

104TH CONGRESS
1ST SESSION

S. 102

To amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of United States nuclear export controls, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. GLENN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of United States nuclear export controls, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Export Reor-
5 ganization Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

Sec. 4. Findings and Policy.

TITLE I—AMENDMENTS TO THE NUCLEAR NON-PROLIFERATION ACT OF 1978

Sec. 101. Export controls over nuclear dual-use items.

Sec. 102. Non-nuclear energy resources.

TITLE II—INITIATIVES TO STRENGTHEN COMPLIANCE

Sec. 201. Fair market initiative.

Sec. 202. Measures to improve the licensing process.

TITLE III—AMENDMENTS TO THE ATOMIC ENERGY ACT OF 1954

Sec. 301. Subsequent arrangements.

Sec. 302. Cooperation with other nations.

Sec. 303. Prohibition on foreign production of special nuclear material.

Sec. 304. Prohibition on nuclear exports.

Sec. 305. Control of component parts.

TITLE IV—REVIEW OF PLUTONIUM USE POLICY

Sec. 401. Findings and declarations.

Sec. 402. Report.

TITLE V—REPEAL

Sec. 501. Repeal of termination of provisions of the Nuclear Proliferation Prevention Act of 1994.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “direct-use material” means nu-

4 clear material that can be used for the manufacture

5 of nuclear explosive components without transmuta-

6 tion or further enrichment, such as plutonium con-

7 taining less than 80 percent plutonium-238, ura-

8 nium enriched to 20 percent uranium-235 or more,

9 uranium-233, and chemical compounds, mixtures of

10 direct-use materials (including mixed oxide reactor

11 fuel), and plutonium contained in spent nuclear fuel;

1 (2) the term “goods or technology” means nu-
2 clear materials and equipment and sensitive nuclear
3 technology (as such terms are defined in section 4
4 of the Nuclear Non-Proliferation Act of 1978), all
5 export items designated pursuant to section 309(c)
6 of the Nuclear Non-Proliferation Act of 1978, and
7 all technical assistance requiring authorization under
8 section 57b. of the Atomic Energy Act of 1954;

9 (3) the term “highly enriched uranium” means
10 uranium enriched to 20 percent or more in the iso-
11 tope U-235;

12 (4) the term “IAEA” means the International
13 Atomic Energy Agency;

14 (5) the term “IAEA safeguards” means the
15 safeguards set forth in an agreement between a
16 country and the International Atomic Energy Agen-
17 cy, as authorized by Article III(A)(5) of the Statute
18 of the International Atomic Energy Agency;

19 (6) the term “near real time material account-
20 ancY” means a method of accounting for the loca-
21 tion, quantity, and disposition of special fissionable
22 material at facilities that store or process such mate-
23 rial, in which verification of peaceful use is continu-
24 ously achieved by means of frequent physical inven-
25 tories and the use of in-process instrumentation;

1 (7) the term “non-nuclear-weapon state” means
2 any country which is not a nuclear-weapon state, as
3 defined by Article IX(3) of the Treaty on the Non-
4 Proliferation of Nuclear Weapons, signed at Wash-
5 ington, London, and Moscow on July 1, 1968;

6 (8) the term “nuclear dual-use items” means all
7 goods and technologies whose export from the
8 United States is controlled pursuant to sections
9 309(c) and 311 of the Nuclear Non-Proliferation
10 Act of 1978.

11 (9) the term “nuclear explosive device” means
12 any device, whether assembled or disassembled, that
13 is designed to release in one microsecond or less an
14 amount of nuclear energy from special nuclear mate-
15 rial that is greater than the amount of energy that
16 would be released from the detonation of one pound
17 of trinitrotoluene (TNT);

18 (10) the term “special fissionable material”, as
19 used in title III of this Act, has the meaning given
20 that term by Article XX(1) of the Statute of the
21 International Atomic Energy Agency, done at the
22 Headquarters of the United Nations on October 26,
23 1956;

1 (11) the term “special nuclear material” has
2 the meaning given that term in section 11 aa. of the
3 Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

4 (12) the term “Treaty” means the Treaty on
5 the Non-Proliferation of Nuclear Weapons, signed at
6 Washington, London, and Moscow on July 1, 1968;
7 and

8 (13) the term “unsafeguarded special nuclear
9 material” means special nuclear material which is
10 held in violation of IAEA safeguards or is not sub-
11 ject to IAEA safeguards, and does not include any
12 quantity of material that could, if it were exported
13 from the United States, be exported under a general
14 license issued by the Nuclear Regulatory Commis-
15 sion.

