

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1846

To provide fundamental reform of the system and authority to regulate commercial exports, to enhance the effectiveness of export controls, to strengthen multilateral export control regimes, and to improve the efficiency of export regulation.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, JANUARY 25), 1994

Mrs. MURRAY (for herself and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide fundamental reform of the system and authority to regulate commercial exports, to enhance the effectiveness of export controls, to strengthen multilateral export control regimes, and to improve the efficiency of export regulation.

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        “Commercial Export Administration Act of 1993”.

6        (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

- Sec. 2. Findings and policy.
- Sec. 3. General provisions.
- Sec. 4. National security controls.
- Sec. 5. Emergency controls.
- Sec. 6. Export control authorities.
- Sec. 7. Commercial export licenses and processing procedures.
- Sec. 8. Penalties, administrative procedures, and sanctions.
- Sec. 9. Generally available software.
- Sec. 10. Definitions; reports.
- Sec. 11. Effect on other Acts; conforming amendments.
- Sec. 12. Authorization of appropriations; termination date.
- Sec. 13. Miscellaneous provisions.

1 **SEC. 2. FINDINGS AND POLICY.**

2 (a) FINDINGS.—The Congress makes the following  
3 findings:

4 (1) The ability of United States citizens to en-  
5 gage in international commerce is a fundamental  
6 right, which is to be abridged only under specific  
7 conditions for critical national security or foreign  
8 policy reasons. In principle, exports of commercial  
9 goods and technology are unrestricted, except as  
10 specified in this Act.

11 (2) Exporting is critical to the economic health  
12 of the United States and, therefore, to its national  
13 security as well. With the growing importance of ex-  
14 ports to sustained United States economic growth  
15 and vitality, restrictions on exports should be consid-  
16 ered within the broader framework of the economic  
17 performance of the United States. Restrictions on  
18 commercial exports from the United States have had  
19 serious adverse effects on economic competitiveness  
20 and domestic employment, particularly when re-

1       strains applied by the United States are more ex-  
2       tensive than those imposed by other countries or  
3       when United States export control policy is uncer-  
4       tain.

5           (3) Traditional strategic threats of Warsaw  
6       Pact military capabilities have fundamentally  
7       changed; new security threats lie in the proliferation  
8       of weapons of mass destruction, that is, nuclear,  
9       chemical, and biological weapons, missiles, and ad-  
10      vanced delivery systems. Availability to certain coun-  
11      tries and endusers of items that contribute to mili-  
12      tary or proliferation potential is a fundamental con-  
13      cern of the United States and should be eliminated  
14      through negotiations and other appropriate means  
15      whenever possible.

16           (4) In order for export controls to be effective,  
17      they must be maintained multilaterally by supplier  
18      countries, and focused only on those commercial  
19      goods or technology that would directly, substan-  
20      tially, and materially contribute to the military or  
21      proliferation potential of countries or endusers pos-  
22      ing a strategic threat to the United States. Ad hoc  
23      approaches to export controls are no longer suffi-  
24      cient. Greater coordination, formalization, simplifica-

1       tion, and consolidation of existing multilateral export  
2       control regimes are necessary.

3           (5) Unilateral controls are not effective in  
4       changing the actions or policies of other govern-  
5       ments. Unilateral emergency controls should only be  
6       imposed temporarily in order to allow time to seek  
7       multilateral support. If negotiations fail, emergency  
8       controls should expire, unless a further extension is  
9       approved by the Congress or the emergency controls  
10      are upgraded to an embargo.

11          (6) In order for export controls to be effective,  
12      United States exporters and the United States Gov-  
13      ernment must work closely together in developing,  
14      implementing, harmonizing, and enforcing export  
15      controls. The Government must clearly and specifi-  
16      cally define which items are controlled to which spe-  
17      cific destinations and endusers. Effectiveness of ex-  
18      port controls is largely based on voluntary compli-  
19      ance by the exporting public; it is, therefore, impera-  
20      tive that industry be clearly informed in a timely  
21      fashion about export control regulations and policies,  
22      and that United States exporters know their cus-  
23      tomers and, to the greatest extent practicable, the  
24      ultimate destination of their products.

1           (7) Export controls cannot, by themselves, stop  
2 the development of capabilities to produce weapons  
3 of mass destruction. Export controls should, there-  
4 fore, be applied as part of a well-reasoned, com-  
5 prehensive national response to security threats, tak-  
6 ing into account the limitations and the realities of  
7 whether goods or technology are controllable.

8           (8) The residual Cold War system of export  
9 controls faces basic problems that hamper the effec-  
10 tiveness of export controls and unnecessarily im-  
11 pedes legitimate United States commercial exports.  
12 The United States export control system must be  
13 fundamentally and substantially reformed to address  
14 more effectively the current security challenges and  
15 to achieve the goals of an effective and efficient ex-  
16 port control program.

17 (b) POLICY.—It is the policy of the United States—

18           (1) to encourage and support trade with all  
19 countries with which the United States has diplo-  
20 matic or trading relations;

21           (2) that exports of commercial goods and tech-  
22 nology are unrestricted, to be abridged only for criti-  
23 cal national security or foreign policy reasons to the  
24 extent provided in this Act;

1           (3) that absent the requirement for a validated  
2 license, as indicated by the inclusion of specific  
3 goods and technology on the export control index to  
4 specified countries and endusers, no authority or  
5 permission to export is required;

6           (4) to minimize unnecessary restrictions and  
7 uncertainty in export control policy;

8           (5) to apply any necessary export controls in  
9 cooperation with other supplier nations as part of  
10 multilateral export control regimes under section 4,  
11 and to strengthen such efforts to better coordinate,  
12 formalize, and even consolidate national export con-  
13 trol policies;

14           (6) to impose unilateral controls, under the pro-  
15 cedures and conditions set forth in section 5, only in  
16 response to an immediate and extraordinary threat  
17 to the national security or foreign policy of the  
18 United States, and only after full consideration of  
19 the economic impact of the controls and their effec-  
20 tiveness in achieving the intended objectives, and for  
21 a limited time in order to negotiate for multilateral  
22 controls;

23           (7) to restrict the export or reexport of only  
24 those commercial goods and technology that would  
25 directly, substantially, and materially—

1 (A) contribute to the military potential of  
2 countries posing a strategic threat to the  
3 United States, or

4 (B) enable a country or enduser to acquire  
5 the capability to develop, produce, stockpile,  
6 use, or deliver weapons of mass destruction, but  
7 only if such goods and technology are control-  
8 lable;

9 (8) to administer export controls consistent  
10 with basic standards of due process and to provide  
11 specific guidelines to United States exporters,  
12 through the publication of regulations, public no-  
13 tices, and advisory opinions with respect to goods,  
14 technology, sectors, license processing policies and  
15 practices, destinations, and endusers subject to spe-  
16 cific types of controls or exemptions from controls;  
17 and

18 (9) to consolidate and simplify the regulation,  
19 reporting, and documentation required of exporters.

20 **SEC. 3. GENERAL PROVISIONS.**

21 (a) RIGHT OF EXPORT.—No authority or permission  
22 to export commercial goods and technology may be re-  
23 quired under this Act or any other provision of law (other  
24 than the Atomic Energy Act of 1954), except as provided

1 in sections 4 and 5 of this Act and in sections 7 and 8(b)  
2 of the Export Administration Act of 1979.

3 (b) UNITED STATES COMMERCIAL EXPORT CONTROL  
4 INDEX.—

5 (1) IN GENERAL.—The Secretary shall—

6 (A) establish and maintain a United States  
7 Commercial Export Control Index which shall  
8 identify all commercial goods or technology on  
9 which controls are imposed under this Act;

10 (B) specify the license requirements appli-  
11 cable to the items on the control index; and

12 (C) designate countries and endusers to  
13 which exports and reexports of commercial  
14 goods and technology are controlled.

15 (2) CONTENTS.—The control index shall—

16 (A) consist of a security control list of all  
17 commercial goods and technology on which ex-  
18 port and reexport controls are imposed under  
19 section 4, and an emergency control list of all  
20 goods and technology on which export and reex-  
21 port controls are imposed under section 5;

22 (B) for each item on the control index,  
23 specify with particularity the performance and  
24 other identifying characteristics of the item and

1 provide a rationale for why the item is on the  
2 control list;

3 (C) identify countries and endusers to  
4 which exports and reexports are controlled, in-  
5 cluding specific projects and endusers of con-  
6 cern, cross-referenced with the list of goods and  
7 technology on which export and reexport con-  
8 trols are imposed; and

9 (D) be sufficiently specific and clear as to  
10 guide exporters and licensing officers in deter-  
11 minations of licensing requirements under this  
12 Act.

13 (3) LICENSING OF CONTROL INDEX GOODS AND  
14 TECHNOLOGY.—A validated license may be required  
15 for the export or reexport of those commercial goods  
16 and technology that are specifically and clearly iden-  
17 tified on the control index to countries and endusers  
18 so designated on the control index. No authority or  
19 permission may be required to export or reexport  
20 commercial goods and technology not so identified to  
21 any country or enduser not so designated.

22 (4) REVIEW OF INDEX.—

23 (A) IN GENERAL.—The Secretary shall re-  
24 view all goods and technology on the control  
25 index maintained under paragraph (1) at least

1           annually. This review shall apply to the removal  
2           of items from the control index or changes in  
3           specifications of items on the control index. The  
4           Secretary shall use the data developed from  
5           such reviews in formulating United States pro-  
6           posals for revision of multilateral controls in  
7           COCOM and other export control regimes de-  
8           scribed in section 4.

9           (B) CONSIDERATIONS.—In conducting the  
10          annual review, the Secretary shall—

11                 (i) consult with the appropriate indus-  
12                 try advisory committees appointed under  
13                 section 6(d) and consider—

14                         (I) recommendations of such  
15                         committees with respect to proposed  
16                         changes in the control index; and

17                         (II) proposals of such committees  
18                         for the removal, by the date on which  
19                         the applicable export control regime  
20                         would implement such removal, of li-  
21                         censing requirements under this Act  
22                         for goods or technology which are an-  
23                         ticipated to be widely available from  
24                         countries that are not members of  
25                         that export control regime as a result

1 of advances in the technological per-  
2 formance levels of such goods or tech-  
3 nology;

4 (ii) consider the results of foreign  
5 availability determinations made under  
6 subsection (g);

7 (iii) consider comments received pur-  
8 suant to the notice of review provided  
9 under subparagraph (C)(ii); and

10 (iv) consult with other departments or  
11 agencies as the Secretary considers appro-  
12 priate.

13 (C) PROCEDURES.—

14 (i) DURATION OF REVIEW.—The an-  
15 nual review required under subparagraph  
16 (A) may not extend beyond 180 days after  
17 such review is begun.

18 (ii) NOTICE OF REVIEW.—Before be-  
19 ginning each annual review, the Secretary  
20 shall publish a notice of that review in the  
21 Federal Register and shall provide a 30-  
22 day period for comments and submission  
23 of data, with or without oral presentation,  
24 by interested Government agencies, export-  
25 ers, and other interested parties.

1                   (iii) REVISIONS.—The Secretary shall  
2                   make a determination of any revisions in  
3                   the control index not later than 30 days  
4                   after the end of the review period. The  
5                   concurrence or approval of any other de-  
6                   partment or agency shall not be required  
7                   before any such revision is made. The Sec-  
8                   retary shall publish in the Federal Register  
9                   any revisions in the list, with an expla-  
10                  nation of the reasons for the revisions.

11               (5) INDEXING.—The Secretary shall develop,  
12               with the assistance of the industry advisory commit-  
13               tees established under section 6(d), methodologies  
14               and procedures for indexing products where per-  
15               formance capabilities are measurable. Such meth-  
16               odologies and procedures shall provide for increases  
17               in the performance levels of goods and technology on  
18               the control index and shall provide for the technical  
19               specifications below which no authority or permis-  
20               sion to export or reexport is required as compared  
21               to the most technologically advanced commercially  
22               available version of the same or equivalent goods or  
23               technology. Such methodologies and procedures shall  
24               be published and used in the annual list review of  
25               the control index under paragraph (4).

1 (c) ISSUANCE OF REGULATIONS.—

2 (1) IN GENERAL.—The Secretary may issue  
3 such regulations as are necessary to carry out this  
4 Act.

5 (2) PUBLIC PARTICIPATION.—Unless dem-  
6 onstrated as impracticable, all regulations imposing  
7 controls on exports under this Act shall be issued in  
8 proposed form with opportunity for public comment  
9 before taking effect. If a regulation imposing con-  
10 trols under this Act is issued with immediate effect,  
11 opportunity for public comment shall also be pro-  
12 vided and the regulation shall be reissued in final  
13 form after public comments have been fully consid-  
14 ered.

15 (3) REPORT.—The Secretary shall report to the  
16 Committee on Banking, Housing, and Urban Affairs  
17 of the Senate and the Committee on Foreign Affairs  
18 of the House of Representatives on the intent and  
19 rationale of all proposed regulations under this Act  
20 and any proposed amendments to regulations issued  
21 under this Act. Such report shall thoroughly evalu-  
22 ate the costs and burden imposed on United States  
23 exporters of the proposed regulations or amend-  
24 ments in relation to any enhancement of export li-  
25 censing objectives.

1           (4) CONSULTATION.—The Secretary shall, in  
2           formulating or amending regulations issued under  
3           this Act, consult with the industry advisory commit-  
4           tees authorized under section 6(d) before such regu-  
5           lations or amendments are issued. The Secretary, in  
6           consultation with appropriate industry advisory com-  
7           mittees, shall review the regulations issued under  
8           this Act in order to simplify and clarify such regula-  
9           tions.

10          (d) PUBLICATION OF ACTIONS.—

11           (1) DECISIONS AND ACTIONS OF THE SEC-  
12          RETARY—

13           (A) IN GENERAL.—The Secretary shall  
14           publish in the Federal Register, to the greatest  
15           extent practicable, actions, procedures, and de-  
16           cisions of the Secretary under this Act, taking  
17           into account restrictions on disclosure of classi-  
18           fied or confidential information. The following  
19           determinations of the Secretary shall in every  
20           case be published in the Federal Register, un-  
21           less a private party requested the determination  
22           and asked that it not be published:

23           (i) Classification of a good or tech-  
24           nology on the control index.

1           (ii) Calculation of a commonly-used  
2           control index parameter for a good or tech-  
3           nology, including all officially accepted  
4           composite theoretical performance calcula-  
5           tions for computers and microprocessors.

6           (B) NOTICE OF REVISIONS.—Whenever the  
7           Secretary makes any revision in the control  
8           index with respect to any good or technology, or  
9           with respect to any country or destination af-  
10          fected by controls imposed under section 4 or  
11          section 5, the Secretary shall publish in the  
12          Federal Register a notice of such revision and  
13          shall specify in such notice under which author-  
14          ity the revision is being made.

15          (2) EXPORT CONTROL REGIME ACTIONS.—

16           (A) IN GENERAL.—Not more than 90 days  
17           after the date of enactment of this Act, the Sec-  
18           retary shall publish the full text of each Inter-  
19           national List of COCOM, together with all  
20           notes and understandings concerning such lists  
21           that are agreed to by COCOM, and the lists  
22           and all notes and understandings of all other  
23           export control regimes. The Secretary shall up-  
24           date the publication under the preceding sen-  
25           tence at least once in each 1-year period occur-

1 ring after the original publication under this  
2 subparagraph.

3 (B) CONTENTS.—The Secretary shall pub-  
4 lish—

5 (i) the full text of any agreements of  
6 COCOM affecting the International Lists,  
7 and any agreements of other export control  
8 regimes of which the United States is a  
9 member, together with all notes, under-  
10 standings, and other aspects of such agree-  
11 ments and all revisions to such texts;

12 (ii) subject to the limitations set forth  
13 in subsection (f), decisions on requests for  
14 general exceptions to the Industrial List  
15 portion of the International Lists of  
16 COCOM, and decisions on exceptions for  
17 exports permitted by such other export  
18 control regimes;

19 (iii) other decisions made by COCOM,  
20 and other actions and decisions of such  
21 other export control regimes, to the maxi-  
22 mum extent possible; and

23 (iv) lists of controlled countries and  
24 controlled endusers, projects of concern  
25 with respect to the capability described in

1 section 2(b)(7)(B), unreliable practices  
2 with respect to items on which export or  
3 reexport controls are imposed under this  
4 Act, and persons to whom sanctions have  
5 been applied, or whose export privileges  
6 have been denied, under this Act.

7 (C) TIMING.—Such publication shall be  
8 made not more than 30 days after the agree-  
9 ments are reached, or the decisions are made,  
10 as the case may be.

11 (D) EXCEPTION.—The publication of a  
12 particular matter need not be made under this  
13 paragraph to the extent that the Secretary sub-  
14 mits a written finding to the Congress that to  
15 publish that matter would be contrary to na-  
16 tional or international security, would abridge  
17 the confidentiality of the decision-making proc-  
18 esses of COCOM or another export control re-  
19 gime, or would otherwise be inconsistent with  
20 the obligations of the United States to COCOM  
21 or another export control regime.

22 (e) NOTIFICATION OF THE PUBLIC; CONSULTATION  
23 WITH INDUSTRY; RECORDKEEPING.—

24 (1) NOTIFICATION OF THE PUBLIC.—The Sec-  
25 retary shall keep the public fully apprised of changes

1 in export control policy and procedures instituted  
2 under this Act with a view to encouraging trade.

3 (2) CONSULTATION WITH INDUSTRY.—The Sec-  
4 retary shall meet regularly with industry advisory  
5 committees appointed under section 6(d) in order to  
6 obtain their views on United States export control  
7 policy and the foreign availability of commercial  
8 goods and technology.

9 (3) REVIEW OF REPORTING REQUIREMENTS.—  
10 In the administration of this Act, reporting require-  
11 ments shall be designed so as to reduce the cost of  
12 reporting, recordkeeping, and export documentation  
13 required under this Act, to the extent feasible and  
14 consistent with effective enforcement and compila-  
15 tion of useful trade statistics. Reporting, record-  
16 keeping, and export documentation requirements  
17 shall be periodically reviewed and revised in the light  
18 of developments in the field of information tech-  
19 nology.

20 (f) CONFIDENTIALITY OF INFORMATION.—

21 (1) EXEMPTIONS FROM DISCLOSURE.—Except  
22 as provided in paragraph (2), information obtained  
23 by the Secretary under this Act or under previous  
24 Acts regarding the control of exports, including any  
25 report, export license application, or classification re-

1       quest which is deemed confidential, or with reference  
2       to which a request for confidential treatment is  
3       made by the person furnishing such information,  
4       shall be exempt from disclosure under section 552 of  
5       title 5, United States Code, and such information  
6       shall not be published or disclosed unless the Sec-  
7       retary determines that the withholding thereof is  
8       contrary to the national interest.

