

107TH CONGRESS
1ST SESSION

S. 149

To provide authority to control exports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2001

Mr. ENZI (for himself, Mr. GRAMM, Mr. SARBANES, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide authority to control exports, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Export Administration Act of 2001”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—GENERAL AUTHORITY

Sec. 101. Commerce Control List.

- Sec. 102. Delegation of authority.
- Sec. 103. Public information; consultation requirements.
- Sec. 104. Right of export.
- Sec. 105. Export control advisory committees.
- Sec. 106. President's Technology Export Council.
- Sec. 107. Prohibition on charging fees.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

- Sec. 201. Authority for national security export controls.
- Sec. 202. National Security Control List.
- Sec. 203. Country tiers.
- Sec. 204. Incorporated parts and components.
- Sec. 205. Petition process for modifying export status.

Subtitle B—Foreign Availability and Mass-Market Status

- Sec. 211. Determination of foreign availability and mass-market status.
- Sec. 212. Presidential set-aside of foreign availability determination.
- Sec. 213. Presidential set-aside of mass-market status determination.
- Sec. 214. Office of Technology Evaluation.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

- Sec. 301. Authority for foreign policy export controls.
- Sec. 302. Procedures for imposing controls.
- Sec. 303. Criteria for foreign policy export controls.
- Sec. 304. Presidential report before imposition of control.
- Sec. 305. Imposition of controls.
- Sec. 306. Deferral authority.
- Sec. 307. Review, renewal, and termination.
- Sec. 308. Termination of controls under this title.
- Sec. 309. Compliance with international obligations.
- Sec. 310. Designation of countries supporting international terrorism.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

- Sec. 401. Exemption for agricultural commodities, medicine, and medical supplies.
- Sec. 402. Termination of export controls required by law.
- Sec. 403. Exclusions.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

- Sec. 501. Export license procedures.
- Sec. 502. Interagency dispute resolution process.

TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

- Sec. 601. International arrangements.
- Sec. 602. Foreign boycotts.
- Sec. 603. Penalties.
- Sec. 604. Multilateral export control regime violation sanctions.

- Sec. 605. Missile proliferation control violations.
 Sec. 606. Chemical and biological weapons proliferation sanctions.
 Sec. 607. Enforcement.
 Sec. 608. Administrative procedure.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

- Sec. 701. Export control authority and regulations.
 Sec. 702. Confidentiality of information.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Annual and periodic reports.
 Sec. 802. Technical and conforming amendments.
 Sec. 803. Savings provisions.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **AFFILIATE.**—The term “affiliate” includes
 4 both governmental entities and commercial entities
 5 that are controlled in fact by the government of a
 6 country.

7 (2) **AGRICULTURE COMMODITY.**—The term “ag-
 8 riculture commodity” means any agricultural com-
 9 modity, food, fiber, or livestock (including livestock,
 10 as defined in section 602(2) of the Emergency Live-
 11 stock Feed Assistance Act of 1988 (title VI of the
 12 Agricultural Act of 1949 (7 U.S.C. 1471(2))), and
 13 including insects), and any product thereof.

14 (3) **CONTROL OR CONTROLLED.**—The terms
 15 “control” and “controlled” mean any requirement,
 16 condition, authorization, or prohibition on the export
 17 or reexport of an item.

1 (4) CONTROL LIST.—The term “Control List”
2 means the Commerce Control List established under
3 section 101.

4 (5) CONTROLLED COUNTRY.—The term “con-
5 trolled country” means a country with respect to
6 which exports are controlled under section 201 or
7 301.

8 (6) CONTROLLED ITEM.—The term “controlled
9 item” means an item the export of which is con-
10 trolled under this Act.

11 (7) COUNTRY.—The term “country” means a
12 sovereign country or an autonomous customs terri-
13 tory.

14 (8) COUNTRY SUPPORTING INTERNATIONAL
15 TERRORISM.—The term “country supporting inter-
16 national terrorism” means a country designated by
17 the Secretary of State pursuant to section 310.

18 (9) DEPARTMENT.—The term “Department”
19 means the Department of Commerce.

20 (10) EXPORT.—

21 (A) The term “export” means—

22 (i) an actual shipment, transfer, or
23 transmission of an item out of the United
24 States;

1 (ii) a transfer to any person of an
2 item either within the United States or
3 outside of the United States with the
4 knowledge or intent that the item will be
5 shipped, transferred, or transmitted to an
6 unauthorized recipient outside the United
7 States; or

8 (iii) a transfer of an item in the
9 United States to an embassy or affiliate of
10 a country, which shall be considered an ex-
11 port to that country.

12 (B) The term includes a reexport.

13 (11) FOREIGN AVAILABILITY STATUS.—The
14 term “foreign availability status” means the status
15 described in section 211(d)(1).

16 (12) FOREIGN PERSON.—The term “foreign
17 person” means—

18 (A) an individual who is not—

19 (i) a United States citizen;

20 (ii) an alien lawfully admitted for per-
21 manent residence to the United States; or

22 (iii) a protected individual as defined
23 in section 274B(a)(3) of the Immigration
24 and Nationality Act. (8 U.S.C.
25 1324b(a)(3));

1 (B) any corporation, partnership, business
2 association, society, trust, organization, or other
3 nongovernmental entity created or organized
4 under the laws of a foreign country or that has
5 its principal place of business outside the
6 United States; and

7 (C) any governmental entity of a foreign
8 country.

9 (13) ITEM.—

10 (A) IN GENERAL.—The term “item”
11 means any good, technology, or service.

12 (B) OTHER DEFINITIONS.—In this para-
13 graph:

14 (i) GOOD.—The term “good” means
15 any article, natural or manmade substance,
16 material, supply or manufactured product,
17 including inspection and test equipment,
18 including source code, and excluding tech-
19 nical data.

20 (ii) TECHNOLOGY.—The term “tech-
21 nology” means specific information that is
22 necessary for the development, production,
23 or use of an item, and takes the form of
24 technical data or technical assistance.

1 (iii) SERVICE.—The term “service”
2 means any act of assistance, help or aid.

3 (14) MASS-MARKET STATUS.—The term “mass-
4 market status” means the status described in section
5 211(d)(2).

6 (15) MULTILATERAL EXPORT CONTROL RE-
7 GIME.—The term “multilateral export control re-
8 gime” means an international agreement or arrange-
9 ment among two or more countries, including the
10 United States, a purpose of which is to coordinate
11 national export control policies of its members re-
12 garding certain items. The term includes regimes
13 such as the Australia Group, the Wassenaar Ar-
14 rangement, the Missile Technology Control Regime
15 (MTCR), and the Nuclear Suppliers’ Group Dual
16 Use Arrangement.

17 (16) NATIONAL SECURITY CONTROL LIST.—The
18 term “National Security Control List” means the
19 list established under section 202(a).

20 (17) PERSON.—The term “person” includes—
21 (A) any individual, or partnership, corpora-
22 tion, business association, society, trust, organi-
23 zation, or any other group created or organized
24 under the laws of a country; and

1 (B) any government, or any governmental
2 entity, including any governmental entity oper-
3 ating as a business enterprise.

4 (18) REEXPORT.—The term “reexport” means
5 the shipment, transfer, transshipment, or diversion
6 of items from one foreign country to another.

7 (19) SECRETARY.—The term “Secretary”
8 means the Secretary of Commerce.

9 (20) UNITED STATES.—The term “United
10 States” means the States of the United States, the
11 District of Columbia, and any commonwealth, terri-
12 tory, dependency, or possession of the United States,
13 and includes the outer Continental Shelf, as defined
14 in section 2(a) of the Outer Continental Shelf Lands
15 Act (42 U.S.C. 1331(a)).

16 (21) UNITED STATES PERSON.—The term
17 “United States person” means—

18 (A) any United States citizen, resident, or
19 national (other than an individual resident out-
20 side the United States who is employed by a
21 person other than a United States person);

22 (B) any domestic concern (including any
23 permanent domestic establishment of any for-
24 eign concern); and

1 (C) any foreign subsidiary or affiliate (in-
2 cluding any permanent foreign establishment)
3 of any domestic concern which is controlled in
4 fact by such domestic concern, as determined
5 under regulations prescribed by the President.

6 **TITLE I—GENERAL AUTHORITY**

7 **SEC. 101. COMMERCE CONTROL LIST.**

8 (a) IN GENERAL.—Under such conditions as the Sec-
9 retary may impose, consistent with the provisions of this
10 Act, the Secretary—

11 (1) shall establish and maintain a Commerce
12 Control List (in this Act referred to as the “Control
13 List”) consisting of items the export of which are
14 subject to licensing or other authorization or re-
15 quirement; and

16 (2) may require any type of license, or other
17 authorization, including recordkeeping and report-
18 ing, appropriate to the effective and efficient imple-
19 mentation of this Act with respect to the export of
20 an item on the Control List or otherwise subject to
21 control under title II or III of this Act.

22 (b) TYPES OF LICENSE OR OTHER AUTHORIZA-
23 TION.—The types of license or other authorization re-
24 ferred to in subsection (a)(2) include the following:

1 (1) SPECIFIC EXPORTS.—A license that author-
2 izes a specific export.

3 (2) MULTIPLE EXPORTS.—A license that au-
4 thorizes multiple exports in lieu of a license for each
5 such export.

6 (3) NOTIFICATION IN LIEU OF LICENSE.— A
7 notification in lieu of a license that authorizes a spe-
8 cific export or multiple exports subject to the condi-
9 tion that the exporter file with the Department ad-
10 vance notification of the intent to export in accord-
11 ance with regulations prescribed by the Secretary.

12 (4) LICENSE EXCEPTION.—Authority to export
13 an item on the Control List without prior license or
14 notification in lieu of a license.

15 (c) AFTER-MARKET SERVICE AND REPLACEMENT
16 PARTS.—A license to export an item under this Act shall
17 not be required for an exporter to provide after-market
18 service or replacement parts, to replace on a one-for-one
19 basis parts that were in an item that was lawfully exported
20 from the United States, unless—

21 (1) the Secretary determines that such license
22 is required to export such parts; or

23 (2) the after-market service or replacement
24 parts would materially enhance the capability of an

1 item which was the basis for the item being con-
2 trolled.

3 (d) INCIDENTAL TECHNOLOGY.—A license or other
4 authorization to export an item under this Act includes
5 authorization to export technology related to the item, if
6 the level of the technology does not exceed the minimum
7 necessary to install, repair, maintain, inspect, operate, or
8 use the item.

9 (e) REGULATIONS.—The Secretary may prescribe
10 such regulations as are necessary to carry out the provi-
11 sions of this Act.

12 **SEC. 102. DELEGATION OF AUTHORITY.**

13 (a) IN GENERAL.—Except as provided in subsection
14 (b) and subject to the provisions of this Act, the President
15 may delegate the power, authority, and discretion con-
16 ferred upon the President by this Act to such depart-
17 ments, agencies, and officials of the Government as the
18 President considers appropriate.

19 (b) EXCEPTIONS.—

20 (1) DELEGATION TO APPOINTEES CONFIRMED
21 BY SENATE.—No authority delegated to the Presi-
22 dent under this Act may be delegated by the Presi-
23 dent to, or exercised by, any official of any depart-
24 ment or agency the head of which is not appointed

1 by the President, by and with the advice and consent
2 of the Senate.

3 (2) OTHER LIMITATIONS.—The President may
4 not delegate or transfer the President’s power, au-
5 thority, or discretion to overrule or modify any rec-
6 ommendation or decision made by the Secretary, the
7 Secretary of Defense, or the Secretary of State
8 under this Act.

9 **SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIRE-**
10 **MENTS.**

11 (a) PUBLIC INFORMATION.—The Secretary shall
12 keep the public fully informed of changes in export control
13 policy and procedures instituted in conformity with this
14 Act.

15 (b) CONSULTATION WITH PERSONS AFFECTED.—
16 The Secretary shall consult regularly with representatives
17 of a broad spectrum of enterprises, labor organizations,
18 and citizens interested in or affected by export controls
19 in order to obtain their views on United States export con-
20 trol policy and the foreign availability or mass-market sta-
21 tus of controlled items.

22 **SEC. 104. RIGHT OF EXPORT.**

23 No license or other authorization to export may be
24 required under this Act, or under regulations issued under
25 this Act, except to carry out the provisions of this Act.

1 **SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.**

2 (a) APPOINTMENT.—Upon the Secretary’s own initia-
3 tive or upon the written request of representatives of a
4 substantial segment of any industry which produces any
5 items subject to export controls under this Act or under
6 the International Emergency Economic Powers Act, or
7 being considered for such controls, the Secretary may ap-
8 point export control advisory committees with respect to
9 any such items. Each such committee shall consist of rep-
10 resentatives of United States industry and Government of-
11 ficials, including officials from the Departments of Com-
12 merce, Defense, and State, and other appropriate depart-
13 ments and agencies of the Government. The Secretary
14 shall permit the widest possible participation by the busi-
15 ness community on the export control advisory commit-
16 tees.

17 (b) FUNCTIONS.—

18 (1) IN GENERAL.—Export control advisory
19 committees appointed under subsection (a) shall ad-
20 vise and assist the Secretary, and any other depart-
21 ment, agency, or official of the Government carrying
22 out functions under this Act, on actions (including
23 all aspects of controls imposed or proposed) designed
24 to carry out the provisions of this Act concerning the
25 items with respect to which such export control advi-
26 sory committees were appointed.

1 (2) OTHER CONSULTATIONS.—Nothing in para-
2 graph (1) shall prevent the United States Govern-
3 ment from consulting, at any time, with any person
4 representing an industry or the general public, re-
5 gardless of whether such person is a member of an
6 export control advisory committee. Members of the
7 public shall be given a reasonable opportunity, pur-
8 suant to regulations prescribed by the Secretary, to
9 present information to such committees.

10 (c) REIMBURSEMENT OF EXPENSES.—Upon the re-
11 quest of any member of any export control advisory com-
12 mittee appointed under subsection (a), the Secretary may,
13 if the Secretary determines it to be appropriate, reimburse
14 such member for travel, subsistence, and other necessary
15 expenses incurred by such member in connection with the
16 duties of such member.

17 (d) CHAIRPERSON.—Each export control advisory
18 committee appointed under subsection (a) shall elect a
19 chairperson, and shall meet at least every 3 months at
20 the call of the chairperson, unless the chairperson deter-
21 mines, in consultation with the other members of the com-
22 mittee, that such a meeting is not necessary to achieve
23 the purposes of this section. Each such committee shall
24 be terminated after a period of 2 years, unless extended
25 by the Secretary for additional periods of 2 years each.

1 The Secretary shall consult with each such committee on
2 such termination or extension of that committee.

3 (e) ACCESS TO INFORMATION.—To facilitate the
4 work of the export control advisory committees appointed
5 under subsection (a), the Secretary, in conjunction with
6 other departments and agencies participating in the ad-
7 ministration of this Act, shall disclose to each such com-
8 mittee adequate information, consistent with national se-
9 curity, pertaining to the reasons for the export controls
10 which are in effect or contemplated for the items or poli-
11 cies for which that committee furnishes advice. Informa-
12 tion provided by the export control advisory committees
13 shall not be subject to disclosure under section 552 of title
14 5, United States Code, and such information shall not be
15 published or disclosed unless the Secretary determines
16 that the withholding thereof is contrary to the national
17 interest.

18 **SEC. 106. PRESIDENT'S TECHNOLOGY EXPORT COUNCIL.**

19 The President may establish a President's Tech-
20 nology Export Council to advise the President on the im-
21 plementation, operation, and effectiveness of this Act.

22 **SEC. 107. PROHIBITION ON CHARGING FEES.**

23 No fee may be charged in connection with the submis-
24 sion or processing of an application for an export license
25 under this Act.

1 **TITLE II—NATIONAL SECURITY**
2 **EXPORT CONTROLS**
3 **Subtitle A—Authority and**
4 **Procedures**

5 **SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT**
6 **CONTROLS.**

7 (a) **AUTHORITY.—**

8 (1) **IN GENERAL.—**In order to carry out the
9 purposes set forth in subsection (b), the President
10 may, in accordance with the provisions of this Act,
11 prohibit, curtail, or require a license, or other au-
12 thorization for the export of any item subject to the
13 jurisdiction of the United States or exported by any
14 person subject to the jurisdiction of the United
15 States. The President may also require record-
16 keeping and reporting with respect to the export of
17 such item.

18 (2) **EXERCISE OF AUTHORITY.—**The authority
19 contained in this subsection shall be exercised by the
20 Secretary, in consultation with the Secretary of De-
21 fense, the intelligence agencies, and such other de-
22 partments and agencies as the Secretary considers
23 appropriate.

24 (b) **PURPOSES.—**The purposes of national security
25 export controls are the following:

1 (1) To restrict the export of items that would
2 contribute to the military potential of countries so as
3 to prove detrimental to the national security of the
4 United States, its allies or countries sharing com-
5 mon strategic objectives with the United States.

6 (2) To stem the proliferation of weapons of
7 mass destruction, and the means to deliver them,
8 and other significant military capabilities by—

9 (A) leading international efforts to control
10 the proliferation of chemical and biological
11 weapons, nuclear explosive devices, missile deliv-
12 ery systems, key-enabling technologies, and
13 other significant military capabilities;

14 (B) controlling involvement of United
15 States persons in, and contributions by United
16 States persons to, foreign programs intended to
17 develop weapons of mass destruction, missiles,
18 and other significant military capabilities, and
19 the means to design, test, develop, produce,
20 stockpile, or use them; and

21 (C) implementing international treaties or
22 other agreements or arrangements concerning
23 controls on exports of designated items, reports
24 on the production, processing, consumption,

1 and exports and imports of such items, and
2 compliance with verification programs.

3 (3) To deter acts of international terrorism.

4 (c) **END USE AND END USER CONTROLS.**—Notwith-
5 standing any other provision of this title, controls may be
6 imposed, based on the end use or end user, on the export
7 of any item, that could materially contribute to the pro-
8 liferation of weapons of mass destruction or the means
9 to deliver them.

10 (d) **ENHANCED CONTROLS.**—Notwithstanding any
11 other provisions of this title, the President may determine
12 that applying the provisions of section 204(b) or section
13 211 with respect to an item on the National Security Con-
14 trol List would constitute a significant threat to the na-
15 tional security of the United States and that such item
16 requires enhanced control. If the President determines
17 that enhanced control should apply to such item, it shall
18 be excluded from the provisions of section 204(b), section
19 211, or both, until such time as the President shall deter-
20 mine that such enhanced control should no longer apply
21 to such item. The President may not delegate the author-
22 ity provided for in this subsection.

23 **SEC. 202. NATIONAL SECURITY CONTROL LIST.**

24 (a) **ESTABLISHMENT OF LIST.**—

1 (1) ESTABLISHMENT.—The Secretary shall es-
2 tablish and maintain a National Security Control
3 List as part of the Control List.

4 (2) CONTENTS.—The National Security Control
5 List shall be composed of a list of items the export
6 of which is controlled for national security purposes
7 under this title.

8 (3) IDENTIFICATION OF ITEMS FOR NATIONAL
9 SECURITY CONTROL LIST.—The Secretary, with the
10 concurrence of the Secretary of Defense and in con-
11 sultation with the head of any other department or
12 agency of the United States that the Secretary con-
13 siders appropriate, shall identify the items to be in-
14 cluded on the National Security Control List pro-
15 vided that the National Security Control List shall,
16 on the date of enactment of this Act, include all of
17 the items on the Commerce Control List controlled
18 on the day before the date of enactment of this Act
19 to protect the national security of the United States,
20 to prevent the proliferation of weapons of mass de-
21 struction and the means to deliver them, and to
22 deter acts of international terrorism. The Secretary
23 shall periodically review and, with the concurrence of
24 the Secretary of Defense and in consultation with
25 the head of any other department or agency of the

1 United States that the Secretary considers appro-
2 priate, adjust the National Security Control List to
3 add items that require control under this section and
4 to remove items that no longer warrant control
5 under this section.

6 (b) RISK ASSESSMENT.—

7 (1) REQUIREMENT.—In establishing and main-
8 taining the National Security Control List, the risk
9 factors set forth in paragraph (2) shall be consid-
10 ered, weighing national security concerns and eco-
11 nomic costs.

12 (2) RISK FACTORS.—The risk factors referred
13 to in paragraph (1), with respect to each item, are
14 as follows:

15 (A) The characteristics of the item.

16 (B) The threat, if any, to the United
17 States or the national security interest of the
18 United States from the misuse or diversion of
19 such item.

20 (C) The effectiveness of controlling the
21 item for national security purposes of the
22 United States, taking into account mass-market
23 status, foreign availability, and other relevant
24 factors.

1 (D) The threat to the national security in-
2 terests of the United States if the item is not
3 controlled.

4 (E) Any other appropriate risk factors.

5 (c) REPORT ON CONTROL LIST.—Not later than 90
6 days after the date of enactment of this Act, the Secretary
7 shall submit a report to Congress which lists all items on
8 the Commerce Control List controlled on the day before
9 the date of enactment of this Act to protect the national
10 security of the United States, to prevent the proliferation
11 of weapons of mass destruction and the means to deliver
12 them, and to deter acts of international terrorism, not in-
13 cluded on the National Security Control List pursuant to
14 the provisions of this Act.