16 **SEC. 4. FINDINGS AND POLICY.**

17 (a) FINDINGS.—The Congress finds that—

18 (1) the proliferation of nuclear explosive devices
19 poses a serious and growing threat to the national
20 security of the United States;

21 (2) any effective response to this threat should
22 include measures to curb both the demand for and
23 the supply of goods and technology to acquire such
24 devices;

1 (3) non-nuclear-weapon states with clandestine
2 programs for the manufacture of nuclear explosive
3 devices continue to seek foreign sources of goods and
4 technologies that are important to the success of
5 such programs;

6 (4) export controls, especially when coordinated
7 internationally, inhibit such programs by adding to
8 the costs of acquiring alternative sources of re-
9 stricted goods and technologies and by delaying the
10 implementation of such programs;

11 (5) the implementation of export controls gen-
12 erates information that is useful in assessing the ef-
13 forts by importing nations to acquire capabilities to
14 develop or produce such devices and that provides an
15 early warning of illicit foreign procurement patterns;

16 (6) a renewed effort is needed to improve con-
17 trols over nuclear dual-use items; and

18 (7) the economy and effectiveness of the execu-
19 tive branch of Government, and the effectiveness of
20 congressional oversight, require the reorganization
21 and centralization of certain export licensing func-
22 tions of the Government in a single agency to which
23 all persons and commercial interests seeking to en-
24 gage in foreign commerce may apply.

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

1 (1) to restrict the export or reexport of goods
2 or technology that would be contrary to the objec-
3 tives of the United States with respect to the non-
4 proliferation of nuclear explosive devices;

5 (2) to strengthen sanctions against illicit suppli-
6 ers of nuclear goods or technology;

7 (3) to ensure that significant national security
8 interests will prevail over commercial considerations
9 in the event of any conflict in the nuclear export li-
10 censing process between these national objectives;

11 (4) to cooperate with other nations to develop
12 multilateral measures to halt the global proliferation
13 of nuclear explosive devices;

14 (5) to encourage individuals and companies to
15 develop voluntary measures to ensure that goods or
16 technology will not be exported that would promote
17 the global proliferation of nuclear explosive devices;

18 (6) to ensure greater openness and accountabil-
19 ity in the nuclear export licensing process; and

20 (7) to undertake reforms devoted to improving
21 the efficiency and effectiveness of the nuclear export
22 licensing process.

1 **TITLE I—AMENDMENTS TO THE**
2 **NUCLEAR NON-PROLIFERA-**
3 **TION ACT OF 1978**

4 **SEC. 101. EXPORT CONTROLS OVER NUCLEAR DUAL-USE**
5 **ITEMS.**

6 (a) AMENDMENT TO THE NATIONAL SECURITY ACT
7 OF 1947.—Section 101 of the National Security Act of
8 1947 (50 U.S.C. 402) is amended by adding at the end
9 thereof the following new subsection:

10 “(h)(1) The President shall establish within the Na-
11 tional Security Council a ‘Subgroup on Nuclear Export
12 Coordination’. The principal function of the Subgroup
13 shall be to implement the export controls required by sec-
14 tions 309(c) and 311 of the Nuclear Non-Proliferation Act
15 of 1978 (Public Law 95–242).

16 “(2) There are authorized to be appropriated to the
17 Subgroup such sums as may be necessary to carry out the
18 functions of the Subgroup under title III of the Nuclear
19 Non-Proliferation Act of 1978.”.