9               (2) INFORMATION TO CONGRESS AND GAO.—

10              (A) IN GENERAL.—Nothing in this Act  
11              shall be construed as authorizing the withhold-  
12              ing of information from the Congress or from  
13              the General Accounting Office.

14              (B) AVAILABILITY TO THE CONGRESS.—

15              (i) IN GENERAL.—All information ob-  
16              tained at any time under this Act or pre-  
17              vious Acts regarding the control of exports,  
18              including any report or export license ap-  
19              plication required under this Act, shall be  
20              made available to any committee or sub-  
21              committee of Congress of appropriate ju-  
22              risdiction upon request of the chairman or  
23              ranking minority member of such commit-  
24              tee or subcommittee.

1           (ii) PROHIBITION ON FURTHER DIS-  
2           CLOSURE.—No such committee or sub-  
3           committee, or member thereof, shall dis-  
4           close any information obtained under this  
5           Act or previous Acts regarding the control  
6           of exports which is submitted on a con-  
7           fidential basis unless the full committee de-  
8           termines that the withholding of that infor-  
9           mation is contrary to the national interest.

10          (C) AVAILABILITY TO THE GAO.—

11           (i) IN GENERAL.—Notwithstanding  
12           paragraph (1), information referred to in  
13           subparagraph (B) shall, consistent with  
14           the protection of intelligence, counterintel-  
15           ligence, and law enforcement sources,  
16           methods, and activities, as determined by  
17           the agency that originally obtained the in-  
18           formation, and consistent with the provi-  
19           sions of section 716 of title 31, United  
20           States Code, be made available only by  
21           that agency, upon request, to the Comp-  
22           troller General of the United States or to  
23           any officer or employee of the General Ac-  
24           counting Office authorized by the Comp-

1 troller General to have access to such in-  
2 formation.

3 (ii) PROHIBITION ON FURTHER DIS-  
4 CLOSURE.—No officer or employee of the  
5 General Accounting Office shall disclose,  
6 except to the Congress in accordance with  
7 this paragraph, any such information  
8 which is submitted on a confidential basis  
9 and from which any individual can be iden-  
10 tified.

11 (3) PENALTIES FOR DISCLOSURE OF CON-  
12 FIDENTIAL INFORMATION.—Any officer or employee  
13 of the United States, or any department or agency  
14 thereof, who publishes, divulges, discloses, or makes  
15 known in any manner or to any extent not author-  
16 ized by law any information to which such officer or  
17 employee gains access in the course of his or her em-  
18 ployment or official duties or by reason of any exam-  
19 ination or investigation made by, or report or record  
20 made to or filed with, such department or agency,  
21 or officer or employee thereof, if such information is  
22 exempt from disclosure under this subsection, shall  
23 be fined not more than \$25,000, or imprisoned not  
24 more than 1 year, or both, and shall be removed  
25 from office or employment.

1 (g) FOREIGN AVAILABILITY.—

2 (1) IN GENERAL.—Except when the President  
3 determines that the absence of controls under this  
4 Act would prove detrimental to the national security  
5 of the United States—

6 (A) the Secretary shall not impose controls  
7 under this Act on commercial goods or tech-  
8 nology with respect to which it is determined  
9 that there is foreign availability; and

10 (B) in the case of any commercial goods or  
11 technology with respect to which it is deter-  
12 mined that there is foreign availability, the Sec-  
13 retary shall either—

14 (i) eliminate controls imposed under  
15 this Act on such goods or technology; or

16 (ii) in the case of goods or technology  
17 the export or reexport of which is con-  
18 trolled under the terms of an export con-  
19 trol regime, propose elimination of export  
20 and reexport controls to countries partici-  
21 pating in the regime and eliminate such  
22 controls to the extent such countries agree  
23 to such elimination.

24 (2) FOREIGN AVAILABILITY REVIEW.—The Sec-  
25 retary, in consultation with appropriate industry ad-

1 visory committees appointed under section 6(d),  
2 shall review and monitor on a continuing basis the  
3 foreign availability of any commercial goods or tech-  
4 nology on which controls are or may be imposed  
5 under this Act. In so doing, the Secretary shall con-  
6 sider the availability of such goods or technology,  
7 and the anticipated availability of such goods and  
8 technology within 6 months, within and to controlled  
9 countries and countries other than controlled coun-  
10 tries from sources outside the United States, and  
11 the extent to which any such source country places  
12 and enforces controls on the export of such goods or  
13 technology to controlled countries. The Secretary  
14 shall not consider the availability under license from  
15 a country which maintains export controls on such  
16 goods or technology cooperatively with the United  
17 States pursuant to the agreement of COCOM or  
18 other export control regimes, unless the Secretary  
19 determines that the export restrictions maintained  
20 by such country are ineffective.

21 (3) PROCEDURES FOR FOREIGN AVAILABILITY  
22 DETERMINATIONS.—

23 (A) IN GENERAL.—The United States  
24 International Trade Commission (hereafter in  
25 this subsection referred to as the “ITC”) is

1 solely responsible for making foreign availability  
2 determinations of goods and technology under  
3 this Act. The ITC may undertake a foreign  
4 availability assessment at any time upon its  
5 own initiative, and shall undertake a foreign  
6 availability assessment upon a written request  
7 by the Secretary, or upon receipt of a written  
8 allegation supported by reasonable evidence  
9 from the appropriate industry advisory commit-  
10 tee under section 6(d) or a United States per-  
11 son that such availability exists.

12 (B) NOTICE REQUIREMENTS.—Whenever  
13 the ITC undertakes a foreign availability as-  
14 sessment under this subsection, the ITC shall  
15 publish notice of such assessment in the Fed-  
16 eral Register. Not later than 4 months after  
17 initiating such an assessment, the ITC shall de-  
18 termine whether the foreign availability exists,  
19 and shall submit for publication in the Federal  
20 Register a notice of its determination, together  
21 with a concise statement of the basis for its de-  
22 termination. The ITC shall also forward a writ-  
23 ten notice of its determination to the Secretary.

24 (C) ACTION BY THE SECRETARY.—Not  
25 later than 30 days after receipt of a determina-

1           tion by the ITC that foreign availability exists  
2           with respect to a commercial good or tech-  
3           nology, the Secretary shall either—

4                   (i) eliminate controls under this Act  
5                   on such commercial good or technology  
6                   and publish a notice of such action in the  
7                   Federal Register;

8                   (ii) in the case of a commercial good  
9                   or technology controlled under the terms of  
10                  an export control regime, propose the  
11                  elimination of controls on such commercial  
12                  good or technology in accordance with the  
13                  procedures of such regime and publish a  
14                  notice of such proposal in the Federal Reg-  
15                  ister; or

16                  (iii) in any case in which the Presi-  
17                  dent determines that controls under this  
18                  Act must be maintained notwithstanding  
19                  the foreign availability because the absence  
20                  of such controls would prove detrimental to  
21                  the national security of the United States,  
22                  publish a notice of that determination in  
23                  the Federal Register, together with a con-  
24                  cise statement of the basis for that deter-  
25                  mination and the estimated economic im-

1           pact of the decision, and a statement that  
2           the applicable steps are being taken under  
3           paragraph (4).

4           (4) NEGOTIATIONS TO ELIMINATE FOREIGN  
5           AVAILABILITY.—

6           (A) IN GENERAL.—In any case in which  
7           export controls are maintained on a commercial  
8           good or technology notwithstanding foreign  
9           availability on account of a determination by  
10          the President that the absence of controls under  
11          this Act would prove detrimental to the national  
12          security of the United States, the Secretary  
13          shall actively pursue negotiations with the gov-  
14          ernments of the countries which are the sources  
15          of the good or technology for the purpose of  
16          eliminating the foreign availability.

17          (B) REMOVAL OF CONTROLS.—If, not later  
18          than 6 months after the determination by the  
19          President described in subparagraph (A), the  
20          foreign availability of the good or technology  
21          has not been eliminated, the Secretary shall re-  
22          move export or reexport controls from the good  
23          or technology under this Act and publish notice  
24          of such action in the Federal Register.

1           (C) EFFECT OF AGREEMENT.—After an  
2           agreement is reached with a country pursuant  
3           to negotiations under this paragraph to elimi-  
4           nate foreign availability of commercial goods or  
5           technology, the Secretary may not, except as re-  
6           quired under the Atomic Energy Act of 1954,  
7           require a validated license under this Act for  
8           the export of such commercial goods or tech-  
9           nology to that country.

10          (5) SHARING OF INFORMATION.—Each depart-  
11          ment or agency of the United States, including any  
12          intelligence agency, and all contractors with any  
13          such department or agency, shall, upon the request  
14          of the Secretary or the ITC and consistent with the  
15          protection of intelligence sources and methods and  
16          safeguarding of classified information, furnish infor-  
17          mation to the ITC concerning foreign availability of  
18          goods and technology subject to export controls  
19          under this Act. Each such department or agency  
20          shall allow the ITC access to any such information  
21          from a laboratory or other facility within such de-  
22          partment or agency.

23          (6) REMOVAL OF CONTROLS ON LESS SOPHISTI-  
24          CATED GOODS OR TECHNOLOGY.—In any case in  
25          which export or reexport controls are removed from

1 commercial goods or technology under this sub-  
2 section, then such controls may not be imposed or  
3 maintained on any similar commercial goods or tech-  
4 nology whose function, technological approach, per-  
5 formance thresholds, and other attributes that form  
6 the basis for controls under this Act do not exceed  
7 the technical parameters of the commercial goods or  
8 technology from which the controls are removed  
9 under this subsection.

10 (7) REPORT OF DETERMINATIONS AND AC-  
11 TIONS.—Not later than 10 days after any deter-  
12 mination by the ITC under paragraph (3)(B), or in  
13 the case of determination of the President under  
14 paragraph (3)(C)(iii), not later than 10 days after  
15 the initiation of negotiations under paragraph  
16 (4)(A), the Secretary shall submit a report to the  
17 Committee on Banking, Housing, and Urban Affairs  
18 of the Senate and the Committee on Foreign Affairs  
19 of the House of Representatives setting forth a de-  
20 tailed explanation of the determination of the ITC  
21 and the determination of the President (if applica-  
22 ble), and the implications of such determinations.

23 **SEC. 4. NATIONAL SECURITY CONTROLS.**

24 (a) AUTHORITY.—

1           (1) IN GENERAL.—In order to carry out the  
2 policy set forth in section 2(b)(7), the President  
3 may, in accordance with this section, prohibit or cur-  
4 tail the export and reexport of any commercial goods  
5 or technology subject to the jurisdiction of the  
6 United States, if such goods and technology would—

7           (A) directly, substantially, and materially  
8 contribute to the military capability of countries  
9 or endusers posing a strategic threat to the  
10 United States; or

11           (B) directly, substantially, and materially  
12 enable a country or enduser to acquire the ca-  
13 pability to develop, produce, stockpile, use, or  
14 deliver weapons of mass destruction.

15           (2) EXERCISE OF AUTHORITY.—The authority  
16 granted by this subsection shall be exercised by the  
17 Secretary, and shall be implemented by means of ex-  
18 port licenses issued by the Secretary.

19           (b) SECURITY CONTROL LIST.—

20           (1) IN GENERAL.—The Secretary shall establish  
21 and maintain, as part of the control index estab-  
22 lished under section 3(b), a security control list,  
23 comprised of all commercial goods or technology on  
24 which export and reexport controls are in effect  
25 under this section, and the countries or endusers to

1       which the controls apply. The security control list  
2       shall clearly identify the specific commercial goods  
3       and technology the export or reexport of which is  
4       controlled, and each country and enduser to which  
5       such exports and reexports are controlled. Such list  
6       shall be reviewed and updated at least once every 12  
7       months.

8               (2) CONTROLLED GOODS AND TECHNOLOGY.—  
9       Export or reexport controls may be imposed under  
10       this section only on commercial goods and tech-  
11       nology that are controllable, only if the controls  
12       would be effective in restricting the capabilities set  
13       forth in subsection (a)(1), and only if—

14               (A) the export controls are imposed pursu-  
15       ant to an export control regime, such as  
16       COCOM, the MTCR, the Australia Group, the  
17       Nuclear Suppliers Group, or any export control  
18       regime entered into by the United States under  
19       subsection (d)(3); or

20               (B) in the absence of an applicable export  
21       control regime, no foreign availability of such  
22       goods or technology exists.

23               (3) DESIGNATED COUNTRIES AND  
24       ENDUSERS.—In administering export controls under  
25       this section, the Secretary shall, for each good and

1 technology listed on the security control list, des-  
2 ignate the specific countries and endusers for which  
3 export licenses or reexport authorizations are re-  
4 quired. These countries and endusers may include  
5 only—

6 (A) controlled countries and controlled  
7 endusers; and

8 (B) non-regime countries with respect to  
9 the export control regime which controls the ex-  
10 port of such good and technology.

11 (4) CONTROLLED COUNTRIES AND  
12 ENDUSERS.—A country may be designated a con-  
13 trolled country, and an enduser may be designated  
14 a controlled enduser, with respect to a particular  
15 good or technology on the security control list only  
16 if exports of such good or technology to such country  
17 or enduser are controlled cooperatively pursuant to  
18 the agreement of an export control regime, and only  
19 if such country or enduser—

20 (A) has military capabilities, policies, or  
21 activities which represent a direct strategic  
22 threat to the national security of the members  
23 of the export control regime; or

24 (B) is engaged in or is deliberately assist-  
25 ing another controlled country or enduser in the

1 design, development, production, stockpiling,  
2 use, or delivery of weapons of mass destruction.

3 (5) REVISION OF DESIGNATION OF CON-  
4 TROLLED COUNTRIES AND ENDUSERS.—

5 (A) CONTROLLED COUNTRIES.—In any  
6 case in which a controlled country—

7 (i) adopts military policies that rep-  
8 resent a lesser strategic threat to members  
9 of the appropriate export control regime;

10 (ii) terminates efforts to acquire  
11 weapons of mass destruction and adopts  
12 policies consistent with international ef-  
13 forts to restrict the proliferation of weap-  
14 ons of mass destruction;

15 (iii) terminates activities that would  
16 assist the capabilities of other controlled  
17 countries in those activities described in  
18 paragraph (4)(B); or

19 (iv) agrees to adhere to policies and  
20 practices of the appropriate export control  
21 regime and implements an effective export  
22 control system;

23 such that the reasons for its being designated  
24 a controlled country cease to exist, the Sec-  
25 retary shall propose to the appropriate export

1 control regime to remove the country's designa-  
2 tion as a controlled country. Upon the removal  
3 of such designation by the export control re-  
4 gime, the Secretary shall, with respect to the  
5 commercial goods and technology which are  
6 controlled under this section pursuant to the  
7 agreement of that regime, change the designa-  
8 tion of the country on the security control list  
9 from a controlled country to a non-regime coun-  
10 try. If the country also agrees to participate in  
11 or be a cooperating country with respect to the  
12 export control regime, the Secretary shall re-  
13 move such country from the security control  
14 list.

15 (B) CONTROLLED ENDUSERS.—In any  
16 case in which a controlled enduser—

17 (i) ceases to engage in the design, de-  
18 velopment, production, stockpiling, use, or  
19 delivery of weapons of mass destruction; or

20 (ii) terminates activities that would  
21 assist the capabilities of controlled coun-  
22 tries in those activities described in para-  
23 graph (4)(B);

24 such that the reasons for its being designated  
25 a controlled enduser cease to exist, the Sec-

1           retary shall propose to the appropriate export  
2           control regime to remove the enduser's designa-  
3           tion as a controlled enduser. Upon the removal  
4           of such designation by the export control re-  
5           gime, the Secretary shall, with respect to the  
6           commercial goods and technology which are  
7           controlled under this section pursuant to agree-  
8           ment of that regime, remove that enduser from  
9           the security control list.

10           (c) EXPORT LICENSING POLICIES FOR DESIGNATED  
11 COUNTRIES AND CONTROLLED ENDUSERS.—

12           (1) EXPORTS TO CONTROLLED COUNTRIES AND  
13 ENDUSERS.—

14           (A) IN GENERAL.—Except as provided in  
15 subsection (d)(5), the Secretary shall require  
16 authority or permission to export or reexport  
17 goods and technology on the security control  
18 list to controlled countries and controlled  
19 endusers.

20           (B) PRESUMPTION OF DENIAL FOR CER-  
21 TAIN CONTROLLED ENDUSERS.—Exports and  
22 reexports to controlled endusers in controlled  
23 countries of goods or technology on which con-  
24 trols are in effect under this section shall carry  
25 a presumption of denial if such requirement is

1 the policy of the export control regime control-  
2 ling the goods or technology. In the negotia-  
3 tions required by subsection (d)(1), the Sec-  
4 retary shall seek agreement on such a policy by  
5 every export control regime.

6 (C) CASE-BY-CASE REVIEW FOR OTHER  
7 ENDUSERS.—Exports and reexports to  
8 endusers, other than controlled endusers, in  
9 controlled countries of goods or technology on  
10 which controls are in effect under this section  
11 shall be subject to case-by-case license review by  
12 the Secretary and shall be submitted for multi-  
13 lateral review if required by the export control  
14 regime controlling the goods or technology.

15 (2) EXPORTS TO NON-REGIME COUNTRIES.—

16 (A) IN GENERAL.—Except as provided in  
17 subsection (d)(5), the Secretary may, in his or  
18 her discretion, require authority or permission  
19 to export or reexport to endusers in non-regime  
20 countries goods or technology on which controls  
21 are in effect under this section if—

22 (i) such requirement is the policy of  
23 the export control regime controlling the  
24 goods or technology, for exports of such

1 goods and technology to non-regime coun-  
2 tries; and

3 (ii) the Secretary has determined that  
4 the unrestricted export of such goods or  
5 technology to such non-regime country  
6 would directly, substantially, and materi-  
7 ally contribute to the military capability of  
8 a controlled country or enduser described  
9 in subsection (a)(1)(A), or to the capability  
10 of a controlled country or enduser de-  
11 scribed in subsection (a)(1)(B), through  
12 the threat of diversion or other means.

13 (B) EXCEPTION.—Notwithstanding clause  
14 (i) of subparagraph (A), for a period of 18  
15 months beginning on the effective date of this  
16 Act, the Secretary may require a license for the  
17 export or reexport to any non-regime country of  
18 any good or technology controlled under sub-  
19 section (b)(2). During such period, the Sec-  
20 retary shall engage in negotiations with other  
21 members of the export control regime control-  
22 ling the good or technology for the purpose of  
23 developing a common list of controlled countries  
24 and controlled endusers, and a common policy  
25 on exports to non-regime countries. After the

1 end of such 18-month period, export controls on  
2 such good or technology may be imposed only  
3 under subparagraph (A) or under section 5.