15 **SEC. 203. COUNTRY TIERS.**

16 (a) IN GENERAL.—

17 (1) ESTABLISHMENT AND ASSIGNMENT.—In
18 administering export controls for national security
19 purposes under this title, the President shall, not
20 later than 120 days after the date of enactment of
21 this Act—

22 (A) establish and maintain a country
23 tiering system in accordance with subsection
24 (b); and

1 (B) based on the assessments required
2 under subsection (c), assign each country to an
3 appropriate tier for each item or group of items
4 the export of which is controlled for national se-
5 curity purposes under this title.

6 (2) CONSULTATION.—The establishment and
7 assignment of country tiers under this section shall
8 be made after consultation with the Secretary, the
9 Secretary of Defense, the Secretary of State, the in-
10 telligence agencies, and such other departments and
11 agencies as the President considers appropriate.

12 (3) REDETERMINATION AND REVIEW OF AS-
13 SIGNMENTS.—The President may redetermine the
14 assignment of a country to a particular tier at any
15 time and shall review and, as the President con-
16 siders appropriate, reassign country tiers on an on-
17 going basis. The Secretary shall provide notice of
18 any such reassignment to the Committee on Bank-
19 ing, Housing, and Urban Affairs of the Senate and
20 the Committee on International Relations of the
21 House of Representatives.

22 (4) EFFECTIVE DATE OF TIER ASSIGNMENT.—
23 An assignment of a country to a particular tier shall
24 take effect on the date on which notice of the assign-
25 ment is published in the Federal Register.

1 (b) TIERS.—

2 (1) IN GENERAL.—The President shall establish
3 a country tiering system consisting of 5 tiers for
4 purposes of this section, ranging from tier 1 through
5 tier 5.

6 (2) RANGE.—Countries that represent the low-
7 est risk of diversion or misuse of an item on the Na-
8 tional Security Control List shall be assigned to tier
9 1. Countries that represent the highest risk of diver-
10 sion or misuse of an item on the National Security
11 Control List shall be assigned to tier 5.

12 (3) OTHER COUNTRIES.—Countries that fall be-
13 tween the lowest and highest risk to the national se-
14 curity interest of the United States with respect to
15 the risk of diversion or misuse of an item on the Na-
16 tional Security Control List shall be assigned to tier
17 2, 3, or 4, respectively, based on the assessments re-
18 quired under subsection (c).

19 (c) ASSESSMENTS.—The President shall make an as-
20 sessment of each country in assigning a country tier tak-
21 ing into consideration risk factors including the following:

22 (1) The present and potential relationship of
23 the country with the United States.

24 (2) The present and potential relationship of
25 the country with countries friendly to the United

1 States and with countries hostile to the United
2 States.

3 (3) The country's capabilities regarding chem-
4 ical, biological, and nuclear weapons and the coun-
5 try's membership in, and level of compliance with,
6 relevant multilateral export control regimes.

7 (4) The country's capabilities regarding missile
8 systems and the country's membership in, and level
9 of compliance with, relevant multilateral export con-
10 trol regimes.

11 (5) Whether the country, if a NATO or major
12 non-NATO ally with whom the United States has
13 entered into a free trade agreement as of January
14 1, 1986, controls exports in accordance with the cri-
15 teria and standards of a multilateral export control
16 regime as defined in section 2(15) pursuant to an
17 international agreement to which the United States
18 is a party.

19 (6) The country's other military capabilities
20 and the potential threat posed by the country to the
21 United States or its allies.

22 (7) The effectiveness of the country's export
23 control system.

1 (8) The level of the country's cooperation with
2 United States export control enforcement and other
3 efforts.

4 (9) The risk of export diversion by the country
5 to a higher tier country.

6 (10) The designation of the country as a coun-
7 try supporting international terrorism under section
8 310.

9 (d) TIER APPLICATION.—The country tiering system
10 shall be used in the determination of license requirements
11 pursuant to section 201(a)(1).

12 **SEC. 204. INCORPORATED PARTS AND COMPONENTS.**

13 (a) EXPORT OF ITEMS CONTAINING CONTROLLED
14 PARTS AND COMPONENTS.—Controls may not be imposed
15 under this title or any other provision of law on an item
16 solely because the item contains parts or components sub-
17 ject to export controls under this title, if the parts or
18 components—

19 (1) are essential to the functioning of the item,

20 (2) are customarily included in sales of the item
21 in countries other than controlled countries, and

22 (3) comprise 25 percent or less of the total
23 value of the item,

24 unless the item itself, if exported, would by virtue of the
25 functional characteristics of the item as a whole make a

1 significant contribution to the military or proliferation po-
2 tential of a controlled country or end user which would
3 prove detrimental to the national security of the United
4 States, or unless failure to control the item would be con-
5 trary to the provisions of section 201(c), section 201(d),
6 or section 309 of this Act.

7 (b) REEXPORTS OF FOREIGN-MADE ITEMS INCOR-
8 PORATING UNITED STATES CONTROLLED CONTENT.—

9 (1) IN GENERAL.—No authority or permission
10 may be required under this title to reexport to a
11 country (other than a country designated as a coun-
12 try supporting international terrorism pursuant to
13 section 310) an item that is produced in a country
14 other than the United States and incorporates parts
15 or components that are subject to the jurisdiction of
16 the United States, if the value of the controlled
17 United States content of the item produced in such
18 other country is 25 percent or less of the total value
19 of the item.

20 (2) DEFINITION OF CONTROLLED UNITED
21 STATES CONTENT.—For purposes of this paragraph,
22 the term “controlled United States content” of an
23 item means those parts or components that—

24 (A) are subject to the jurisdiction of the
25 United States;

1 (B) are incorporated into the item; and

2 (C) would, at the time of the reexport, re-
3 quire a license under this title if exported from
4 the United States to a country to which the
5 item is to be reexported.

6 **SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT**
7 **STATUS.**

8 (a) ESTABLISHMENT.—The Secretary shall establish
9 a process for interested persons to petition the Secretary
10 to change the status of an item on the National Security
11 Control List.

12 (b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed
13 pursuant to this section shall be made in accordance with
14 section 202.
15

16 **Subtitle B—Foreign Availability**
17 **and Mass-Market Status**

18 **SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND**
19 **MASS-MARKET STATUS.**

20 (a) IN GENERAL.—The Secretary shall—

21 (1) on a continuing basis,

22 (2) upon a request from the Office of Tech-
23 nology Evaluation, or

24 (3) upon receipt of a petition filed by an inter-
25 ested party,

1 review and determine the foreign availability and the
2 mass-market status of any item the export of which is con-
3 trolled under this title.

4 (b) PETITION AND CONSULTATION.—

5 (1) IN GENERAL.—The Secretary shall establish
6 a process for an interested party to petition the Sec-
7 retary for a determination that an item has a for-
8 eign availability or mass-market status. In evalu-
9 ating and making a determination with respect to a
10 petition filed under this section, the Secretary shall
11 consult with the Secretary of Defense, Secretary of
12 State, and other appropriate Government agencies
13 and with the Office of Technology Evaluation (estab-
14 lished pursuant to section 214).

15 (2) TIME FOR MAKING DETERMINATION.—The
16 Secretary shall, within 6 months after receiving a
17 petition described in subsection (a)(3), determine
18 whether the item that is the subject of the petition
19 has foreign availability or mass-market status and
20 shall notify the petitioner of the determination.

21 (c) RESULT OF DETERMINATION.—In any case in
22 which the Secretary determines, in accordance with proce-
23 dures and criteria which the Secretary shall by regulation
24 establish, that an item described in subsection (a) has—

25 (1) a foreign availability status, or

1 (2) a mass-market status,
2 the Secretary shall notify the President (and other appro-
3 priate departments and agencies) and publish the notice
4 of the determination in the Federal Register. The Sec-
5 retary's determination shall become final 30 days after the
6 date the notice is published, the item shall be removed
7 from the National Security Control List, and a license or
8 other authorization shall not be required under this title
9 or under section 1211 of the National Defense Authoriza-
10 tion Act of Fiscal Year 1998 with respect to the item,
11 unless the President makes a determination described in
12 section 212 or 213, or takes action under section 309,
13 with respect to the item in that 30-day period.

14 (d) CRITERIA FOR DETERMINING FOREIGN AVAIL-
15 ABILITY AND MASS-MARKET STATUS.—

16 (1) FOREIGN AVAILABILITY STATUS.—The Sec-
17 retary shall determine that an item has foreign
18 availability status under this subtitle, if the item (or
19 a substantially identical or directly competitive
20 item)—

21 (A) is available to controlled countries
22 from sources outside the United States, includ-
23 ing countries that participate with the United
24 States in multilateral export controls;

1 (B) can be acquired at a price that is not
2 excessive when compared to the price at which
3 a controlled country could acquire such item
4 from sources within the United States in the
5 absence of export controls; and

6 (C) is available in sufficient quantity so
7 that the requirement of a license or other au-
8 thorization with respect to the export of such
9 item is or would be ineffective.

10 (2) MASS-MARKET STATUS.—

11 (A) IN GENERAL.—In determining whether
12 an item has mass-market status under this sub-
13 title, the Secretary shall consider the following
14 criteria with respect to the item (or a substan-
15 tially identical or directly competitive item):

16 (i) The production and availability for
17 sale in a large volume to multiple potential
18 purchasers.

19 (ii) The widespread distribution
20 through normal commercial channels, such
21 as retail stores, direct marketing cata-
22 logues, electronic commerce, and other
23 channels.

1 (iii) The conduciveness to shipment
2 and delivery by generally accepted commer-
3 cial means of transport.

4 (iv) The use for the item's normal in-
5 tended purpose without substantial and
6 specialized service provided by the manu-
7 facturer, distributor, or other third party.

8 (B) DETERMINATION BY SECRETARY.—If
9 the Secretary finds that the item (or a substan-
10 tially identical or directly competitive item)
11 meets the criteria set forth in subparagraph
12 (A), the Secretary shall determine that the item
13 has mass-market status.

14 (3) SPECIAL RULES.—For purposes of this
15 subtitle—

16 (A) SUBSTANTIALLY IDENTICAL ITEM.—
17 The determination of whether an item in rela-
18 tion to another item is a substantially identical
19 item shall include a fair assessment of end-uses,
20 the properties, nature, and quality of the item.

21 (B) DIRECTLY COMPETITIVE ITEM.—

22 (i) IN GENERAL.—The determination
23 of whether an item in relation to another
24 item is a directly competitive item shall in-
25 clude a fair assessment of whether the

1 item, although not substantially identical
2 in its intrinsic or inherent characteristics,
3 is substantially equivalent for commercial
4 purposes and may be adapted for substan-
5 tially the same uses.

6 (ii) EXCEPTION.—An item is not di-
7 rectly competitive with a controlled item if
8 the item is substantially inferior to the
9 controlled item with respect to characteris-
10 ties that resulted in the export of the item
11 being controlled.

12 **SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAIL-**
13 **ABILITY DETERMINATION.**

14 (a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

15 (1) GENERAL CRITERIA.—

16 (A) IN GENERAL.—If the President deter-
17 mines that—

18 (i)(I) decontrolling or failing to con-
19 trol an item constitutes a threat to the na-
20 tional security of the United States, and
21 export controls on the item would advance
22 the national security interests of the
23 United States, and

24 (II) there is a high probability that
25 the foreign availability of an item will be

1 eliminated through international negotia-
2 tions within a reasonable period of time
3 taking into account the characteristics of
4 the item, or

5 (ii) failure to control an item would be
6 contrary to the provisions of section 309,
7 the President may set aside the Secretary's de-
8 termination of foreign availability status with
9 respect to the item.

10 (B) NONDELEGATION.—The President
11 may not delegate the authority provided for in
12 this paragraph.

13 (2) REPORT TO CONGRESS.—The President
14 shall promptly—

15 (A) report any set-aside determination de-
16 scribed in paragraph (1), along with the specific
17 reasons why the determination was made, to
18 the Committee on Banking, Housing, and
19 Urban Affairs of the Senate and the Committee
20 on International Relations of the House of Rep-
21 resentatives; and

22 (B) publish the determination in the Fed-
23 eral Register.

24 (b) PRESIDENTIAL ACTION IN CASE OF SET-
25 ASIDE.—

1 (1) IN GENERAL.—

2 (A) NEGOTIATIONS.—In any case in which
3 export controls are maintained on an item be-
4 cause the President has made a determination
5 under subsection (a), the President shall ac-
6 tively pursue negotiations with the governments
7 of the appropriate foreign countries for the pur-
8 pose of eliminating such availability.

9 (B) REPORT TO CONGRESS.—Not later
10 than the date the President begins negotiations,
11 the President shall notify in writing the Com-
12 mittee on Banking, Housing, and Urban Affairs
13 of the Senate and the Committee on Inter-
14 national Relations of the House of Representa-
15 tives that the President has begun such nego-
16 tiations and why the President believes it is im-
17 portant to the national security that export con-
18 trols on the item involved be maintained.

19 (2) PERIODIC REVIEW OF DETERMINATION.—
20 The President shall review a determination described
21 in subsection (a) at least every 6 months. Promptly
22 after each review is completed, the Secretary shall
23 submit to the committees of Congress referred to in
24 paragraph (1)(B) a report on the results of the re-
25 view, together with the status of international nego-

1 tiations to eliminate the foreign availability of the
2 item.

3 (3) EXPIRATION OF PRESIDENTIAL SET-
4 ASIDE.—A determination by the President described
5 in subsection (a)(1)(A) shall cease to apply with re-
6 spect to an item on the earlier of—

7 (A) the date that is 6 months after the date
8 on which the determination is made under sub-
9 section (a), if the President has not commenced
10 international negotiations to eliminate the for-
11 eign availability of the item within that 6-month
12 period;

13 (B) the date on which the negotiations de-
14 scribed in paragraph (1) have terminated with-
15 out achieving an agreement to eliminate foreign
16 availability;

17 (C) the date on which the President deter-
18 mines that there is not a high probability of
19 eliminating foreign availability of the item
20 through negotiation; or

21 (D) the date that is 18 months after the
22 date on which the determination described in
23 subsection (a)(1)(A) is made if the President
24 has been unable to achieve an agreement to

1 eliminate foreign availability within that 18-
2 month period.

3 (4) ACTION ON EXPIRATION OF PRESIDENTIAL
4 SET-ASIDE.—Upon the expiration of a Presidential
5 set-aside under paragraph (3) with respect to an
6 item, the Secretary shall not require a license or
7 other authorization to export the item.

8 **SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STA-**
9 **TUS DETERMINATION.**

10 (a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

11 (1) GENERAL CRITERIA.—If the President de-
12 termines that—

13 (A)(i) decontrolling or failing to control an
14 item constitutes a serious threat to the national
15 security of the United States, and

16 (ii) export controls on the item would ad-
17 vance the national security interests of the
18 United States, or

19 (B) failure to control an item would be
20 contrary to the provisions of section 309,
21 the President may set aside the Secretary's deter-
22 mination of mass-market status with respect to the
23 item.

1 (2) NONDELEGATION.—The President may not
2 delegate the authority provided for in this sub-
3 section.

4 (b) PRESIDENTIAL ACTION IN CASE OF SET-
5 ASIDE.—

6 (1) IN GENERAL.—In any case in which export
7 controls are maintained on an item because the
8 President has made a determination under sub-
9 section (a), the President shall report the determina-
10 tion, along with the specific reasons why the deter-
11 mination was made, to the Committee on Banking,
12 Housing, and Urban Affairs of the Senate and the
13 Committee on International Relations of the House
14 of Representatives, and shall publish notice of the
15 determination in the Federal Register not later than
16 30 days after the Secretary publishes notice of the
17 Secretary's determination that an item has mass-
18 market status.

19 (2) PERIODIC REVIEW OF DETERMINATION.—
20 The President shall review a determination made
21 under subsection (a) at least every 6 months.
22 Promptly after each review is completed, the Sec-
23 retary shall submit a report on the results of the re-
24 view to the Committee on Banking, Housing, and
25 Urban Affairs of the Senate and the Committee on

1 International Relations of the House of Representa-
2 tives.

3 **SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.**

4 (a) IN GENERAL.—

5 (1) ESTABLISHMENT OF OFFICE.—The Sec-
6 retary shall establish in the Department of Com-
7 merce an Office of Technology Evaluation (in this
8 subtitle referred to as the “Office”), which shall be
9 under the direction of the Secretary. The Office
10 shall be responsible for gathering, coordinating, and
11 analyzing all the necessary information in order for
12 the Secretary to make determinations of foreign
13 availability and mass-market status under this Act.

14 (2) STAFF.—The Secretary shall ensure that
15 the Office include persons with the training, exper-
16 tise and experience in economic analysis, the defense
17 industrial base, technological developments, national
18 security, and foreign policy export controls to carry
19 out the responsibilities set forth in subsection (b) of
20 this section. In addition to employees of the Depart-
21 ment of Commerce, the Secretary may accept on
22 nonreimbursable detail to the Office, employees of
23 the Departments of Defense, State, and Energy and
24 other departments and agencies as appropriate.

1 (b) RESPONSIBILITIES.—The Office shall be respon-
2 sible for—

3 (1) conducting foreign availability assessments
4 to determine whether a controlled item is available
5 to controlled countries and whether requiring a li-
6 cense, or denial of a license for the export of such
7 item, is or would be ineffective;

8 (2) conducting mass-market assessments to de-
9 termine whether a controlled item is available to
10 controlled countries because of the mass-market sta-
11 tus of the item;

12 (3) monitoring and evaluating worldwide tech-
13 nological developments in industry sectors critical to
14 the national security interests of the United States
15 to determine foreign availability and mass-market
16 status of controlled items;

17 (4) monitoring and evaluating multilateral ex-
18 port control regimes and foreign government export
19 control policies and practices that affect the national
20 security interests of the United States;

21 (5) conducting assessments of United States in-
22 dustrial sectors critical to the United States defense
23 industrial base and how the sectors are affected by
24 technological developments, technology transfers,
25 and foreign competition; and

1 (6) conducting assessments of the impact of
2 United States export control policies on—

3 (A) United States industrial sectors critical
4 to the national security interests of the United
5 States; and

6 (B) the United States economy in general.

7 (c) REPORTS TO CONGRESS.—The Secretary shall
8 make available to the Committee on International Rela-
9 tions of the House of Representatives and the Committee
10 on Banking, Housing, and Urban Affairs of the Senate
11 as part of the Secretary’s annual report required under
12 section 801 information on the operations of the Office,
13 and on improvements in the Government’s ability to assess
14 foreign availability and mass-market status, during the
15 fiscal year preceding the report, including information on
16 the training of personnel, and the use of Commercial Serv-
17 ice Officers of the United States and Foreign Commercial
18 Service to assist in making determinations. The informa-
19 tion shall also include a description of determinations
20 made under this Act during the preceding fiscal year that
21 foreign availability or mass-market status did or did not
22 exist (as the case may be), together with an explanation
23 of the determinations.

24 (d) SHARING OF INFORMATION.—Each department
25 or agency of the United States, including any intelligence

1 agency, and all contractors with any such department or
2 agency, shall, consistent with the need to protect intel-
3 ligence sources and methods, furnish information to the
4 Office concerning foreign availability and the mass-market
5 status of items subject to export controls under this Act.

6 **TITLE III—FOREIGN POLICY**
7 **EXPORT CONTROLS**

8 **SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CON-**
9 **TROLS.**

10 (a) **AUTHORITY.**—

11 (1) **IN GENERAL.**—In order to carry out the
12 purposes set forth in subsection (b), the President
13 may, in accordance with the provisions of this Act,
14 prohibit, curtail, or require a license, other author-
15 ization, recordkeeping, or reporting for the export of
16 any item subject to the jurisdiction of the United
17 States or exported by any person subject to the ju-
18 risdiction of the United States.

19 (2) **EXERCISE OF AUTHORITY.**—The authority
20 contained in this subsection shall be exercised by the
21 Secretary, in consultation with the Secretary of
22 State and such other departments and agencies as
23 the Secretary considers appropriate.

24 (b) **PURPOSES.**—The purposes of foreign policy ex-
25 port controls are the following:

1 (1) To promote the foreign policy objectives of
2 the United States, consistent with the purposes of
3 this section and the provisions of this Act.

4 (2) To promote international peace, stability,
5 and respect for fundamental human rights.

6 (3) To use export controls to deter and punish
7 acts of international terrorism and to encourage
8 other countries to take immediate steps to prevent
9 the use of their territories or resources to aid, en-
10 courage, or give sanctuary to those persons involved
11 in directing, supporting, or participating in acts of
12 international terrorism.

13 (c) EXCEPTION.—The President may not control
14 under this title the export from a foreign country (whether
15 or not by a United States person) of any item produced
16 or originating in a foreign country that contains parts or
17 components produced or originating in the United States.

18 (d) CONTRACT SANCTITY.—

19 (1) IN GENERAL.—The President may not pro-
20 hibit the export of any item under this title if that
21 item is to be exported—

22 (A) in performance of a binding contract,
23 agreement, or other contractual commitment
24 entered into before the date on which the Presi-
25 dent reports to Congress the President's inten-

1 tion to impose controls on that item under this
2 title; or

3 (B) under a license or other authorization
4 issued under this Act before the earlier of the
5 date on which the control is initially imposed or
6 the date on which the President reports to Con-
7 gress the President's intention to impose con-
8 trols under this title.