20 (b) AMENDMENT TO THE NUCLEAR NON-PRO-
21 LIFERATION ACT OF 1978.—Title III of the Nuclear Non-
22 Proliferation Act of 1978 is amended by adding at the
23 end thereof the following new sections:

1 **“SEC. 310. SUBGROUP ON NUCLEAR EXPORT COORDINA-**
2 **TION.**

3 “(a) COMPOSITION OF THE SUBGROUP.—(1) The
4 Subgroup on Nuclear Export Coordination (hereafter in
5 this title referred to as the ‘Subgroup’), established in sec-
6 tion 101(h) of the National Security Act of 1947, shall
7 be composed of six members who shall be Government offi-
8 cials having expertise in the control of exports and the
9 non-proliferation of nuclear explosive devices. Each such
10 member shall be designated by the head of one of the fol-
11 lowing United States agencies from among officials of that
12 agency, with no agency represented by more than one
13 member:

14 “(A) The Department of State.

15 “(B) The Department of Defense.

16 “(C) The Department of Energy.

17 “(D) The Department of Commerce.

18 “(E) The Arms Control and Disarmament
19 Agency.

20 “(F) The Nuclear Regulatory Commission.

21 “(2) The representative of the Arms Control and Dis-
22 armament Agency shall serve as Chairman of the Sub-
23 group.

24 “(3) Upon request of the Chairman of the Subgroup,
25 other departments and agencies of the United States, in-
26 cluding elements of the intelligence community, the De-

1 department of Treasury, the United States Customs Service,
2 and the Federal Bureau of Investigation, shall detail per-
3 sonnel to the Subgroup for the performance of duties on
4 a temporary basis.

5 “(b) FUNCTIONS.—The Subgroup shall—

6 “(1) serve as a forum for identifying and ex-
7 pressing the views of the constituent agencies with
8 respect to—

9 “(A) the proliferation risks associated with
10 the export of nuclear dual-use items;

11 “(B) possible international initiatives to
12 strengthen the global administration and en-
13 forcement of controls over the export of such
14 items; and

15 “(C) recommendations to the President on
16 regulatory and legislative measures to improve
17 the efficiency or effectiveness of export controls
18 over such items, including the verification of
19 peaceful end-uses and the design and execution
20 of improved post-export verification measures;

21 “(2) review applications for the export of nu-
22 clear dual-use items in accordance with sections
23 309(c) and 311;

24 “(3) designate the items for inclusion on the
25 Nuclear Referral List established under section

1 311(a) and shall determine their description and
2 technical specifications;

3 “(4) monitor and facilitate the interagency
4 process with respect to the nuclear export licensing
5 activities described in this Act or in the Atomic En-
6 ergy Act of 1954, and in regulations issued pursuant
7 to such Acts; and

8 “(5) undertake investigations and make rec-
9 ommendations in accordance with section 201 of the
10 Nuclear Export Reorganization Act of 1995.

11 “(c) ACCESS TO EXPORT LICENSING INFORMA-
12 TION.—Notwithstanding any other provision of law—

13 “(1) the members of the Subgroup shall have
14 full, timely, and equal access to information con-
15 tained in applications for the export from the United
16 States, or the reexport from any other country, of
17 any nuclear dual-use item;

18 “(2) the Secretary of Commerce shall, upon re-
19 quest by any member of the Subgroup, provide that
20 member with information contained in applications
21 for licenses to export any other item from the
22 United States, if that member requests such infor-
23 mation for purposes relating to the objectives of this
24 Act; and

1 “(3) the Secretary of Commerce shall, within
2 six months after the issuance of a license to export
3 any nuclear dual-use item from the United States,
4 open to the public for examination and inspection all
5 nonproprietary data pertaining to such license, in-
6 cluding—

7 “(A) the commodity description,

8 “(B) the country destination,

9 “(C) the end-use and end-user,

10 “(D) the quantity,

11 “(E) the date of approval, and

12 “(F) the date and method of shipment,

13 if no names of persons or companies and no dollar
14 values of commodities in individual licenses are in-
15 cluded among this data.

16 “(d) EXPORT CONTROL BULLETIN.—(1) The Chair-
17 man of the Subgroup shall, in consultation with the Sub-
18 group, establish and publish an export control bulletin on
19 issues relating to the proliferation of nuclear explosive de-
20 vices, including regulations, international agreements, and
21 other relevant developments that the Chairman determines
22 may be necessary for the purpose of informing exporters
23 and the general public about the risks of proliferation and
24 efforts to reduce or eliminate such risks.