4 (C) LICENSING TREATMENT.—(i) Exports  
5 and reexports to non-regime countries of goods  
6 and technology on which controls are in effect  
7 under this section shall be considered on a na-  
8 tional discretion basis.

9 (ii) Exports to endusers in non-regime  
10 countries other than controlled endusers shall  
11 carry a presumption of approval.

12 (iii) Exports to controlled endusers in non-  
13 regime countries shall be reviewed on a case-by-  
14 case basis and shall be submitted for multilat-  
15 eral review if required by the export control re-  
16 gime controlling the good or technology.

17 (iv) The Secretary shall pursue negotia-  
18 tions with countries participating in export con-  
19 trol regimes to achieve a consistent and effec-  
20 tive multilateral approach to exports to non-re-  
21 gime countries.

22 (D) NEGOTIATIONS TO ENHANCE CO-  
23 OPERATION.—The Secretary shall pursue nego-  
24 tiations with non-regime countries regarding  
25 their cooperation in restricting the export of

1 goods and technology consistent with the pur-  
2 poses of those export control regimes controlling  
3 such exports. The goal of such negotiations  
4 shall be to produce agreements with such coun-  
5 tries under which such countries impose export  
6 restrictions consistent with the objectives set  
7 forth in subsection (d)(1).

8 (E) REVIEW OF AGREEMENTS.—The Sec-  
9 retary shall review annually any agreement  
10 reached pursuant to subparagraph (D). If the  
11 Secretary determines that a country is not ad-  
12 hering to the terms of such an agreement with  
13 the United States, the Secretary may restrict or  
14 eliminate any preferential licensing treatment  
15 for exports to that country provided under the  
16 agreement and shall notify other members of  
17 the appropriate export control regime of such  
18 action.

19 (F) SANCTIONS.—If the Secretary deter-  
20 mines that a non-regime country or an enduser  
21 in a non-regime country is exporting to a con-  
22 trolled country or controlled enduser goods or  
23 technology on which controls are in effect under  
24 this section, the Secretary may—

1 (i) suspend favorable licensing treat-  
2 ment for such goods and technology to  
3 such non-regime country or enduser in a  
4 non-regime country;

5 (ii) propose to the other members of  
6 the export control regime controlling the  
7 goods or technology the suspension of fa-  
8 vorable licensing treatment of the goods  
9 and technology to such non-regime country  
10 or enduser by all members of the regime;  
11 and

12 (iii) consider applying United States  
13 sanctions pursuant to section 8(d) to such  
14 non-regime country or enduser.

15 (d) EXPORT CONTROL REGIMES AND LICENSING  
16 POLICIES.—

17 (1) IN GENERAL.—For the purposes of creating  
18 effective multilateral export controls and strengthen-  
19 ing the controls imposed by export control regimes,  
20 the Secretary shall, with respect to each export con-  
21 trol regime, pursue negotiations with other members  
22 of such regime to accomplish the following objec-  
23 tives:

24 (A) No license requirement for exports and  
25 reexports among members of the regime and to

1 countries who are cooperating countries with re-  
2 spect to the regime.

3 (B) Development of a common list of  
4 goods and technology to which export controls  
5 are applied, and a common list of countries and  
6 endusers to which exports are controlled, by  
7 members of the regime.

8 (C) Agreement on the same treatment, to  
9 be applied by all members of the regime, of ex-  
10 ports and reexports to members of the regime  
11 cooperating countries, and non-regime coun-  
12 tries, which could include multilateral review of  
13 exports to controlled countries and controlled  
14 endusers and multilateral sanctions to be ap-  
15 plied to such countries and endusers, or to  
16 members of the regime and cooperating coun-  
17 tries who violate export controls imposed by the  
18 regime.

19 (D) National procedures resulting in com-  
20 parable implementation and enforcement of ex-  
21 port controls among the members of the regime,  
22 including laws providing appropriate civil and  
23 criminal penalties and statutes of limitations  
24 sufficient to deter potential violations.

1           (E) Periodic meetings of high-level rep-  
2           representatives of governments participating in the  
3           regime for the purpose of coordinating national  
4           export control policies and issuing policy guid-  
5           ance for dissemination to exporters in partici-  
6           pating countries.

7           (F) Establishment of procedures for regu-  
8           lar consultation among members of the regime  
9           on proposed export license applications that in-  
10          cludes consultation with individuals with suffi-  
11          cient technical expertise to assess the licensing  
12          status of exports and to ensure the reliability of  
13          endusers.

14          (G) Development of common procedures  
15          for enforcing the export controls agreed upon  
16          by the regime, including adequate training and  
17          authority for enforcement officers to investigate  
18          and prevent illegal exports.

19          (H) Development of a common system of  
20          export control documentation to verify the  
21          movement of goods and technology.

22          (I) Establishment of procedures for the co-  
23          ordination and exchange of information con-  
24          cerning violations of controls agreed to by the  
25          regime.

1           (J) Establishment of procedures for the co-  
2           ordination and sharing of intelligence informa-  
3           tion on controlled countries and controlled  
4           endusers.

5           (2) CERTIFICATION OF MULTILATERAL EXPORT  
6           CONTROL REGIMES.—

7           (A) When the Secretary determines that  
8           an existing export control regime has met the  
9           objectives set forth in paragraph (1), the Sec-  
10          retary shall certify such determination and pub-  
11          lish such certification in the Federal Register,  
12          and exports to all countries adhering to that re-  
13          gime shall be subject to the licensing treatment  
14          set forth in paragraph (5).

15          (B) COCOM shall be considered to have  
16          met the objectives set forth in paragraph (1).

17          (3) NEW EXPORT CONTROL REGIMES.—No new  
18          export control regime shall be entered into by the  
19          United States until the President has submitted to  
20          the appropriate committees in the House of Rep-  
21          resentatives and the Senate and published in the  
22          Federal Register, at least 90 days before the new re-  
23          gime becomes effective, a report—

24                  (A) certifying that the members of the new  
25                  regime represent all significant sources of sup-

1           ply for the goods and technology which are to  
2           be controlled by the regime;

3           (B) specifying the list of goods and tech-  
4           nology to be controlled cooperatively by mem-  
5           bers of the regime and the destinations to  
6           which such goods and technology are to be con-  
7           trolled; and

8           (C) certifying that such goods and tech-  
9           nology are controllable and that licensing their  
10          export would be effective in restricting the ca-  
11          pabilities set forth in subsection (a)(1)(A) or  
12          (B).

13          (4) FORMALIZATION OF REGIME CONTROLS.—  
14          The Secretary shall pursue efforts to consolidate and  
15          formalize existing export control regimes, such as  
16          COCOM, the MTCR, the Australia Group, and the  
17          Nuclear Suppliers Group, into a single, new, multi-  
18          lateral entity for the coordination of export controls.  
19          Until such new entity is formed, the Secretary shall  
20          also pursue efforts to rationalize export controls  
21          among the existing export control regimes, especially  
22          with respect to coordinating the performance and  
23          other identifying characteristics of goods and tech-  
24          nologies which are controlled under such regimes.

1           (5) EXPORT LICENSING POLICIES TO COUN-  
2           TRIES PARTICIPATING IN OR COOPERATING WITH  
3           EXPORT CONTROL REGIMES.—

4           (A) FAVORABLE LICENSING TREAT-  
5           MENT.—Except as otherwise required by the  
6           Atomic Energy Act of 1954, if an export con-  
7           trol regime is certified under paragraph (2), no  
8           authority or permission may be required for ex-  
9           ports or reexports of goods and technology con-  
10          trolled by such regime to or from members of  
11          the regime or cooperating countries with respect  
12          to such regime.

13          (B) EXEMPTION FROM SANCTIONS.—Sanc-  
14          tions for violations of export controls may not  
15          be imposed under section 8(d) on foreign per-  
16          sons who are nationals of countries that are  
17          members of an export control regime certified  
18          under paragraph (2) or cooperating countries  
19          with respect to such regime, to the extent pro-  
20          vided in section 8(d)(5).

21          (C) EXCEPTION.—If the Secretary deter-  
22          mines that a member of an export control re-  
23          gime certified under paragraph (2), a cooperat-  
24          ing country with respect to such regime, or an  
25          enduser in a country that is such a regime

1 member or in such a cooperating country is en-  
2 gaging in a pattern and practice of noncompli-  
3 ance with controls agreed to by the regime, the  
4 Secretary shall seek a similar determination by  
5 the other members of the regime concerning  
6 such noncompliance. If such a determination is  
7 made, the Secretary shall propose the suspen-  
8 sion of favorable licensing treatment of exports  
9 and reexports to that noncomplying regime  
10 member, cooperating country, or enduser by all  
11 members of the regime during the period in  
12 which that determination is in effect.

13 (D) NEW MEMBERS.—When a country  
14 that is not a member of an export control re-  
15 gime certified under paragraph (2) agrees to  
16 the objectives and procedures of such regime  
17 and has become a member of that regime, the  
18 Secretary shall certify that this new member is  
19 eligible for the licensing treatment set forth in  
20 this paragraph, and shall publish such certifi-  
21 cation in the Federal Register.

22 (6) TRANSITION PERIOD TO CERTIFIED EXPORT  
23 CONTROL REGIMES.—For a period of 18 months be-  
24 ginning on the effective date of this Act, the Sec-  
25 retary shall apply the licensing policies set forth in

1 paragraph (5) to all countries who participate in or  
2 are cooperating countries with respect to an export  
3 control regime even if the Secretary has not certified  
4 the regime under paragraph (2). After the expiration  
5 of such 18-month period, if the Secretary fails to  
6 certify an export control regime under paragraph  
7 (2), the Secretary may—

8 (A) continue to apply the licensing policies  
9 set forth in paragraph (5) if the negotiations  
10 prescribed in paragraph (1) continue; or

11 (B) require authority or permission to ex-  
12 port or reexport goods or technology on which  
13 controls are in effect under this section to any  
14 country that participates in or is a cooperating  
15 country with respect to such export control re-  
16 gime.

17 **SEC. 5. EMERGENCY CONTROLS.**

18 (a) **AUTHORITY.**—

19 (1) **IN GENERAL.**—In order to carry out the  
20 policy set forth in section 2(b)(6), the President  
21 may, in accordance with this section, prohibit or cur-  
22 tail the export and reexport of any commercial goods  
23 or technology subject to the jurisdiction of the  
24 United States to any country or enduser. The au-  
25 thority to impose controls under this subsection shall

1 be exercised by the Secretary, in consultation with  
2 other members of the Commercial Export Control  
3 Policy Committee established under section 6(b),  
4 and shall be implemented by means of export li-  
5 censes issued by the Secretary.

6 (2) EXPIRATION OF AUTHORITY.—

7 (A) IN GENERAL.—Any emergency controls  
8 imposed under this section shall expire 180  
9 days after they are imposed, unless they are  
10 terminated earlier by the President, or unless  
11 they are extended, adopted as national security  
12 controls under section 4, or included in a total  
13 embargo described in subsection (b)(2) that is  
14 imposed by the President under the Inter-  
15 national Emergency Economic Powers Act, the  
16 Trading with the Enemy Act or other provision  
17 of law other than this Act, on all exports and  
18 imports to a country. Any extension or subse-  
19 quent extension of the emergency controls shall  
20 be for a period of not more than 180 days each.

21 (B) EXCEPTION FOR MULTILATERAL  
22 AGREEMENTS.—Subparagraph (A) shall not  
23 apply to controls imposed by the President in  
24 order to fulfill obligations of the United States  
25 pursuant to a treaty to which the United States

1 is a party or pursuant to an agreement to im-  
2 pose such controls multilaterally by the United  
3 Nations or a similar international or regional  
4 organization of which the United States is a  
5 member. If such a treaty or agreement ceases  
6 to be in effect, emergency controls imposed by  
7 the President pursuant to such treaty or agree-  
8 ment shall immediately cease to be in effect.

9 (3) CRITERIA.—The President may impose  
10 emergency controls under this section only if the  
11 President—

12 (A) determines that the emergency controls  
13 are a necessary and appropriate policy response  
14 to an immediate and extraordinary threat to the  
15 national security or foreign policy of the United  
16 States;

17 (B) determines that no other alternative  
18 means can achieve the national security or for-  
19 eign policy objectives of the United States with-  
20 in a reasonable time frame;

21 (C) determines that the emergency controls  
22 can reasonably be expected to achieve the in-  
23 tended objective within 180 days after being im-  
24 posed, after having taken into consideration  
25 other factors, including the availability from

1 one or more countries of comparable goods and  
2 technology to those on which the controls are  
3 imposed;

4 (D) determines that the United States has  
5 the ability to enforce all aspects of the proposed  
6 emergency controls effectively;

7 (E) determines that a period of time of not  
8 more than 180 days is necessary for the United  
9 States to obtain the agreement of other coun-  
10 tries to adopt such controls so that such con-  
11 trols may be imposed under section 4;

12 (F) commences, through the Secretary,  
13 within 10 days after the imposition of the emer-  
14 gency controls, negotiations with other coun-  
15 tries to adopt the emergency controls so that  
16 such controls may be imposed under section 4,  
17 unless such emergency controls are imposed  
18 under paragraph (2)(B); and

19 (G) consults with the Congress and sub-  
20 mits the necessary report under paragraph (4).

21 (4) REQUIRED CONSULTATIONS.—

22 (A) IN GENERAL.—The President may im-  
23 pose emergency controls under this section only  
24 after consultation with industry under subpara-  
25 graph (C), foreign countries under subpara-

1 graph (D), and the Congress, including the  
2 Committee on Foreign Affairs of the House of  
3 Representatives and the Committee on Bank-  
4 ing, Housing, and Urban Affairs of the Senate.

5 (B) LIMITATION.—The President may not  
6 impose emergency controls under this section  
7 until the President has submitted to the Con-  
8 gress and published in the Federal Register a  
9 report—

10 (i) specifying the purpose of the con-  
11 trols;

12 (ii) specifying the determinations of  
13 the President with respect to each of the  
14 criteria set forth in paragraph (3), the  
15 bases for such determinations, and the ad-  
16 verse national security, foreign policy, and  
17 economic consequences of the controls;

18 (iii) containing an analysis identifying  
19 those commercial goods and technology  
20 which must be controlled in order to  
21 achieve the intended purpose of the emer-  
22 gency controls, and describing the reasons  
23 for selecting such items;

1 (iv) describing the nature, subjects,  
2 and plans for the negotiations with other  
3 countries required by paragraph (3)(F);

4 (v) containing a thorough assessment  
5 of the foreign availability of the commer-  
6 cial goods and technology proposed for  
7 control;

8 (vi) containing an analysis, based on  
9 past experience with emergency controls  
10 and based upon information on foreign  
11 availability, of the extent to which the  
12 emergency controls will be effective in  
13 achieving the intended purpose;

14 (vii) incorporating an evaluation of  
15 the impact of the controls on the export  
16 performance of the United States, on the  
17 competitive position of the United States  
18 and United States industry in the inter-  
19 national economy, on the international rep-  
20 utation of the United States as a reliable  
21 supplier of goods and technology, on the  
22 economic well-being of individual United  
23 States companies and their employees and  
24 shareholders, their foreign investments,

1 and their joint ventures, and on public  
2 health and safety;

3 (viii) specifying that the President has  
4 determined that the emergency controls  
5 can be expected to achieve the intended  
6 purpose with reasonable certainty within  
7 180 days after being imposed;

8 (ix) indicating the nature and results  
9 of the alternative means attempted under  
10 paragraph (3)(B);

11 (x) describing the results of the con-  
12 sultations with industry required by sub-  
13 paragraph (C) and with other countries re-  
14 quired by subparagraph (D); and

15 (xi) describing the views of the Presi-  
16 dent regarding the likelihood that all other  
17 countries representing a source of supply  
18 of the goods or technology on which the  
19 controls are imposed will be willing to im-  
20 pose comparable controls promptly.

21 (C) CONSULTATION WITH INDUSTRY.—The  
22 Secretary shall consult with and seek advice  
23 from affected United States industries and the  
24 appropriate industry advisory committees estab-  
25 lished under section 6(d) before imposing emer-

1           agency controls under this section. Such con-  
2           sultation and advice shall be with respect to the  
3           matters described in subparagraph (B), and  
4           such other matters as the Secretary considers  
5           appropriate.

6           (D) CONSULTATION WITH OTHER COUN-  
7           TRIES.—Before imposing emergency controls  
8           under this section, the President shall consult  
9           with such other countries as the President con-  
10          siders appropriate with respect to the proposed  
11          controls, including other countries that rep-  
12          resent a significant source of supply of goods  
13          and technology proposed for the controls. Pur-  
14          suant to paragraph (3)(F), the President shall,  
15          within 10 days after imposing emergency con-  
16          trols, initiate negotiations with other supplier  
17          countries of goods and technology on which the  
18          controls are imposed, and other countries as the  
19          President considers appropriate, with respect to  
20          adopting the controls so that the controls may  
21          be imposed under section 4.

22          (E) CONFIDENTIALITY.—To the extent  
23          necessary to further the effectiveness of the  
24          emergency controls, portions of the report re-  
25          quired by subparagraph (B) may be submitted

1 to the Congress on a classified basis, and shall  
2 be subject to the provisions of section 3(f), but  
3 a non-classified version of such report shall be  
4 simultaneously made available to the public.  
5 Each such report shall, at the time it is submit-  
6 ted to the Congress, also be submitted to the  
7 Comptroller General, who shall assess the re-  
8 port's full compliance with the purposes of this  
9 subsection.

10 (5) EMERGENCY CONTROL LIST.—The Sec-  
11 retary shall establish and maintain, as part of the  
12 control index, a list comprised of any commercial  
13 goods and technology on which emergency controls  
14 are in effect under this section and, for each item  
15 on the list, the specific countries or endusers to  
16 which the controls apply. In addition to clearly iden-  
17 tifying which commercial goods or technology are  
18 subject to emergency controls to which specific coun-  
19 tries or endusers, the list shall also indicate when  
20 such controls are due to expire. Such list shall be re-  
21 viewed and updated every 6 months for the purpose  
22 of making such revisions as are necessary in order  
23 to carry out this section.

24 (b) PROCEDURES AND LIMITATIONS ON EMERGENCY  
25 CONTROLS.—

1           (1) IN GENERAL.—Not later than the end of  
2 the 180-day period after emergency controls are im-  
3 posed under subsection (a), the President shall—

4                   (A) terminate the emergency controls;

5                   (B) adopt the emergency controls as na-  
6 tional security controls under section 4;

7                   (C) include the emergency controls in an  
8 embargo described in paragraph (2) on all ex-  
9 ports and imports that are imposed under the  
10 International Emergency Economic Powers Act,  
11 the Trading with the Enemy Act, or other pro-  
12 vision of law; or

13                   (D) extend the emergency controls under  
14 subsection (c).

