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WITHDRAWAL SHEET
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	from lou Pugliarsei and S. Danzansky to J. Poindexter re: proposed review of export control and tech transfer programs (3pp)	11/18/86	P-1

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FILE FOLDER: International Trade XV. (E) ~~[7 of 9]~~ (14 of 16) ~~Box 90976~~ RAC Box 8	11/8/94

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- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
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- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA.
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

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Export Controls

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 12, 1987

MEMORANDUM FOR FRITZ ERMARTH

FROM: STEPHEN I. DANZANSKY

SUBJECT: Export Control Criteria -- Political Controls

In our conversation on Friday, I mentioned to you that the 1985 amendments to the Export Administration Act of 1979 embraced stricter standards for imposition or continuation of foreign policy controls upon U.S. exports. A principal Congressional objective in structuring the foreign policy control provisions of the 1985 Act has been to curtail the power of the President to impose or maintain such controls. To that end, section 108(b) provides that the President may impose, extend or expand those controls ONLY IF he determines that the statutory review criteria are satisfied. The criteria are:

Act §108(b)(1), codified as, 50 U.S.C. App. §2405(b)(1). The proposed foreign policy export controls

(i) are likely to achieve the intended foreign policy purpose in light of other factors including foreign availability of the goods in question, and the foreign policy objectives cannot be achieved by other means;

(ii) are compatible with the foreign policy objectives of the United States;

(iii) are not likely to provoke a reaction among other countries that will render the proposed controls ineffective, or harm other United States foreign policy objectives;

(iv) will produce foreign policy benefits that outweigh any harm to United States export performance and/or to individual United States firms and their employees; and

(v) can be effectively enforced by the United States.

These were changed from previous standards but, equally important, the earlier Act only required Presidential "consideration" of the standards, not a mandatory "finding." Under the 1985 law, however, the President must consult with Congress and submit a report specifying:

-- the purpose for the proposed controls;

-- the basis for the determinations made under the statutory review criteria;

-- the plans for consulting with appropriate members of industry and with foreign nations (particularly COCOM);

-- the alternatives attempted to achieve the intended foreign policy objectives;

-- the foreign availability of the goods to which the proposed controls will apply and efforts made to eliminate such foreign availability.

Hope this has been helpful as background.

International Trade... Danzansky

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HIGHLIGHTS OF THE EXPORT ADMINISTRATION ACT, AS AMENDED, 1985

The EAA, as amended in 1985, tightens some national security controls. However, to the extent we make changes in our regulations, we have authority to permit other controls to be relaxed.

National Security Controls

o Import Sanction - The EAA provides the President with authority to prohibit imports from companies violating U.S. national security controls. He may also bar imports from companies violating COCOM (i.e., foreign) export controls if (1) negotiations with the pertinent government have been conducted; (2) the President gives COCOM partners 60-day notice of intent to impose sanctions; and (3) a majority of COCOM partners concur or abstain.

o Foreign Availability - The EAA requires that an exporter's assertion of foreign availability, if supported by reasonable evidence, be accepted in the absence of reliable evidence. The EAA also requires that the President actively pursue negotiations to eliminate foreign availability, and decontrol items within 6 months if foreign availability has not been eliminated, except that he may extend the period one year by certifying that negotiations are progressing and that decontrol would be detrimental to U.S. national security.

o Intra-COCOM Decontrol - Items at the lowest level of COCOM control, where only notification to other countries is required, must be decontrolled for export to other COCOM countries.

o Controlled Countries - Controlled countries are those set forth in Section 620(f) of the 1961 Foreign Assistance Act, but the President may add (or delete) countries if exports there would make a significant contribution to the military potential of an adversary and prove detrimental to U.S. national security. All Warsaw Pact countries are listed in 620(f), plus Vietnam, North Korea and Cuba (with which we have a complete embargo), as well as China and Yugoslavia.

o Foreign Embassies - The President has the authority to control transfers to embassies and affiliates of controlled countries.