9 (2) EXCEPTION.—The prohibition contained in
10 paragraph (1) shall not apply in any case in which
11 the President determines and certifies to the Com-
12 mittee on Banking, Housing, and Urban Affairs of
13 the Senate and the Committee on International Re-
14 lations of the House of Representatives that—

15 (A) there is a serious threat to a foreign
16 policy interest of the United States;

17 (B) the prohibition of exports under each
18 binding contract, agreement, commitment, li-
19 cense, or authorization will be instrumental in
20 remedying the situation posing the serious
21 threat; and

22 (C) the export controls will be in effect
23 only as long as the serious threat exists.

24 **SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.**

25 (a) NOTICE.—

1 (1) INTENT TO IMPOSE FOREIGN POLICY EX-
2 PORT CONTROL.—Except as provided in section 306,
3 not later than 45 days before imposing or imple-
4 menting an export control under this title, the Presi-
5 dent shall publish in the Federal Register—

6 (A) a notice of intent to do so; and

7 (B) provide for a period of not less than
8 30 days for any interested person to submit
9 comments on the export control proposed under
10 this title.

11 (2) PURPOSES OF NOTICE.—The purposes of
12 the notice are—

13 (A) to provide an opportunity for the for-
14 mulation of an effective export control policy
15 under this title that advances United States
16 economic and foreign policy interests; and

17 (B) to provide an opportunity for negotia-
18 tions to achieve the purposes set forth in sec-
19 tion 301(b).

20 (b) NEGOTIATIONS.—During the 45-day period that
21 begins on the date of notice described in subsection (a),
22 the President may negotiate with the government of the
23 foreign country against which the export control is pro-
24 posed in order to resolve the reasons underlying the pro-
25 posed export control.

1 (c) CONSULTATION.—

2 (1) REQUIREMENT.—The President shall con-
3 sult with the Committee on Banking, Housing, and
4 Urban Affairs of the Senate and the Committee on
5 International Relations of the House of Representa-
6 tives regarding any export control proposed under
7 this title and the efforts to achieve or increase multi-
8 lateral cooperation on the issues or problems under-
9 lying the proposed export control.

10 (2) CLASSIFIED CONSULTATION.—The con-
11 sultations described in paragraph (1) may be con-
12 ducted on a classified basis if the Secretary con-
13 siders it necessary.

14 **SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CON-**
15 **TROLS.**

16 Each export control imposed by the President under
17 this title shall—

18 (1) have clearly stated and specific United
19 States foreign policy objectives;

20 (2) have objective standards for evaluating the
21 success or failure of the export control;

22 (3) include an assessment by the President
23 that—

1 (A) the export control is likely to achieve
2 such objectives and the expected time for
3 achieving the objectives; and

4 (B) the achievement of the objectives of
5 the export control outweighs any potential costs
6 of the export control to other United States
7 economic, foreign policy, humanitarian, or na-
8 tional security interests;

9 (4) be targeted narrowly; and

10 (5) seek to minimize any adverse impact on the
11 humanitarian activities of United States and foreign
12 nongovernmental organizations in the country sub-
13 ject to the export control.

14 **SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF**
15 **CONTROL.**

16 (a) REQUIREMENT.—Before imposing an export con-
17 trol under this title, the President shall submit to the
18 Committee on Banking, Housing, and Urban Affairs of
19 the Senate and the Committee on International Relations
20 of the House of Representatives a report on the proposed
21 export control. The report may be provided on a classified
22 basis if the Secretary considers it necessary.

23 (b) CONTENT.—The report shall contain a descrip-
24 tion and assessment of each of the criteria described in

1 section 303. In addition, the report shall contain a descrip-
2 tion and assessment of—

3 (1) any diplomatic and other steps that the
4 United States has taken to accomplish the intended
5 objective of the proposed export control;

6 (2) unilateral export controls imposed, and
7 other measures taken, by other countries to achieve
8 the intended objective of the proposed export con-
9 trol;

10 (3) the likelihood of multilateral adoption of
11 comparable export controls;

12 (4) alternative measures to promote the same
13 objectives and the likelihood of their potential suc-
14 cess;

15 (5) any United States obligations under inter-
16 national trade agreements, treaties, or other inter-
17 national arrangements, with which the proposed ex-
18 port control may conflict;

19 (6) the likelihood that the proposed export con-
20 trol could lead to retaliation against United States
21 interests;

22 (7) the likely economic impact of the proposed
23 export control on the United States economy, United
24 States international trade and investment, and

1 United States agricultural interests, commercial in-
2 terests, and employment; and

3 (8) a conclusion that the probable achievement
4 of the objectives of the proposed export control out-
5 weighs any likely costs to United States economic,
6 foreign policy, humanitarian, or national security in-
7 terests, including any potential harm to the United
8 States agricultural and business firms and to the
9 international reputation of the United States as a
10 reliable supplier of goods, services, or technology.

11 **SEC. 305. IMPOSITION OF CONTROLS.**

12 The President may impose an export control under
13 this title after the submission of the report required under
14 section 304 and publication in the Federal Register of a
15 notice of the imposition of the export control .

16 **SEC. 306. DEFERRAL AUTHORITY.**

17 (a) **AUTHORITY.**—The President may defer compli-
18 ance with any requirement contained in section 302(a),
19 304, or 305 in the case of a proposed export control if—

20 (1) the President determines that a deferral of
21 compliance with the requirement is in the national
22 interest of the United States; and

23 (2) the requirement is satisfied not later than
24 60 days after the date on which the export control
25 is imposed under this title.

1 (b) TERMINATION OF CONTROL.—An export control
2 with respect to which a deferral has been made under sub-
3 section (a) shall terminate 60 days after the date the ex-
4 port control is imposed unless all requirements have been
5 satisfied before the expiration of the 60-day period.

6 **SEC. 307. REVIEW, RENEWAL, AND TERMINATION.**

7 (a) RENEWAL AND TERMINATION.—

8 (1) IN GENERAL.—Any export control imposed
9 under this title shall terminate on March 31 of each
10 renewal year unless the President renews the export
11 control on or before such date. For purposes of this
12 section, the term “renewal year” means 2003 and
13 every 2 years thereafter.

14 (2) EXCEPTION.—This section shall not apply
15 to an export control imposed under this title that—

16 (A) is required by law;

17 (B) is targeted against any country des-
18 ignated as a country supporting international
19 terrorism pursuant to section 310; or

20 (C) has been in effect for less than 1 year
21 as of February 1 of a renewal year.

22 (b) REVIEW.—

23 (1) IN GENERAL.—Not later than February 1
24 of each renewal year, the President shall review all
25 export controls in effect under this title.

1 (2) CONSULTATION.—

2 (A) REQUIREMENT.—Before completing a
3 review under paragraph (1), the President shall
4 consult with the Committee on Banking, Hous-
5 ing, and Urban Affairs of the Senate and the
6 Committee on International Relations of the
7 House of Representative regarding each export
8 control that is being reviewed.

9 (B) CLASSIFIED CONSULTATION.—The
10 consultations may be conducted on a classified
11 basis if the Secretary considers it necessary.

12 (3) PUBLIC COMMENT.—In conducting the re-
13 view of each export control under paragraph (1), the
14 President shall provide a period of not less than 30
15 days for any interested person to submit comments
16 on renewal of the export control. The President shall
17 publish notice of the opportunity for public comment
18 in the Federal Register not less than 45 days before
19 the review is required to be completed.

20 (c) REPORT TO CONGRESS.—

21 (1) REQUIREMENT.—Before renewing an export
22 control imposed under this title, the President shall
23 submit to the committees of Congress referred to in
24 subsection (b)(2)(A) a report on each export control
25 that the President intends to renew.

1 (2) FORM AND CONTENT OF REPORT.—The re-
2 report may be provided on a classified basis if the Sec-
3 retary considers it necessary. Each report shall con-
4 tain the following:

5 (A) A clearly stated explanation of the spe-
6 cific United States foreign policy objective that
7 the existing export control was intended to
8 achieve.

9 (B) An assessment of—

10 (i) the extent to which the existing ex-
11 port control achieved its objectives before
12 renewal based on the objective criteria es-
13 tablished for evaluating the export control;
14 and

15 (ii) the reasons why the existing ex-
16 port control has failed to fully achieve its
17 objectives and, if renewed, how the export
18 control will achieve that objective before
19 the next renewal year.

20 (C) An updated description and assess-
21 ment of—

22 (i) each of the criteria described in
23 section 303, and

1 (ii) each matter required to be re-
2 ported under section 304(b) (1) through
3 (8).

4 (3) RENEWAL OF EXPORT CONTROL.—The
5 President may renew an export control under this
6 title after submission of the report described in
7 paragraph (2) and publication of notice of renewal
8 in the Federal Register.

9 **SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, the President—

12 (1) shall terminate any export control imposed
13 under this title if the President determines that the
14 control has substantially achieved the objective for
15 which it was imposed; and

16 (2) may terminate any export control imposed
17 under this title that is not required by law at any
18 time.

19 (b) EXCEPTION.—Paragraphs (1) and (2) of sub-
20 section (a) do not apply to any export control imposed
21 under this title that is targeted against any country des-
22 ignated as a country supporting international terrorism
23 pursuant to section 310.

24 (c) EFFECTIVE DATE OF TERMINATION.—The termi-
25 nation of an export control pursuant to this section shall

1 take effect on the date notice of the termination is pub-
2 lished in the Federal Register.

3 **SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGA-**
4 **TIONS.**

5 Notwithstanding any other provision of this Act set-
6 ting forth limitations on authority to control exports and
7 except as provided in section 304, the President may im-
8 pose controls on exports to a particular country or coun-
9 tries in order to fulfill obligations or commitments of the
10 United States under resolutions of the United Nations and
11 under treaties, or other international agreements and ar-
12 rangements, to which the United States is a party.

13 **SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING**
14 **INTERNATIONAL TERRORISM.**

15 (a) LICENSE REQUIRED.—A license shall be required
16 for the export of an item to a country if the Secretary
17 of State has determined that—

18 (1) the government of such country has repeat-
19 edly provided support for acts of international ter-
20 rorism; and

21 (2) the export of the item could make a signifi-
22 cant contribution to the military potential of such
23 country, including its military logistics capability, or
24 could enhance the ability of such country to support
25 acts of international terrorism.

1 (b) NOTIFICATION.—The Secretary and the Sec-
2 retary of State shall notify the Committee on International
3 Relations of the House of Representatives and the Com-
4 mittee on Banking, Housing, and Urban Affairs and the
5 Committee on Foreign Relations of the Senate at least 30
6 days before issuing any license required by subsection (a).

7 (c) DETERMINATIONS REGARDING REPEATED SUP-
8 PORT.—Each determination of the Secretary of State
9 under subsection (a)(1), including each determination in
10 effect on the date of the enactment of the Antiterrorism
11 and Arms Export Amendments Act of 1989, shall be pub-
12 lished in the Federal Register.

13 (d) LIMITATIONS ON RESCINDING DETERMINA-
14 TION.—A determination made by the Secretary of State
15 under subsection (a)(1) may not be rescinded unless the
16 President submits to the Speaker of the House of Rep-
17 resentatives and the Chairman of the Committee on Bank-
18 ing, Housing, and Urban Affairs and the Chairman of the
19 Committee on Foreign Relations of the Senate—

20 (1) before the proposed rescission would take
21 effect, a report certifying that—

22 (A) there has been a fundamental change
23 in the leadership and policies of the government
24 of the country concerned;

1 (B) that government is not supporting acts
2 of international terrorism; and

3 (C) that government has provided assur-
4 ances that it will not support acts of inter-
5 national terrorism in the future; or

6 (2) at least 45 days before the proposed rescis-
7 sion would take effect, a report justifying the rescis-
8 sion and certifying that—

9 (A) the government concerned has not pro-
10 vided any support for international terrorism
11 during the preceding 6-month period; and

12 (B) the government concerned has pro-
13 vided assurances that it will not support acts of
14 international terrorism in the future.

15 (e) INFORMATION TO BE INCLUDED IN NOTIFICA-
16 TION.—The Secretary and the Secretary of State shall in-
17 clude in the notification required by subsection (b)—

18 (1) a detailed description of the item to be of-
19 fered, including a brief description of the capabilities
20 of any item for which a license to export is sought;

21 (2) the reasons why the foreign country or
22 international organization to which the export or
23 transfer is proposed to be made needs the item
24 which is the subject of such export or transfer and

1 a description of the manner in which such country
2 or organization intends to use the item;

3 (3) the reasons why the proposed export or
4 transfer is in the national interest of the United
5 States;

6 (4) an analysis of the impact of the proposed
7 export or transfer on the military capabilities of the
8 foreign country or international organization to
9 which such export or transfer would be made;

10 (5) an analysis of the manner in which the pro-
11 posed export would affect the relative military
12 strengths of countries in the region to which the
13 item which is the subject of such export would be de-
14 livered and whether other countries in the region
15 have comparable kinds and amounts of the item; and

16 (6) an analysis of the impact of the proposed
17 export or transfer on the United States relations
18 with the countries in the region to which the item
19 which is the subject of such export would be deliv-
20 ered.

1 **TITLE IV—EXEMPTION FOR AG-**
2 **RICULTURAL COMMODITIES,**
3 **MEDICINE, AND MEDICAL**
4 **SUPPLIES**

5 **SEC. 401. EXEMPTION FOR AGRICULTURAL COMMODITIES,**
6 **MEDICINE, AND MEDICAL SUPPLIES.**

7 Notwithstanding any other provision of law, the ex-
8 port controls imposed on items under title III shall not
9 apply to agricultural commodities, medicine, and medical
10 supplies.

11 **SEC. 402. TERMINATION OF EXPORT CONTROLS REQUIRED**
12 **BY LAW.**

13 Notwithstanding any other provision of law, the
14 President shall terminate any export control mandated by
15 law on agricultural commodities, medicine, and medical
16 supplies upon the date of enactment of this Act except
17 for a control that is specifically reimposed by law.

18 **SEC. 403. EXCLUSIONS.**

19 Sections 401 and 402 do not apply to the following:

20 (1) The export of agricultural commodities,
21 medicine, and medical supplies that are subject to
22 national security export controls under title II or are
23 listed on the United States Munitions List estab-
24 lished under section 38 of the Arms Export Control
25 Act (22 U.S.C. 2778).

1 (2) The export of agricultural commodities,
2 medicine, and medical supplies to a country against
3 which an embargo is in effect under the Trading
4 With the Enemy Act.

5 **TITLE V—PROCEDURES FOR EX-**
6 **PORT LICENSES AND INTER-**
7 **AGENCY DISPUTE RESOLU-**
8 **TION**

9 **SEC. 501. EXPORT LICENSE PROCEDURES.**

10 (a) RESPONSIBILITY OF THE SECRETARY.—

11 (1) IN GENERAL.—All applications for a license
12 or other authorization to export a controlled item
13 shall be filed in such manner and include such infor-
14 mation as the Secretary may, by regulation, pre-
15 scribe.

16 (2) PROCEDURES.—In guidance and regulations
17 that implement this section, the Secretary shall de-
18 scribe the procedures required by this section, the
19 responsibilities of the Secretary and of other depart-
20 ments and agencies in reviewing applications, the
21 rights of the applicant, and other relevant matters
22 affecting the review of license applications.

23 (3) CALCULATION OF PROCESSING TIMES.—In
24 calculating the processing times set forth in this
25 title, the Secretary shall use calendar days, except

1 that if the final day for a required action falls on a
2 weekend or holiday, that action shall be taken no
3 later than the following business day.

4 (4) CRITERIA FOR EVALUATING APPLICA-
5 TIONS.—In determining whether to grant an appli-
6 cation to export a controlled item under this Act, the
7 following criteria shall be considered:

8 (A) The characteristics of the controlled
9 item.

10 (B) The threat to—

11 (i) the national security interests of
12 the United States from items controlled
13 under title II of this Act; or

14 (ii) the foreign policy of the United
15 States from items controlled under title III
16 of this Act.

17 (C) The country tier designation of the
18 country to which a controlled item is to be ex-
19 ported pursuant to section 203.

20 (D) The risk of export diversion or misuse
21 by—

22 (i) the exporter;

23 (ii) the method of export;

24 (iii) the end-user;

1 (iv) the country where the end-user is
2 located; and

3 (v) the end-use.

4 (E) Risk mitigating factors including, but
5 not limited to—

6 (i) changing the characteristics of the
7 controlled item;

8 (ii) after-market monitoring by the ex-
9 porter; and

10 (iii) post-shipment verification.

11 (b) INITIAL SCREENING.—

12 (1) UPON RECEIPT OF APPLICATION.—Upon re-
13 ceipt of an export license application, the Secretary
14 shall enter and maintain in the records of the De-
15 partment information regarding the receipt and sta-
16 tus of the application.

17 (2) INITIAL PROCEDURES.—

18 (A) IN GENERAL.—Not later than 9 days
19 after receiving any license application, the Sec-
20 retary shall—

21 (i) contact the applicant if the appli-
22 cation is improperly completed or if addi-
23 tional information is required, and hold the
24 application for a reasonable time while the
25 applicant provides the necessary correc-

1 tions or information, and such time shall
2 not be included in calculating the time pe-
3 riods prescribed in this title;

4 (ii) refer the application, through the
5 use of a common data base or other
6 means, and all information submitted by
7 the applicant, and all necessary rec-
8 ommendations and analyses by the Sec-
9 retary to the Secretary of Defense, the
10 Secretary of State, and the heads of and
11 other departments and agencies the Sec-
12 retary considers appropriate;

13 (iii) ensure that the classification stat-
14 ed on the application for the export items
15 is correct; and

16 (iv) return the application if a license
17 is not required.

18 (B) REFERRAL NOT REQUIRED.—In the
19 event that the head of a department or agency
20 determines that certain types of applications
21 need not be referred to the department or agen-
22 cy, such department or agency head shall notify
23 the Secretary of the specific types of such appli-
24 cations that the department or agency does not
25 wish to review.

1 (3) WITHDRAWAL OF APPLICATION.—An appli-
2 cant may, by written notice to the Secretary, with-
3 draw an application at any time before final action.

4 (c) ACTION BY OTHER DEPARTMENTS AND AGEN-
5 CIES.—

6 (1) REFERRAL TO OTHER AGENCIES.—The Sec-
7 retary shall promptly refer a license application to
8 the departments and agencies under subsection (b)
9 to make recommendations and provide information
10 to the Secretary.

11 (2) RESPONSIBILITY OF REFERRAL DEPART-
12 MENTS AND AGENCIES.—The Secretary of Defense,
13 the Secretary of State, and the heads of other re-
14 viewing departments and agencies shall take all nec-
15 essary actions in a prompt and responsible manner
16 on an application. Each department or agency re-
17 viewing an application under this section shall estab-
18 lish and maintain records properly identifying and
19 monitoring the status of the matter referred to the
20 department or agency.

21 (3) ADDITIONAL INFORMATION REQUESTS.—
22 Each department or agency to which a license appli-
23 cation is referred shall specify to the Secretary any
24 information that is not in the application that would
25 be required for the department or agency to make

1 a determination with respect to the application, and
2 the Secretary shall promptly request such informa-
3 tion from the applicant. The time that may elapse
4 between the date the information is requested by
5 that department or agency and the date the infor-
6 mation is received by that department or agency
7 shall not be included in calculating the time periods
8 prescribed in this title.

9 (4) TIME PERIOD FOR ACTION BY REFERRAL
10 DEPARTMENTS AND AGENCIES.—Within 30 days
11 after the Secretary refers an application under this
12 section, each department or agency to which an ap-
13 plication has been referred shall provide the Sec-
14 retary with a recommendation either to approve the
15 license or to deny the license. A recommendation
16 that the Secretary deny a license shall include a
17 statement of reasons for the recommendation that
18 are consistent with the provisions of this title, and
19 shall cite both the specific statutory and regulatory
20 basis for the recommendation. A department or
21 agency that fails to provide a recommendation in ac-
22 cordance with this paragraph within that 30-day pe-
23 riod shall be deemed to have no objection to the de-
24 cision of the Secretary on the application.

1 (d) ACTION BY THE SECRETARY.—Not later than 30
2 days after the date the application is referred, the Sec-
3 retary shall—

4 (1) if there is agreement among the referral de-
5 partments and agencies to issue or deny the
6 license—

7 (A) issue the license and ensure all appro-
8 priate personnel in the Department (including
9 the Office of Export Enforcement) are notified
10 of all approved license applications; or

11 (B) notify the applicant of the intention to
12 deny the license; or

13 (2) if there is no agreement among the referral
14 departments and agencies, notify the applicant that
15 the application is subject to the interagency dispute
16 resolution process provided for in section 502.

17 (e) CONSEQUENCES OF APPLICATION DENIAL.—

18 (1) IN GENERAL.—If a determination is made
19 to deny a license, the applicant shall be informed in
20 writing by the Secretary of—

21 (A) the determination;

22 (B) the specific statutory and regulatory
23 bases for the proposed denial;

24 (C) what, if any, modifications to, or re-
25 strictions on, the items for which the license

1 was sought would allow such export to be com-
2 patible with export controls imposed under this
3 Act, and which officer or employee of the De-
4 partment would be in a position to discuss
5 modifications or restrictions with the applicant
6 and the specific statutory and regulatory bases
7 for imposing such modifications or restrictions;

8 (D) to the extent consistent with the na-
9 tional security and foreign policy interests of
10 the United States, the specific considerations
11 that led to the determination to deny the appli-
12 cation; and

13 (E) the availability of appeal procedures.