15           (2) IMPOSITION OF AN EMBARGO.—An embargo  
16 under paragraph (1)(C) shall include the prohibition  
17 of all exports to and imports from the country  
18 against which the controls under this section were  
19 imposed, except as provided in section 7(b)(6).

20           (3) CESSATION OF EMERGENCY CONTROLS.—

21                   (A) IN GENERAL.— Emergency controls  
22 imposed under this section on goods or tech-  
23 nology shall cease to be in effect immediately  
24 upon—

1 (i) the imposition of national security  
2 controls under section 4 on the same goods  
3 and technology to the country or enduser  
4 with respect to which the emergency con-  
5 trols were imposed; or

6 (ii) the imposition, under the Inter-  
7 national Emergency Economic Powers Act,  
8 the Trading with the Enemy Act, or other  
9 provision of law, of an embargo described  
10 in paragraph (2).

11 (B) CONVERSION TO MULTILATERAL  
12 AGREEMENTS.—If the President imposes emer-  
13 gency controls on goods or technology to a  
14 country or enduser under this section in order  
15 to fulfill obligations of the United States pursu-  
16 ant to a treaty to which the United States is a  
17 party, or pursuant to an agreement to impose  
18 such controls multilaterally by an international  
19 organization of which the United States is a  
20 member, any emergency controls imposed prior  
21 thereto under this section on the same goods or  
22 technology to the same country or enduser shall  
23 immediately cease to be in effect.

24 (4) LIMITATIONS ON REIMPOSITION.—Emer-  
25 gency controls which have ceased to be in effect

1 under paragraph (3) or subsection (a)(2), and which  
2 have not been extended under subsection (c), may  
3 not be reimposed by the President under subsection  
4 (a) for a period of 1 year beginning on the date on  
5 which the original controls expire.

6 (c) EXTENSION OF EMERGENCY CONTROLS.—

7 (1) REPORT.—If the President decides to ex-  
8 tend emergency controls imposed under subsection  
9 (a), which are due to expire under subsection (a)(2),  
10 the President shall, not later than 60 calendar days  
11 before the expiration of such controls, transmit to  
12 the Congress a report on the proposed extension,  
13 setting forth the reasons for the proposed extension  
14 in detail and specifying the period of time, which  
15 may not exceed 180 days, for which the controls are  
16 proposed to be extended. In particular, such report  
17 shall specify in detail—

18 (A) the determinations of the President  
19 with respect to each of the criteria set forth in  
20 subsection (a)(3);

21 (B) the reasons why negotiations required  
22 under subsection (a)(3)(F) failed to result in  
23 the adoption of the emergency controls under  
24 section 4, and the reasonable period of time the

1           President expects will be required to success-  
2           fully conclude such negotiations;

3           (C) the reasons why a total embargo on all  
4           exports and imports is not presently justified to  
5           achieve the national security or foreign policy  
6           objectives of the United States; and

7           (D) information on each of the items set  
8           forth in subsection (a)(4)(B).

9           (2) CONSIDERATION OF EXTENSION.—If the  
10          Congress, not later than 60 calendar days after the  
11          date of its receipt of the report under paragraph (1),  
12          adopts a joint resolution pursuant to paragraph (3)  
13          approving the extension of the emergency controls,  
14          then such emergency controls shall remain in effect  
15          for the period specified in the report or until termi-  
16          nated by the President, whichever occurs first, but  
17          in no case longer than 180 days after the date on  
18          which the controls would otherwise expire under sub-  
19          section (a)(2). If the Congress, within 60 calendar  
20          days after the date of its receipt of such report, fails  
21          to adopt a joint resolution approving the extension  
22          of such controls, then such controls shall cease to be  
23          effective upon the expiration of that 60-day period.

24          (3) JOINT RESOLUTIONS.—

1 (A) DEFINITION.—For purposes of this  
2 paragraph, the term “joint resolution” means  
3 only a joint resolution the matter after the re-  
4 solving clause of which is as follows: “That,  
5 pursuant to section 5(c) of the Commercial Ex-  
6 port Administration Act of 1993, the President  
7 may extend emergency controls as specified in  
8 the report submitted to the Congress on  
9 \_\_\_\_\_.”, with the  
10 blank space being filled with the appropriate  
11 date.

12 (B) INTRODUCTION.—On the day on which  
13 a report is submitted to the House of Rep-  
14 resentatives and the Senate under paragraph  
15 (1), a joint resolution with respect to the exten-  
16 sion of controls specified in such report shall be  
17 introduced (by request) in the House of Rep-  
18 resentatives by the chairman of the Committee  
19 on Foreign Affairs, for the chairman and the  
20 ranking minority member of the Committee, or  
21 by Members of the House designated by the  
22 chairman and ranking minority member; and  
23 shall be introduced (by request) in the Senate  
24 by the majority leader of the Senate, for himself  
25 and the minority leader of the Senate, or by

1 Members of the Senate designated by the ma-  
2 jority leader and the minority leader of the Sen-  
3 ate. If either House of Congress is not in ses-  
4 sion on the day on which such a report is sub-  
5 mitted, the joint resolution shall be introduced  
6 in that House, as provided for in the preceding  
7 sentence, on the first day thereafter on which  
8 that House is in session.

9 (C) COMMITTEE REFERRALS.—All joint  
10 resolutions introduced in the House of Rep-  
11 resentatives shall be referred to the appropriate  
12 committee and all joint resolutions introduced  
13 in the Senate shall be referred to the Commit-  
14 tee on Banking, Housing, and Urban Affairs.

15 (D) DISCHARGE.—If the committee of ei-  
16 ther House to which a joint resolution has been  
17 referred has not reported the joint resolution by  
18 the end of 30 calendar days after its referral,  
19 the committee shall be discharged from further  
20 consideration of the joint resolution or of any  
21 other joint resolution introduced with respect to  
22 the same matter.

23 (E) CONSIDERATION.—A joint resolution  
24 under this paragraph shall be considered in the  
25 Senate in accordance with the provisions of sec-

1           tion 601(b)(4) of the International Security As-  
2           sistance and Arms Export Control Act of 1976.  
3           For the purpose of expediting the consideration  
4           and passage of joint resolutions reported or dis-  
5           charged under this paragraph, it shall be in  
6           order for the Committee on Rules of the House  
7           of Representatives to present for consideration  
8           a resolution of the House of Representatives  
9           providing procedures for the immediate consid-  
10          eration of a joint resolution under this para-  
11          graph which may be similar, if applicable, to  
12          the procedures set forth in section 601(b)(4) of  
13          the International Security Assistance and Arms  
14          Export Control Act of 1976.

15                 (F) DUPLICATIVE RESOLUTIONS.—In the  
16          case of a joint resolution described in subpara-  
17          graph (A), if, before the passage by one House  
18          of a joint resolution of that House, that House  
19          receives a resolution with respect to the same  
20          matter from the other House, then—

21                         (i) the procedure in that House shall  
22                         be the same as if no joint resolution had  
23                         been received from the other House; and

24                         (ii) the vote on final passage shall be  
25                         on the joint resolution of the other House.

1           (4) RENEWAL OF CONTROLS.—If, upon the  
2           expiration of the emergency controls extended  
3           under this subsection, the President determines  
4           that a further extension of emergency controls  
5           for an additional period of time of not more  
6           than 180 calendar days is necessary, para-  
7           graphs (1) through (3) shall apply to such fur-  
8           ther extension.

9           (d) EFFECT ON OTHER AUTHORITY.—

10          (1) EMBARGO AUTHORITY.—Nothing in this  
11          section shall be construed to limit the authority of  
12          the President to impose an embargo on all exports  
13          to, and imports from, a specific country (except for  
14          exports of goods described in subparagraphs (A) and  
15          (B) of section 7(b)(6)) under the International  
16          Emergency Economic Powers Act, the Trading With  
17          the Enemy Act, or other provision of law. In any  
18          case in which the President exercises any such au-  
19          thority to impose an embargo, the requirements of  
20          this section shall not apply for so long as such em-  
21          bargo is in effect.

22          (2) EFFECT ON EXISTING EMBARGOES.—(A)  
23          Nothing in this section affects the authorities con-  
24          ferred upon the President by section 5(b) of the  
25          Trading With the Enemy Act, which were being ex-

1        exercised with respect to a country on July 1, 1977,  
2        as a result of a national emergency declared by the  
3        President before that date, and are being exercised  
4        on the date of enactment of this Act.

5            (B) Nothing in this section affects the authori-  
6        ties conferred upon the President by the Inter-  
7        national Emergency Economic Powers Act or other  
8        provision of law, which were being exercised with re-  
9        spect to a country before the date of enactment of  
10       this Act as a result of a national emergency declared  
11       by the President before that date, and are being ex-  
12       exercised with respect to such country on such date of  
13       enactment.

14    **SEC. 6. EXPORT CONTROL AUTHORITIES.**

15        (a) EXPORT CONTROL AUTHORITY AND FUNC-  
16        TIONS.—

17            (1) IN GENERAL.—Unless otherwise reserved to  
18        the President or a department or agency outside the  
19        Department of Commerce, all power, authority, and  
20        discretion conferred by this Act shall be exercised by  
21        the Secretary. The Secretary is responsible for all  
22        export control functions required by this Act, subject  
23        to subsection (b).

24            (2) DELEGATION.—The Secretary may delegate  
25        any export control function under this Act to the Di-

1 rector of the Commercial Export Control Adminis-  
2 tration appointed under subsection (c), or to any  
3 other officer of the Department of Commerce.

4 (3) TRANSFER OF LICENSING AND REGU-  
5 LATORY FUNCTIONS.—In addition to the authorities  
6 and responsibilities otherwise provided for in this  
7 Act, there are hereby transferred to the Secretary  
8 the following functions.

9 (A) TRANSFERS FROM THE DEPARTMENT  
10 OF TREASURY.—There are hereby transferred  
11 to the Secretary all export control and licensing  
12 authorities and functions with respect to com-  
13 mercial goods and technology, and related serv-  
14 ices, exercised by the Office of Foreign Assets  
15 Control of the Department of the Treasury, be-  
16 fore the effective date of this Act, under—

17 (i) the International Emergency Eco-  
18 nomic Powers Act;

19 (ii) the Trading With the Enemy Act;

20 (iii) section 504 of the International  
21 Security Development and Cooperation Act  
22 of 1985 (22 U.S.C. 2349aa-8);

23 (iv) the United Nations Participation  
24 Act;

1 (v) the Comprehensive Anti-Apartheid  
2 Act of 1986; and

3 (vi) any other provision of law which  
4 authorizes the imposition by the United  
5 States of embargoes or economic sanctions  
6 against foreign countries.

7 (B) TRANSFERS FROM THE NUCLEAR REG-  
8 ULATORY COMMISSION.—There are hereby  
9 transferred to the Secretary all export control  
10 and licensing authorities and functions to the  
11 extent such functions apply to commercial  
12 goods and technology of the Nuclear Regulatory  
13 Commission under—

14 (i) the Atomic Energy Act of 1954;

15 (ii) the Nuclear Non-Proliferation Act  
16 of 1978; and

17 (iii) the Energy Reorganization Act of  
18 1974.

19 (C) TRANSFERS FROM THE SECRETARY OF  
20 ENERGY.—There are hereby transferred to the  
21 Secretary all authorities and functions which  
22 are exercised by the Secretary of Energy, before  
23 the effective date of this Act, under—

1 (i) section 131 of the Atomic Energy  
2 Act of 1954, relating to the entry into sub-  
3 sequent arrangements; and

4 (ii) section 402(a) of the Nuclear  
5 Non-Proliferation Act of 1978, relating to  
6 approval of enrichment after export of  
7 source material or special nuclear material.

8 (D) MISCELLANEOUS TRANSFERS.—There  
9 are hereby transferred to the Secretary such ex-  
10 port licensing and related regulatory functions  
11 and authorities not specifically or otherwise  
12 vested or delegated by statute, as the Secretary,  
13 in consultation with the Director of the Office  
14 of Management and Budget, determines to be  
15 appropriate.

16 (E) INCIDENTAL TRANSFERS.—The Direc-  
17 tor of the Office of Management and Budget, in  
18 consultation with the Secretary, shall make  
19 such determinations as may be necessary with  
20 regard to the transfer of functions under this  
21 Act, to make such additional incidental disposi-  
22 tions of assets, liabilities, contracts, property,  
23 records, and unexpended balances of appropria-  
24 tions, authorizations, allocations, and other  
25 funds held, used, arising from, available to, or

1 to be made available in connection with the  
2 functions transferred by this Act, as the Direc-  
3 tor considers necessary to carry out this Act.

4 (F) EMPLOYEE TRANSFER PROVISIONS.—  
5 The Secretary, in consultation with the head of  
6 any affected department or agency and the Di-  
7 rector of the Office of Management and Budg-  
8 et, is authorized to transfer to the Department  
9 of Commerce, or from the Department of Com-  
10 merce to another department or agency, any  
11 Federal employees employed to carry out the li-  
12 censing and regulatory functions required by  
13 this Act. The Secretary is authorized to exer-  
14 cise, with respect to such transferred Federal  
15 employees, all authority available to the head of  
16 the agency from which such Federal employees  
17 are transferred. Such authority shall include,  
18 but not be limited to, the authority to prescribe  
19 regulations incident to the exercise of such au-  
20 thority.

21 (4) PRESIDENTIAL DELEGATION OF AUTHOR-  
22 ITY.—With respect to those powers, authorities, or  
23 discretion reserved to the President by this Act, the  
24 President may not delegate or transfer such power,  
25 authority, or discretion to any official of any depart-

1       ment or agency the head of which is not appointed  
2       by the President by and with the advice and consent  
3       of the Senate.

4               (5) EXCLUSIVE JURISDICTION OF THE SEC-  
5       RETARY OF ENERGY.—The Secretary of Energy  
6       shall have exclusive jurisdiction with respect to the  
7       authorization under paragraph (2) in the first sen-  
8       tence of section 57b. of the Atomic Energy Act of  
9       1954, of all activities constituting the direct or indi-  
10      rect engagement in the production of special nuclear  
11      material outside the United States. Nothing in this  
12      Act shall be construed to give the Secretary dual or  
13      concurrent jurisdiction with the Secretary of Energy  
14      with respect to such activities, including the export  
15      or reexport of technology related to nuclear fuel  
16      cycle facilities or activities, or to expand the jurisdic-  
17      tion that the Secretary of Energy exercised under  
18      57b. of the Atomic Energy Act of 1954 before the  
19      effective date of this Act.

20           (b) COMMERCIAL EXPORT CONTROL POLICY COM-  
21      MITTEE.—

22               (1) ESTABLISHMENT.—There is established a  
23      Commercial Export Control Policy Committee.

24               (2) FUNCTIONS.—The Committee shall—

1 (A) provide policy guidance and advice to  
2 the Secretary on commercial export control is-  
3 sues;

4 (B) review policy recommendations pro-  
5 posed by the Secretary and other members of  
6 the Committee; and

7 (C) receive policy recommendations from  
8 other agencies and resolve any policy disputes  
9 among departments and agencies under this  
10 Act.

11 (3) MEMBERSHIP.—The Committee shall be  
12 comprised of—

13 (A) the Secretary;

14 (B) the Secretary of Defense;

15 (C) the Secretary of Energy;

16 (D) the Secretary of State;

17 (E) the National Security Adviser;

18 (F) the National Economic Adviser; and

19 (G) the Director of the Commercial Export  
20 Control Administration.

21 (4) CHAIR.—The Committee shall be jointly  
22 chaired by the National Economic Adviser and the  
23 National Security Adviser.

24 (5) DELEGATION; OTHER REPRESENTATIVES.—

25 A member of the Committee under paragraph (3)

1 may designate the deputy head of his or her depart-  
2 ment or agency to serve in his or her absence as a  
3 member of the Committee, but this authority may  
4 not be delegated to any other individual. The Chairs  
5 may also invite the temporary participation in the  
6 Committee's meetings of representatives from other  
7 offices and agencies as appropriate to the issues  
8 under consideration.

9 (6) MEETINGS.—The Secretary or either Chair  
10 of the Committee may call a meeting of the Commit-  
11 tee. Meetings shall not be subject to section 552b of  
12 title 5, United States Code.

13 (c) THE COMMERCIAL EXPORT CONTROL ADMINIS-  
14 TRATION.—

15 (1) ESTABLISHMENT.—There is established in  
16 the Department of Commerce the Commercial Ex-  
17 port Control Administration. CECA shall be the  
18 agency responsible for the implementation of export  
19 controls imposed under this Act.

20 (2) PRINCIPAL OFFICERS.—

21 (A) DIRECTOR.—There shall be at the  
22 head of CECA a Director, who shall be ap-  
23 pointed by the President, by and with the ad-  
24 vice and consent of the Senate. The Director,  
25 under the supervision and direction of the Sec-

1           retary, shall perform such administrative and  
2           executive functions as the Secretary shall dele-  
3           gate, including—

4                   (i) the formulation of United States  
5                   export control and technology transfer poli-  
6                   cies with respect to commercial goods and  
7                   technology;

8                   (ii) the implementation of export con-  
9                   trol policies through the administration of  
10                  licenses for exports and reexports of com-  
11                  mercial goods and technology, and the en-  
12                  forcement of export controls, to the extent  
13                  provided in this Act;

14                  (iii) the establishment of the control  
15                  index, and the development of proposals  
16                  for revisions of export control lists of ex-  
17                  port control regimes;

18                  (iv) the conduct of bilateral and multi-  
19                  lateral negotiations relating to export con-  
20                  trols of export control regimes and emer-  
21                  gency controls under section 5;

22                  (v) the distribution of duties among  
23                  the personnel, administrative units, and of-  
24                  fices of CECA; and

1 (vi) such other matters as the Sec-  
2 retary may specify.

3 (B) DEPUTY DIRECTOR.—The Director  
4 shall be assisted by a Deputy Director, who  
5 shall be appointed by the President, by and  
6 with the advice and consent of the Senate. The  
7 Deputy Director shall supervise and coordinate  
8 the operations of CECA.