Foreign Policy Controls

In general, the bill significantly restricts the impositions of foreign policy controls by requiring that stricter criteria be met, that a prior report be submitted to Congress, that specified agencies be consulted, that controls be enforceable, and that existing contracts not be interrupted except under certain circumstances;

o Contract Sanctity - Existing contracts or export licenses may not be interrupted unless and until the President certifies to Congress that a "breach of the peace" has occurred which poses a direct threat to U.S. strategic interests, and that curtailment of contracts would be instrumental in remedying this threat. The controls continue only so long as the direct threat persists. (Alternatively, the President may interrupt existing contracts if Congress passes a joint resolution of authorization).

o Criteria - The President may impose or extend controls only if he determines that the following criteria have been met:

-- The controls are likely to achieve their intended purpose (which cannot be achieved in another way);

-- The controls are compatible with U.S. policy toward the recipient nation;

-- Reactions of other nations are not likely to render the controls ineffective;

-- Economic costs to the U.S. do not exceed foreign policy benefits;

-- The U.S. can enforce the controls effectively.

o Consultation and Reporting -- The President may not impose or extend controls until he has submitted a report to Congress which:

-- Specifics the purpose of the controls;

-- Presents his determinations and rationale with regard to the criteria listed above;

-- Presents the results of or plans for consultations with industry and other countries;

-- Lists alternative actions attempted or reasons for imposing export controls without attempting alternative means;

-- Describe foreign source of the goods in question and U.S. efforts to secure foreign cooperation.

o Foreign Availability - After controls are imposed, the President must take "all feasible steps" to eliminate foreign availability. If, after six months, he has been unsuccessful and the Secretary of Commerce determines that goods in "sufficient quantity and comparable quality" are available that would render the control ineffective, the Secretary shall remove the control if he determines that such action is "appropriate." Exempted from this requirement are anti-terrorism controls,

crime control instruments, and controls imposed under international obligations.

o Agency Consultation - Before imposing foreign policy controls, the Secretary of Commerce must consult with the Secretaries of State, Defense, Agriculture, Treasury, and the USTR, as well as other agencies Commerce considers appropriate.

o Reimposition of Controls on South Africa - Prohibiting export of relatively innocuous items to the South African military and policy as well as computers not used in apartheid enforcement to South African Government agencies. (Other anti-South African economic measures were deleted from the EAA, but has been superceded by new legislation.)

Other Provisions

o Agricultural Products - Control effectively made much more difficult.

o Expiration - Act would expire on September 30, 1989.

o Enforcement - Bill continues exclusive Commerce authority to impose civil penalties. Both Customs and Commerce are given authority to investigate export violations.

Frank E. Samuel Jr.

Ease Up on Export Controls

In some ways the case of the crippling trade deficit is an inside job. To be sure, high tariffs, subsidies, dumping and other trade practices by foreign nations have all had their hand in it. But they couldn't have pulled it off without an American accomplice: our own export controls.

Although export controls on some products are necessary for national security, the President's Commission on Industrial Competitiveness estimated in 1985 that such controls cost the U.S. economy $7.6 billion in lost sales every year. These missed export opportunities mean about 200,000 lost jobs. That's bad news with a trade deficit that may reach $170 billion and an unemployment rate about 7 percent.

Export controls make sense if we are talking only about tanks or missiles. But many medical products—ultrasound fetal monitors, blood flow detectors, heart monitors, blood analyzers and CT (computerized tomography) scanners—are subject to the same controls. The rationale is that these devices—or their imbedded computer technology—could be diverted to military use.

Two facts contradict that, however. First, most of the same products are available from other countries anyway. So they can be easily obtained from our overseas competitors, regardless of U.S. controls. Second, most of these products are strictly for medical use. Many of the devices currently subject to these controls contain computers that can't be separated from the medical product or diverted to military use.