1 “(2) Information appearing in the bulletin shall con-
2 stitute one, but not an exclusive, basis for satisfaction of
3 the criterion of ‘requisite knowledge’ in section 401(a) of
4 the Nuclear Export Reorganization Act of 1995 and in
5 section 601(a) of the Federal Deposit Insurance Corpora-
6 tion Improvement Act of 1991, and the criterion of ‘knows
7 or has reason to know’ in section 311(b)(3) of this Act.

8 **“SEC. 311. LICENSING PROCESS.**

9 “(a) CONTROLLED ITEMS.—(1)(A) The President
10 shall establish and maintain a list of items, designated by
11 the Subgroup, whose export is controlled pursuant to sec-
12 tion 309(c). Such list may be known as the ‘Nuclear Re-
13 ferral List’.

14 “(B) The President shall cause the Nuclear Referral
15 List and any modification thereof to be published in the
16 Federal Register.

17 “(C) Except as otherwise provided under section
18 202(b) of the Nuclear Export Reorganization Act of 1995,
19 an individual validated license is required for the export
20 from the United States of any item on the Nuclear Refer-
21 ral List.

22 “(2) For purposes of this section, any item that—

23 “(A) is not on the Nuclear Referral List,

24 “(B) requires a validated export license for na-

25 tional security reasons, and

1 “(C) is intended for a nuclear-related end-use
2 or end-user,
3 shall be subject to the procedures established under this
4 title which are otherwise applicable to items on the Nu-
5 clear Referral List.

6 “(3)(A) An individual validated license is required for
7 an export to any destination of any technical data or com-
8 modity where the exporter knows or has reason to know
9 that the data or commodity will be used directly or indi-
10 rectly in any of the following activities, whether or not the
11 item is specifically designed or modified for such activities:

12 “(i) Designing, developing, fabricating, or test-
13 ing any nuclear explosive device.

14 “(ii) Designing, constructing, fabricating, or op-
15 erating any of the following facilities, or components
16 for such facilities:

17 “(I) Facilities for the chemical processing
18 of irradiated special nuclear or source material.

19 “(II) Facilities for the production of heavy
20 water.

21 “(III) Facilities for the separation of iso-
22 topes of source and special nuclear material.

23 “(IV) Facilities for the fabrication of nu-
24 clear reactor fuel containing plutonium or high-
25 ly enriched uranium.

1 “(V) Unsafeguarded nuclear fuel cycle fa-
2 cilities.

3 “(B) An item is used indirectly in an activity de-
4 scribed in subparagraph (A)—

5 “(i) if any United States agency notifies an ex-
6 porter of the risk of any such use; or

7 “(ii) the item would materially assist the per-
8 formance of any such activity.

9 “(b) AUTHORITY OF THE SECRETARY OF COM-
10 MERCE.—Except as otherwise provided in this section, the
11 Secretary of Commerce shall be responsible for—

12 “(1) processing all applications for validated li-
13 censes for the export of all nuclear dual-use items
14 requiring such a license before the export from the
15 United States or the reexport from any other coun-
16 try of any such items; and

17 “(2) record keeping with respect to the ap-
18 proval or denial of such licenses or authorizations.

19 “(c) LICENSE APPROVALS AND DENIALS.—(1)
20 Whenever the Secretary of Commerce receives an applica-
21 tion for a validated license for the export from the United
22 States of any nuclear dual-use item, the Secretary shall
23 submit the application to the Subgroup for review as to
24 whether—

1 “(A) approval of such export would be contrary
2 to the objective of averting the proliferation of nu-
3 clear explosive devices; or

4 “(B) the proposed export would pose an unac-
5 ceptable risk of diversion to a nuclear explosive ac-
6 tivity or to an unsafeguarded nuclear fuel cycle.

7 “(2) The Secretary shall issue no license for the ex-
8 port of any nuclear dual-use item without the concurrence
9 of all members of the Subgroup that each of the review
10 criteria of paragraph (1) has been fully satisfied.

11 “(3) In performing the reviews required by paragraph
12 (1), the members of the Subgroup shall include the follow-
13 ing factors among the considerations used to determine
14 what action should be taken on individual applications:

15 “(A) The stated end-use of the commodity or
16 technical data.

17 “(B) The significance for nuclear purposes of
18 the particular commodity or technical data.