9 (C) ASSISTANT DIRECTOR FOR EXPORT  
10 CONTROL.—The Assistant Director for Export  
11 Control of CECA shall assist the Director and  
12 shall carry out CECA's responsibilities with re-  
13 spect to—

14 (i) processing export license applica-  
15 tions;

16 (ii) emergency control policies;

17 (iii) the review and revision of the  
18 control index;

19 (iv) foreign availability determinations  
20 under section 3(g);

21 (v) requests for the classification of  
22 commodities on the control index;

23 (vi) coordinating the activities of the  
24 industry advisory committees appointed  
25 under subsection (d);

1 (vii) export control functions and re-  
2 sponsibilities transferred under subsection  
3 (a)(3); and

4 (viii) such other matters as the Direc-  
5 tor may specify.

6 (D) ASSISTANT DIRECTOR FOR NON-  
7 PROLIFERATION.—The Assistant Director for  
8 Nonproliferation of CECA shall carry out  
9 CECA's responsibilities with respect to policy  
10 development on—

11 (i) export and reexport controls under  
12 the MTCR;

13 (ii) chemical and biological weapons  
14 export and reexport controls imposed pur-  
15 suant to the agreement of the Australia  
16 Group;

17 (iii) export and reexport controls on  
18 goods and technology imposed pursuant to  
19 section 309(c) of the Nuclear Non-Pro-  
20 liferation Act of 1978, and proliferation is-  
21 sues of the Nuclear Suppliers Group;

22 (iv) the designation of controlled  
23 countries and controlled endusers for pur-  
24 poses of restricting the capabilities de-  
25 scribed in section 4(a)(1)(B); and

1 (v) such other matters as the Director  
2 may specify.

3 (E) ASSISTANT DIRECTOR FOR SECURITY  
4 AND INTELLIGENCE.—The Assistant Director  
5 for Security and Intelligence of CECA shall  
6 carry out CECA’s responsibilities with respect  
7 to—

8 (i) coordination and liaison with the  
9 Department of Defense, the Armed Forces  
10 of the United States, and the intelligence  
11 community;

12 (ii) development and maintenance of  
13 information on enduser reliability, includ-  
14 ing conducting outside the United States  
15 prelicense investigations and post-shipment  
16 verifications of items licensed for export;  
17 and

18 (iii) such other matters as the Direc-  
19 tor may specify.

20 (F) ASSISTANT DIRECTOR FOR ENFORCE-  
21 MENT AND COMPLIANCE.—The Assistant Direc-  
22 tor for Enforcement and Compliance of CECA  
23 shall carry out CECA’s responsibilities with re-  
24 spect to—

1 (i) the enforcement and compliance  
2 duties of CECA, as provided in subsection  
3 (e); and

4 (ii) coordination with the Commis-  
5 sioner of Customs in the enforcement of  
6 this Act.

7 (G) CHIEF NEGOTIATOR.—The Chief Ne-  
8 gotiator of CECA shall hold the rank of ambas-  
9 sador, and shall be responsible for the develop-  
10 ment, coordination, and conduct of all negotia-  
11 tions regarding export control regimes, includ-  
12 ing negotiations related to COCOM, the Aus-  
13 tralia Group, the Nuclear Suppliers Group, and  
14 the MTCR, negotiations described in section  
15 4(c)(2)(D), and negotiations required under  
16 section 5 regarding emergency controls.

17 (H) APPOINTMENTS.—The officers de-  
18 scribed in subparagraphs (C), (D), (E), (F),  
19 and (G) shall each be appointed by the Presi-  
20 dent, by and with the advice and consent of the  
21 Senate.

22 (d) INDUSTRY ADVISORY COMMITTEES.—

23 (1) TECHNICAL ADVICE AND SUPPORT.—

24 (A) IN GENERAL.—Upon written request  
25 by representatives of a substantial segment of

1 any industry that produces goods or technology  
2 subject to export controls under this Act, the  
3 Secretary shall appoint an industry advisory  
4 committee for any such goods or technology  
5 that the Secretary determines are difficult to  
6 evaluate because of questions concerning tech-  
7 nical matters, worldwide availability and actual  
8 utilization of goods and technology, or licensing  
9 procedures.

10 (B) COMPOSITION.—Each such committee  
11 shall consist of representatives of United States  
12 industry and the United States Government. No  
13 person serving on any such committee who is a  
14 representative of industry shall serve on such  
15 committee for more than 4 consecutive years.

16 (C) CONSULTATION.—The Secretary and  
17 the Committee shall consult with appropriate  
18 industry advisory committees with respect to  
19 questions involving—

20 (i) technical matters, including licens-  
21 ing procedures;

22 (ii) worldwide availability and utiliza-  
23 tion of controlled goods and technology;

1 (iii) revisions of the control index, in-  
2 cluding proposed revisions of export control  
3 regime agreements;

4 (iv) the issuance of regulations;

5 (v) gathering of information from in-  
6 dustry on illegal sales and diversion of  
7 technology in furtherance of the enforce-  
8 ment of this Act; and

9 (vi) any other questions that the Sec-  
10 retary considers appropriate.

11 Members of the public shall be given a reason-  
12 able opportunity, under regulations prescribed  
13 by the Secretary, to present evidence to any in-  
14 dustry advisory committee.

15 (D) MULTILATERAL NEGOTIATIONS.—The  
16 Secretary may include industry representatives  
17 from appropriate industry advisory committees  
18 in the United States delegations to export con-  
19 trol regime negotiations.

20 (E) EXPENSES.—Upon the request of any  
21 member of an industry advisory committee, the  
22 Secretary may reimburse such member for trav-  
23 el, subsistence, and other necessary expenses in-  
24 curred by such member in connection with the  
25 duties of such member on such committee.

1 (F) CHAIRPERSON; MEETINGS.—Each in-  
2 dustry advisory committee shall elect a chair-  
3 person (who may not be an officer or employee  
4 of the United States Government), and shall  
5 meet at least every 3 months at the call of the  
6 chairperson unless the chairperson determines,  
7 in consultation with the other members of the  
8 committee, that such a meeting is not necessary  
9 to achieve the purposes of this subsection.

10 (G) DURATION.—Each industry advisory  
11 committee shall be terminated after a period of  
12 2 years, unless extended by the Secretary for  
13 one additional 2-year period.

14 (H) AGENCY DISCLOSURES.—The Sec-  
15 retary, in conjunction with other departments  
16 and agencies participating in the administration  
17 of this Act, shall disclose to each industry advi-  
18 sory committee adequate information, consist-  
19 ent with national security, necessary for such  
20 committee to discharge its duties.

21 (I) CERTIFICATION OF FOREIGN AVAIL-  
22 ABILITY.—If an industry advisory committee  
23 certifies to the Secretary that any of the goods  
24 or technology with respect to which such com-  
25 mittee was appointed meet the foreign availabil-

1           ity standards of section 3(g), the Secretary  
2           shall refer the matter to the International  
3           Trade Commission which shall make a foreign  
4           availability assessment of such goods or tech-  
5           nology under such section and shall submit a  
6           report on such foreign availability to the indus-  
7           try advisory committee and the Secretary.

8           (2) POLICY ADVICE.—The Secretary shall ap-  
9           point a group of knowledgeable individuals from  
10          businesses affected by export controls to provide ad-  
11          vice to the Secretary and the Committee on export  
12          control policy issues. The chairperson of such group  
13          may not be a member of the Committee, but shall  
14          represent industry advisory committees regarding re-  
15          view of control lists and export control regime pro-  
16          posals.

17          (e) ENFORCEMENT AUTHORITY.—

18               (1) GENERAL AUTHORITIES SHARED BY COM-  
19               MERCE AND CUSTOMS.—To the extent necessary or  
20               appropriate to the enforcement of this Act or to the  
21               imposition of any penalty, forfeiture, or liability aris-  
22               ing under this Act, the Secretary and the Commis-  
23               sioner of Customs (and officers or employees specifi-  
24               cally designated by either the Secretary or the Com-  
25               missioner) may—

1 (A) require reports or the keeping of  
2 records by any person;

3 (B) take the sworn testimony of any per-  
4 son;

5 (C) administer oaths or affirmations; and

6 (D) by subpoena, require any person to ap-  
7 pear and testify or to appear and produce  
8 books, records, and other writings, or both, and  
9 to inspect the books, records and other writings,  
10 premises, or property of any person.

11 In the case of contumacy by, or refusal to obey a  
12 subpoena issued to any person under this paragraph,  
13 a district court of the United States, after notice to  
14 any such person and a hearing, shall have jurisdic-  
15 tion to issue an order requiring such person to ap-  
16 pear and give testimony or to appear and produce  
17 books, records, and other writings, or both, and any  
18 failure to obey such order of the court may be pun-  
19 ished by such court as a contempt thereof.

20 (2) ENFORCEMENT AUTHORITY OF THE DE-  
21 PARTMENT OF COMMERCE.—

22 (A) IN GENERAL.—Subject to subpara-  
23 graph (B), the Secretary shall have the respon-  
24 sibility for investigations conducted within the  
25 United States in the enforcement of this Act. In

1 the enforcement of this Act, the Secretary is  
2 authorized to search, detain (after search), and  
3 seize goods or technology at those places within  
4 the United States other than those ports speci-  
5 fied in paragraph (3)(A). The search, detention  
6 (after search), or seizure of goods and tech-  
7 nology at those ports and places specified in  
8 paragraph (3)(A) may be conducted by employ-  
9 ees of the Department of Commerce designated  
10 by the Secretary with the concurrence of the  
11 Commissioner of Customs or a person des-  
12 igned by the Commissioner.

13 (B) OTHER AUTHORIZED ACTIONS.—The  
14 Secretary may designate employees under the  
15 direction of the Assistant Director for Enforce-  
16 ment and Compliance of CECA, in carrying out  
17 enforcement authority under this Act, to—

18 (i) execute any warrant or other proc-  
19 ess issued by a court or officer with com-  
20 petent jurisdiction with respect to the en-  
21 forcement of this Act;

22 (ii) make arrests without warrant for  
23 any violation of this Act committed in his  
24 or her presence or view, or if the officer or  
25 employee has probable cause to believe that

1           the person to be arrested has committed or  
2           is committing such a violation of this Act;  
3           and

4           (iii) carry firearms in carrying out  
5           any activity described in clause (i) or (ii).

6           (3) ENFORCEMENT AUTHORITY OF THE COM-  
7           MISSIONER OF CUSTOMS.—

8           (A) IN GENERAL.—Subject to subpara-  
9           graph (B), the United States Customs Service  
10          is authorized, in the enforcement of this Act, to  
11          make investigations outside of the United  
12          States, and to search, detain (after search), and  
13          seize goods or technology at those ports of  
14          entry to or exit from the United States where  
15          officers of the Customs Service are authorized  
16          by law to conduct such searches, detentions,  
17          and seizures, and at those places outside the  
18          United States where the Customs Service, pur-  
19          suant to agreements or other arrangements  
20          with other countries, is authorized to perform  
21          enforcement activities.

22          (B) OTHER AUTHORIZED ACTIONS.—An  
23          officer of the United States Customs Service, in  
24          carrying out enforcement authority under this  
25          Act, may—

1 (i) stop, search, and examine a vehi-  
2 cle, vessel, aircraft, or person on which or  
3 whom such officer has reasonable cause to  
4 suspect there are any goods or technology  
5 that has been, is being, or is about to be  
6 exported from the United States in viola-  
7 tion of this Act;

8 (ii) search any package or container  
9 in which such officer has reasonable cause  
10 to suspect there are any goods or tech-  
11 nology that has been, is being, or is about  
12 to be exported from the United States in  
13 violation of this Act;

14 (iii) detain (after search) or seize and  
15 secure for trial any goods or technology on  
16 or about such vehicle, vessel, aircraft, or  
17 person, or in such package or container, if  
18 such officer has probable cause to believe  
19 the goods or technology has been, is being,  
20 or is about to be exported from the United  
21 States in violation of this Act; and

22 (iv) make arrests without warrant for  
23 any violation of this Act committed in the  
24 officer's presence or view or if the officer  
25 has probable cause to believe that the per-

1           son to be arrested has committed or is  
2           committing such a violation.

3           The arrest authority conferred by clause (iv) is  
4           in addition to any arrest authority provided  
5           under other laws.

6           (4) OTHER ENFORCEMENT PROVISIONS.—

7           (A) REFERRAL OF CASES.—All cases in-  
8           volving violations of this Act shall be referred to  
9           the Secretary for purposes of determining civil  
10          penalties and administrative sanctions under  
11          section 8, or to the Attorney General for crimi-  
12          nal action in accordance with this Act.

13          (B) PUBLICATION OF PROCEDURES.—The  
14          Secretary, with the concurrence of the Sec-  
15          retary of the Treasury, shall publish in the Fed-  
16          eral Register procedures setting forth, in ac-  
17          cordance with this subsection, the responsibil-  
18          ities of the Department of Commerce and the  
19          United States Customs Service in the enforce-  
20          ment of this Act.

21          (C) INFORMATION SHARING.—The Sec-  
22          retary, with the concurrence of the Secretary of  
23          the Treasury, may publish procedures for the  
24          sharing of information in accordance with sec-  
25          tion 3(g), and procedures for the submission to

1 the appropriate departments and agencies by  
2 private persons of information relating to the  
3 enforcement of this Act.

4 (D) REFERENCES.—For purposes of this  
5 section, a reference to the enforcement of this  
6 Act or to a violation of this Act includes a ref-  
7 erence to the enforcement or a violation of any  
8 regulation, order, or license issued under this  
9 Act.

10 (5) IMMUNITY.—No person shall be excused  
11 from complying with any requirements under this  
12 section because of an assertion of a privilege against  
13 self-incrimination, but the immunity provisions of  
14 section 6002 of title 18, United States Code, shall  
15 apply with respect to any individual who specifically  
16 claims such privilege.

17 **SEC. 7. COMMERCIAL EXPORT LICENSES AND PROCESSING**  
18 **PROCEDURES.**

19 (a) RESPONSIBILITY OF THE SECRETARY.—

20 (1) IN GENERAL.—The Secretary is responsible  
21 for all export licensing functions required by this  
22 Act. All determinations with respect to any export li-  
23 cense application shall be made by the Secretary,  
24 subject to the procedures provided in this section.

1           (2) REFERRAL TO OTHER DEPARTMENTS OR  
2 AGENCIES.—The Secretary may seek information  
3 and recommendations from any other department or  
4 agency of the United States on export license appli-  
5 cations, in accordance with the procedures provided  
6 in subsection (c)(2), or as otherwise required under  
7 the Atomic Energy Act of 1954. A department or  
8 agency reviewing an export license application re-  
9 ferred by the Secretary shall cooperate fully in pro-  
10 viding such information or recommendations. The  
11 recommendations made by other departments or  
12 agencies shall not be binding on the Secretary in  
13 making determinations on export license applications  
14 under this Act.

15 (b) COMMERCIAL EXPORT LICENSES.—

16           (1) TYPES OF COMMERCIAL EXPORT LI-  
17 CENSES.—Under such conditions as the Secretary  
18 may impose, consistent with the provisions of this  
19 Act, the Secretary may require the following types of  
20 licenses for exports and reexports of commercial  
21 goods and technology controlled under this Act:

22           (A) SPECIFIC EXPORTS AND REEX-  
23 PORTS.—An individual validated license, au-  
24 thorizing a specific export or reexport.

1 (B) MULTIPLE EXPORTS AND REEX-  
2 PORTS.—Validated licenses authorizing multiple  
3 exports or reexports, in lieu of an individual  
4 validated license for each such export or reex-  
5 port.

6 (C) TERMS AND CONDITIONS.—(i) The  
7 Secretary shall grant a license under this para-  
8 graph on the basis of approval of the appli-  
9 cant’s systems of control for the commercial  
10 goods and technology to be exported. The Sec-  
11 retary and, at the request of the Secretary, the  
12 Commissioner of Customs, shall perform peri-  
13 odic reviews of license applicants and their com-  
14 pliance with the terms of licenses issued under  
15 this Act. In the case of a license issued under  
16 subparagraph (B), the Secretary shall perform  
17 periodic audits of license holders in order to as-  
18 sure the integrity and effectiveness of the li-  
19 censing procedures under this section that  
20 apply to such licenses.

21 (ii) Requirements for the redesign,  
22 reengineering, or substantial modification of  
23 standard product models or configurations, and  
24 similar requirements shall not be imposed under  
25 this Act before any export license application is

1 approved for the export or reexport of commer-  
2 cial goods or technology to which export or re-  
3 export controls imposed pursuant to an export  
4 control regime apply if such goods or tech-  
5 nology are intended for civil end uses, unless  
6 such export control regime agrees to such re-  
7 quirements.

8 (2) AUTHORIZATION FOR TECHNICAL DATA.—A  
9 validated license authorizing the export or reexport  
10 of any commercial goods or technology under this  
11 Act shall also authorize the export or reexport of op-  
12 eration technical data related to such goods or tech-  
13 nology, whether or not such data is specifically ref-  
14 erenced in the license or license application, if the  
15 technical level of the data does not exceed the level  
16 reasonably necessary to install, repair, maintain, in-  
17 spect, operate, or use the goods or technology.

18 (3) REPLACEMENT PARTS.—The Secretary  
19 shall not require an individual validated license for  
20 replacement parts that are exported or reexported to  
21 replace on a one-for-one basis parts that were in a  
22 good that has been lawfully exported from the Unit-  
23 ed States.

24 (4) INCORPORATED GOODS OR TECHNOLOGY.—

1 (A) GOODS CONTAINING CONTROLLED  
2 PARTS AND COMPONENTS.—No license may be  
3 required under this Act or any other provision  
4 of law to export a commercial good solely be-  
5 cause the good contains parts or components  
6 the export of which is controlled under this Act  
7 if such parts or components—

8 (i) are essential to the functioning of  
9 the good;

10 (ii) are customarily included in sales  
11 of the good in countries other than con-  
12 trolled countries; and

13 (iii) comprise 25 percent or less of the  
14 total value of the good.

15 (B) REEXPORTS.—Except as provided in  
16 subparagraph (C), no authority or permission  
17 may be required under this Act or any other  
18 provision of law to reexport, from any country  
19 that is not a member of, or a cooperating coun-  
20 try with respect to, an export control regime  
21 certified under section 4(d)(2), any commercial  
22 good or technology the export of which is con-  
23 trolled under section 4 when the good or tech-  
24 nology to be reexported is incorporated in an-  
25 other good or technology in that country, and—

1 (i) the value of the commercial good  
2 or technology the export of which is con-  
3 trolled under this Act is 25 percent or less  
4 of the total value of the good or technology  
5 into which it is incorporated; or

6 (ii) the export of such commercial  
7 good or technology from the United States  
8 to the destination or enduser of the pro-  
9 posed reexport would require only notifica-  
10 tion to the participating governments of  
11 the appropriate export control regime.