14 (2) PERIOD FOR APPLICANT TO RESPOND.—

15 The applicant shall have 20 days from the date of
16 the notice of intent to deny the application to re-
17 spond in a manner that addresses and corrects the
18 reasons for the denial. If the applicant does not ade-
19 quately address or correct the reasons for denial or
20 does not respond, the license shall be denied. If the
21 applicant does address or correct the reasons for de-
22 nial, the application shall receive consideration in a
23 timely manner.

24 (f) APPEALS AND OTHER ACTIONS BY APPLICANT.—

1 (1) IN GENERAL.—The Secretary shall establish
2 appropriate procedures for an applicant to appeal to
3 the Secretary the denial of an application or other
4 administrative action under this Act. In any case in
5 which the Secretary proposes to reverse the decision
6 with respect to the application, the appeal under this
7 subsection shall be handled in accordance with the
8 interagency dispute resolution process provided for
9 in section 502(b)(3).

10 (2) ENFORCEMENT OF TIME LIMITS.—

11 (A) IN GENERAL.—In any case in which
12 an action prescribed in this section is not taken
13 on an application within the time period estab-
14 lished by this section (except in the case of a
15 time period extended under subsection (g) of
16 which the applicant is notified), the applicant
17 may file a petition with the Secretary request-
18 ing compliance with the requirements of this
19 section. When such petition is filed, the Sec-
20 retary shall take immediate steps to correct the
21 situation giving rise to the petition and shall
22 immediately notify the applicant of such steps.

23 (B) BRINGING COURT ACTION.—If, within
24 20 days after a petition is filed under subpara-
25 graph (A), the processing of the application has

1 not been brought into conformity with the re-
2 quirements of this section, or the processing of
3 the application has been brought into con-
4 formity with such requirements but the Sec-
5 retary has not so notified the applicant, the ap-
6 plicant may bring an action in an appropriate
7 United States district court for an order requir-
8 ing compliance with the time periods required
9 by this section.

10 (g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—

11 The following actions related to processing an application
12 shall not be included in calculating the time periods pre-
13 scribed in this section:

14 (1) AGREEMENT OF THE APPLICANT.—Delays
15 upon which the Secretary and the applicant mutu-
16 ally agree.

17 (2) PRELICENSE CHECKS.—A prelicense check
18 (for a period not to exceed 60 days) that may be re-
19 quired to establish the identity and reliability of the
20 recipient of items controlled under this Act, if—

21 (A) the need for the prelicense check is de-
22 termined by the Secretary or by another depart-
23 ment or agency in any case in which the re-
24 quest for the prelicense check is made by such
25 department or agency;

1 (B) the request for the prelicense check is
2 initiated by the Secretary within 5 days after
3 the determination that the prelicense check is
4 required; and

5 (C) the analysis of the result of the
6 prelicense check is completed by the Secretary
7 within 5 days.

8 (3) REQUESTS FOR GOVERNMENT-TO-GOVERN-
9 MENT ASSURANCES.—Any request by the Secretary
10 or another department or agency for government-to-
11 government assurances of suitable end-uses of items
12 approved for export, when failure to obtain such as-
13 surances would result in rejection of the application,
14 if—

15 (A) the request for such assurances is sent
16 to the Secretary of State within 5 days after
17 the determination that the assurances are re-
18 quired;

19 (B) the Secretary of State initiates the re-
20 quest of the relevant government within 10
21 days thereafter; and

22 (C) the license is issued within 5 days
23 after the Secretary receives the requested assur-
24 ances.

1 (4) EXCEPTION.—Whenever a prelicense check
2 described in paragraph (2) or assurances described
3 in paragraph (3) are not requested within the time
4 periods set forth therein, then the time expended for
5 such prelicense check or assurances shall be included
6 in calculating the time periods established by this
7 section.

8 (5) MULTILATERAL REVIEW.—Multilateral re-
9 view of a license application to the extent that such
10 multilateral review is required by a relevant multilat-
11 eral regime.

12 (6) CONGRESSIONAL NOTIFICATION.—Such
13 time as is required for mandatory congressional noti-
14 fications under this Act.

15 (7) CONSULTATIONS.—Consultation with for-
16 eign governments, if such consultation is provided
17 for by a relevant multilateral regime as a pre-
18 condition for approving a license.

19 (h) CLASSIFICATION REQUESTS AND OTHER INQUIR-
20 IES.—

21 (1) CLASSIFICATION REQUESTS.—In any case
22 in which the Secretary receives a written request
23 asking for the proper classification of an item on the
24 Control List or the applicability of licensing require-
25 ments under this title, the Secretary shall promptly

1 notify the Secretary of Defense and other depart-
2 ments and agencies the Secretary considers appro-
3 priate. The Secretary shall, within 14 days after re-
4 ceiving the request, inform the person making the
5 request of the proper classification.

6 (2) OTHER INQUIRIES.—In any case in which
7 the Secretary receives a written request for informa-
8 tion under this Act, the Secretary shall, within 30
9 days after receiving the request, reply with that in-
10 formation to the person making the request.

11 **SEC. 502. INTERAGENCY DISPUTE RESOLUTION PROCESS.**

12 (a) IN GENERAL.—All license applications on which
13 agreement cannot be reached shall be referred to the inter-
14 agency dispute resolution process for decision.

15 (b) INTERAGENCY DISPUTE RESOLUTION PROC-
16 ESS.—

17 (1) INITIAL RESOLUTION.—The Secretary shall
18 establish, select the chairperson of, and determine
19 procedures for an interagency committee to review
20 initially all license applications described in sub-
21 section (a) with respect to which the Secretary and
22 any of the referral departments and agencies are not
23 in agreement. The chairperson shall consider the po-
24 sitions of all the referral departments and agencies
25 (which shall be included in the minutes described in

1 subsection (c)(2)) and make a decision on the license
2 application, including appropriate revisions or condi-
3 tions thereto.

4 (2) INTELLIGENCE COMMUNITY.—The analytic
5 product of the intelligence community should be fully
6 considered with respect to any proposed license
7 under this title.

8 (3) FURTHER RESOLUTION.—The President
9 shall establish additional levels for review or appeal
10 of any matter that cannot be resolved pursuant to
11 the process described in paragraph (1). Each such
12 review shall—

13 (A) provide for decision-making based on
14 the majority vote of the participating depart-
15 ments and agencies;

16 (B) provide that a department or agency
17 that fails to take a timely position, citing the
18 specific statutory and regulatory bases for a de-
19 nial, shall be deemed to have no objection to the
20 pending decision;

21 (C) provide that any decision of an inter-
22 agency committee established under paragraph
23 (1) or interagency dispute resolution process es-
24 tablished under this paragraph may be esca-
25 lated to the next higher level of review at the

1 request of any representative of a department
2 or agency that participated in the interagency
3 committee or dispute resolution process that
4 made the decision; and

5 (D) ensure that matters are resolved or re-
6 ferred to the President not later than 90 days
7 after the date the completed license application
8 is referred by the Secretary.

9 (c) FINAL ACTION.—

10 (1) IN GENERAL.—Once a final decision is
11 made under subsection (b), the Secretary shall
12 promptly—

13 (A) issue the license and ensure that all
14 appropriate personnel in the Department (in-
15 cluding the Office of Export Enforcement) are
16 notified of all approved license applications; or

17 (B) notify the applicant of the intention to
18 deny the application.

19 (2) MINUTES.—The interagency committee and
20 each level of the interagency dispute resolution proc-
21 ess shall keep reasonably detailed minutes of all
22 meetings. On each matter before the interagency
23 committee or before any other level of the inter-
24 agency dispute resolution process in which members
25 disagree, each member shall clearly state the reasons

1 for the member's position and the reasons shall be
 2 entered in the minutes.

3 **TITLE VI—INTERNATIONAL AR-**
 4 **RANGEMENTS; FOREIGN BOY-**
 5 **COTTS; SANCTIONS; AND EN-**
 6 **FORCEMENT**

7 **SEC. 601. INTERNATIONAL ARRANGEMENTS.**

8 (a) MULTILATERAL EXPORT CONTROL REGIMES.—

9 (1) POLICY.—It is the policy of the United
 10 States to seek multilateral arrangements that sup-
 11 port the national security objectives of the United
 12 States (as described in title II) and that establish
 13 fairer and more predictable competitive opportunities
 14 for United States exporters.

15 (2) PARTICIPATION IN EXISTING REGIMES.—

16 Congress encourages the United States to continue
 17 its active participation in and to strengthen existing
 18 multilateral export control regimes.

19 (3) PARTICIPATION IN NEW REGIMES.—It is the

20 policy of the United States to participate in addi-
 21 tional multilateral export control regimes if such
 22 participation would serve the national security inter-
 23 ests of the United States.

24 (b) ANNUAL REPORT ON MULTILATERAL EXPORT

25 CONTROL REGIMES.—Not later than February 1 of each

1 year, the President shall submit to the Committee on
2 Banking, Housing, and Urban Affairs of the Senate and
3 the Committee on International Relations of the House
4 of Representatives a report evaluating the effectiveness of
5 each multilateral export control regime, including an as-
6 sessment of the steps undertaken pursuant to subsections
7 (c) and (d). The report, or any part of this report, may
8 be submitted in classified form to the extent the Secretary
9 considers necessary.

10 (c) STANDARDS FOR MULTILATERAL EXPORT CON-
11 TROL REGIMES.—The President shall take steps to estab-
12 lish the following features in any multilateral export con-
13 trol regime in which the United States is participating or
14 may participate:

15 (1) FULL MEMBERSHIP.—All supplier countries
16 are members of the regime, and the policies and ac-
17 tivities of the members are consistent with the objec-
18 tives and membership criteria of the multilateral ex-
19 port control regime.

20 (2) EFFECTIVE ENFORCEMENT AND COMPLI-
21 ANCE.—The regime promotes enforcement and com-
22 pliance with the regime's rules and guidelines.

23 (3) PUBLIC UNDERSTANDING.—The regime
24 makes an effort to enhance public understanding of

1 the purpose and procedures of the multilateral ex-
2 port control regime.

3 (4) EFFECTIVE IMPLEMENTATION PROCE-
4 DURES.—The multilateral export control regime has
5 procedures for the implementation of its rules and
6 guidelines through uniform and consistent interpre-
7 tations of its export controls.

8 (5) ENHANCED COOPERATION WITH REGIME
9 NONMEMBERS.—There is agreement among the
10 members of the multilateral export control regime
11 to—

12 (A) cooperate with governments outside
13 the regime to restrict the export of items con-
14 trolled by such regime; and

15 (B) establish an ongoing mechanism in the
16 regime to coordinate planning and implementa-
17 tion of export control measures related to such
18 cooperation.

19 (6) PERIODIC HIGH-LEVEL MEETINGS.—There
20 are regular periodic meetings of high-level represent-
21 atives of the governments of members of the multi-
22 lateral export control regime for the purpose of co-
23 ordinating export control policies and issuing policy
24 guidance to members of the regime.

1 (7) COMMON LIST OF CONTROLLED ITEMS.—

2 There is agreement on a common list of items con-
3 trolled by the multilateral export control regime.

4 (8) REGULAR UPDATES OF COMMON LIST.—

5 There is a procedure for removing items from the
6 list of controlled items when the control of such
7 items no longer serves the objectives of the members
8 of the multilateral export control regime.

9 (9) TREATMENT OF CERTAIN COUNTRIES.—

10 There is agreement to prevent the export or diver-
11 sion of the most sensitive items to countries whose
12 activities are threatening to the national security of
13 the United States or its allies.

14 (10) HARMONIZATION OF LICENSE APPROVAL

15 PROCEDURES.—There is harmonization among the
16 members of the regime of their national export li-
17 cense approval procedures and practices.

18 (11) UNDERCUTTING.—There is a limit with re-

19 spect to when members of a multilateral export con-
20 trol regime—

21 (A) grant export licenses for any item that

22 is substantially identical to or directly competi-

23 tive with an item controlled pursuant to the re-

24 gime, where the United States has denied an

25 export license for such item, or

1 (B) approve exports to a particular end
2 user to which the United States has denied ex-
3 port license for a similar item.

4 (d) STANDARDS FOR NATIONAL EXPORT CONTROL
5 SYSTEMS.—The President shall take steps to attain the
6 cooperation of members of each regime in implementing
7 effective national export control systems containing the
8 following features:

9 (1) EXPORT CONTROL LAW.—Enforcement au-
10 thority, civil and criminal penalties, and statutes of
11 limitations are sufficient to deter potential violations
12 and punish violators under the member’s export con-
13 trol law.

14 (2) LICENSE APPROVAL PROCESS.—The system
15 for evaluating export license applications includes
16 sufficient technical expertise to assess the licensing
17 status of exports and ensure the reliability of end
18 users.

19 (3) ENFORCEMENT.—The enforcement mecha-
20 nism provides authority for trained enforcement offi-
21 cers to investigate and prevent illegal exports.

22 (4) DOCUMENTATION.—There is a system of
23 export control documentation and verification with
24 respect to controlled items.

1 (5) INFORMATION.—There are procedures for
2 the coordination and exchange of information con-
3 cerning licensing, end users, and enforcement with
4 other members of the multilateral export control re-
5 gime.

6 (6) RESOURCES.—The member has devoted
7 adequate resources to administer effectively the au-
8 thorities, systems, mechanisms, and procedures de-
9 scribed in paragraphs (1) through (5).

10 (e) OBJECTIVES REGARDING MULTILATERAL EX-
11 PORT CONTROL REGIMES.—The President shall seek to
12 achieve the following objectives with regard to multilateral
13 export control regimes:

14 (1) STRENGTHEN EXISTING REGIMES.—
15 Strengthen existing multilateral export control
16 regimes—

17 (A) by creating a requirement to share in-
18 formation about export license applications
19 among members before a member approves an
20 export license; and

21 (B) harmonizing national export license
22 approval procedures and practices, including
23 the elimination of undercutting.

1 (2) REVIEW AND UPDATE.—Review and update
2 multilateral regime export control lists with other
3 members, taking into account—

4 (A) national security concerns;

5 (B) the controllability of items; and

6 (C) the costs and benefits of controls.

7 (3) ENCOURAGE COMPLIANCE BY NONMEM-
8 BERS.—Encourage nonmembers of the multilateral
9 export control regime—

10 (A) to strengthen their national export
11 control regimes and improve enforcement;

12 (B) to adhere to the appropriate multilat-
13 eral export control regime; and

14 (C) not to undermine an existing multilat-
15 eral export control regime by exporting con-
16 trolled items in a manner inconsistent with the
17 guidelines of the regime.

18 (f) TRANSPARENCY OF MULTILATERAL EXPORT
19 CONTROL REGIMES.—

20 (1) PUBLICATION OF INFORMATION ON EACH
21 EXISTING REGIME.—Not later than 120 days after
22 the date of enactment of this Act, the Secretary
23 shall, for each multilateral export control regime (to
24 the extent that it is not inconsistent with the ar-
25 rangements of that regime or with the national in-

1 terest), publish in the Federal Register and post on
2 the Department of Commerce website the following
3 information with respect to the regime:

4 (A) The purposes of the regime.

5 (B) The members of the regime.

6 (C) The export licensing policy of the re-
7 gime.

8 (D) The items that are subject to export
9 controls under the regime, together with all
10 public notes, understandings, and other aspects
11 of the agreement of the regime, and all changes
12 thereto.

13 (E) Any countries, end uses, or end users
14 that are subject to the export controls of the re-
15 gime.

16 (F) Rules of interpretation.

17 (G) Major policy actions.

18 (H) The rules and procedures of the re-
19 gime for establishing and modifying any matter
20 described in subparagraphs (A) through (G)
21 and for reviewing export license applications.

22 (2) NEW REGIMES.—Not later than 60 days
23 after the United States joins or organizes a new
24 multilateral export control regime, the Secretary
25 shall, to the extent not inconsistent with arrange-

1 ments under the regime or with the national inter-
2 est, publish in the Federal Register and post on the
3 Department of Commerce website the information
4 described in subparagraphs (A) through (H) of
5 paragraph (1) with respect to the regime.

6 (3) PUBLICATION OF CHANGES.—Not later
7 than 60 days after a multilateral export control re-
8 gime adopts any change in the information published
9 under this subsection, the Secretary shall, to the ex-
10 tent not inconsistent with the arrangements under
11 the regime or the national interest, publish such
12 changes in the Federal Register and post such
13 changes on the Department of Commerce website.

14 (g) SUPPORT OF OTHER COUNTRIES' EXPORT CON-
15 TROL SYSTEMS.—The Secretary is encouraged to continue
16 to—

17 (1) participate in training of, and provide train-
18 ing to, officials of other countries on the principles
19 and procedures for implementing effective export
20 controls; and

21 (2) participate in any such training provided by
22 other departments and agencies of the United
23 States.

1 **SEC. 602. FOREIGN BOYCOTTS.**

2 (a) PURPOSES.—The purposes of this section are as
3 follows:

4 (1) To counteract restrictive trade practices or
5 boycotts fostered or imposed by foreign countries
6 against other countries friendly to the United States
7 or against any United States person.

8 (2) To encourage and, in specified cases, re-
9 quire United States persons engaged in the export of
10 items to refuse to take actions, including furnishing
11 information or entering into or implementing agree-
12 ments, which have the effect of furthering or sup-
13 porting the restrictive trade practices or boycotts
14 fostered or imposed by any foreign country against
15 a country friendly to the United States or against
16 any United States person.

17 (b) PROHIBITIONS AND EXCEPTIONS.—

18 (1) PROHIBITIONS.—In order to carry out the
19 purposes set forth in subsection (a), the President
20 shall issue regulations prohibiting any United States
21 person, with respect to that person's activities in the
22 interstate or foreign commerce of the United States,
23 from taking or knowingly agreeing to take any of
24 the following actions with intent to comply with, fur-
25 ther, or support any boycott fostered or imposed by
26 a foreign country against a country that is friendly

1 to the United States and is not itself the object of
2 any form of boycott pursuant to United States law
3 or regulation:

4 (A) Refusing, or requiring any other per-
5 son to refuse, to do business with or in the boy-
6 cotted country, with any business concern orga-
7 nized under the laws of the boycotted country,
8 with any national or resident of the boycotted
9 country, or with any other person, pursuant to
10 an agreement with, or requirement of, or a re-
11 quest from or on behalf of the boycotting coun-
12 try (subject to the condition that the intent re-
13 quired to be associated with such an act in
14 order to constitute a violation of the prohibition
15 is not indicated solely by the mere absence of
16 a business relationship with or in the boycotted
17 country, with any business concern organized
18 under the laws of the boycotted country, with
19 any national or resident of the boycotted coun-
20 try, or with any other person).

21 (B) Refusing, or requiring any other per-
22 son to refuse, to employ or otherwise discrimi-
23 nate against any United States person on the
24 basis of the race, religion, sex, or national ori-

1 gin of that person or of any owner, officer, di-
2 rector, or employee of such person.

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

7 (D) Furnishing information (other than
8 furnishing normal business information in a
9 commercial context, as defined by the Sec-
10 retary) about whether any person has, has had,
11 or proposes to have any business relationship
12 (including a relationship by way of sale, pur-
13 chase, legal or commercial representation, ship-
14 ping or other transport, insurance, investment,
15 or supply) with or in the boycotted country,
16 with any business concern organized under the
17 laws of the boycotted country, with any national
18 or resident of the boycotted country, or with
19 any other person that is known or believed to
20 be restricted from having any business relation-
21 ship with or in the boycotting country.

22 (E) Furnishing information about whether
23 any person is a member of, has made a con-
24 tribution to, or is otherwise associated with or
25 involved in the activities of any charitable or

1 fraternal organization which supports the boy-
2 cotted country.

3 (F) Paying, honoring, confirming, or other-
4 wise implementing a letter of credit which con-
5 tains any condition or requirement the compli-
6 ance with which is prohibited by regulations
7 issued pursuant to this paragraph, and no
8 United States person shall, as a result of the
9 application of this paragraph, be obligated to
10 pay or otherwise honor or implement such letter
11 of credit.

12 (2) EXCEPTIONS.—Regulations issued pursuant
13 to paragraph (1) shall provide exceptions for—

14 (A) compliance, or agreement to comply,
15 with requirements—

16 (i) prohibiting the import of items
17 from the boycotted country or items pro-
18 duced or provided, by any business concern
19 organized under the laws of the boycotted
20 country or by nationals or residents of the
21 boycotted country; or

22 (ii) prohibiting the shipment of items
23 to the boycotting country on a carrier of
24 the boycotted country or by a route other

1 than that prescribed by the boycotting
2 country or the recipient of the shipment;

3 (B) compliance, or agreement to comply,
4 with import and shipping document require-
5 ments with respect to the country of origin, the
6 name of the carrier and route of shipment, the
7 name of the supplier of the shipment, or the
8 name of the provider of other services, except
9 that, for purposes of applying any exception
10 under this subparagraph, no information know-
11 ingly furnished or conveyed in response to such
12 requirements may be stated in negative, black-
13 listing, or similar exclusionary terms, other
14 than with respect to carriers or route of ship-
15 ment as may be permitted by such regulations
16 in order to comply with precautionary require-
17 ments protecting against war risks and confis-
18 cation;

19 (C) compliance, or agreement to comply, in
20 the normal course of business with the unilat-
21 eral and specific selection by a boycotting coun-
22 try, or a national or resident thereof, or car-
23 riers, insurers, suppliers of services to be per-
24 formed within the boycotting country, or spe-
25 cific items which, in the normal course of busi-

1 ness, are identifiable by source when imported
2 into the boycotting country;

3 (D) compliance, or agreement to comply,
4 with export requirements of the boycotting
5 country relating to shipment or transshipment
6 of exports to the boycotted country, to any busi-
7 ness concern of or organized under the laws of
8 the boycotted country, or to any national or
9 resident of the boycotted country;

10 (E) compliance by an individual, or agree-
11 ment by an individual to comply, with the immi-
12 gration or passport requirements of any country
13 with respect to such individual or any member
14 of such individual's family or with requests for
15 information regarding requirements of employ-
16 ment of such individual within the boycotting
17 country; and

18 (F) compliance by a United States person
19 resident in a foreign country, or agreement by
20 such a person to comply, with the laws of the
21 country with respect to the person's activities
22 exclusively therein, and such regulations may
23 contain exceptions for such resident complying
24 with the laws or regulations of the foreign coun-
25 try governing imports into such country of

1 trademarked, trade-named, or similarly specifi-
2 cally identifiable products, or components of
3 products for such person's own use, including
4 the performance of contractual services within
5 that country.

