 the end thereof the following:

23 “Assistant Directors, Office of Strategic Trade
24 (4).”.

1 AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947

2 SEC. 25. The fourth paragraph of section 101(a) of the
3 National Security Act of 1947 (50 U.S.C. 402(a)) is
4 amended—

5 (1) by redesignating clauses (5), (6), and (7) as
6 clauses (6), (7), and (8), respectively; and

7 (2) by inserting after clause (4) the following new
8 clause:

9 “(5) the Director of Strategic Trade;”.

○