Nevertheless, U.S. manufacturers encounter a range of hurdles in the high-tech race for the world market. If you're a manufacturer of a product on the government's Commodity Control list—a list that is 120 single-spaced pages long—you have to apply for a license before you can export your product. Most of these applications win approval—eventually. But it takes the government an average of four to six months to process a license for export to a country that isn't one of our allies. For export to an allied country, the average waiting time is four weeks. By contrast, most Western nations have virtually no waiting period for export to another nation. And Japanese manufacturers often wait only one month for a license to export to a nonallied country.

> *"Export controls only make the trade battle tougher and hasten the declining trade balance in high-tech products."*

This puts U.S. manufacturers at a clear disadvantage. For example, a manufacturer of CT scanners, an important tool in medical diagnostics, recently lost a prospective sale to China. The reason: a West German competitor promised immediate delivery, while U.S. export controls would have hung up the American firm as long as a year.

Another case in point involves medical lasers. These are lasers used in surgery and other medical procedures—not in Star Wars missile systems. But export controls have also delayed—and in some cases blocked—the overseas sales of these lasers by U.S. companies. Since the same products are manufactured in West Germany, England, China, the Soviet Union and Israel, that doesn't make much sense. But one thing is certain: U.S. companies are losing out to foreign competitors in this field.

In fact, foreign competitors often t about these delays in pushing their o products. Why order from an Americ company, they ask, when U.S. export co trols mean delayed delivery?

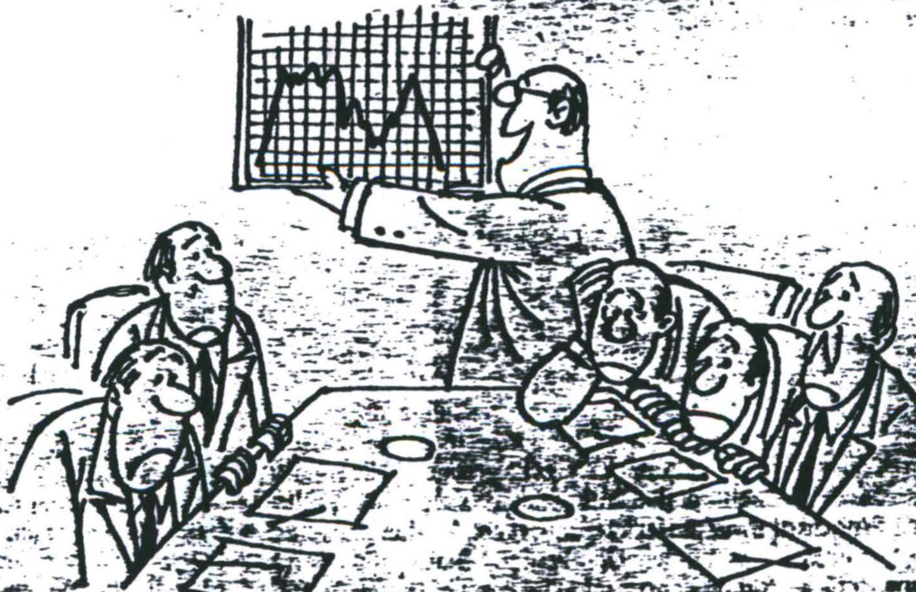
Export controls like these hurt. Hig technology firms need global markets achieve economies of scale and genera enough R&D funding to develop new pro ucts. They also need to build world-mark share because foreign competitors a working aggressively in the U.S. mark But export controls only make the tra battle tougher and hasten the declini trade balance in high-tech products. Th balance has shifted from a $27 billion su plus in 1980 to a $1.3 billion deficit for t first half of 1986. And in the medical devi industry alone—a $17-billion-a-year indu try that employs 200,000 people—the b lion-dollar trade surplus we enjoyed on three years ago has slipped to half of that 1986.