12 (C) EMERGENCY CONTROLS.—No author-  
13 ity or permission may be required to reexport  
14 from any country a commercial good or tech-  
15 nology the export of which is controlled under  
16 section 5 when the good or technology to be re-  
17 exported is incorporated in another good or  
18 technology in that country and the value of the  
19 good or technology controlled under section 5 is  
20 10 percent or less of the total value of the good  
21 or technology into which it is incorporated.

22 (5) EXISTING CONTRACTS AND LICENSES.—

23 (A) IN GENERAL.—The President may not,  
24 under this Act, prohibit the export or reexport  
25 of commercial goods or technology—

1 (i) in performance of a contract,  
2 agreement, or other contractual commit-  
3 ment entered into before the effective date  
4 of export or reexport controls imposed  
5 under this Act on such goods or tech-  
6 nology, or the date on which the President  
7 reports to the Congress under section  
8 (5)(a)(4)(B) the President's intention to  
9 impose emergency controls on the export  
10 or reexport of such goods or technology, or

11 (ii) under a validated license or other  
12 authorization issued under this Act.

13 (B) EXCEPTION.—The prohibition in sub-  
14 paragraph (A) shall not apply if the President  
15 determines and certifies to the Congress that—

16 (i) a breach of the peace poses a seri-  
17 ous and direct threat to the strategic inter-  
18 ests of the United States;

19 (ii) the prohibition or curtailment of  
20 exports or reexports (as the case may be)  
21 under each such contract, agreement, com-  
22 mitment, license, or authorization will be  
23 directly instrumental in remedying the sit-  
24 uation posing the direct threat; and

1 (iii) such prohibition or curtailment  
2 will continue only as long as the direct  
3 threat persists.

4 (6) EXCLUSION FOR MEDICINE AND MEDICAL  
5 SUPPLIES AND FOR DONATIONS.—This Act does not  
6 authorize controls on—

7 (A) medicine or medical supplies; or

8 (B) donations of goods (including, but not  
9 limited to, food, educational materials, seeds  
10 and hand tools, medicines and medical supplies,  
11 water resources equipment, clothing and shelter  
12 materials, and basic household supplies) that  
13 are intended to meet basic human needs.

14 (7) PROHIBITION OF FEES FOR PROCESSING  
15 EXPORT LICENSE APPLICATIONS.—No fee may be  
16 charged in connection with the submission or proc-  
17 essing of an export license application under this  
18 Act.

19 (c) PROCEDURES FOR PROCESSING EXPORT LI-  
20 CENSE APPLICATIONS.—

21 (1) INITIAL SCREENING.—All export license ap-  
22 plications required under this Act shall be submitted  
23 by the applicant to the Secretary. Not more than 10  
24 days after the date on which any export license ap-

1       plication is submitted to the Secretary, the Secretary  
2       shall—

3               (A) send the applicant an acknowledgment  
4               of the receipt of the application and the date of  
5               the receipt;

6               (B) submit to the applicant a written de-  
7               scription of the procedures required by this sec-  
8               tion, the responsibilities of the Secretary with  
9               respect to the application, and the rights of the  
10              applicant;

11             (C) return the application without action if  
12             the application is improperly completed or if ad-  
13             ditional information is required, with sufficient  
14             information to permit the application to be  
15             properly resubmitted, in which case, if such ap-  
16             plication is resubmitted, it shall be treated as a  
17             new application for the purpose of calculating  
18             the time periods prescribed in this subsection;  
19             and

20             (D) determine whether it is necessary to  
21             submit the application to a multilateral review  
22             process pursuant to an export control regime  
23             and, if so, inform the applicant of such require-  
24             ment.

1           (2) REFERRAL.—If the Secretary decides to  
2 refer an export license application to any other de-  
3 partment or agency for a recommendation under  
4 subsection (a)(2), the Secretary shall, within 5 days  
5 after receiving the application, refer the application  
6 concurrently to all such departments or agencies. A  
7 department or agency reviewing an export license  
8 application referred by the Secretary shall have 15  
9 days in which to submit to the Secretary its rec-  
10 ommendations on the application. Any department  
11 or agency which does not submit its recommenda-  
12 tions within that 15-day period shall be deemed by  
13 the Secretary to have no objection to the approval of  
14 such application.

15           (3) ACTION BY THE SECRETARY.—Subject to  
16 paragraph (6), 30 days after the date of formal fil-  
17 ing with the Secretary of an export license applica-  
18 tion, a license for the transaction specified in the ap-  
19 plication shall become valid and effective and the  
20 goods or technology involved are authorized for ex-  
21 port or reexport pursuant to such license, unless—

22                   (A) the application has been otherwise ap-  
23 proved by the Secretary, in which case it shall  
24 be valid and effective according to the terms of  
25 the approval;

1 (B) the application has been denied by the  
2 Secretary under this section and the applicant  
3 has been so informed; or

4 (C) the Secretary requires additional time,  
5 not to exceed 30 days, for matters related to  
6 the consideration of the export license applica-  
7 tion, including, but not limited to, performing  
8 pre-license investigations and obtaining govern-  
9 ment-to-government assurances with respect to  
10 reexports or other matters, and so informs the  
11 applicant.

12 In a case in which subparagraph (C) applies, at the  
13 end of the 30-day period described in such subpara-  
14 graph, the license for the transaction specified in the  
15 application shall become valid and effective and the  
16 goods and technology are authorized for export or  
17 reexport pursuant to such license, unless subpara-  
18 graph (A) or (B) applies during such 30-day period.

19 (4) ACTION UPON DENIAL.—In cases in which  
20 the Secretary has determined that a license applica-  
21 tion should be denied, the applicant shall be in-  
22 formed in writing, not later than 5 days after such  
23 determination is made, of—

24 (A) the determination;

1 (B) the statutory basis for the proposed  
2 denial;

3 (C) the reasons for such denial, with ref-  
4 erences to the criteria set forth in sections 4  
5 and 5;

6 (D) what, if any, modifications in, or re-  
7 strictions on, the goods or technology for which  
8 the license was sought would allow the export  
9 or reexport of the goods or technology to be  
10 compatible with controls imposed under this  
11 Act;

12 (E) which officers and employees of the  
13 Department of Commerce who are familiar with  
14 the application will be made reasonably avail-  
15 able to the applicant for discussions with regard  
16 to such modifications or restrictions, if appro-  
17 priate;

18 (F) to the extent consistent with the na-  
19 tional security and foreign policy of the United  
20 States, the specific considerations which led to  
21 the determination to deny the application; and

22 (G) the availability of appeal procedures.

23 The Secretary shall allow the applicant not less than  
24 30 days to respond to the Secretary's determination  
25 before the license application is denied. If any deci-

1 sion on a license application is deferred inconsistent  
2 with the provisions of this subsection, the applicant  
3 shall be so informed in writing not more than 5 days  
4 after such deferral.

5 (5) RECORDKEEPING.—The Secretary shall  
6 make and keep records of all advice and rec-  
7 ommendations given by Federal departments and  
8 agencies, and decisions made by the Department of  
9 Commerce, in connection with any export license ap-  
10 plication or revision of an export license application  
11 under this Act, including the factual and analytical  
12 basis of the advice, recommendations, or decisions.

13 (6) MULTILATERAL CONTROLS.—

14 (A) NOTICE OF MULTILATERAL REVIEW.—

15 In any case in which an export license applica-  
16 tion that has been finally approved is required  
17 to be submitted to a multilateral review process  
18 pursuant to an export control regime, the li-  
19 cense shall not be issued under paragraph (3),  
20 but the Secretary shall notify the applicant of  
21 the approval of the application (and the date of  
22 such approval) by the Secretary subject to such  
23 multilateral review. The license shall be issued  
24 upon approval of the application under such  
25 multilateral review.

1 (B) ISSUANCE OF LICENSE AFTER 30  
2 DAYS.—If such multilateral review has not re-  
3 sulted in a determination with respect to the  
4 application within 30 days after the application  
5 is approved, the Secretary's approval of the li-  
6 cense shall be final and the license shall be is-  
7 sued, unless a longer review period is specifi-  
8 cally required by the established procedures of  
9 the applicable export control regime.

10 (7) CHANGES IN REQUIREMENTS FOR APPLICA-  
11 TIONS.—Except as provided in paragraph (1)(C), in  
12 any case in which, after an export license application  
13 is submitted, the Secretary changes the require-  
14 ments for such a license application, the Secretary  
15 may request appropriate additional information of  
16 the applicant, but the Secretary may not return the  
17 application to the applicant without action because it  
18 fails to meet the changed requirements.

19 (d) APPEAL AND COURT ACTIONS.—

20 (1) IN GENERAL.—The Secretary shall establish  
21 appropriate procedures for any applicant to appeal  
22 to the Secretary the denial of an export license ap-  
23 plication under this Act.

24 (2) PUBLICATION AND INDEXING OF APPEAL  
25 DECISIONS.—The Secretary shall, to the greatest ex-

1 tent practicable, taking into account restrictions on  
2 the disclosure of classified or confidential informa-  
3 tion, publish in the Federal Register and index deci-  
4 sions on appeals of license denials under paragraph  
5 (1).

6 (3) TIME DELAY.—In any case in which any ac-  
7 tion prescribed in this section is not taken on an ex-  
8 port license application within the time periods es-  
9 tablished by subsection (c) (except in the case of a  
10 time period extended under subsection (c)(3)(C) of  
11 which the applicant is notified), the applicant may  
12 file a petition with the Secretary requesting compli-  
13 ance with the requirements of subsection (c). When  
14 such petition is filed, the Secretary shall take imme-  
15 diate steps to correct the situation giving rise to the  
16 petition and shall immediately notify the applicant of  
17 such steps.

18 (4) ACTION ON PETITIONS.—If, within 20 days  
19 after a petition is filed under paragraph (3), the  
20 processing of the application has not been brought  
21 into conformity with the requirements of subsection  
22 (c), or the application has been brought into con-  
23 formity with such requirements but the Secretary  
24 has not so notified the applicant, the applicant may  
25 bring an action in an appropriate United States dis-

1       trict court for a restraining order, a temporary or  
2       permanent injunction, or other appropriate relief, to  
3       require compliance with the requirements of sub-  
4       section (c). The United States district courts shall  
5       have jurisdiction to provide such relief, as appro-  
6       priate.

7               (5) FINAL ORDERS; APPEAL.—The determina-  
8       tion of the Secretary on appeals under this sub-  
9       section shall be final and may be appealed in accord-  
10      ance with section 8(c).

11      (e) OTHER INQUIRIES.—

12              (1) CLASSIFICATION REQUESTS.—In any case  
13      in which the Secretary receives a written request  
14      asking for the proper classification of a good or  
15      technology on the control index, the Secretary shall,  
16      not more than 10 working days after receiving the  
17      request, inform the person making the request of the  
18      proper classification.

19              (2) APPLICABILITY OF REQUIREMENT.—In any  
20      case in which the Secretary receives a written re-  
21      quest for information about the applicability of ex-  
22      port license requirements under this Act to a pro-  
23      posed transaction or series of transactions, the Sec-  
24      retary shall, not more than 30 days after receiving

1 the request, reply with that information to the per-  
2 son making the request.

3 (3) PUBLICATION OF CLASSIFICATION DETER-  
4 MINATIONS.—The Secretary shall, to the greatest  
5 extent practicable, taking into account restrictions  
6 on the disclosure of classified or confidential infor-  
7 mation, publish in the Federal Register classification  
8 determinations made under paragraph (1).

9 **SEC. 8. PENALTIES, ADMINISTRATIVE PROCEDURES, AND**  
10 **SANCTIONS.**

11 (a) PENALTIES FOR VIOLATIONS.—

12 (1) CRIMINAL PENALTIES.—

13 (A) IN GENERAL.—Except as provided in  
14 subparagraph (B), whoever knowingly violates  
15 or conspires to or attempts to violate any provi-  
16 sion of this Act or any regulation, order, or li-  
17 cense issued under this Act shall be fined not  
18 more than 5 times the value of the exports in-  
19 volved or \$50,000, whichever is greater, or im-  
20 prisoned for not more than 5 years, or both.

21 (B) WILLFUL VIOLATIONS.—Whoever will-  
22 fully violates or conspires to or attempts to vio-  
23 late any provision of this Act or any regulation,  
24 order, or license issued under this Act, with  
25 knowledge that the exports involved will be used

1 for the benefit of, or that the destination or in-  
2 tended destination of the goods or technology  
3 involved is, any controlled country or controlled  
4 enduser—

5 (i) except in the case of an individual,  
6 shall be fined not more than 10 times the  
7 value of the exports involved or  
8 \$2,000,000, whichever is greater; and

9 (ii) in the case of an individual, shall  
10 be fined not more than \$500,000, or im-  
11 prisoned for not more than 10 years, or  
12 both.

13 (C) FAILURE TO REPORT MISUSE UNDER  
14 LICENSE.—Any person who is issued a vali-  
15 dated license under this Act for the export of  
16 any commercial good or technology to a con-  
17 trolled country and who, with knowledge that  
18 such a good or technology is being used by such  
19 controlled country for military or intelligence-  
20 gathering purposes, or for purposes of enhanc-  
21 ing capabilities described in section 4(a)(1)(B),  
22 contrary to the conditions under which the li-  
23 cense was issued, willfully fails to report such  
24 use, shall be subject to the penalties set forth  
25 in subparagraph (B).

1 (D) INTENT TO VIOLATE CONTROLS.—Any  
2 person who possesses any commercial goods or  
3 technology—

4 (i) with the intent to export or reex-  
5 port such goods or technology in violation  
6 of an export or reexport control imposed  
7 under this Act, or any regulation, order, or  
8 license issued with respect to such control,  
9 or

10 (ii) knowing or having reason to be-  
11 lieve that the goods or technology would be  
12 so exported or reexported,

13 shall be subject to the penalties set forth in  
14 subparagraph (B).

15 (E) EVASION OF CONTROLS.—Any person  
16 who takes any action with the intent to evade  
17 the provisions of this Act or any regulation,  
18 order, or license issued under this Act shall be  
19 subject to the penalties set forth in paragraph  
20 (B).

21 (2) CIVIL PENALTIES.—

22 (A) IN GENERAL.—The Secretary may im-  
23 pose a civil penalty of not more than \$250,000  
24 for each violation of this Act or any regulation,  
25 order, or license issued under this Act, either in

1 addition to or in lieu of any other liability or  
2 penalty which may be imposed for such viola-  
3 tion.

4 (B) PAYMENT OF PENALTIES.—The pay-  
5 ment of any penalty imposed under this para-  
6 graph may be made a condition, for a period of  
7 not more than 1 year after the imposition of  
8 such penalty, to the granting, restoration, or  
9 continuing validity of any license, permission, or  
10 privilege granted or to be granted under this  
11 Act to the person upon whom such penalty is  
12 imposed. In addition, the payment of any pen-  
13 alty imposed under this paragraph may be de-  
14 ferred or suspended in whole or in part for a  
15 period of time not longer than any probation  
16 period (which may exceed 1 year) that may be  
17 imposed upon such person. Such a deferral or  
18 suspension shall not operate as a bar to the col-  
19 lection of the penalty in the event that the con-  
20 ditions of the suspension, deferral, or probation  
21 are not fulfilled.

22 (C) REFUNDS.—Any amount paid in satis-  
23 faction of any penalty imposed under this para-  
24 graph, and any amounts realized from the for-  
25 feiture of any property interest or proceeds

1 under subsection (b)(4), shall be covered into  
2 the Treasury as a miscellaneous receipt. The  
3 head of the department or agency concerned  
4 may, in his or her discretion, refund any such  
5 penalty imposed under this paragraph within 2  
6 years after payment, on the ground of a mate-  
7 rial error of fact or law in the imposition of the  
8 penalty. Notwithstanding section 1346(a) of  
9 title 28, United States Code, no action for the  
10 refund of any such penalty may be maintained  
11 in any court.

12 (D) ACTIONS FOR RECOVERY OF PEN-  
13 ALTIES.—In the event of the failure of any per-  
14 son to pay a penalty imposed under this para-  
15 graph, a civil action for the summary collection  
16 of the penalty may, in the discretion of the  
17 head of the department or agency concerned, be  
18 brought in an appropriate United States dis-  
19 trict court in the name of the United States.

20 (E) CIVIL PENALTY STANDARDS.—The  
21 Secretary may by regulation provide standards  
22 for establishing levels of civil penalty under this  
23 paragraph based upon the seriousness of the  
24 violation, the culpability of the violator, and the

1 violator's record of cooperation with the Gov-  
2 ernment in disclosing the violation.

3 (3) VIOLATIONS OF THE ACT.—Nothing in this  
4 paragraph shall limit the power of the Secretary to  
5 define by regulations violations under this Act.

6 (b) ADMINISTRATIVE SANCTIONS.—

7 (1) SUSPENSION, REVOCATION, AND DENIAL OF  
8 EXPORT PRIVILEGES.—The Secretary may suspend,  
9 revoke, or deny the export or reexport privileges of  
10 any person who violates or conspires to or attempts  
11 to violate any provision of this Act or any regulation,  
12 order, or license issued under this Act.

13 (2) ELIGIBILITY FOR LICENSES.—No person  
14 convicted of a violation of this Act (or any regula-  
15 tion, order, or license issued under this Act), any  
16 regulation, license, or order issued under the Inter-  
17 national Emergency Economic Powers Act, section  
18 793, 794, or 798 of title 18, United States Code,  
19 section 4(b) of the Internal Security Act of 1950 (50  
20 U.S.C. 783(b)), or section 38 of the Arms Export  
21 Control Act (22 U.S.C. 2778) shall be eligible, at  
22 the discretion of the Secretary, to apply for or use  
23 any export license under this Act for a period of not  
24 more than 10 years from the date of the conviction.  
25 The Secretary may revoke any export license under

1 this Act in which such person has an interest at the  
2 time of the conviction.

3 (3) RELATED PERSONS.—The Secretary may  
4 exercise the authority under paragraphs (1) and (2)  
5 with respect to any person related, through affili-  
6 ation, ownership, control, or position of responsibil-  
7 ity, to any person who has been sanctioned under  
8 this subsection, upon a showing of such relationship  
9 with the sanctioned party and a finding that such  
10 action is necessary to prevent an imminent violation  
11 of this Act or any regulation, order, or license issued  
12 under this Act, and subject to the procedures set  
13 forth in subsection (c).