19 “(C) The availability of the commodity or tech-
20 nical data from non-United States sources.

21 “(D) The types of assurances or guarantees
22 against use for nuclear explosive purposes or pro-
23 liferation given in the particular case.

1 “(E) The non-proliferation credentials of the
2 importing country concerned, based on consideration
3 of factors such as—

4 “(i) a country’s status as a party to the
5 Treaty on the Non-Proliferation of Nuclear
6 Weapons or the Treaty for the Prohibition of
7 Nuclear Weapons in Latin America;

8 “(ii) whether the country has all its nu-
9 clear activities under International Atomic En-
10 ergy Agency safeguards or equivalent full scope
11 safeguards;

12 “(iii) whether there is an agreement for co-
13 operation in the civil uses of atomic energy be-
14 tween the United States and the country con-
15 cerned;

16 “(iv) the country’s public statements and
17 policies concerning nuclear developments and
18 non-proliferation;

19 “(v) the extent of cooperation in non-pro-
20 liferation policy generally (indications such as
21 willingness to consult on international non-pro-
22 liferation issues); and

23 “(vi) intelligence data on a country’s nu-
24 clear intentions and activities, including wheth-
25 er the country has engaged in clandestine or il-

1 legal procurement activities, whether similar li-
2 censes have previously been denied by any other
3 country, and whether end users in the recipient
4 country have diverted, for purposes inconsistent
5 with this section, any nuclear goods or tech-
6 nology, under an export, retransfer, or other ac-
7 tivity previously authorized by any country.

8 “(d) PROCEDURES AND APPEALS.—(1) Applications
9 for the export of nuclear dual-use items shall be made to
10 the Department of Commerce.

11 “(2)(A) Upon receipt of any such application, the
12 Secretary of Commerce shall promptly refer the applica-
13 tion to the Subgroup.

14 “(B) Not later than 90 days after receipt of an appli-
15 cation from the Secretary, the Subgroup shall complete
16 its review of that application in accordance with subsection
17 (c)(1) and shall report to the Secretary its determination
18 regarding the application of that subsection.

19 “(3) If the Subgroup has not taken action on an ap-
20 plication by 90 days after receipt of that application, the
21 applicant may file a petition with the Secretary of Com-
22 merce requesting compliance with the requirements of this
23 section. Whenever such a petition is filed, the Secretary
24 shall take immediate steps to correct the situation giving

1 rise to the petition and shall immediately notify the appli-
2 cant of such steps.

3 “(4) If, within 20 days after a petition is filed under
4 paragraph (3), the processing of the application does not
5 meet the requirements of this section, or the application
6 meets such requirements but the Secretary has not so no-
7 tified the applicant, then the applicant may bring an ac-
8 tion in an appropriate United States district court for a
9 restraining order, a temporary or permanent injunction,
10 or other appropriate relief, to require compliance with the
11 requirements of this section. The United States district
12 courts shall have jurisdiction to provide such relief, as ap-
13 propriate.

14 “(5)(A)(i) Any constituent agency of the Subgroup
15 may appeal the denial of a license under this section to
16 the President and, if the President determines that the
17 license should be approved, the President shall direct the
18 Secretary of Commerce to issue such license.

19 “(ii) The Secretary of Commerce shall report to the
20 Congress on data from such licenses in accordance with
21 section 602(c) of the Nuclear Non-Proliferation Act of
22 1978.

23 “(B) The procedures of this paragraph shall be the
24 exclusive means of appeal for denials of licenses issued
25 under this section.

1 “(C) Documentation describing and supporting the
2 agency’s position shall be submitted to the President as
3 part of any appeal.

4 “(D) The President shall prescribe such regulations
5 as may be necessary to carry out this paragraph.”.

6 **SEC. 102. NON-NUCLEAR ENERGY RESOURCES.**

7 Title V of the Nuclear Non-Proliferation Act of 1978
8 is amended—

9 (1) in section 501, by inserting “(a)” imme-
10 diately after “SEC. 501.”;

11 (2) by adding at the end of section 501 the fol-
12 lowing:

13 “(b)(1) The Congress declares that it is both in the
14 national security and economic interests of the United
15 States to promote the development in the United States
16 of a domestic industry capable of competing on inter-
17 national markets for the sale of energy technologies capa-
18 ble of achieving the objectives of section 501(a).