6 (3) LIMITATION ON EXCEPTIONS.—Regulations
7 issued pursuant to paragraphs (2)(C) and (2)(F)
8 shall not provide exceptions from paragraphs (1)(B)
9 and (1)(C).

10 (4) ANTITRUST AND CIVIL RIGHTS LAWS NOT
11 AFFECTED.—Nothing in this subsection may be con-
12 strued to supersede or limit the operation of the
13 antitrust or civil rights laws of the United States.

14 (5) EVASION.—This section applies to any
15 transaction or activity undertaken by or through a
16 United States person or any other person with in-
17 tent to evade the provisions of this section or the
18 regulations issued pursuant to this subsection. The
19 regulations issued pursuant to this section shall ex-
20 pressly provide that the exceptions set forth in para-
21 graph (2) do not permit activities or agreements (ex-
22 pressed or implied by a course of conduct, including
23 a pattern of responses) that are otherwise prohib-
24 ited, pursuant to the intent of such exceptions.

25 (c) ADDITIONAL REGULATIONS AND REPORTS.—

1 (1) REGULATIONS.—In addition to the regula-
2 tions issued pursuant to subsection (b), regulations
3 issued pursuant to title III shall implement the pur-
4 poses set forth in subsection (a).

5 (2) REPORTS BY UNITED STATES PERSONS.—
6 The regulations shall require that any United States
7 person receiving a request to furnish information,
8 enter into or implement an agreement, or take any
9 other action referred to in subsection (a) shall report
10 that request to the Secretary, together with any
11 other information concerning the request that the
12 Secretary determines appropriate. The person shall
13 also submit to the Secretary a statement regarding
14 whether the person intends to comply, and whether
15 the person has complied, with the request. Any re-
16 port filed pursuant to this paragraph shall be made
17 available promptly for public inspection and copying,
18 except that information regarding the quantity, de-
19 scription, and value of any item to which such report
20 relates may be treated as confidential if the Sec-
21 retary determines that disclosure of that information
22 would place the United States person involved at a
23 competitive disadvantage. The Secretary shall peri-
24 odically transmit summaries of the information con-
25 tained in the reports to the Secretary of State for

1 such action as the Secretary of State, in consultation
2 with the Secretary, considers appropriate to carry
3 out the purposes set forth in subsection (a).

4 (d) PREEMPTION.—The provisions of this section and
5 the regulations issued under this section shall preempt any
6 law, rule, or regulation that—

7 (1) is a law, rule, or regulation of any of the
8 several States or the District of Columbia, or any of
9 the territories or possessions of the United States,
10 or of any governmental subdivision thereof; and

11 (2) pertains to participation in, compliance
12 with, implementation of, or the furnishing of infor-
13 mation regarding restrictive trade practices or boy-
14 cotts fostered or imposed by foreign countries
15 against other countries.

16 **SEC. 603. PENALTIES.**

17 (a) CRIMINAL PENALTIES.—

18 (1) VIOLATIONS BY AN INDIVIDUAL.—Any indi-
19 vidual who knowingly violates, conspires to violate,
20 or attempts to violate any provision of this Act or
21 any regulation, license, or order issued under this
22 Act shall be fined up to 10 times the value of the
23 exports involved or \$1,000,000, whichever is greater,
24 imprisoned for not more than 10 years, or both, for
25 each violation, except that the term of imprisonment

1 may be increased to life for multiple violations or ag-
2 gravated circumstances.

3 (2) VIOLATIONS BY A PERSON OTHER THAN AN
4 INDIVIDUAL.—Any person other than an individual
5 who knowingly violates, conspires to violate, or at-
6 tempts to violate any provision of this Act or any
7 regulation, license, or order issued under this Act
8 shall be fined up to 10 times the value of the exports
9 involved or \$10,000,000, whichever is greater, for
10 each violation.

11 (b) FORFEITURE OF PROPERTY INTEREST AND PRO-
12 CEEDS.—

13 (1) FORFEITURE.—Any person who is convicted
14 under paragraph (1) or (2) of subsection (a) shall,
15 in addition to any other penalty, forfeit to the
16 United States—

17 (A) any of that person’s security or other
18 interest in, claim against, or property or con-
19 tractual rights of any kind in the tangible items
20 that were the subject of the violation;

21 (B) any of that person’s security or other
22 interest in, claim against, or property or con-
23 tractual rights of any kind in the tangible prop-
24 erty that was used in the export or attempt to
25 export that was the subject of the violation; and

1 (C) any of that person's property consti-
2 tuting, or derived from, any proceeds obtained
3 directly or indirectly as a result of the violation.

4 (2) PROCEDURES.—The procedures in any for-
5 feiture under this subsection, and the duties and au-
6 thority of the courts of the United States and the
7 Attorney General with respect to any forfeiture ac-
8 tion under this subsection, or with respect to any
9 property that may be subject to forfeiture under this
10 subsection, shall be governed by the provisions of
11 chapter 46 of title 18, United States Code, to the
12 same extent as property subject to forfeiture under
13 that chapter.

14 (c) CIVIL PENALTIES; ADMINISTRATIVE SANC-
15 TIONS.—

16 (1) CIVIL PENALTIES.—The Secretary may im-
17 pose a civil penalty of up to \$1,000,000 for each vio-
18 lation of a provision of this Act or any regulation,
19 license, or order issued under this Act. A civil pen-
20 alty under this paragraph may be in addition to, or
21 in lieu of, any other liability or penalty which may
22 be imposed for such a violation.

23 (2) DENIAL OF EXPORT PRIVILEGES.—The Sec-
24 retary may deny the export privileges of any person,
25 including the suspension or revocation of the author-

1 ity of such person to export or receive United
2 States-origin items subject to this Act, for a viola-
3 tion of a provision of this Act or any regulation, li-
4 cense, or order issued under this Act.

5 (3) EXCLUSION FROM PRACTICE.—The Sec-
6 retary may exclude any person acting as an attor-
7 ney, accountant, consultant, freight forwarder, or in
8 any other representative capacity from participating
9 before the Department with respect to a license ap-
10 plication or any other matter under this Act.

11 (d) PAYMENT OF CIVIL PENALTIES.—

12 (1) PAYMENT AS CONDITION OF FURTHER EX-
13 PORT PRIVILEGES.—The payment of a civil penalty
14 imposed under subsection (c) may be made a condi-
15 tion for the granting, restoration, or continuing va-
16 lidity of any export license, permission, or privilege
17 granted or to be granted to the person upon whom
18 such penalty is imposed. The period for which the
19 payment of a penalty may be made such a condition
20 may not exceed 1 year after the date on which the
21 payment is due.

22 (2) DEFERRAL OR SUSPENSION.—

23 (A) IN GENERAL.—The payment of a civil
24 penalty imposed under subsection (c) may be
25 deferred or suspended in whole or in part for a

1 period no longer than any probation period
2 (which may exceed 1 year) that may be imposed
3 upon the person on whom the penalty is im-
4 posed.

5 (B) NO BAR TO COLLECTION OF PEN-
6 ALTY.—A deferral or suspension under sub-
7 paragraph (A) shall not operate as a bar to the
8 collection of the penalty concerned in the event
9 that the conditions of the suspension, deferral,
10 or probation are not fulfilled.

11 (3) TREATMENT OF PAYMENTS.—Any amount
12 paid in satisfaction of a civil penalty imposed under
13 subsection (c) shall be covered into the Treasury as
14 miscellaneous receipts except as set forth in section
15 607(h).

16 (e) REFUNDS.—

17 (1) AUTHORITY.—

18 (A) IN GENERAL.—The Secretary may, in
19 the Secretary's discretion, refund any civil pen-
20 alty imposed under subsection (c) on the
21 ground of a material error of fact or law in im-
22 position of the penalty.

23 (B) LIMITATION.—A civil penalty may not
24 be refunded under subparagraph (A) later than
25 2 years after payment of the penalty.

1 (2) PROHIBITION ON ACTIONS FOR REFUND.—
2 Notwithstanding section 1346(a) of title 28, United
3 States Code, no action for the refund of any civil
4 penalty referred to in paragraph (1) may be main-
5 tained in any court.

6 (f) EFFECT OF OTHER CONVICTIONS.—

7 (1) DENIAL OF EXPORT PRIVILEGES.—Any per-
8 son convicted of a violation of—

9 (A) a provision of this Act or the Export
10 Administration Act of 1979,

11 (B) a provision of the International Emer-
12 gency Economic Powers Act (50 U.S.C. 1701 et
13 seq.),

14 (C) section 793, 794, or 798 of title 18,
15 United States Code,

16 (D) section 4(b) of the Internal Security
17 Act of 1950 (50 U.S.C. 783(b)),

18 (E) section 38 of the Arms Export Control
19 Act (22 U.S.C. 2778),

20 (F) section 16 of the Trading with the
21 Enemy Act (50 U.S.C. App. 16),

22 (G) any regulation, license, or order issued
23 under any provision of law listed in subpara-
24 graph (A), (B), (C), (D), (E), or (F),

1 (H) section 371 or 1001 of title 18, United
2 States Code, if in connection with the export of
3 controlled items under this Act or any regula-
4 tion, license, or order issued under the Inter-
5 national Emergency Economic Powers Act, or
6 the export of items controlled under the Arms
7 Export Control Act,

8 (I) section 175 of title 18, United States
9 Code,

10 (J) a provision of the Atomic Energy Act
11 (42 U.S.C. 201 et seq.),

12 (K) section 831 of title 18, United States
13 Code, or

14 (L) section 2332a of title 18, United
15 States Code,

16 may, at the discretion of the Secretary, be denied ex-
17 port privileges under this Act for a period not to ex-
18 ceed 10 years from the date of the conviction. The
19 Secretary may also revoke any export license under
20 this Act in which such person had an interest at the
21 time of the conviction.

22 (2) RELATED PERSONS.—The Secretary may
23 exercise the authority under paragraph (1) with re-
24 spect to any person related through affiliation, own-
25 ership, control, or position of responsibility to a per-

1 son convicted of any violation of a law set forth in
2 paragraph (1) upon a showing of such relationship
3 with the convicted person. The Secretary shall make
4 such showing only after providing notice and oppor-
5 tunity for a hearing.

6 (g) STATUTE OF LIMITATIONS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), a proceeding in which a civil penalty or
9 other administrative sanction (other than a tem-
10 porary denial order) is sought under subsection (c)
11 may not be instituted more than 5 years after the
12 later of the date of the alleged violation or the date
13 of discovery of the alleged violation.

14 (2) EXCEPTION.—

15 (A) TOLLING.—In any case in which a
16 criminal indictment alleging a violation under
17 subsection (a) is returned within the time limits
18 prescribed by law for the institution of such ac-
19 tion, the limitation under paragraph (1) for
20 bringing a proceeding to impose a civil penalty
21 or other administrative sanction under this sec-
22 tion shall, upon the return of the criminal in-
23 dictment, be tolled against all persons named as
24 a defendant.

1 (B) DURATION.—The tolling of the limita-
2 tion with respect to a defendant under subpara-
3 graph (A) as a result of a criminal indictment
4 shall continue for a period of 6 months from
5 the date on which the conviction of the defend-
6 ant becomes final, the indictment against the
7 defendant is dismissed, or the criminal action
8 has concluded.

9 (h) VIOLATIONS DEFINED BY REGULATION.—Noth-
10 ing in this section shall limit the authority of the Secretary
11 to define by regulation violations under this Act.

12 (i) CONSTRUCTION.—Nothing in subsection (c), (d),
13 (e), (f), or (g) limits—

14 (1) the availability of other administrative or
15 judicial remedies with respect to a violation of a pro-
16 vision of this Act, or any regulation, order, or license
17 issued under this Act;

18 (2) the authority to compromise and settle ad-
19 ministrative proceedings brought with respect to any
20 such violation; or

21 (3) the authority to compromise, remit, or miti-
22 gate seizures and forfeitures pursuant to section
23 1(b) of title VI of the Act of June 15, 1917 (22
24 U.S.C. 401(b)).

1 **SEC. 604. MULTILATERAL EXPORT CONTROL REGIME VIO-**
2 **LATION SANCTIONS.**

3 (a) IMPOSITION OF SANCTIONS.—

4 (1) IN GENERAL.—The President, subject to
5 subsection (c), shall apply sanctions under sub-
6 section (b) for a period of not less than 2 years and
7 not more than 5 years, if the President determines
8 that—

9 (A) a foreign person has violated any regu-
10 lation issued by a country to control exports for
11 national security purposes pursuant to a multi-
12 lateral export control regime; and

13 (B) such violation has substantially aided a
14 country in—

15 (i) acquiring military significant capa-
16 bilities or weapons, if the country is an ac-
17 tual or potential adversary of the United
18 States;

19 (ii) acquiring nuclear weapons pro-
20 vided such country is other than the de-
21 clared nuclear states of the People's Re-
22 public of China, the Republic of France,
23 the Russian Federation, the United King-
24 dom, and the United States;

25 (iii) acquiring biological or chemical
26 weapons; or

1 (iv) acquiring missiles.

2 (2) NOTIFICATION OF CONGRESS.—The Presi-
3 dent shall notify Congress of each action taken
4 under this section.

5 (b) APPLICABILITY AND FORMS OF SANCTIONS.—
6 The sanctions referred to in subsection (a) shall apply to
7 the foreign person committing the violation, as well as to
8 any parent, affiliate, subsidiary, and successor entity of
9 the foreign person, and, except as provided in subsection
10 (c), are as follows:

11 (1) A prohibition on contracting with, and the
12 procurement of products and services from, a sanc-
13 tioned person, by any department, agency, or instru-
14 mentality of the United States Government.

15 (2) A prohibition on the importation into the
16 United States of all items produced by a sanctioned
17 person.

18 (c) EXCEPTIONS.—The President shall not apply
19 sanctions under this section—

20 (1) in the case of procurement of defense
21 items—

22 (A) under existing contracts or sub-
23 contracts, including the exercise of options for
24 production quantities to satisfy United States
25 operational military requirements;

1 (B) if the President determines that the
2 foreign person or other entity to which the
3 sanctions would otherwise be applied is a sole
4 source supplier of essential defense items and
5 no alternative supplier can be identified; or

6 (C) if the President determines that such
7 items are essential to the national security
8 under defense coproduction agreements;

9 (2) in any case in which such sanctions would
10 violate United States international obligations in-
11 cluding treaties, agreements, or understandings; or

12 (3) to—

13 (A) items provided under contracts or
14 other binding agreements (as such terms are
15 defined by the President in regulations) entered
16 into before the date on which the President no-
17 tifies Congress of the intention to impose the
18 sanctions;

19 (B) after-market service and replacement
20 parts including upgrades;

21 (C) component parts, but not finished
22 products, essential to United States products or
23 productions; or

24 (D) information and technology.

1 (d) EXCLUSION.—The President shall not apply
2 sanctions under this section to a parent, affiliate, sub-
3 sidiary, and successor entity of a foreign person if the
4 President determines that—

5 (1) the parent, affiliate, subsidiary, or successor
6 entity (as the case may be) has not knowingly vio-
7 lated the export control regulation violated by the
8 foreign person; and

9 (2) the government of the country with jurisdic-
10 tion over the parent, affiliate, subsidiary, or suc-
11 cessor entity had in effect, at the time of the viola-
12 tion by the foreign person, an effective export con-
13 trol system consistent with principles set forth in
14 section 601(b)(2).

15 (e) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—
16 The President may, after consultation with the Committee
17 on Banking, Housing, and Urban Affairs of the Senate
18 and the Committee on International Relations of the
19 House of Representatives, limit the scope of sanctions ap-
20 plied to a parent, affiliate, subsidiary, or successor entity
21 of the foreign person determined to have committed the
22 violation on account of which the sanctions were imposed,
23 if the President determines that—

24 (1) the parent, affiliate, subsidiary, or successor
25 entity (as the case may be) has not, on the basis of

1 evidence available to the United States, itself vio-
2 lated the export control regulation involved, either
3 directly or through a course of conduct;

4 (2) the government with jurisdiction over the
5 parent, affiliate, subsidiary, or successor entity has
6 improved its export control system as measured by
7 the criteria set forth in section 601(b)(2); and

8 (3) the parent, affiliate, subsidiary, or successor
9 entity, has instituted improvements in internal con-
10 trols sufficient to detect and prevent violations of
11 the multilateral export control regime.

12 **SEC. 605. MISSILE PROLIFERATION CONTROL VIOLATIONS.**

13 (a) VIOLATIONS BY UNITED STATES PERSONS.—

14 (1) SANCTIONS.—

15 (A) IN GENERAL.—If the President deter-
16 mines that a United States person knowingly—

17 (i) exports, transfers, or otherwise en-
18 gages in the trade of any item on the
19 MTCR Annex, in violation of the provi-
20 sions of section 38 (22 U.S.C. 2778) or
21 chapter 7 of the Arms Export Control Act,
22 title II or III of this Act, or any regula-
23 tions or orders issued under any such pro-
24 visions,

1 (ii) conspires to or attempts to engage
2 in such export, transfer, or trade, or

3 (iii) facilitates such export, transfer,
4 or trade by any other person,

5 then the President shall impose the applicable
6 sanctions described in subparagraph (B).

7 (B) SANCTIONS DESCRIBED.—The sanc-
8 tions which apply to a United States person
9 under subparagraph (A) are the following:

10 (i) If the item on the MTCR Annex
11 involved in the export, transfer, or trade is
12 missile equipment or technology within cat-
13 egory II of the MTCR Annex, then the
14 President shall deny to such United States
15 person, for a period of 2 years, licenses for
16 the transfer of missile equipment or tech-
17 nology controlled under this Act.

18 (ii) If the item on the MTCR Annex
19 involved in the export, transfer, or trade is
20 missile equipment or technology within cat-
21 egory I of the MTCR Annex, then the
22 President shall deny to such United States
23 person, for a period of not less than 2
24 years, all licenses for items the export of
25 which is controlled under this Act.

1 (2) DISCRETIONARY SANCTIONS.—In the case
2 of any determination referred to in paragraph (1),
3 the Secretary may pursue any other appropriate
4 penalties under section 603.

5 (3) WAIVER.—The President may waive the im-
6 position of sanctions under paragraph (1) on a per-
7 son with respect to an item if the President certifies
8 to Congress that—

9 (A) the item is essential to the national se-
10 curity of the United States; and

11 (B) such person is a sole source supplier of
12 the item, the item is not available from any al-
13 ternative reliable supplier, and the need for the
14 item cannot be met in a timely manner by im-
15 proved manufacturing processes or technological
16 developments.

17 (b) TRANSFERS OF MISSILE EQUIPMENT OR TECH-
18 NOLOGY BY FOREIGN PERSONS.—

19 (1) SANCTIONS.—

20 (A) IN GENERAL.—Subject to paragraphs
21 (3) through (7), if the President determines
22 that a foreign person, after the date of enact-
23 ment of this section, knowingly—

24 (i) exports, transfers, or otherwise en-
25 gages in the trade of any MTCR equip-

1 ment or technology that contributes to the
2 design, development, or production of mis-
3 siles in a country that is not an MTCR ad-
4 herent and would be, if it were United
5 States-origin equipment or technology,
6 subject to the jurisdiction of the United
7 States under this Act,

8 (ii) conspires to or attempts to engage
9 in such export, transfer, or trade, or

10 (iii) facilitates such export, transfer,
11 or trade by any other person,

12 or if the President has made a determination
13 with respect to a foreign person under section
14 73(a) of the Arms Export Control Act, then the
15 President shall impose on that foreign person
16 the applicable sanctions under subparagraph
17 (B).

18 (B) SANCTIONS DESCRIBED.—The sanc-
19 tions which apply to a foreign person under
20 subparagraph (A) are the following:

21 (i) If the item involved in the export,
22 transfer, or trade is within category II of
23 the MTCR Annex, then the President shall
24 deny, for a period of 2 years, licenses for
25 the transfer to such foreign person of mis-

1 sile equipment or technology the export of
2 which is controlled under this Act.

3 (ii) If the item involved in the export,
4 transfer, or trade is within category I of
5 the MTCR Annex, then the President shall
6 deny, for a period of not less than 2 years,
7 licenses for the transfer to such foreign
8 person of items the export of which is con-
9 trolled under this Act.