14 (4) FORFEITURE OF PROPERTY INTEREST AND  
15 PROCEEDS.—

16 (A) IN GENERAL.—Any person who is con-  
17 victed under subsection (a)(1) of a violation of  
18 an export or reexport control imposed under  
19 this Act or any regulation, order, or license is-  
20 sued under this Act shall, in addition to any  
21 other penalty, forfeit to the United States—

22 (i) any of that person's interest in, se-  
23 curity of, claim against, or property or  
24 contractual rights of any kind in the goods

1 or tangible items that were the subject of  
2 the violation;

3 (ii) any of that person's interest in,  
4 security of, claim against, or property or  
5 contractual rights of any kind in tangible  
6 property that was used in the export or re-  
7 export or attempt to export or reexport  
8 that was the subject of the violation; and

9 (iii) any of that person's property con-  
10 stituting or derived from any proceeds ob-  
11 tained directly or indirectly as a result of  
12 the violation.

13 (B) PROCEDURE.—The procedures in any  
14 forfeiture under this paragraph, and the duties  
15 and authority of the courts of the United States  
16 and the Attorney General with respect to any  
17 forfeiture action under this paragraph or with  
18 respect to any property that may be subject to  
19 forfeiture under this paragraph, shall be gov-  
20 erned by the provisions of section 1963 of title  
21 18, United States Code.

22 (c) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-  
23 VIEW.—

1           (1) ADMINISTRATIVE PROCEDURES RELATING  
2 TO CIVIL PENALTIES AND ADMINISTRATIVE SANC-  
3 TIONS.—

4           (A) FORMAL COMPLAINT.—In any case in  
5 which a civil penalty or administrative sanction  
6 (other than a temporary denial order) is sought  
7 under this section, the charged party is entitled  
8 to receive a formal complaint specifying the  
9 charges and, at his or her request, to contest  
10 the charges in a hearing before an administra-  
11 tive law judge.

12           (B) HEARING PROCEDURES.—Subject to  
13 the provisions of this subsection, any such hear-  
14 ing shall be conducted in accordance with sec-  
15 tions 556 and 557 of title 5, United States  
16 Code.

17           (C) PRESENTATION OF EVIDENCE IN CAM-  
18 ERA.—In any such hearing the Government  
19 may, with the approval of the administrative  
20 law judge, present evidence in camera in the  
21 presence of the charged party or his or her rep-  
22 resentative.

23           (D) POST-HEARING ACTION BY THE SEC-  
24 RETARY.—After the hearing, the administrative  
25 law judge shall make findings of fact and con-

1           clussions of law in a written decision, which shall  
2           be referred to the Secretary. The Secretary  
3           shall, in a written order, affirm, modify, or va-  
4           cate the decision of the administrative law  
5           judge not later than 30 days after receiving the  
6           decision.

7           (E) TIMING.—The proceedings described  
8           in this subsection shall be concluded not later  
9           than 1 year after the complaint is submitted,  
10          unless the administrative law judge extends  
11          such period for good cause shown.

12          (F) FINAL ORDERS; APPEAL.—The order  
13          of the Secretary under subparagraph (D) shall  
14          be final and may be appealed in accordance  
15          with paragraph (4).

16          (2) ADMINISTRATIVE PROCEDURES FOR THE  
17          IMPOSITION OF TEMPORARY DENIAL ORDERS.—

18          (A) IN GENERAL.—In any case in which it  
19          is necessary, in the public interest, to prevent  
20          an imminent violation of this Act or any regula-  
21          tion, order, or license issued under this Act, the  
22          Secretary may, without a hearing, issue an  
23          order temporarily denying United States export  
24          or reexport privileges (hereafter in this sub-  
25          section referred to as a “temporary denial

1 order”) to a person. A temporary denial order  
2 may be effective no longer than 180 days (un-  
3 less renewed in writing by the Secretary for an  
4 additional period of not more than 180 days) in  
5 order to prevent such an imminent violation, ex-  
6 cept that a temporary denial order may be re-  
7 newed only after notice and an opportunity for  
8 a prompt hearing is provided.

9 (B) CONTENTS.—A temporary denial order  
10 shall define the imminent violation and state  
11 why the temporary denial order was granted  
12 without a hearing. The person or persons sub-  
13 ject to the issuance or renewal of a temporary  
14 denial order may file an appeal of the issuance  
15 or renewal of the temporary denial order with  
16 an administrative law judge who shall, not more  
17 than 10 working days after the appeal is filed,  
18 recommend that the temporary denial order be  
19 affirmed, modified, or vacated. Parties may  
20 submit briefs and other material to the judge.  
21 The recommendation of the administrative law  
22 judge shall be submitted to the Secretary who  
23 shall either accept, reject, or modify the rec-  
24 ommendation by written order not more than 5  
25 working days after receiving the recommenda-

1           tion. The written order of the Secretary under  
2           the preceding sentence shall be final and may  
3           be appealed as provided in paragraph (4). The  
4           temporary denial order shall be affirmed only if  
5           it is reasonable to believe that the order is re-  
6           quired in the public interest to prevent an im-  
7           minent violation of this Act or any regulation,  
8           order, or license issued under this Act. All ma-  
9           terials submitted to the administrative law  
10          judge and the Secretary under this paragraph  
11          shall constitute the administrative record for  
12          purposes of review by the courts.

13           (3) ADMINISTRATIVE LAW JUDGES.—Adminis-  
14          trative law judges referred to in paragraphs (1) and  
15          (2)(B) shall be appointed by the Secretary from  
16          among those considered qualified for selection and  
17          appointment under section 3105 of title 5, United  
18          States Code.

19           (4) JUDICIAL REVIEW.— Any final agency ac-  
20          tion under this Act may be reviewed by appeal to the  
21          United States Court of Appeals for the Federal Cir-  
22          cuit.

23           (d) SANCTIONS AGAINST CERTAIN FOREIGN PER-  
24          SONS.—

1           (1) IN GENERAL.—Except as provided in para-  
2 graph (5), the President may impose the sanctions  
3 described in paragraph (3) if the President deter-  
4 mines that a person has knowingly and materially  
5 contributed—

6           (A) through the export from the United  
7 States of any commercial goods or technology  
8 that are subject to the jurisdiction of the  
9 United States under this Act; or

10          (B) through the export from any other  
11 country of any commercial goods or technology  
12 that constitutes a violation of any regulation is-  
13 sued by that country to control exports pursu-  
14 ant to an export control regime;

15 to the efforts by any controlled country or controlled  
16 enduser to use, develop, produce, stockpile, or other-  
17 wise acquire chemical or biological weapons, any nu-  
18 clear explosive device, or any missile equipment or  
19 technology.

20          (2) PERSONS AGAINST WHICH SANCTIONS ARE  
21 TO BE IMPOSED.—Sanctions shall be imposed under  
22 paragraph (1) on—

23          (A) the person with respect to whom the  
24 President makes the determination described in  
25 that paragraph;

1 (B) any successor entity to that person;  
2 and

3 (C) any parent, subsidiary, or affiliate of  
4 that person if that parent, subsidiary, or affili-  
5 ate knowingly and materially contributed to the  
6 activities that were the basis of that determina-  
7 tion.

8 (3) SANCTIONS.—The sanctions to be imposed  
9 under paragraph (1) are—

10 (A) denial of licenses to the sanctioned  
11 person to export or reexport, and denial of li-  
12 censes to United States persons to export or re-  
13 export to the sanctioned person, commercial  
14 goods and technology to the same extent as the  
15 export or reexport of such goods or technology  
16 is controlled under this Act;

17 (B) a prohibition on contracting with, and  
18 procurement of products and services from, the  
19 sanctioned person by any department, agency,  
20 of instrumentality of the United States Govern-  
21 ment; and

22 (C) a prohibition on the importation into  
23 the United States of products produced by the  
24 sanctioned person.

1           (4) CONSULTATIONS WITH FOREIGN GOVERN-  
2           MENTS OF JURISDICTION.—If the President makes a  
3           determination in paragraph (1) with respect to a  
4           foreign person, the President shall immediately initi-  
5           ate consultations with the government of the country  
6           of which that foreign person is a national with re-  
7           spect to the imposition of sanctions under this sec-  
8           tion.

9           (5) INAPPLICABILITY.—Sanctions set forth in  
10          paragraph (3) may not be imposed on a foreign per-  
11          son with respect to acts described in paragraph (1)  
12          if the government of the country of which that for-  
13          eign person is a national is a member of an export  
14          control regime certified under section 4(d)(2) or a  
15          cooperating country with respect to such regime, un-  
16          less a determination made with respect to such  
17          country under section 4(d)(5)(C) is in effect.

18          (6) TERMINATION OF SANCTIONS.—Sanctions  
19          imposed under this subsection shall apply for a pe-  
20          riod at least one year beginning on the date on  
21          which the sanctions are imposed. Such sanctions  
22          shall cease to apply, in the case of a foreign person,  
23          at such time as paragraph (5) applies. The sanctions  
24          shall cease to apply after the end of the 1-year pe-  
25          riod described in the first sentence if the President

1 determines that the person with respect to whom the  
2 determination was made under paragraph (1) has  
3 ceased all activities described in paragraph (1) that  
4 were the subject of the violation and has taken ap-  
5 propriate steps to ensure that such activities will not  
6 take place in the future.

7 (e) OTHER AUTHORITIES.—Nothing in this section  
8 limits—

9 (1) the availability of other administrative or  
10 judicial remedies with respect to violations of this  
11 Act or any regulation, order, or license issued under  
12 this Act;

13 (2) the authority to compromise and settle ad-  
14 ministrative proceedings brought with respect to vio-  
15 lations of this Act or any regulation, order, or li-  
16 cense issued under this Act; or

17 (3) the authority to compromise, remit, or miti-  
18 gate seizures and forfeitures under section 1(b) of  
19 title VI of the Act of June 15, 1917 (22 U.S.C.  
20 401(b)).

21 **SEC. 9. GENERALLY AVAILABLE SOFTWARE.**

22 Section 17 of the Export Administration Act of 1979  
23 (50 U.S.C. App. 2416) is amended by adding at the end  
24 the following new subsection:

25 “(g) COMPUTERS AND RELATED EQUIPMENT.—

1           “(1) GENERAL RULE.—Subject to paragraphs  
2           (2) and (3), the Secretary shall have exclusive au-  
3           thority to control exports of all computer hardware,  
4           software, and technology for information security  
5           (including encryption), except that which is specifi-  
6           cally designed or modified for military use, including  
7           command, control, and intelligence applications.

8           “(2) ITEMS NOT REQUIRING LICENSES.—No  
9           validated license may be required, except pursuant  
10          to the Trading With The Enemy Act or the Inter-  
11          national Emergency Economic Powers Act (but only  
12          to the extent that the authority of such Act is not  
13          exercised to extend controls imposed under this Act),  
14          for the export or reexport of—

15               “(A) any software, including software with  
16               encryption capabilities, that is—

17                       “(i) generally available, as is, and is  
18                       designed for installation by the purchaser;

19                       or

20                       “(ii) in the public domain or publicly  
21                       available because it is generally accessible  
22                       to the interested public in any form; or

23               “(B) any computing device solely because  
24               it incorporates or employs in any form software  
25               (including software with encryption capabilities)

1           exempted from any requirement for a validated  
2           license under subparagraph (A).

3           “(3) SOFTWARE WITH ENCRYPTION CAPABILI-  
4           TIES.—The Secretary shall authorize the export or  
5           reexport of software with encryption capabilities for  
6           nonmilitary end-uses in any country to which ex-  
7           ports of software of similar capability are permitted  
8           for use by financial institutions not controlled in fact  
9           by United States persons, unless there is substantial  
10          evidence that such software will be—

11                   “(A) diverted to a military end-use or an  
12                   end-use supporting international terrorism;

13                   “(B) modified for military or terrorist end-  
14                   use; or

15                   “(C) reexported without requisite United  
16                   States authorization.

17          “(4) DEFINITIONS.—As used in this sub-  
18          section—

19                   “(A) the term ‘generally available’ means,  
20                   in the case of software (including software with  
21                   encryption capabilities), software that is offered  
22                   for sale, license, or transfer to any person with-  
23                   out restriction through any commercial means,  
24                   including, but not limited to, over-the-counter  
25                   retail sales, mail order transactions, phone

1 order transactions, electronic distribution, or  
2 sale on approval;

3 “(B) the term ‘as is’ means, in the case of  
4 software (including software with encryption ca-  
5 pabilities), a software program that is not de-  
6 signed, developed, or tailored by the software  
7 company for specific purchasers, except that  
8 such purchasers may supply certain installation  
9 parameters needed by the software program to  
10 function properly with the purchaser’s system  
11 and may customize the software program by  
12 choosing among options contained in the soft-  
13 ware program;

14 “(C) the term ‘is designed for installation  
15 by the purchaser’ means, in the case of soft-  
16 ware (including software with encryption capa-  
17 bilities)—

18 “(i) the software company intends for  
19 the purchaser (including any licensee or  
20 transferee), who may not be the actual  
21 program user, to install the software pro-  
22 gram on a computing device and has sup-  
23 plied the necessary instructions to do so,  
24 except that the company may also provide  
25 telephone help line services for software in-

1           stallation, electronic transmission, or basic  
2           operations; and—

3           “(ii) that the software program is de-  
4           signed for installation by the purchaser  
5           without further substantial support by the  
6           supplier;

7           “(D) the term ‘computing device’ means a  
8           device which incorporates one or more  
9           microprocessor-based central processing units  
10          that can accept, store, process or provide out-  
11          put of data; and

12          “(E) the term ‘computer hardware’, when  
13          used in conjunction with information security,  
14          includes, but is not limited to, computer sys-  
15          tems, equipment, application-specific assem-  
16          blies, modules, and integrated circuits.”.

17 **SEC. 10. DEFINITIONS; REPORTS.**

18          (a) DEFINITIONS.—Except as otherwise provided in  
19 this Act, as used in this Act:

20           (1) AUSTRALIA GROUP.—The term “Australia  
21          Group” means a group of countries that have agreed  
22          to restrict the sale of chemical weapons precursors  
23          and equipment, including, as of the date of enact-  
24          ment of this Act, Australia, Austria, Belgium, Can-  
25          ada, Denmark, Finland, France, Germany, Greece,

1 Ireland, Italy, Japan, Luxembourg, the Netherlands,  
2 New Zealand, Norway, Portugal, Spain, Sweden,  
3 Switzerland, the United Kingdom, and the United  
4 States.

5 (2) CECA.—The term “CECA” means the  
6 Commercial Export Control Administration estab-  
7 lished in section 6(c).

8 (3) COCOM.—The term “COCOM” means the  
9 Coordinating Committee for Multilateral Export  
10 Controls, a non-treaty organization created in 1949  
11 that—

12 (A) cooperatively restricts exports of goods  
13 and technology to certain countries;

14 (B) collectively determines the goods and  
15 technology that are so restricted and the des-  
16 tinations to which exports are so restricted; and

17 (C) as of the date of enactment of this  
18 Act, includes Australia, Belgium, Canada, Den-  
19 mark, Finland, France, Germany, Greece, Italy,  
20 Japan, Luxembourg, the Netherlands, Norway,  
21 Portugal, Spain, Sweden, Turkey, the United  
22 Kingdom, and the United States.

23 (4) COMMERCIAL GOODS AND TECHNOLOGY.—  
24 The term “commercial goods and technology” means

1 goods and technology that were developed or are em-  
2 ployed for bona fide civilian enduses.

3 (5) COMMITTEE.—The term “Committee”  
4 means the Commercial Export Control Policy Com-  
5 mittee established in section 6(b).

6 (6) CONTROL INDEX.—The term “control  
7 index” means the United States Commercial Export  
8 Control Index established under section 3(b)(1).

9 (7) CONTROLLABLE.—The term “controllable”  
10 means capable of being made subject to an effective  
11 prohibition or significant restriction on exports and  
12 reexports. A good or technology shall not be consid-  
13 ered to be controllable unless it is—

14 (A) manufactured or sold by only a modest  
15 number of suppliers who can be positively iden-  
16 tified;

17 (B) consumed or used by only a modest  
18 number of endusers who can be positively iden-  
19 tified and whose export activities can be con-  
20 trolled; and

21 (C) individually traceable or not easily con-  
22 cealed or disguised.

23 (8) CONTROLLED COUNTRY AND CONTROLLED  
24 ENDUSER.—The term—

1 (A) “controlled country” means a country  
2 identified under section 4(b)(4); and

3 (B) “controlled enduser” means an  
4 enduser identified under section 4(b)(4).

5 (9) COOPERATING COUNTRY.—The term “co-  
6 operating country” means a country which has en-  
7 tered into an agreement with the United States or  
8 an export control regime on maintaining export re-  
9 strictions comparable in practice to those maintained  
10 by such export control regime.

11 (10)(A) ENDUSE.—The term “enduse” means  
12 the intended application or use of an item as rep-  
13 resented to an export license applicant by the im-  
14 porter of the item in another country.

15 (B) ENDUSER.—The term “enduser” means  
16 the person located abroad who is the true party in  
17 interest in actually receiving an export for the end-  
18 use designated for the export.

19 (11) EXPORT.—The term “export” means an  
20 actual shipment, transfer, or transmission of goods  
21 or technology out of the United States.

22 (12) EXPORT CONTROL REGIME.—The term  
23 “export control regime” means a system of export  
24 controls agreed to and maintained by the United  
25 States and one or more other countries and includes

1 COCOM, the Australia Group, the MTCR, and the  
2 Nuclear Suppliers Group.

3 (13) EXPORT LICENSE APPLICATION.—The  
4 term “export license application” means a request  
5 for permission or authorization to export or reexport  
6 a commercial good or technology the export of which  
7 is controlled under this Act.

8 (14) FOREIGN AVAILABILITY.—The term “for-  
9 eign availability” means the availability within con-  
10 trolled countries or to controlled countries or con-  
11 trolled endusers without restriction from sources  
12 outside the United States of commercial goods and  
13 technology that would reasonably be considered to  
14 substitute for those produced in the United States  
15 or other countries that participate with the United  
16 States in export control regimes so as to render ex-  
17 port and reexport controls imposed by the United  
18 States or such regimes on such goods or technology  
19 so produced ineffective in achieving their intended  
20 purpose. A determination of foreign availability of a  
21 good or technology from sources outside the United  
22 States shall be made only after considering the avail-  
23 ability of such good or technology—

24 (A) within a controlled country;

1 (B) from any country from which exports  
2 to a controlled country or controlled enduser of  
3 the good or technology are not restricted; and

4 (C) from countries that participate with  
5 the United States in export control regimes to  
6 the extent that export and reexport restrictions  
7 on the good or technology maintained by such  
8 countries are determined by the Secretary to be  
9 ineffective.

10 (15) FOREIGN PERSON.—The term “foreign  
11 person” means—

12 (A) an individual who is not a citizen of  
13 the United States or a “protected individual”  
14 as defined in section 274B of the Immigration  
15 and Nationality Act (8 U.S.C. 1324b(a)(3));  
16 and

17 (B) a corporation, partnership, or other  
18 entity that is created or organized under the  
19 laws of a foreign country or that has its prin-  
20 cipal place of business outside the United  
21 States.