19 “(2) The Congress urges the President to pursue all
20 appropriate means to encourage the development of such
21 an industry in the United States and otherwise to assist
22 developing countries to acquire such technologies.”; and

23 (3) by adding at the end of the title the follow-
24 ing new section:

1 “SEC. 504. REVIEW OF RESEARCH AND DEVELOP-
2 MENT.—Not later than 6 months after the date of enact-
3 ment of the Nuclear Export Reorganization Act of 1995,
4 the President shall undertake a review of all federally
5 funded research and development consistent with the ob-
6 jectives of section 501 and shall report to the Congress
7 on the adequacy of such activities to achieve such objec-
8 tives.”.

9 **TITLE II—INITIATIVES TO**
10 **STRENGTHEN COMPLIANCE**

11 **SEC. 201. FAIR MARKET INITIATIVE.**

12 (a) PETITION FOR INVESTIGATION.—Any United
13 States person that finds that a foreign person has, on or
14 after the date of enactment of this Act, engaged in an
15 activity outside the United States that is inconsistent with
16 the guidelines adopted by the United States and other
17 member countries of the Nuclear Suppliers Group with re-
18 spect to exports of nuclear dual-use items, or successor
19 guidelines adopted by such countries, may petition the
20 Subgroup on Nuclear Export Coordination to begin an in-
21 vestigation of such activities.

22 (b) DETERMINATION BY SUBGROUP.—Within 30
23 days of the date of receipt of any such petition, the Sub-
24 group shall determine whether to undertake an investiga-
25 tion.

1 (c) RECOMMENDATION REGARDING SANCTIONS.—If
2 the Subgroup undertakes an investigation and determines
3 that the claims of the petitioner are sustained by available
4 evidence, the Chairman of the Subgroup shall transmit a
5 determination to that effect to the President, together
6 with the specific recommendation of the Subgroup as to
7 the imposition of the appropriate sanctions under title IV
8 of this Act or under the amendments made by that title.

9 (d) PUBLICATION IN THE FEDERAL REGISTER.—If
10 the President does not disapprove such determination
11 within a period of 30 days after receipt of such determina-
12 tion, the Chairman shall publish such determination in the
13 Federal Register and the sanctions shall take effect.

14 **SEC. 202. MEASURES TO IMPROVE THE LICENSING PROC-**
15 **ESS.**

16 (a) GUIDELINES FOR VOLUNTARY CODES OF CON-
17 DUCT.—(1) Within 6 months after the date of enactment
18 of this Act, the Subgroup shall develop guidelines to serve
19 as a basis for the adoption of voluntary codes of conduct
20 by companies that engage in exports of nuclear dual-use
21 items.

22 (2) The Chairman shall publish in the Federal Reg-
23 ister such guidelines and the names of all companies that
24 have agreed to adopt such codes of conduct.

1 (b) REVIEW OF TYPES OF LICENSES.—(1) The Sub-
2 group shall undertake a comprehensive review of the cir-
3 cumstances under which certain nuclear dual-use goods
4 could be exported under licenses other than an individual
5 validated license, without jeopardizing the national secu-
6 rity, national interest, or nonproliferation objectives of the
7 United States.

8 (2) The Secretary of Commerce may, with the con-
9 currence of the Subgroup, issue any such license identified
10 in paragraph (1).

11 (3) The Secretary of Commerce shall report to the
12 Congress on data from such licenses in accordance with
13 section 602(c) of the Nuclear Non-Proliferation Act of
14 1978.

15 (c) ADVISORY OPINIONS.—(1) Upon the request of
16 any person, the Subgroup may, after appropriate consulta-
17 tion, issue an advisory opinion in writing to that person
18 as to whether a proposed activity by that person would
19 subject that person to sanctions under existing nuclear ex-
20 port control laws.

21 (2) Issuance of an advisory opinion under paragraph
22 (1) shall not exempt any person from compliance with the
23 requirements of this Act.

24 (3) For purposes of this subsection, the term “appro-
25 priate consultation” means consultation by the Subgroup

1 with the Secretary of State, the Secretary of Defense, the
2 Director of the Arms Control and Disarmament Agency,
3 and the heads of such other Federal agencies as the Sub-
4 group may determine are necessary.