10 (iii) If, in addition to actions taken
11 under clauses (i) and (ii), the President de-
12 termines that the export, transfer, or trade
13 has substantially contributed to the design,
14 development, or production of missiles in a
15 country that is not an MTCR adherent,
16 then the President shall prohibit, for a pe-
17 riod of not less than 2 years, the importa-
18 tion into the United States of products
19 produced by that foreign person.

20 (2) INAPPLICABILITY WITH RESPECT TO MTCR
21 ADHERENTS.—Paragraph (1) does not apply with
22 respect to—

23 (A) any export, transfer, or trading activ-
24 ity that is authorized by the laws of an MTCR

1 adherent, if such authorization is not obtained
2 by misrepresentation or fraud; or

3 (B) any export, transfer, or trade of an
4 item to an end user in a country that is an
5 MTCR adherent.

6 (3) EFFECT OF ENFORCEMENT ACTIONS BY
7 MTCR ADHERENTS.—Sanctions set forth in para-
8 graph (1) may not be imposed under this subsection
9 on a person with respect to acts described in such
10 paragraph or, if such sanctions are in effect against
11 a person on account of such acts, such sanctions
12 shall be terminated, if an MTCR adherent is taking
13 judicial or other enforcement action against that
14 person with respect to such acts, or that person has
15 been found by the government of an MTCR adher-
16 ent to be innocent of wrongdoing with respect to
17 such acts.

18 (4) ADVISORY OPINIONS.—The Secretary, in
19 consultation with the Secretary of State and the
20 Secretary of Defense, may, upon the request of any
21 person, issue an advisory opinion to that person as
22 to whether a proposed activity by that person would
23 subject that person to sanctions under this sub-
24 section. Any person who relies in good faith on such
25 an advisory opinion which states that the proposed

1 activity would not subject a person to such sanc-
2 tions, and any person who thereafter engages in
3 such activity, may not be made subject to such sanc-
4 tions on account of such activity.

5 (5) WAIVER AND REPORT TO CONGRESS.—

6 (A) WAIVER.—In any case other than one
7 in which an advisory opinion has been issued
8 under paragraph (4) stating that a proposed ac-
9 tivity would not subject a person to sanctions
10 under this subsection, the President may waive
11 the application of paragraph (1) to a foreign
12 person if the President determines that such
13 waiver is essential to the national security of
14 the United States.

15 (B) REPORT TO CONGRESS.—In the event
16 that the President decides to apply the waiver
17 described in subparagraph (A), the President
18 shall so notify Congress not less than 20 work-
19 ing days before issuing the waiver. Such notifi-
20 cation shall include a report fully articulating
21 the rationale and circumstances which led the
22 President to apply the waiver.

23 (6) ADDITIONAL WAIVER.—The President may
24 waive the imposition of sanctions under paragraph

1 (1) on a person with respect to a product or service
2 if the President certifies to the Congress that—

3 (A) the product or service is essential to
4 the national security of the United States; and

5 (B) such person is a sole source supplier of
6 the product or service, the product or service is
7 not available from any alternative reliable sup-
8 plier, and the need for the product or service
9 cannot be met in a timely manner by improved
10 manufacturing processes or technological devel-
11 opments.

12 (7) EXCEPTIONS.—The President shall not
13 apply the sanction under this subsection prohibiting
14 the importation of the products of a foreign
15 person—

16 (A) in the case of procurement of defense
17 articles or defense services—

18 (i) under existing contracts or sub-
19 contracts, including the exercise of options
20 for production quantities to satisfy require-
21 ments essential to the national security of
22 the United States;

23 (ii) if the President determines that
24 the person to which the sanctions would be
25 applied is a sole source supplier of the de-

1 fense articles and services, that the defense
2 articles or services are essential to the na-
3 tional security of the United States, and
4 that alternative sources are not readily or
5 reasonably available; or

6 (iii) if the President determines that
7 such articles or services are essential to the
8 national security of the United States
9 under defense coproduction agreements or
10 NATO Programs of Cooperation;

11 (B) to products or services provided under
12 contracts entered into before the date on which
13 the President publishes his intention to impose
14 the sanctions; or

15 (C) to—

16 (i) spare parts,

17 (ii) component parts, but not finished
18 products, essential to United States prod-
19 ucts or production,

20 (iii) routine services and maintenance
21 of products, to the extent that alternative
22 sources are not readily or reasonably avail-
23 able, or

1 (iv) information and technology essen-
2 tial to United States products or produc-
3 tion.

4 (c) DEFINITIONS.—In this section:

5 (1) MISSILE.—The term “missile” means a cat-
6 egory I system as defined in the MTCR Annex, and
7 any other unmanned delivery system of similar capa-
8 bility, as well as the specially designed production
9 facilities for these systems.

10 (2) MISSILE TECHNOLOGY CONTROL REGIME;
11 MTCR.—The term “Missile Technology Control Re-
12 gime” or “MTCR” means the policy statement, be-
13 tween the United States, the United Kingdom, the
14 Federal Republic of Germany, France, Italy, Can-
15 ada, and Japan, announced on April 16, 1987, to re-
16 strict sensitive missile-relevant transfers based on
17 the MTCR Annex, and any amendments thereto.

18 (3) MTCR ADHERENT.—The term “MTCR ad-
19 herent” means a country that participates in the
20 MTCR or that, pursuant to an international under-
21 standing to which the United States is a party, con-
22 trols MTCR equipment or technology in accordance
23 with the criteria and standards set forth in the
24 MTCR.

1 (4) MTCR ANNEX.—The term “MTCR Annex”
2 means the Guidelines and Equipment and Tech-
3 nology Annex of the MTCR, and any amendments
4 thereto.

5 (5) MISSILE EQUIPMENT OR TECHNOLOGY;
6 MTCR EQUIPMENT OR TECHNOLOGY.—The terms
7 “missile equipment or technology” and “MTCR
8 equipment or technology” mean those items listed in
9 category I or category II of the MTCR Annex.

10 (6) FOREIGN PERSON.—The term “foreign per-
11 son” means any person other than a United States
12 person.

13 (7) PERSON.—

14 (A) IN GENERAL.—The term “person”
15 means a natural person as well as a corpora-
16 tion, business association, partnership, society,
17 trust, any other nongovernmental entity, orga-
18 nization, or group, and any governmental entity
19 operating as a business enterprise, and any suc-
20 cessor of any such entity.

21 (B) IDENTIFICATION IN CERTAIN CASES.—

22 In the case of countries where it may be impos-
23 sible to identify a specific governmental entity
24 referred to in subparagraph (A), the term “per-
25 son” means—

1 (i) all activities of that government re-
2 relating to the development or production of
3 any missile equipment or technology; and

4 (ii) all activities of that government
5 affecting the development or production of
6 aircraft, electronics, and space systems or
7 equipment.

8 (8) OTHERWISE ENGAGED IN THE TRADE OF.—

9 The term “otherwise engaged in the trade of”
10 means, with respect to a particular export or trans-
11 fer, to be a freight forwarder or designated export-
12 ing agent, or a consignee or end user of the item to
13 be exported or transferred.

14 **SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PRO-**
15 **LIFERATION SANCTIONS.**

16 (a) IMPOSITION OF SANCTIONS.—

17 (1) DETERMINATION BY THE PRESIDENT.—EX-
18 cept as provided in subsection (b)(2), the President
19 shall impose both of the sanctions described in sub-
20 section (c) if the President determines that a foreign
21 person, on or after the date of enactment of this sec-
22 tion, has knowingly and materially contributed—

23 (A) through the export from the United
24 States of any item that is subject to the juris-
25 diction of the United States under this Act, or

1 (B) through the export from any other
2 country of any item that would be, if it were a
3 United States item, subject to the jurisdiction
4 of the United States under this Act,
5 to the efforts by any foreign country, project, or en-
6 tity described in paragraph (2) to use, develop,
7 produce, stockpile, or otherwise acquire chemical or
8 biological weapons.

9 (2) COUNTRIES, PROJECTS, OR ENTITIES RE-
10 CEIVING ASSISTANCE.—Paragraph (1) applies in the
11 case of—

12 (A) any foreign country that the President
13 determines has, at any time after the date of
14 enactment of this Act—

15 (i) used chemical or biological weap-
16 ons in violation of international law;

17 (ii) used lethal chemical or biological
18 weapons against its own nationals; or

19 (iii) made substantial preparations to
20 engage in the activities described in clause
21 (i) or (ii);

22 (B) any foreign country whose government
23 is determined for purposes of section 310 to be
24 a government that has repeatedly provided sup-
25 port for acts of international terrorism; or

1 (C) any other foreign country, project, or
2 entity designated by the President for purposes
3 of this section.

4 (3) PERSONS AGAINST WHICH SANCTIONS ARE
5 TO BE IMPOSED.—Sanctions shall be imposed pursu-
6 ant to paragraph (1) on—

7 (A) the foreign person with respect to
8 which the President makes the determination
9 described in that paragraph;

10 (B) any successor entity to that foreign
11 person;

12 (C) any foreign person that is a parent or
13 subsidiary of that foreign person if that parent
14 or subsidiary knowingly assisted in the activities
15 which were the basis of that determination; and

16 (D) any foreign person that is an affiliate
17 of that foreign person if that affiliate knowingly
18 assisted in the activities which were the basis of
19 that determination and if that affiliate is con-
20 trolled in fact by that foreign person.

21 (b) CONSULTATIONS WITH AND ACTIONS BY FOR-
22 EIGN GOVERNMENT OF JURISDICTION.—

23 (1) CONSULTATIONS.—If the President makes
24 the determinations described in subsection (a)(1)
25 with respect to a foreign person, Congress urges the

1 President to initiate consultations immediately with
2 the government with primary jurisdiction over that
3 foreign person with respect to the imposition of
4 sanctions pursuant to this section.

5 (2) ACTIONS BY GOVERNMENT OF JURISDIC-
6 TION.—In order to pursue such consultations with
7 that government, the President may delay imposition
8 of sanctions pursuant to this section for a period of
9 up to 90 days. Following the consultations, the
10 President shall impose sanctions unless the Presi-
11 dent determines and certifies to Congress that gov-
12 ernment has taken specific and effective actions, in-
13 cluding appropriate penalties, to terminate the in-
14 volvement of the foreign person in the activities de-
15 scribed in subsection (a)(1). The President may
16 delay imposition of sanctions for an additional pe-
17 riod of up to 90 days if the President determines
18 and certifies to Congress that government is in the
19 process of taking the actions described in the pre-
20 ceding sentence.

21 (3) REPORT TO CONGRESS.—The President
22 shall report to Congress, not later than 90 days
23 after making a determination under subsection
24 (a)(1), on the status of consultations with the appro-
25 priate government under this subsection, and the

1 basis for any determination under paragraph (2) of
2 this subsection that such government has taken spe-
3 cific corrective actions.

4 (c) SANCTIONS.—

5 (1) DESCRIPTION OF SANCTIONS.—The sanc-
6 tions to be imposed pursuant to subsection (a)(1)
7 are, except as provided in paragraph (2) of this sub-
8 section, the following:

9 (A) PROCUREMENT SANCTION.—The
10 United States Government shall not procure, or
11 enter into any contract for the procurement of,
12 any goods or services from any person described
13 in subsection (a)(3).

14 (B) IMPORT SANCTIONS.—The importation
15 into the United States of products produced by
16 any person described in subsection (a)(3) shall
17 be prohibited.

18 (2) EXCEPTIONS.—The President shall not be
19 required to apply or maintain sanctions under this
20 section—

21 (A) in the case of procurement of defense
22 articles or defense services—

23 (i) under existing contracts or sub-
24 contracts, including the exercise of options

1 for production quantities to satisfy United
2 States operational military requirements;

3 (ii) if the President determines that
4 the person or other entity to which the
5 sanctions would otherwise be applied is a
6 sole source supplier of the defense articles
7 or services, that the defense articles or
8 services are essential, and that alternative
9 sources are not readily or reasonably avail-
10 able; or

11 (iii) if the President determines that
12 such articles or services are essential to the
13 national security under defense coproduc-
14 tion agreements;

15 (B) to products or services provided under
16 contracts entered into before the date on which
17 the President publishes his intention to impose
18 sanctions;

19 (C) to—

20 (i) spare parts,

21 (ii) component parts, but not finished
22 products, essential to United States prod-
23 ucts or production, or

24 (iii) routine servicing and mainte-
25 nance of products, to the extent that alter-

1 native sources are not readily or reason-
2 ably available;

3 (D) to information and technology essen-
4 tial to United States products or production; or

5 (E) to medical or other humanitarian
6 items.

7 (d) TERMINATION OF SANCTIONS.—The sanctions
8 imposed pursuant to this section shall apply for a period
9 of at least 12 months following the imposition of sanctions
10 and shall cease to apply thereafter only if the President
11 determines and certifies to the Congress that reliable in-
12 formation indicates that the foreign person with respect
13 to which the determination was made under subsection
14 (a)(1) has ceased to aid or abet any foreign government,
15 project, or entity in its efforts to acquire chemical or bio-
16 logical weapons capability as described in that subsection.

17 (e) WAIVER.—

18 (1) CRITERION FOR WAIVER.—The President
19 may waive the application of any sanction imposed
20 on any person pursuant to this section, after the end
21 of the 12-month period beginning on the date on
22 which that sanction was imposed on that person, if
23 the President determines and certifies to Congress
24 that such waiver is important to the national secu-
25 rity interests of the United States.

1 (2) NOTIFICATION OF AND REPORT TO CON-
2 GRESS.—If the President decides to exercise the
3 waiver authority provided in paragraph (1), the
4 President shall so notify the Congress not less than
5 20 days before the waiver takes effect. Such notifica-
6 tion shall include a report fully articulating the ra-
7 tionale and circumstances which led the President to
8 exercise the waiver authority.

9 (f) DEFINITION OF FOREIGN PERSON.—For the pur-
10 poses of this section, the term “foreign person” means—

11 (1) an individual who is not a citizen of the
12 United States or an alien admitted for permanent
13 residence to the United States; or

14 (2) a corporation, partnership, or other entity
15 which is created or organized under the laws of a
16 foreign country or which has its principal place of
17 business outside the United States.

18 **SEC. 607. ENFORCEMENT.**

19 (a) GENERAL AUTHORITY AND DESIGNATION.—

20 (1) POLICY GUIDANCE ON ENFORCEMENT.—

21 The Secretary, in consultation with the Secretary of
22 the Treasury and the heads of other departments
23 and agencies that the Secretary considers appro-
24 priate, shall be responsible for providing policy guid-
25 ance on the enforcement of this Act.

1 (2) GENERAL AUTHORITIES.—

2 (A) EXERCISE OF AUTHORITY.—To the ex-
3 tent necessary or appropriate to the enforce-
4 ment of this Act, officers or employees of the
5 Department designated by the Secretary, offi-
6 cers and employees of the United States Cus-
7 toms Service designated by the Commissioner of
8 Customs, and officers and employees of any
9 other department or agency designated by the
10 head of a department or agency exercising func-
11 tions under this Act, may exercise the enforce-
12 ment authority under paragraph (3).

13 (B) CUSTOMS SERVICE.—In carrying out
14 enforcement authority under paragraph (3), the
15 Commissioner of Customs and employees of the
16 United States Customs Services designated by
17 the Commissioner may make investigations
18 within or outside the United States and at
19 ports of entry into or exit from the United
20 States where officers of the United States Cus-
21 toms Service are authorized by law to carry out
22 law enforcement responsibilities. Subject to
23 paragraph (3), the United States Customs
24 Service is authorized, in the enforcement of this
25 Act, to search, detain (after search), and seize

1 commodities or technology at the ports of entry
2 into or exit from the United States where offi-
3 cers of the United States Customs Service are
4 authorized by law to conduct searches, deten-
5 tions, and seizures, and at the places outside
6 the United States where the United States Cus-
7 toms Service, pursuant to agreement or other
8 arrangement with other countries, is authorized
9 to perform enforcement activities.

10 (C) OTHER EMPLOYEES.—In carrying out
11 enforcement authority under paragraph (3), the
12 Secretary and officers and employees of the De-
13 partment designated by the Secretary may
14 make investigations within the United States,
15 and may conduct, outside the United States,
16 pre-license and post-shipment verifications of
17 controlled items and investigations in the en-
18 forcement of section 602. The Secretary and of-
19 ficers and employees of the Department des-
20 ignated by the Secretary are authorized to
21 search, detain (after search), and seize items at
22 places within the United States other than
23 ports referred to in subparagraph (B). The
24 search, detention (after search), or seizure of
25 items at the ports and places referred to in sub-

1 paragraph (B) may be conducted by officers
2 and employees of the Department only with the
3 concurrence of the Commissioner of Customs or
4 a person designated by the Commissioner.

5 (D) AGREEMENTS AND ARRANGEMENTS.—

6 The Secretary and the Commissioner of Cus-
7 toms may enter into agreements and arrange-
8 ments for the enforcement of this Act, including
9 foreign investigations and information ex-
10 change.

11 (3) SPECIFIC AUTHORITIES.—

12 (A) ACTIONS BY ANY DESIGNATED PER-
13 SONNEL.—Any officer or employee designated
14 under paragraph (2), in carrying out the en-
15 forcement authority under this Act, may do the
16 following:

17 (i) Make investigations of, obtain in-
18 formation from, make inspection of any
19 books, records, or reports (including any
20 writings required to be kept by the Sec-
21 retary), premises, or property of, and take
22 the sworn testimony of, any person.

23 (ii) Administer oaths or affirmations,
24 and by subpoena require any person to ap-
25 pear and testify or to appear and produce

1 books, records, and other writings, or both.
2 In the case of contumacy by, or refusal to
3 obey a subpoena issued to, any such per-
4 son, a district court of the United States,
5 on request of the Attorney General and
6 after notice to any such person and a hear-
7 ing, shall have jurisdiction to issue an
8 order requiring such person to appear and
9 give testimony or to appear and produce
10 books, records, and other writings, or both.
11 Any failure to obey such order of the court
12 may be punished by such court as a con-
13 tempt thereof. The attendance of witnesses
14 and the production of documents provided
15 for in this clause may be required from
16 any State, the District of Columbia, or in
17 any territory of the United States at any
18 designated place. Witnesses subpoenaed
19 under this subsection shall be paid the
20 same fees and mileage allowance as paid
21 witnesses in the district courts of the
22 United States.

23 (B) ACTIONS BY OFFICE OF EXPORT EN-
24 FORCEMENT AND CUSTOMS SERVICE PER-
25 SONNEL.—

1 (i) OFFICE OF EXPORT ENFORCE-
2 MENT AND CUSTOMS SERVICE PER-
3 SONNEL.—Any officer or employee of the
4 Office of Export Enforcement of the De-
5 partment of Commerce (in this Act re-
6 ferred to as “OEE”) who is designated by
7 the Secretary under paragraph (2), and
8 any officer or employee of the United
9 States Customs Service who is designated
10 by the Commissioner of Customs under
11 paragraph (2), may do the following in
12 carrying out the enforcement authority
13 under this Act:

14 (I) Execute any warrant or other
15 process issued by a court or officer of
16 competent jurisdiction with respect to
17 the enforcement of this Act.

18 (II) Make arrests without war-
19 rant for any violation of this Act com-
20 mitted in his or her presence or view,
21 or if the officer or employee has prob-
22 able cause to believe that the person
23 to be arrested has committed, is com-
24 mitting, or is about to commit such a
25 violation.

1 (III) Carry firearms.

2 (ii) OEE PERSONNEL.—Any officer
3 and employee of the OEE designated by
4 the Secretary under paragraph (2) shall
5 exercise the authority set forth in clause (i)
6 pursuant to guidelines approved by the At-
7 torney General.

8 (C) OTHER ACTIONS BY CUSTOMS SERVICE
9 PERSONNEL.—Any officer or employee of the
10 United States Customs Service designated by
11 the Commissioner of Customs under paragraph
12 (2) may do the following in carrying out the en-
13 forcement authority under this Act:

14 (i) Stop, search, and examine a vehi-
15 cle, vessel, aircraft, or person on which or
16 whom the officer or employee has reason-
17 able cause to suspect there is any item
18 that has been, is being, or is about to be
19 exported from or transited through the
20 United States in violation of this Act.

21 (ii) Detain and search any package or
22 container in which the officer or employee
23 has reasonable cause to suspect there is
24 any item that has been, is being, or is
25 about to be exported from or transited

1 through the United States in violation of
2 this Act.

3 (iii) Detain (after search) or seize any
4 item, for purposes of securing for trial or
5 forfeiture to the United States, on or
6 about such vehicle, vessel, aircraft, or per-
7 son or in such package or container, if the
8 officer or employee has probable cause to
9 believe the item has been, is being, or is
10 about to be exported from or transited
11 through the United States in violation of
12 this Act.

13 (4) OTHER AUTHORITIES NOT AFFECTED.—The
14 authorities conferred by this section are in addition
15 to any authorities conferred under other laws.

16 (b) FORFEITURE.—

17 (1) IN GENERAL.—Any tangible items lawfully
18 seized under subsection (a) by designated officers or
19 employees shall be subject to forfeiture to the United
20 States.