22 (16) GOOD.—The term “good” means any arti-  
23 cle, natural or manmade substance, material, supply,  
24 or manufactured product, including inspection and  
25 test equipment, and excluding technical data.

1           (17) MISSILE TECHNOLOGY CONTROL REGIME;  
2           MTCR.—The term “Missile Technology Control Re-  
3           gime” or “MTCR” means an export control regime  
4           based on the policy statement between the United  
5           States, the United Kingdom, the Federal Republic of  
6           Germany, France, Italy, Canada, and Japan, an-  
7           nounced on April 16, 1987, to restrict sensitive mis-  
8           sile-relevant transfers based on the MTCR Annex,  
9           and any amendments thereto, which, as of the date  
10          of enactment of this Act, includes the each of those  
11          countries and Australia, Austria, Belgium, Den-  
12          mark, Finland, Luxembourg, the Netherlands, Nor-  
13          way, Sweden, New Zealand, and Spain.

14          (18) MISSILE EQUIPMENT OR TECHNOLOGY;  
15          MTCR EQUIPMENT OR TECHNOLOGY.—The terms  
16          “missile equipment or technology” and “MTCR  
17          equipment or technology” mean those items listed in  
18          the MTCR Annex.

19          (19) MTCR ANNEX.—The term “MTCR  
20          Annex” means the Guidelines and Equipment and  
21          Technology Annex of the MTCR, and any amend-  
22          ments thereto.

23          (20) NON-REGIME COUNTRY.—The term “non-  
24          regime country” means a country that is not a mem-

1       ber of an export control regime and is not a cooper-  
2       ating country.

3           (21) NUCLEAR SUPPLIERS GROUP.—The term  
4       “Nuclear Suppliers Group” means a group of coun-  
5       tries that—

6           (A) in 1978, committed themselves to pro-  
7       hibit the export of certain nuclear-related goods  
8       and technology unless the importing country  
9       agreed to a pledge of “no explosive use” and to  
10      acceptance of safeguards by the International  
11      Atomic Energy Agency; and

12          (B) as of the date of enactment of this  
13      Act, is comprised of Australia, Austria, Bel-  
14      gium, Bulgaria, Canada, Czech Republic, Den-  
15      mark, Finland, France, Germany, Greece, Hun-  
16      gary, Ireland, Italy, Japan, Luxembourg, the  
17      Netherlands, Norway, Poland, Portugal, Roma-  
18      nia, Russia, Slovak Republic, Spain, Sweden,  
19      Switzerland, the United Kingdom, and the  
20      United States.

21          (22) PERSON.—The term “person” includes the  
22      singular and the plural and any individual, partner-  
23      ship, corporation, or other form of association, in-  
24      cluding any government or agency thereof.

1           (23) REEXPORT.—The term “reexport” means  
2           an actual shipment, transfer, or transmission of  
3           U.S.-origin goods or technology from one foreign  
4           country to another.

5           (24) MEMBER OF AN EXPORT CONTROL RE-  
6           GIME.—The term “member of an export control re-  
7           gime” means a country that is a participant in that  
8           regime.

9           (25) SECRETARY.—The term “Secretary”  
10          means the Secretary of Commerce.

11          (26) SECURITY CONTROL LIST.—The term “se-  
12          curity control list” means the list established under  
13          section 4(b).

14          (27) TECHNOLOGY.—The term “technology”  
15          means the information and know how (whether in  
16          tangible form, such as models, prototypes, drawings,  
17          sketches, diagrams, blueprints, or manuals, or in in-  
18          tangible form, such as training or technical services)  
19          that can be used to design, produce, manufacture,  
20          utilize, or reconstruct goods, including computer  
21          software and technical data, but not the goods them-  
22          selves.

23          (28) UNITED STATES.—The term “United  
24          States” means the States of the United States, the  
25          District of Columbia, and any commonwealth, terri-

1 tory, dependency, or possession of the United States,  
2 and includes the outer Continental Shelf, as defined  
3 in section 2(a) of the Outer Continental Shelf Lands  
4 Act (43 U.S.C. 1331(a)).

5 (29) UNITED STATES PERSON.—The term  
6 “United States person” means—

7 (A) any United States resident or national,  
8 including any “protected individual” as defined  
9 in section 274B of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1324b(a)(3)), but not  
11 including an individual resident outside the  
12 United States and employed by other than a  
13 United States person;

14 (B) any domestic concern (including any  
15 permanent domestic establishment of any for-  
16 eign concern); and

17 (C) any foreign subsidiary or affiliate (in-  
18 cluding any permanent foreign establishment)  
19 of any domestic concern which is controlled in  
20 fact by such domestic concern, as determined  
21 under regulations of the President.

22 (30) U.S. ORIGIN.—The term “U.S.-origin”  
23 means, with respect to a good or technology, that  
24 the good or technology, when imported into a foreign

1 country, is treated as a product of the United States  
2 for purposes of that country's customs laws.

3 (31) WEAPONS OF MASS DESTRUCTION.—The  
4 term “weapons of mass destruction” refers to chemi-  
5 cal, biological, and nuclear weapons, and missiles ca-  
6 pable of delivering such weapons.

7 (b) ANNUAL REPORT.—Not later than December 31  
8 of each year, the Secretary shall submit to the Congress  
9 a report on the administration of this Act during the pre-  
10 ceding fiscal year. Such report shall include detailed infor-  
11 mation with respect to—

12 (1) the implementation of the policies set forth  
13 in section 2;

14 (2) export licensing activities under sections 4  
15 and 5, and any changes in the exercise of the au-  
16 thorities contained in those sections, including a re-  
17 port on all export license applications pending be-  
18 yond the deadlines contained in section 7;

19 (3) designations under section 4(a)(3) of con-  
20 trolled countries and controlled endusers, and any  
21 changes in such designations;

22 (4) the results, in as much detail as may be in-  
23 cluded consistent with the national security and the  
24 need to maintain the confidentiality of proprietary

1 information, of the review and revision of the control  
2 index required by section 3(b)(4);

3 (5) any emergency sanctions imposed under  
4 section 5(a), and the results of negotiations required  
5 by section 5(a)(3)(F);

6 (6) determinations of foreign availability made  
7 under section 3(g), the criteria used to make such  
8 determinations, and the removal of any export or re-  
9 export controls as a result of such determinations;

10 (7) consultations with and recommendations of  
11 the industry advisory committees established under  
12 section 6(d) and the use made of the advice given  
13 by such committees;

14 (8) organizational and procedural changes un-  
15 dertaken in furtherance of the policies set forth in  
16 this Act, including changes to increase the efficiency  
17 of the export licensing process; and

18 (9) violations, enforcement activities, and any  
19 sanctions imposed under section 8.

20 **SEC. 11. EFFECT ON OTHER ACTS; CONFORMING AMEND-**  
21 **MENTS.**

22 (a) IN GENERAL.—To the extent provided in this  
23 Act, this Act shall be construed to modify, repeal, super-  
24 sede, and otherwise affect the provisions of other laws au-

1 authorizing control over exports of commercial goods and  
2 technology.

3 (b) COORDINATION OF CONTROLS.—

4 (1) NUCLEAR NON-PROLIFERATION ACT OF  
5 1978.—The requirement in section 309(c) of the Nu-  
6 clear Non-Proliferation Act of 1978 for procedures  
7 that provide for prior consultations with other agen-  
8 cies, and any procedure published by the President  
9 pursuant to that section, shall be deemed to be met  
10 by the deliberations of the Committee regarding the  
11 policy for exports and reexports of goods and tech-  
12 nology to which such section 309(c) applies.

13 (2) AUTHORITY UNDER OTHER ACTS.—The au-  
14 thority granted to the President under section  
15 203(a)(1)(B) of the International Emergency Eco-  
16 nomic Powers Act (50 U.S.C. 1702(a)(1)(B)) and  
17 section 5(b)(1)(B) of the Trading with the Enemy  
18 Act (50 U.S.C. App. 5(b)(1)(B)) with respect to li-  
19 censing or control of exports and reexports of com-  
20 mercial goods and technology and related services  
21 shall be delegated to the Secretary.

22 (c) COMMODITY JURISDICTION.—

23 (1) IN GENERAL.—Notwithstanding any other  
24 provision of law—

1 (A) an item agreed for control on the  
2 International Munitions List of COCOM shall  
3 be subject to control under the Arms Export  
4 Control Act and not under this Act;

5 (B) except as provided in paragraphs (2)  
6 and (4), an item which is on the International  
7 Industrial List of COCOM shall be subject to  
8 control under this Act and not under the Arms  
9 Export Control Act; and

10 (C) no item may be included on both the  
11 security control list and the United States Mu-  
12 nitions List after publication of the lists re-  
13 quired under paragraph (3) and resolution of  
14 any dispute with respect to such lists under  
15 paragraph (4).

16 (2) EXCEPTIONS.—

17 (A) An item described in subparagraph (B)  
18 that is not on the International Munitions List  
19 may be subject to control under the Arms Ex-  
20 port Control Act—

21 (i)(I) for a period of 9 months after  
22 the date on which the United States pro-  
23 poses to COCOM that the item be added  
24 to the International Munitions List, and

1 (II) for an additional 9-month period,  
2 but only if negotiations in COCOM to add  
3 the item to the International Munitions  
4 List are continuing; or

5 (ii) if the Secretary of State, in con-  
6 sultation with the Secretary, so deter-  
7 mines, except that if the Secretary dis-  
8 agrees with the Secretary of State with re-  
9 spect to such item, the item may be sub-  
10 ject to control under the Arms Export  
11 Control Act only if the disagreement is re-  
12 solved by the Secretaries or by the Presi-  
13 dent pursuant to the procedures set forth  
14 in subparagraphs (B) and (C) of para-  
15 graph (4).

16 (B) An item referred to in subparagraph  
17 (A) is an item that—

18 (i) is specifically designed or devel-  
19 oped for military application;

20 (ii) does not have bona fide civilian  
21 applications; and

22 (iii) does not have performance equiv-  
23 alent in form and function to those of an  
24 article or service used for civilian applica-  
25 tions.

1 (3) PUBLICATION OF LISTS.—

2 (A) Not later than 3 months after the date  
3 of enactment of this Act, the Secretary shall  
4 publish the security control list and the Sec-  
5 retary of State shall publish the United States  
6 Munitions List, with all revisions that have  
7 been made in accordance with this subsection.

8 (B) Not later than 3 months after the date  
9 of enactment of this Act, the Secretary of State  
10 shall publish in a separate list those items re-  
11 maining subject to control under the Arms Ex-  
12 port Control Act under paragraph (2).

13 (C) If either the Secretary or the Secretary  
14 of State fails to publish a revised list in accord-  
15 ance with subparagraph (A), there shall be ex-  
16 cluded from the list of the Secretary that did  
17 not so publish a revised list any item included  
18 on the list of the Secretary that did so publish  
19 a revised list.

20 (4) COMMODITY JURISDICTION DISPUTE RESO-  
21 LUTION.—

22 (A) Whenever—

23 (i) the Secretary or the Secretary of  
24 State receives a request to determine

1           whether an item is subject to control under  
2           this Act or the Arms Export Control Act;

3           (ii) either Secretary finds that an item  
4           is included on both the security control  
5           index and the United States Munitions  
6           List;

7           (iii) an item appearing on the list of  
8           one Secretary under paragraph (3)(A) is  
9           considered by the other Secretary to be  
10          under the jurisdiction of that other Sec-  
11          retary; or

12          (iv) the Secretary disagrees with the  
13          inclusion of an item on the list published  
14          under paragraph (3)(B);

15          the Secretary or the Secretary of State (as the  
16          case may be) shall refer the matter and any rel-  
17          evant information to the other Secretary.

18          (B) The 2 Secretaries shall have a period  
19          of 15 days following the referral of a matter  
20          under subparagraph (A) to resolve any dif-  
21          ferences with respect to the matter involved.

22          (C) If the 2 Secretaries fail to resolve such  
23          differences within that 15-day period, either  
24          Secretary may refer the matter to the President  
25          who, not later than 15 days after receiving the

1           referral, shall notify the 2 Secretaries of his de-  
2           termination on the matter in dispute.

3           (D) In resolving disputes under subpara-  
4           graph (C), the President may decide that an  
5           item which is not on the International Muni-  
6           tions List is subject to control under the Arms  
7           Export Control Act only if the President—

8                   (i) determines that extraordinary cir-  
9                   cumstances exist affecting the national se-  
10                  curity of the United States, which require  
11                  that the item be controlled under the Arms  
12                  Export Control Act;

13                  (ii) proposes to COCOM that the item  
14                  be added to the International Munitions  
15                  List; and

16                  (iii) not later than 10 days after mak-  
17                  ing the determination under clause (i),  
18                  submits a report to the Speaker of the  
19                  House of Representatives and the Presi-  
20                  dent pro tempore of the Senate, describing  
21                  in detail the reasons for the determination,  
22                  in appropriate classified form, as nec-  
23                  essary.

24           (E) If either the Secretary or the Secretary  
25           of State does not respond to a referral under

1           subparagraph (A), the Secretary that did not so  
2           respond shall be deemed to concur with the  
3           other Secretary on the matter involved.

4           (d) AMENDMENTS TO THE INTERNATIONAL EMER-  
5 GENCY ECONOMIC POWERS ACT.—

6           (1) LIMITATION ON AUTHORITY.—Section  
7           203(a)(1) of the International Emergency Economic  
8           Powers Act (50 U.S.C. 1706) is amended by adding  
9           at the end the following:

10          “The President may prohibit or curtail the exportation  
11          and reexportation of any commercial goods or technology  
12          subject to the jurisdiction of the United States under this  
13          title only to the extent provided, and subject to the criteria  
14          set forth in, sections 4 and 5 of the Commercial Export  
15          Administration Act of 1993, unless such prohibition or  
16          curtailment is part of a total embargo of all exports and  
17          imports (other than exports of items described in section  
18          7(b)(6) of such Act).”.

19           (2) EXTENSION OR REINSTATEMENT OF EX-  
20          PIRED PROVISION OF LAW.—Section 207 of the  
21          International Emergency Economic Powers Act (50  
22          U.S.C. 1706) is amended—

23                   (A) by redesignating subsections (c) and  
24                   (d) as subsections (d) and (e), respectively, and

1 (B) by inserting after subsection (b) the  
2 following new subsection:

3 “(c) EXPIRED LEGISLATIVE AUTHORITY.—The  
4 President may use the authority of this Act to extend or  
5 reinstate an expired provision of the Commercial Export  
6 Administration Act of 1993 for only one period of not  
7 more than 180 days after the date of such expiration.”.

8 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS; TERMI-**  
9 **NATION DATE.**

10 (a) AUTHORIZATION OF APPROPRIATIONS.—

11 (1) REQUIREMENT OF AUTHORIZING LEGISLA-  
12 TION.—

13 (A) Notwithstanding any other provision of  
14 law, money appropriated to the Department of  
15 Commerce to carry out the purposes of this Act  
16 may be obligated or expended only if—

17 (i) the appropriation thereof has been  
18 previously authorized by law enacted on or  
19 after the date of enactment of this Act; or

20 (ii) the amount of all such obligations  
21 and expenditures does not exceed an  
22 amount previously prescribed by law en-  
23 acted on or after such date.

24 (B) To the extent that legislation enacted  
25 after the making of an appropriation to carry

1 out the purposes of this Act authorizes the obli-  
2 gation or expenditure thereof, the limitation in  
3 subparagraph (A) shall have no effect.

4 (2) AUTHORIZATION.—There are authorized to  
5 be appropriated to the Department of Commerce  
6 such sums as may be necessary to carry out the pur-  
7 poses of this Act.

8 (b) TERMINATION DATE.—The authority granted by  
9 this Act terminates on September 30, 2000.

10 **SEC. 13. MISCELLANEOUS PROVISIONS.**

11 (a) AMENDMENTS TO TITLE 5, UNITED STATES  
12 CODE.—(1) Section 5314 of title 5, United States Code,  
13 is amended—

14 (A) by striking “Under Secretary of Commerce  
15 for Export Administration”; and

16 (B) by adding at the end the following:

17 “Director, Commercial Export Control Adminis-  
18 tration.”.

19 (2) Section 5315 of title 5, United States Code, is  
20 amended—

21 (A) in the item relating to Assistant Secretaries  
22 of Commerce, by striking “(11)” and inserting  
23 “(9)”; and

24 (B) by adding at the end the following:

1           “Deputy Director, Commercial Export Control  
2 Administration.

3           “Assistant Director for Export Control, Com-  
4 mercial Export Control Administration.

5           “Assistant Director for Enforcement and Com-  
6 pliance, Commercial Export Control Administration.

7           “Assistant Director for Security and Intel-  
8 ligence, Commercial Export Control Administration.

9           “Assistant Director for Nonproliferation, Com-  
10 mercial Export Control Administration.

11           “Chief Negotiator, Commercial Export Control  
12 Administration.”.

13           (b) EXPORT ADMINISTRATION ACT OF 1979.—Upon  
14 the effective date of this Act, sections 5, 11A, 11B, 11C,  
15 10(h), and 10(o) of the Export Administration Act of  
16 1979, and section 6 of that Act (except to the extent pro-  
17 vided in section 8(b) of that Act), shall cease to be effec-  
18 tive, and all other provisions of that Act to the extent such  
19 provisions apply to such ineffective sections shall cease to  
20 be effective.

21           (c) SAVINGS PROVISIONS.—

22           (1) IN GENERAL.—All delegations, rules, regu-  
23 lations, orders, determinations, licenses, or other  
24 forms of administrative action which—

1 (A) have been made, issued, conducted, or  
2 allowed to become effective—

3 (i) under provisions of the Export Ad-  
4 ministration Act of 1979 referred to in  
5 subsection (b); or

6 (ii) in the exercise of functions trans-  
7 ferred by this Act; and

8 (B) are in effect at the time this Act takes  
9 effect;

10 shall continue in effect according to their terms until  
11 modified, superseded, set aside, or revoked under  
12 this Act.

13 (2) ADMINISTRATIVE PROCEEDINGS.—This Act  
14 shall not apply to any administrative proceedings  
15 commenced or any application for a license made  
16 under the Export Administration Act of 1979, or in  
17 the exercise of functions transferred by this Act,  
18 which is pending at the time this Act takes effect.

19 (d) EFFECTIVE DATE.—This Act takes effect on the  
20 date of enactment of this Act.

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S 1846 IS—2

S 1846 IS—3

S 1846 IS—4

S 1846 IS—5

S 1846 IS—6

S 1846 IS—7

S 1846 IS—8

S 1846 IS—9

S 1846 IS—10