5 (d) PROCEDURE TO EXPEDITE LICENSE APPROV-
6 ALS.—The Subgroup may develop and implement proce-
7 dures to expedite the approvals of licenses for nuclear
8 dual-use items to be exported to countries that the Sub-
9 group has determined are not engaged, and are unlikely
10 to become engaged, in promoting, directly or indirectly,
11 the proliferation of nuclear explosive devices if no such
12 procedures would eliminate the fundamental requirement
13 of licensing of goods or technology that are controlled be-
14 cause of their association with the development, acquisi-
15 tion, or use of nuclear explosive devices.

16 (e) PROCEDURES TO EXPEDITE LICENSING DECI-
17 SIONS.—Within 12 months after the date of enactment of
18 this Act, the Secretary of Commerce, in consultation with
19 the members of the Committee, shall develop procedures
20 to ensure that applicants for validated licenses for the ex-
21 port of nuclear dual-use items will receive notice of ap-
22 proval or denial of any such license not later than 60 days
23 after submission of an application.

1 **TITLE III—AMENDMENTS TO**
2 **THE ATOMIC ENERGY ACT OF**
3 **1954**

4 **SEC. 301. SUBSEQUENT ARRANGEMENTS.**

5 Section 131 of the Atomic Energy Act of 1954 (42
6 U.S.C. 2160) is amended—

7 (1) by inserting “and the Secretary of Defense”
8 after “concurrence of the Secretary of State” in sub-
9 section a.(1);

10 (2) by striking all after “and shall consult
11 with” through the colon and inserting “the Director
12 and the Commission:”;

13 (3) in subsection a.(2), by striking “may” in
14 the first sentence and inserting “shall”;

15 (4) in subsection b.(1), by inserting after “such
16 arrangement” the following “, including documenta-
17 tion of the technical basis for the Secretary’s judg-
18 ment that such arrangement will ensure timely
19 warning to the United States of any diversion well
20 in advance of the time at which the non-nuclear-
21 weapon state could transform the diverted material
22 into a nuclear explosive device,”; and

23 (5) in subsection d., by striking all after
24 “States,” and inserting in lieu thereof the following:
25 “and nothing in this section is intended to promote

1 the reprocessing of spent fuel owned by any nation
2 which lacks a reasonable economic justification for
3 such reprocessing”.

4 **SEC. 302. COOPERATION WITH OTHER NATIONS.**

5 Section 123 a. of the Atomic Energy Act of 1954 (42
6 U.S.C. 2153) is amended—

7 (1) by inserting “and the Secretary of Defense” after
8 “concurrence of the Secretary of Energy”; and

9 (2) by striking “jointly by the Secretary of State and
10 the Secretary of Energy” and inserting “jointly by the
11 Secretary of State, the Secretary of Energy, and the Sec-
12 retary of Defense”.

13 **SEC. 303. PROHIBITION ON FOREIGN PRODUCTION OF SPE-**
14 **CIAL NUCLEAR MATERIAL.**

15 Section 57 b. of the Atomic Energy Act of 1954 (42
16 U.S.C. 2077) is amended—

17 (1) by inserting “and the Department of De-
18 fense” after “concurrence of the Department of
19 State”; and

20 (2) by striking “the Department of Commerce,
21 and the Department of Defense” and inserting “and
22 the Department of Commerce”.

23 **SEC. 304. PROHIBITION ON NUCLEAR EXPORTS.**

24 Section 129 of the Atomic Energy Act of 1954 (42
25 U.S.C. 2158) is amended by inserting after “No nuclear

1 materials and equipment” the following: “including any
2 items whose export from the United States is controlled
3 pursuant to the authorities of this Act, the Nuclear Non-
4 Proliferation Act of 1978, or the Nuclear Export Reorga-
5 nization Act of 1995,”.

6 **SEC. 305. CONTROL OF COMPONENT PARTS.**

7 Section 109 b. of the Atomic Energy Act of 1954 (42
8 U.S.C. 2139(b)) is amended by inserting “Defense,” after
9 “State,”.