21 (2) APPLICABLE LAWS.—Those provisions of
22 law relating to—

23 (A) the seizure, summary and judicial for-
24 feiture, and condemnation of property for viola-
25 tions of the customs laws;

1 (B) the disposition of such property or the
2 proceeds from the sale thereof;

3 (C) the remission or mitigation of such for-
4 feitures; and

5 (D) the compromise of claims,
6 shall apply to seizures and forfeitures incurred, or
7 alleged to have been incurred, under the provisions
8 of this subsection, insofar as applicable and not in-
9 consistent with this Act.

10 (3) FORFEITURES UNDER CUSTOMS LAWS.—

11 Duties that are imposed upon the customs officer or
12 any other person with respect to the seizure and for-
13 feiture of property under the customs laws may be
14 performed with respect to seizures and forfeitures of
15 property under this subsection by the Secretary or
16 any officer or employee of the Department that may
17 be authorized or designated for that purpose by the
18 Secretary, or, upon the request of the Secretary, by
19 any other agency that has authority to manage and
20 dispose of seized property.

21 (c) REFERRAL OF CASES.—All cases involving viola-
22 tions of this Act shall be referred to the Secretary for pur-
23 poses of determining civil penalties and administrative
24 sanctions under section 603 or to the Attorney General

1 for criminal action in accordance with this Act or to both
2 the Secretary and the Attorney General.

3 (d) UNDERCOVER INVESTIGATION OPERATIONS.—

4 (1) USE OF FUNDS.—With respect to any un-
5 dercover investigative operation conducted by the
6 OEE that is necessary for the detection and pros-
7 ecution of violations of this Act—

8 (A) funds made available for export en-
9 forcement under this Act may be used to pur-
10 chase property, buildings, and other facilities,
11 and to lease equipment, conveyances, and space
12 within the United States, without regard to sec-
13 tions 1341 and 3324 of title 31, United States
14 Code, the third undesignated paragraph under
15 the heading of “miscellaneous” of the Act of
16 March 3, 1877, (40 U.S.C. 34), sections
17 3732(a) and 3741 of the Revised Statutes of
18 the United States (41 U.S.C. 11(a) and 22),
19 subsections (a) and (c) of section 304 of the
20 Federal Property and Administrative Services
21 Act of 1949 (41 U.S.C. 254 (a) and (c)), and
22 section 305 of the Federal Property and Ad-
23 ministrative Services Act of 1949 (41 U.S.C.
24 255);

1 (B) funds made available for export en-
2 forcement under this Act may be used to estab-
3 lish or to acquire proprietary corporations or
4 business entities as part of an undercover oper-
5 ation, and to operate such corporations or busi-
6 ness entities on a commercial basis, without re-
7 gard to sections 1341, 3324, and 9102 of title
8 31, United States Code;

9 (C) funds made available for export en-
10 forcement under this Act and the proceeds from
11 undercover operations may be deposited in
12 banks or other financial institutions without re-
13 gard to the provisions of section 648 of title 18,
14 United States Code, and section 3302 of title
15 31, United States Code; and

16 (D) the proceeds from undercover oper-
17 ations may be used to offset necessary and rea-
18 sonable expenses incurred in such operations
19 without regard to the provisions of section 3302
20 of title 31, United States Code,

21 if the Director of OEE (or an officer or employee
22 designated by the Director) certifies, in writing, that
23 the action authorized by subparagraph (A), (B), (C),
24 or (D) for which the funds would be used is nec-
25 essary for the conduct of the undercover operation.

1 (2) DISPOSITION OF BUSINESS ENTITIES.—If a
2 corporation or business entity established or ac-
3 quired as part of an undercover operation has a net
4 value of more than \$250,000 and is to be liquidated,
5 sold, or otherwise disposed of, the Director of OEE
6 shall report the circumstances to the Secretary and
7 the Comptroller General of the United States as
8 much in advance of such disposition as the Director
9 of the OEE (or the Director’s designee) determines
10 is practicable. The proceeds of the liquidation, sale,
11 or other disposition, after obligations incurred by the
12 corporation or business enterprise are met, shall be
13 deposited in the Treasury of the United States as
14 miscellaneous receipts. Any property or equipment
15 purchased pursuant to paragraph (1) may be re-
16 tained for subsequent use in undercover operations
17 under this section. When such property or equip-
18 ment is no longer needed, it shall be considered sur-
19 plus and disposed of as surplus government prop-
20 erty.

21 (3) DEPOSIT OF PROCEEDS.—As soon as the
22 proceeds from an OEE undercover investigative op-
23 eration with respect to which an action is authorized
24 and carried out under this subsection are no longer
25 needed for the conduct of such operation, the pro-

1 ceeds or the balance of the proceeds remaining at
2 the time shall be deposited into the Treasury of the
3 United States as miscellaneous receipts.

4 (4) AUDIT AND REPORT.—

5 (A) AUDIT.—The Director of OEE shall
6 conduct a detailed financial audit of each closed
7 OEE undercover investigative operation and
8 shall submit the results of the audit in writing
9 to the Secretary. Not later than 180 days after
10 an undercover operation is closed, the Secretary
11 shall submit to Congress a report on the results
12 of the audit.

13 (B) REPORT.—The Secretary shall submit
14 annually to Congress a report, which may be in-
15 cluded in the annual report under section 801,
16 specifying the following information:

17 (i) The number of undercover inves-
18 tigative operations pending as of the end of
19 the period for which such report is sub-
20 mitted.

21 (ii) The number of undercover inves-
22 tigative operations commenced in the 1-
23 year period preceding the period for which
24 such report is submitted.

1 (iii) The number of undercover inves-
2 tigative operations closed in the 1-year pe-
3 riod preceding the period for which such
4 report is submitted and, with respect to
5 each such closed undercover operation, the
6 results obtained and any civil claims made
7 with respect to the operation.

8 (5) DEFINITIONS.—For purposes of paragraph
9 (4)—

10 (A) the term “closed”, with respect to an
11 undercover investigative operation, refers to the
12 earliest point in time at which all criminal pro-
13 ceedings (other than appeals) pursuant to the
14 investigative operation are concluded, or covert
15 activities pursuant to such operation are con-
16 cluded, whichever occurs later; and

17 (B) the terms “undercover investigative
18 operation” and “undercover operation” mean
19 any undercover investigative operation con-
20 ducted by the OEE—

21 (i) in which the gross receipts (exclud-
22 ing interest earned) exceed \$25,000, or ex-
23 penditures (other than expenditures for
24 salaries of employees) exceed \$75,000, and

1 (ii) which is exempt from section 3302
2 or 9102 of title 31, United States Code,
3 except that clauses (i) and (ii) shall not
4 apply with respect to the report to Con-
5 gress required by paragraph (4)(B).

6 (e) WIRETAPS.—

7 (1) AUTHORITY.—Interceptions of communica-
8 tions in accordance with section 2516 of title 18,
9 United States Code, are authorized to further the
10 enforcement of this Act.

11 (2) CONFORMING AMENDMENT.—Section
12 2516(1) of title 18, United States Code, is amended
13 by adding at the end the following:

14 “(q)(i) any violation of, or conspiracy to
15 violate, the Export Administration Act of 2001
16 or the Export Administration Act of 1979.”.

17 (f) POST-SHIPMENT VERIFICATION.—

18 (1) IN GENERAL.—The Secretary shall target
19 post-shipment verifications to exports involving the
20 greatest risk to national security including, but not
21 limited to, exports of high performance computers.

22 (2) REPEAL.—Section 1213 of the National
23 Defense Authorization Act for Fiscal Year 1998 is
24 repealed.

1 (g) REFUSAL TO ALLOW POST-SHIPMENT
2 VERIFICATION.—

3 (1) IN GENERAL.—If an end-user refuses to
4 allow post-shipment verification of a controlled item,
5 the Secretary shall deny a license for the export of
6 any controlled item to such end-user until such post-
7 shipment verification occurs.

8 (2) RELATED PERSONS.—The Secretary may
9 exercise the authority under paragraph (1) with re-
10 spect to any person related through affiliation, own-
11 ership, control, or position of responsibility, to any
12 end-user refusing to allow post-shipment verification
13 of a controlled item.

14 (3) REFUSAL BY COUNTRY.—If the country in
15 which the end-user is located refuses to allow post-
16 shipment verification of a controlled item, the Sec-
17 retary may deny a license for the export of that item
18 or any substantially identical or directly competitive
19 item or class of items to all end-users in that coun-
20 try until such post-shipment verification is allowed.

21 (h) AWARD OF COMPENSATION; PATRIOT PROVI-
22 SION.—

23 (1) IN GENERAL.—If—

24 (A) any person, who is not an employee or
25 officer of the United States, furnishes to a

1 United States attorney, to the Secretary of the
2 Treasury or the Secretary, or to appropriate of-
3 ficials in the Department of the Treasury or the
4 Department of Commerce, original information
5 concerning a violation of this Act or any regula-
6 tion, order, or license issued under this Act,
7 which is being, or has been, perpetrated or con-
8 templated by any other person and in which the
9 person furnishing the information has not par-
10 ticipated, and

11 (B) such information leads to the recovery
12 of any criminal fine, civil penalty, or forfeiture,
13 the Secretary and the Commissioner of Customs,
14 may, in the sole discretion of the Secretary or the
15 Commissioner, award and pay an amount that does
16 not exceed 25 percent of the net amount recovered.

17 (2) DOLLAR LIMITATION.—The amount award-
18 ed and paid to any person under this section may
19 not exceed \$250,000 for any case.

20 (3) SOURCE OF PAYMENT.—The amount paid
21 under this section shall be paid out of any penalties,
22 forfeitures, or appropriated funds.

23 (i) FREIGHT FORWARDERS BEST PRACTICES PRO-
24 GRAM AUTHORIZATION.—There is authorized to be appro-
25 priated for the Department of Commerce \$3,500,000 and

1 such sums as may be necessary to hire 20 additional em-
2 ployees to assist United States freight forwarders and
3 other interested parties in developing and implementing,
4 on a voluntary basis, a “best practices” program to ensure
5 that exports of controlled items are undertaken in compli-
6 ance with this Act.

7 (j) END-USE VERIFICATION AUTHORIZATION.—

8 (1) IN GENERAL.—There is authorized to be
9 appropriated for the Department of Commerce
10 \$4,500,000 and such sums as may be necessary to
11 hire 10 additional overseas investigators to be posted
12 in the People’s Republic of China, the Russian Fed-
13 eration, the Hong Kong Special Administrative Re-
14 gion, the Republic of India, Singapore, Egypt, and
15 Taiwan, or any other place the Secretary deems ap-
16 propriate, for the purpose of verifying the end use
17 of high-risk, dual-use technology.

18 (2) REPORT.—Not later than 2 years after the
19 date of enactment of this Act and annually there-
20 after, the Department shall, in its annual report to
21 Congress on export controls, include a report on the
22 effectiveness of the end-use verification activities au-
23 thorized under subsection (a). The report shall in-
24 clude the following information:

1 (A) The activities of the overseas investiga-
2 tors of the Department.

3 (B) The types of goods and technologies
4 that were subject to end-use verification.

5 (C) The ability of the Department's inves-
6 tigators to detect the illegal transfer of high
7 risk, dual-use goods and technologies.

8 (3) ENHANCEMENTS.—In addition to the au-
9 thorization provided in paragraph (1), there is au-
10 thorized to be appropriated for the Department of
11 Commerce \$5,000,000 to enhance its program for
12 verifying the end use of items subject to controls
13 under this Act.

14 (k) ENHANCED COOPERATION WITH UNITED
15 STATES CUSTOMS SERVICE.—Consistent with the pur-
16 poses of this Act, the Secretary is authorized to undertake,
17 in cooperation with the United States Customs Service,
18 such measures as may be necessary or required to enhance
19 the ability of the United States to detect unlawful exports
20 and to enforce violations of this Act.

21 (l) REFERENCE TO ENFORCEMENT.—For purposes
22 of this section, a reference to the enforcement of this Act
23 or to a violation of this Act includes a reference to the
24 enforcement or a violation of any regulation, license, or
25 order issued under this Act.

1 (m) AUTHORIZATION FOR EXPORT LICENSING AND
2 ENFORCEMENT COMPUTER SYSTEM.—There is author-
3 ized to be appropriated for the Department \$5,000,000
4 and such other sums as may be necessary for planning,
5 design, and procurement of a computer system to replace
6 the Department’s primary export licensing and computer
7 enforcement system.

8 (n) AUTHORIZATION FOR BUREAU OF EXPORT AD-
9 MINISTRATION.—The Secretary may authorize, without
10 fiscal year limitation, the expenditure of funds transferred
11 to, paid to, received by, or made available to the Bureau
12 of Export Administration as a reimbursement in accord-
13 ance with section 9703 of title 31, United States Code
14 (as added by Public Law 102–393). The Secretary may
15 also authorize, without fiscal year limitation, the expendi-
16 ture of funds transferred to, paid to, received by, or made
17 available to the Bureau of Export Administration as a re-
18 imbursement from the Department of Justice Assets For-
19 feiture Fund in accordance with section 524 of title 28,
20 United States Code.

21 (o) AMENDMENTS TO TITLE 31.—

22 (1) Section 9703(a) of title 31, United States
23 Code (as added by Public Law 102–393) is amended
24 by striking “or the United States Coast Guard” and
25 inserting “, the United States Coast Guard, or the

1 Bureau of Export Administration of the Department
2 of Commerce”.

3 (2) Section 9703(a)(2)(B)(i) of title 31, United
4 States Code is amended (as added by Public Law
5 102–393)—

6 (A) by striking “or” at the end of sub-
7 clause (I);

8 (B) by inserting “or” at the end of sub-
9 clause (II); and

10 (C) by inserting at the end, the following
11 new subclause:

12 “(III) a violation of the Export
13 Administration Act of 1979, the Ex-
14 port Administration Act of 2001, or
15 any regulation, license, or order issued
16 under those Acts;”.

17 (3) Section 9703(p)(1) of title 31, United
18 States Code (as added by Public Law 102–393) is
19 amended by adding at the end the following: “In ad-
20 dition, for purposes of this section, the Bureau of
21 Export Administration of the Department of Com-
22 merce shall be considered to be a Department of the
23 Treasury law enforcement organization.”.

24 (p) AUTHORIZATION FOR LICENSE REVIEW OFFI-
25 CERS.—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated to the Department of Commerce
3 \$2,000,000 to hire additional license review officers.

4 (2) TRAINING.—There is authorized to be ap-
5 propriated to the Department of Commerce
6 \$2,000,000 to conduct professional training of li-
7 cense review officers, auditors, and investigators
8 conducting post-shipment verification checks. These
9 funds shall be used to—

10 (A) train and certify, through a formal
11 program, new employees entering these posi-
12 tions for the first time; and

13 (B) the ongoing professional training of ex-
14 perience employees on an as needed basis.

15 (q) AUTHORIZATION.—There are authorized to be ap-
16 propriated to the Department of Commerce to carry out
17 the purposes of this Act—

18 (1) \$72,000,000 for the fiscal year 2002, of
19 which no less than \$27,701,000 shall be used for
20 compliance and enforcement activities;

21 (2) \$73,000,000 for the fiscal year 2003, of
22 which no less than \$28,312,000 shall be used for
23 compliance and enforcement activities;

1 (3) \$74,000,000 for the fiscal year 2004, of
2 which no less than \$28,939,000 shall be used for
3 compliance and enforcement activities;

4 (4) \$76,000,000 for the fiscal year 2005, of
5 which no less than \$29,582,000 shall be used for
6 compliance and enforcement activities; and

7 (5) such additional amounts, for each such fis-
8 cal year, as may be necessary for increases in salary,
9 pay, retirement, other employee benefits authorized
10 by law, and other nondiscretionary costs.

11 **SEC. 608. ADMINISTRATIVE PROCEDURE.**

12 (a) EXEMPTIONS FROM ADMINISTRATIVE PROCE-
13 DURE.—Except as provided in this section, the functions
14 exercised under this Act are excluded from the operation
15 of sections 551, 553 through 559, and 701 through 706
16 of title 5, United States Code.

17 (b) PROCEDURES RELATING TO CIVIL PENALTIES
18 AND SANCTIONS.—

19 (1) ADMINISTRATIVE PROCEDURES.—Any ad-
20 ministrative sanction imposed under section 603
21 may be imposed only after notice and opportunity
22 for an agency hearing on the record in accordance
23 with sections 554 through 557 of title 5, United
24 States Code. The imposition of any such administra-
25 tive sanction shall be subject to judicial review in ac-

1 cordance with sections 701 through 706 of title 5,
2 United States Code.

3 (2) AVAILABILITY OF CHARGING LETTER.—Any
4 charging letter or other document initiating adminis-
5 trative proceedings for the imposition of sanctions
6 for violations of the regulations issued under section
7 602 shall be made available for public inspection and
8 copying.

9 (c) COLLECTION.—If any person fails to pay a civil
10 penalty imposed under section 603, the Secretary may ask
11 the Attorney General to commence a civil action in an ap-
12 propriate district court of the United States to recover the
13 amount imposed (plus interest at currently prevailing
14 rates from the date of the final order). No such action
15 may be commenced more than 5 years after the order im-
16 posing the civil penalty becomes final. In such an action,
17 the validity, amount, and appropriateness of such penalty
18 shall not be subject to review.

19 (d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

20 (1) GROUNDS FOR IMPOSITION.—In any case in
21 which there is reasonable cause to believe that a per-
22 son is engaged in or is about to engage in any act
23 or practice which constitutes or would constitute a
24 violation of this Act, or any regulation, order, or li-
25 cense issued under this Act, including any diversion

1 of goods or technology from an authorized end use
2 or end user, and in any case in which a criminal in-
3 dictment has been returned against a person alleging
4 a violation of this Act or any of the statutes listed
5 in section 603, the Secretary may, without a hear-
6 ing, issue an order temporarily denying that person's
7 United States export privileges (hereafter in this
8 subsection referred to as a "temporary denial
9 order"). A temporary denial order shall be effective
10 for such period (not in excess of 180 days) as the
11 Secretary specifies in the order, but may be renewed
12 by the Secretary, following notice and an oppor-
13 tunity for a hearing, for additional periods of not
14 more than 180 days each.

15 (2) ADMINISTRATIVE APPEALS.—The person or
16 persons subject to the issuance or renewal of a tem-
17 porary denial order may appeal the issuance or re-
18 newal of the temporary denial order, supported by
19 briefs and other material, to an administrative law
20 judge who shall, within 15 working days after the
21 appeal is filed, issue a decision affirming, modifying,
22 or vacating the temporary denial order. The tem-
23 porary denial order shall be affirmed if it is shown
24 that—

1 (A) there is reasonable cause to believe
2 that the person subject to the order is engaged
3 in or is about to engage in any act or practice
4 that constitutes or would constitute a violation
5 of this Act, or any regulation, order, or license
6 issued under this Act; or

7 (B) a criminal indictment has been re-
8 turned against the person subject to the order
9 alleging a violation of this Act or any of the
10 statutes listed in section 603.

11 The decision of the administrative law judge shall be
12 final unless, within 10 working days after the date
13 of the administrative law judge's decision, an appeal
14 is filed with the Secretary. On appeal, the Secretary
15 shall either affirm, modify, reverse, or vacate the de-
16 cision of the administrative law judge by written
17 order within 10 working days after receiving the ap-
18 peal. The written order of the Secretary shall be
19 final and is not subject to judicial review, except as
20 provided in paragraph (3). The materials submitted
21 to the administrative law judge and the Secretary
22 shall constitute the administrative record for pur-
23 poses of review by the court.

24 (3) COURT APPEALS.—An order of the Sec-
25 retary affirming, in whole or in part, the issuance or

1 renewal of a temporary denial order may, within 15
2 days after the order is issued, be appealed by a per-
3 son subject to the order to the United States Court
4 of Appeals for the District of Columbia Circuit,
5 which shall have the jurisdiction of the appeal. The
6 court may review only those issues necessary to de-
7 termine whether the issuance of the temporary de-
8 nial order was based on reasonable cause to believe
9 that the person subject to the order was engaged
10 in or was about to engage in any act or practice
11 that constitutes or would constitute a violation of
12 this title, or any regulation, order, or license issued
13 under this Act, or whether a criminal indictment has
14 been returned against the person subject to the
15 order alleging a violation of this Act or of any of
16 the statutes listed in section 603. The court shall
17 vacate the Secretary's order if the court finds that
18 the Secretary's order is arbitrary, capricious, an
19 abuse of discretion, or otherwise not in accordance
20 with law.

21 (e) LIMITATIONS ON REVIEW OF CLASSIFIED INFOR-
22 MATION.—Any classified information that is included in
23 the administrative record that is subject to review pursu-
24 ant to subsection (b)(1) or (d)(3) may be reviewed by the
25 court only on an ex parte basis and in camera.

1 **TITLE VII—EXPORT CONTROL**
2 **AUTHORITY AND REGULATIONS**

3 **SEC. 701. EXPORT CONTROL AUTHORITY AND REGULA-**
4 **TIONS.**

5 (a) EXPORT CONTROL AUTHORITY.—

6 (1) IN GENERAL.—Unless otherwise reserved to
7 the President or a department (other than the De-
8 partment) or agency of the United States, all power,
9 authority, and discretion conferred by this Act shall
10 be exercised by the Secretary.

11 (2) DELEGATION OF FUNCTIONS OF THE SEC-
12 RETARY.—The Secretary may delegate any function
13 under this Act, unless otherwise provided, to the
14 Under Secretary of Commerce for Export Adminis-
15 tration or to any other officer of the Department.