10 **TITLE IV—REVIEW OF**
11 **PLUTONIUM USE POLICY**

12 **SEC. 401. FINDINGS AND DECLARATIONS.**

13 The Congress finds and declares that—

14 (1) reactor-grade plutonium is a direct-use ma-
15 terial;

16 (2) plutonium in all forms is hazardous to the
17 human and natural environment and is a potential
18 radiological weapon;

19 (3) nuclear reprocessing programs that produce,
20 or are intended to produce, large amounts of pluto-
21 nium, especially amounts of plutonium that exceed
22 the reasonable economic needs of a country, for civil-
23 ian uses jeopardize the efforts of the United States,
24 other nations, and international organizations to re-
25 duce the global risks of nuclear weapons prolifera-

1 tion, nuclear terrorism, and environmental contami-
2 nation;

3 (4) the United States Government has sus-
4 pended the production of military plutonium and has
5 abandoned civil reprocessing and breeder reactor de-
6 velopment in the United States;

7 (5) more than 500 metric tons of plutonium
8 currently exist in civilian nuclear fuel worldwide,
9 more than 100 metric tons of plutonium have al-
10 ready been separated from nuclear fuel irradiated in
11 civilian reactors, and more than 200 metric tons of
12 plutonium exist in declared nuclear weapons stock-
13 piles;

14 (6) on July 16, 1981, the President announced
15 a policy that the United States “will not inhibit or
16 set back civil reprocessing and breeder reactor devel-
17 opment in nations with advanced nuclear power pro-
18 grams where it does not constitute a proliferation
19 risk”;

20 (7) much of the world surplus of civil plutonium
21 has resulted from foreign nuclear reprocessing ac-
22 tivities undertaken pursuant to agreements for nu-
23 clear cooperation with the United States that were
24 negotiated or sustained under this policy and that
25 grant long-term United States approval for civilian

1 uses of plutonium recovered from United States-sup-
2 plied nuclear fuel;

3 (8) large amounts of additional civil plutonium,
4 far exceeding the amounts of plutonium now con-
5 tained in nuclear weapons, may soon be recovered in
6 reprocessing plants that are about to be started up
7 or constructed in the European Community and
8 Japan under this policy;

9 (9) once these new plants start up and become
10 contaminated with radiation, the environmental dif-
11 ficulties of shutdown and clean-up increase dramati-
12 cally;

13 (10) abundant and inexpensive global sources of
14 uranium and uranium enrichment services have
15 steadily eroded the economic need for the use of plu-
16 tonium in civilian nuclear reactors;

17 (11) breeder reactors were once supposed to be
18 the principal consumers of civil plutonium but have
19 now encountered major financial and technical prob-
20 lems and recently have been abandoned or shut
21 down in Germany, France, and Britain and have
22 suffered major delays in Japan;

23 (12) reprocessing was once regarded as an eco-
24 nomic and efficient approach to nuclear fuel recy-
25 cling and waste management but is now widely rec-

1 ognized as extremely costly and posing major envi-
2 ronmental hazards; and

3 (13) the Deputy Director of the International
4 Atomic Energy Agency has recently stated that “the
5 excess of plutonium from civilian nuclear programs
6 poses a major political and security problem world-
7 wide”.

8 **SEC. 402. REPORT.**

9 The President shall—

10 (1) reexamine the policy described in section
11 401(6); and

12 (2) not later than 90 days after the date of en-
13 actment of this Act—

14 (A) take account of the significant changes
15 in the global security environment and in the
16 global nuclear market since 1981 by modifying
17 the policy described in section 401(6) to avoid
18 the political and security problems associated
19 with excess plutonium from civilian nuclear pro-
20 grams in the world; and

21 (B) submit a report to the Congress de-
22 scribing the steps taken to modify the policy.

1 **TITLE V—REPEAL**
2 **SEC. 501. REPEAL OF TERMINATION OF PROVISIONS OF**
3 **THE NUCLEAR PROLIFERATION PREVENTION**
4 **ACT OF 1994.**

5 Part D of the Nuclear Proliferation Prevention Act
6 of 1994 (title VIII of the Foreign Relations Authorization
7 Act, Fiscal Years 1994 and 1995; Public Law 103-236;
8 108 Stat. 507) is repealed.

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S 102 IS—3