16 (b) UNDER SECRETARY OF COMMERCE; ASSISTANT
17 SECRETARIES.—

18 (1) UNDER SECRETARY OF COMMERCE.—There
19 shall be within the Department an Under Secretary
20 of Commerce for Export Administration (in this sec-
21 tion referred to as the “Under Secretary”) who shall
22 be appointed by the President, by and with the ad-
23 vice and consent of the Senate. The Under Secretary
24 shall carry out all functions of the Secretary under

1 this Act and other provisions of law relating to na-
2 tional security, as the Secretary may delegate.

3 (2) ADDITIONAL ASSISTANT SECRETARIES.—In
4 addition to the number of Assistant Secretaries oth-
5 erwise authorized for the Department of Commerce,
6 there shall be within the Department of Commerce
7 the following Assistant Secretaries of Commerce:

8 (A) An Assistant Secretary for Export Ad-
9 ministration who shall be appointed by the
10 President, by and with the advice and consent
11 of the Senate, and who shall assist the Sec-
12 retary and the Under Secretary in carrying out
13 functions relating to export listing and licens-
14 ing.

15 (B) An Assistant Secretary for Export En-
16 forcement who shall be appointed by the Presi-
17 dent, by and with the advice and consent of the
18 Senate, and who shall assist the Secretary and
19 the Under Secretary in carrying out functions
20 relating to export enforcement.

21 (c) ISSUANCE OF REGULATIONS.—

22 (1) IN GENERAL.—The President and the Sec-
23 retary may issue such regulations as are necessary
24 to carry out this Act. Any such regulations the pur-
25 pose of which is to carry out title II or title III may

1 be issued only after the regulations are submitted
2 for review to such departments or agencies as the
3 President considers appropriate. The Secretary shall
4 consult with the appropriate export control advisory
5 committee appointed under section 105(f) in formu-
6 lating regulations under this title. The second sen-
7 tence of this subsection does not require the concur-
8 rence or approval of any official, department, or
9 agency to which such regulations are submitted.

10 (2) AMENDMENTS TO REGULATIONS.—If the
11 Secretary proposes to amend regulations issued
12 under this Act, the Secretary shall report to the
13 Committee on Banking, Housing, and Urban Affairs
14 of the Senate and the Committee on International
15 Relations of the House of Representatives on the in-
16 tent and rationale of such amendments. Such report
17 shall evaluate the cost and burden to the United
18 States exporters of the proposed amendments in re-
19 lation to any enhancement of licensing objectives.
20 The Secretary shall consult with the appropriate ex-
21 port control advisory committees appointed under
22 section 105(f) in amending regulations issued under
23 this Act.

24 **SEC. 702. CONFIDENTIALITY OF INFORMATION.**

25 (a) EXEMPTIONS FROM DISCLOSURE.—

1 (1) INFORMATION OBTAINED ON OR BEFORE
2 JUNE 30, 1980.—Except as otherwise provided by the
3 third sentence of section 602(c)(2), information ob-
4 tained under the Export Administration Act of
5 1979, or any predecessor statute, on or before June
6 30, 1980, which is deemed confidential, including
7 Shipper's Export Declarations, or with respect to
8 which a request for confidential treatment is made
9 by the person furnishing such information, shall not
10 be subject to disclosure under section 552 of title 5,
11 United States Code, and such information shall not
12 be published or disclosed, unless the Secretary deter-
13 mines that the withholding thereof is contrary to the
14 national interest.

15 (2) INFORMATION OBTAINED AFTER JUNE 30,
16 1980.—Except as otherwise provided by the third
17 sentence of section 13(b)(2) of the Export Adminis-
18 tration Act of 1979, information obtained under this
19 Act, under the Export Administration Act of 1979
20 after June 30, 1980, or under the Export Adminis-
21 tration regulations as maintained and amended
22 under the authority of the International Emergency
23 Economic Powers Act (50 U.S.C. 1706), may be
24 withheld from disclosure only to the extent permitted
25 by statute, except that information submitted, ob-

1 tained, or considered in connection with an applica-
2 tion for an export license or other export authoriza-
3 tion (or recordkeeping or reporting requirement)
4 under the Export Administration Act of 1979, under
5 this Act, or under the Export Administration regula-
6 tions as maintained and amended under the author-
7 ity of the International Emergency Economic Pow-
8 ers Act (50 U.S.C. 1706), including—

9 (A) the export license or other export au-
10 thorization itself,

11 (B) classification requests described in sec-
12 tion 501(h),

13 (C) information or evidence obtained in the
14 course of any investigation,

15 (D) information obtained or furnished
16 under title VII in connection with any inter-
17 national agreement, treaty, or other obligation,
18 and

19 (E) information obtained in making the
20 determinations set forth in section 211 of this
21 Act,

22 and information obtained in any investigation of an
23 alleged violation of section 602 of this Act except for
24 information required to be disclosed by section
25 602(c)(2) or 606(b)(2) of this Act, shall be withheld

1 from public disclosure and shall not be subject to
2 disclosure under section 552 of title 5, United States
3 Code, unless the release of such information is deter-
4 mined by the Secretary to be in the national inter-
5 est.

6 (b) INFORMATION TO CONGRESS AND GAO.—

7 (1) IN GENERAL.—Nothing in this title shall be
8 construed as authorizing the withholding of informa-
9 tion from Congress or from the General Accounting
10 Office.

11 (2) AVAILABILITY TO THE CONGRESS—

12 (A) IN GENERAL.—Any information ob-
13 tained at any time under this title or under any
14 predecessor Act regarding the control of ex-
15 ports, including any report or license applica-
16 tion required under this title, shall be made
17 available to any committee or subcommittee of
18 Congress of appropriate jurisdiction upon the
19 request of the chairman or ranking minority
20 member of such committee or subcommittee.

21 (B) PROHIBITION ON FURTHER DISCLO-
22 SURE.—No committee, subcommittee, or Mem-
23 ber of Congress shall disclose any information
24 obtained under this Act or any predecessor Act
25 regarding the control of exports which is sub-

1 mitted on a confidential basis to the Congress
2 under subparagraph (A) unless the full com-
3 mittee to which the information is made avail-
4 able determines that the withholding of the in-
5 formation is contrary to the national interest.

6 (3) AVAILABILITY TO THE GAO.—

7 (A) IN GENERAL.—Notwithstanding sub-
8 section (a), information described in paragraph
9 (2) shall, consistent with the protection of intel-
10 ligence, counterintelligence, and law enforce-
11 ment sources, methods, and activities, as deter-
12 mined by the agency that originally obtained
13 the information, and consistent with the provi-
14 sions of section 716 of title 31, United States
15 Code, be made available only by the agency,
16 upon request, to the Comptroller General of the
17 United States or to any officer or employee of
18 the General Accounting Office authorized by
19 the Comptroller General to have access to such
20 information.

21 (B) PROHIBITION ON FURTHER DISCLO-
22 SURES.—No officer or employee of the General
23 Accounting Office shall disclose, except to Con-
24 gress in accordance with this paragraph, any
25 such information which is submitted on a con-

1 fiducial basis and from which any individual
2 can be identified.

3 (c) INFORMATION EXCHANGE.—Notwithstanding
4 subsection (a), the Secretary and the Commissioner of
5 Customs shall exchange licensing and enforcement infor-
6 mation with each other as necessary to facilitate enforce-
7 ment efforts and effective license decisions.

8 (d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL
9 INFORMATION.—

10 (1) DISCLOSURE PROHIBITED.—No officer or
11 employee of the United States, or any department or
12 agency thereof, may publish, divulge, disclose, or
13 make known in any manner or to any extent not au-
14 thorized by law any information that—

15 (A) the officer or employee obtains in the
16 course of his or her employment or official du-
17 ties or by reason of any examination or inves-
18 tigation made by, or report or record made to
19 or filed with, such department or agency, or of-
20 ficer or employee thereof; and

21 (B) is exempt from disclosure under this
22 section.

23 (2) CRIMINAL PENALTIES.—Any such officer or
24 employee who knowingly violates paragraph (1) shall
25 be fined not more than \$50,000, imprisoned not

1 more than 1 year, or both, for each violation of
2 paragraph (1). Any such officer or employee may
3 also be removed from office or employment.

4 (3) CIVIL PENALTIES; ADMINISTRATIVE SANC-
5 TIONS.—The Secretary may impose a civil penalty of
6 not more than \$5,000 for each violation of para-
7 graph (1). Any officer or employee who commits
8 such violation may also be removed from office or
9 employment for the violation of paragraph (1). Sub-
10 sections 603 (e), (g), (h), and (i) and 606 (a), (b),
11 and (c) shall apply to violations described in this
12 paragraph.

13 **TITLE VIII—MISCELLANEOUS** 14 **PROVISIONS**

15 **SEC. 801. ANNUAL AND PERIODIC REPORTS.**

16 (a) ANNUAL REPORT.—Not later than February 1 of
17 each year, the Secretary shall submit to Congress a report
18 on the administration of this Act during the fiscal year
19 ending September 30 of the preceding calendar year. All
20 Federal agencies shall cooperate fully with the Secretary
21 in providing information for each such report.

22 (b) REPORT ELEMENTS.—Each such report shall in-
23 clude in detail—

24 (1) a description of the implementation of the
25 export control policies established by this Act, in-

1 including any delegations of authority by the President
2 and any other changes in the exercise of delegated
3 authority;

4 (2) a description of the changes to and the
5 year-end status of country tiering and the Control
6 List;

7 (3) a description of the petitions filed and the
8 determinations made with respect to foreign avail-
9 ability and mass-market status, the set-asides of for-
10 eign availability and mass-market status determina-
11 tions, and negotiations to eliminate foreign avail-
12 ability;

13 (4) a description of the regulations issued under
14 this Act;

15 (5) a description of organizational and proce-
16 dural changes undertaken in furtherance of this Act;

17 (6) a description of the enforcement activities,
18 violations, and sanctions imposed under section 604;

19 (7) a statistical summary of all applications and
20 notifications, including—

21 (A) the number of applications and notifi-
22 cations pending review at the beginning of the
23 fiscal year;

24 (B) the number of notifications returned
25 and subject to full license procedure;

1 (C) the number of notifications with no ac-
2 tion required;

3 (D) the number of applications that were
4 approved, denied, or withdrawn, and the num-
5 ber of applications where final action was
6 taken; and

7 (E) the number of applications and notifi-
8 cations pending review at the end of the fiscal
9 year;

10 (8) summary of export license data by export
11 identification code and dollar value by country;

12 (9) an identification of processing time by—

13 (A) overall average, and

14 (B) top 25 export identification codes;

15 (10) an assessment of the effectiveness of mul-
16 tilateral regimes, and a description of negotiations
17 regarding export controls;

18 (11) a description of the significant differences
19 between the export control requirements of the
20 United States and those of other multilateral control
21 regime members, the specific differences between
22 United States requirements and those of other sig-
23 nificant supplier countries, and a description of the
24 extent to which the executive branch intends to ad-
25 dress the differences;

1 (12) an assessment of the costs of export con-
2 trols;

3 (13) a description of the progress made toward
4 achieving the goals established for the Department
5 dealing with export controls under the Government
6 Performance Results Act; and

7 (14) any other reports required by this Act to
8 be submitted to the Committee on Banking, Hous-
9 ing, and Urban Affairs of the Senate and the Com-
10 mittee on International Relations of the House of
11 Representatives.

12 (c) CONGRESSIONAL NOTIFICATION.—Whenever the
13 Secretary determines, in consultation with other appro-
14 priate departments and agencies, that a significant viola-
15 tion of this Act poses a direct and imminent threat to
16 United States national security interests, the Secretary,
17 in consultation with other appropriate departments and
18 agencies, shall advise the Committee on Banking, Hous-
19 ing, and Urban Affairs of the Senate and the Committee
20 on International Relations of the House of Representa-
21 tives of such violation consistent with the protection of law
22 enforcement sources, methods, and activities.

23 (d) FEDERAL REGISTER PUBLICATION REQUIRE-
24 MENTS.—Whenever information under this Act is required
25 to be published in the Federal Register, such information

1 shall, in addition, be made available on the appropriate
2 Internet website of the Department.

3 **SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.**

4 (a) REPEAL.—The Export Administration Act of
5 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

6 (b) ENERGY POLICY AND CONSERVATION ACT.—

7 (1) Section 103 of the Energy Policy and Con-
8 servation Act (42 U.S.C. 6212) is repealed.

9 (2) Section 251(d) of the Energy Policy and
10 Conservation Act (42 U.S.C. 6271(d)) is repealed.

11 (c) ALASKA NATURAL GAS TRANSPORTATION ACT.—

12 Section 12 of the Alaska Natural Gas Transportation Act
13 of 1976 (15 U.S.C. 719j) is repealed.

14 (d) MINERAL LEASING ACT.—Section 28(u) of the
15 Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

16 (e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Sec-
17 tion 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s))
18 is repealed.

19 (f) DISPOSITION OF CERTAIN NAVAL PETROLEUM
20 RESERVE PRODUCTS.—Section 7430(e) of title 10, United
21 States Code, is repealed.

22 (g) OUTER CONTINENTAL SHELF LANDS ACT.—Sec-
23 tion 28 of the Outer Continental Shelf Lands Act (43
24 U.S.C. 1354) is repealed.

25 (h) ARMS EXPORT CONTROL ACT.—

1 (1) Section 38 of the Arms Export Control Act
2 (22 U.S.C. 2778) is amended—

3 (A) in subsection (e)—

4 (i) in the first sentence, by striking
5 “subsections (c)” and all that follows
6 through “12 of such Act,” and inserting
7 “subsections (b), (c), (d) and (e) of section
8 603 of the Export Administration Act of
9 2001, by subsections (a) and (b) of section
10 607 of such Act, and by section 702 of
11 such Act,”; and

12 (ii) in the third sentence, by striking
13 “11(c) of the Export Administration Act of
14 1979” and inserting “603(c) of the Export
15 Administration Act of 2001”; and

16 (B) in subsection (g)(1)(A)(ii), by inserting
17 “or section 603 of the Export Administration
18 Act of 2001” after “1979”.

19 (2) Section 39A(c) of the Arms Export Control
20 Act is amended—

21 (A) by striking “subsections (c),” and all
22 that follows through “12(a) of such Act” and
23 inserting “subsections (c), (d), and (e) of sec-
24 tion 603, section 608(c), and subsections (a)

1 and (b) of section 607, of the Export Adminis-
2 tration Act of 2001”; and

3 (B) by striking “11(c)” and inserting
4 “603(c)”.

5 (3) Section 40(k) of the Arms Export Control
6 Act (22 U.S.C. 2780(k)) is amended—

7 (A) by striking “11(c), 11(e), 11(g), and
8 12(a) of the Export Administration Act of
9 1979” and inserting “603(b), 603(c), 603(e),
10 607(a), and 607(b) of the Export Administra-
11 tion Act of 2001”; and

12 (B) by striking “11(c)” and inserting
13 “603(c)”.

14 (i) OTHER PROVISIONS OF LAW.—

15 (1) Section 5(b)(4) of the Trading with the
16 Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by
17 striking “section 5 of the Export Administration Act
18 of 1979, or under section 6 of that Act to the extent
19 that such controls promote the nonproliferation or
20 antiterrorism policies of the United States” and in-
21 serting “titles II and III of the Export Administra-
22 tion Act of 2001”.

23 (2) Section 502B(a)(2) of the Foreign Assist-
24 ance Act of 1961 (22 U.S.C. 2304(a)(2)) is amend-
25 ed in the second sentence—

1 (A) by striking “Export Administration
2 Act of 1979” the first place it appears and in-
3 serting “Export Administration Act of 2001”;
4 and

5 (B) by striking “Act of 1979” and insert-
6 ing “Act of 2001”.

7 (3) Section 140(a) of the Foreign Relations Au-
8 thorization Act, Fiscal Years 1988 and 1989 (22
9 U.S.C. 2656f(a)) is amended—

10 (A) in paragraph (1)(B), by inserting “or
11 section 310 of the Export Administration Act of
12 2001” after “Act of 1979”; and

13 (B) in paragraph (2), by inserting “or 310
14 of the Export Administration Act of 2001”
15 after “6(j) of the Export Administration Act of
16 1979”.

17 (4) Section 40(e)(1) of the State Department
18 Basic Authorities Act of 1956 (22 U.S.C.
19 2712(e)(1)) is amended by striking “section 6(j)(1)
20 of the Export Administration Act of 1979” and in-
21 serting “section 310 of the Export Administration
22 Act of 2001”.

23 (5) Section 205(d)(4)(B) of the State Depart-
24 ment Basic Authorities Act of 1956 (22 U.S.C.
25 305(d)(4)(B)) is amended by striking “section 6(j)

1 of the Export Administration Act of 1979” and in-
2 sserting “section 310 of the Export Administration
3 Act of 2001”.

4 (6) Section 110 of the International Security
5 and Development Cooperation Act of 1980 (22
6 U.S.C. 2778a) is amended by striking “Act of
7 1979” and inserting “Act of 2001”.

8 (7) Section 203(b)(3) of the International
9 Emergency Economic Powers Act (50 U.S.C.
10 1702(b)(3)) is amended by striking “section 5 of the
11 Export Administration Act of 1979, or under section
12 6 of such Act to the extent that such controls pro-
13 mote the nonproliferation or antiterrorism policies of
14 the United States” and inserting “the Export Ad-
15 ministration Act of 2001”.

16 (8) Section 1605(a)(7)(A) of title 28, United
17 States Code, is amended by striking “section 6(j) of
18 the Export Administration Act of 1979 (50 U.S.C.
19 App. 2405(j))” and inserting “section 310 of the
20 Export Administration Act of 2001”.

21 (9) Section 2332d(a) of title 18, United States
22 Code, is amended by striking “section 6(j) of the
23 Export Administration Act of 1979 (50 U.S.C. App.
24 2405)” and inserting “section 310 of the Export Ad-
25 ministration Act of 2001”.

1 (10) Section 620H(a)(1) of the Foreign Assist-
2 ance Act of 1961 (22 U.S.C. 2378(a)(1)) is amend-
3 ed by striking “section 6(j) of the Export Adminis-
4 tration Act of 1979 (50 U.S.C. App. 2405(j))” and
5 inserting “section 310 of the Export Administration
6 Act of 2001”.

7 (11) Section 1621(a) of the International Fi-
8 nancial Institutions Act (22 U.S.C. 262p–4q(a)) is
9 amended by striking “section 6(j) of the Export Ad-
10 ministration Act of 1979 (50 U.S.C. App. 2405(j))”
11 and inserting “section 310 of the Export Adminis-
12 tration Act of 2001”.

13 (12) Section 1956(e)(7)(D) of title 18, United
14 States Code, is amended by striking “section 11 (re-
15 lating to violations) of the Export Administration of
16 1979” and inserting “section 603 (relating to pen-
17 alties) of the Export Administration Act of 2001”.

18 **SEC. 803. SAVINGS PROVISIONS.**

19 (a) IN GENERAL.—All delegations, rules, regulations,
20 orders, determinations, licenses, or other forms of admin-
21 istrative action which have been made, issued, conducted,
22 or allowed to become effective under—

23 (1) the Export Control Act of 1949, the Export
24 Administration Act of 1969, the Export Administra-
25 tion Act of 1979, or the International Emergency

1 Economic Powers Act when invoked to maintain and
2 continue the Export Administration regulations, or

3 (2) those provisions of the Arms Export Control
4 Act which are amended by section 802,

5 and are in effect on the date of enactment of this Act,
6 shall continue in effect according to their terms until
7 modified, superseded, set aside, or revoked under this Act
8 or the Arms Export Control Act.

9 (b) ADMINISTRATIVE AND JUDICIAL PRO-
10 CEEDINGS.—

11 (1) EXPORT ADMINISTRATION ACT.—This Act
12 shall not affect any administrative or judicial pro-
13 ceedings commenced or any application for a license
14 made, under the Export Administration Act of 1979
15 or pursuant to Executive Order 12924, which is
16 pending at the time this Act takes effect. Any such
17 proceedings, and any action on such application,
18 shall continue under the Export Administration Act
19 of 1979 as if that Act had not been repealed.

20 (2) OTHER PROVISIONS OF LAW.—This Act
21 shall not affect any administrative or judicial pro-
22 ceeding commenced or any application for a license
23 made, under those provisions of the Arms Export
24 Control Act which are amended by section 802, if
25 such proceeding or application is pending at the time

1 this Act takes effect. Any such proceeding, and any
2 action on such application, shall continue under
3 those provisions as if those provisions had not been
4 amended by section 802.

5 (c) TREATMENT OF CERTAIN DETERMINATIONS.—

6 Any determination with respect to the government of a
7 foreign country under section 6(j) of the Export Adminis-
8 tration Act of 1979, or Executive Order 12924, that is
9 in effect on the day before the date of enactment of this
10 Act, shall, for purposes of this title or any other provision
11 of law, be deemed to be made under section 310 of this
12 Act until superseded by a determination under such sec-
13 tion 310.

14 (d) LAWFUL INTELLIGENCE ACTIVITIES.—The pro-
15 hibitions otherwise applicable under this Act do not apply
16 with respect to any transaction subject to the reporting
17 requirements of title V of the National Security Act of
18 1947.

19 (e) IMPLEMENTATION.—The Secretary shall make
20 any revisions to the Export Administration regulations re-
21 quired by this Act no later than 180 days after the date
22 of enactment of this Act.

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