But easing export controls would not on promote technological vitality. It would a low government to focus more attention o those items that are truly significant f national security. According to Rep. Do Bonker (D-Wash.), who sponsored legisl tion to streamline export controls, "Natio al security can best be assured throug sharpening attention on critical goods an technologies while reducing unnecessar restraints on exports that are not militari significant to adversary nations."

The administration could ease the situa tion immediately by reinterpreting one pro vision of a major trade agreement with ou 14 fellow members of the Coordinatin Committee for Multilateral Export Con trols, a group made up of Japan and most o our NATO allies. The COCOM agreemen lists certain medical equipment in a catego ry of products "likely to receive favorabl consideration" for an export license. I practice most COCOM members—who ar our major trade competitors as well as ou allies—simply exempt those products from export licensing requirements. The Unite States should follow suit.

Furthermore, the United States shoul propose new language in the COCOM agreement that would expand the list o medical products that should be exemp from export controls.

A recent conference in Uruguay, whic began a round of multilateral trade talk could lead to a solution to some of thes problems. But we should act now to remov a trade barrier of our own making b creating a more rational export contr system.



The writer, a former assistant secretary i the Department of Health, Education and Welfare, is president of the Health Industry Manufacturers Association.

Reagan curbs hit US electronics sales overseas

BY GUY DE JONQUIERES IN LONDON

US ELECTRONICS companies are losing overseas sales to Japanese and other foreign competitors because of the Reagan Administration's controls on technology exports, according to a survey by US officials in West Germany.

The survey found that US suppliers and their customers blamed the administrative complexity of the controls for increasing the cost of US technology exports, delaying deliveries and creating business uncertainty.

The controls govern official licensing of a wide variety of technologies and products exported from the US. They are intended to curb access by Communist countries to technology which could be put to military use.

Some Western European companies have expressed fears that the US might abuse the controls by giving US companies preference over their foreign competitors in awarding export licences.

However, the survey came across no cases of unfair discrimination. It suggests that the controls are hurting US companies more severely than Western European ones.

The survey, conducted this year by the commercial section of the US consulate in Frankfurt, covered 35 unnamed companies in the area, most in the electronics industry. They include both German-owned companies and local subsidiaries of US concerns.

Among the survey's main findings were:

- Several leading electronic equipment manufacturers said that they had begun to redesign their products to incorporate fewer US components since the controls had taken effect. Where suitable components were also freely available from non-US suppliers, the companies were increasingly substituting them for US parts.

- A switch away from US products is said to be widespread among distributors of electronic components, mostly for lower value items. One distributor estimated that, as a direct result of its customers' concern about the controls, 20 per cent of its sales were now being supplied from Japanese instead of US sources.

- Complying with the controls was said by US companies to add about 25 per cent on average to their normal administrative overheads. The increase was relatively higher for smaller companies, which generally found the controls more burdensome than did big groups.

Many of the companies surveyed said they would continue to use US components in the immediate future if they were unable to obtain comparable products elsewhere or were tied to US suppliers by long-term contracts.

The survey found that the more sophisticated and valuable the US component, the more reluctant were customers to seek alternative suppliers.

However, the companies said that in the longer term, failure to reduce the administrative problems and uncertainties caused by the controls led them to seek out other sources of supply and put pressure on local suppliers to provide the components they needed.

Overkill in export control

EVER SINCE the US began cracking down some five years ago on illegal exports of militarily-useful technology to the Soviet bloc, businessmen and scientists on both sides of the Atlantic have complained that legitimate trade in high technology has been unnecessarily stifled. Should Europe's answer be to stop buying American?

A recent survey conducted by the commercial section of the US consulate in Frankfurt tends to confirm a widely-held belief that American export controls exaggerate the strategic threat and do more damage to US companies in Europe than to the Soviet military machine.

It reveals that some European-based electronics companies are searching for other sources of supply, notably Japan. Other companies in the past have reacted even more strongly, suggesting that the export controls are a surreptitious way of reinforcing US dominance in civilian as well as military technology. They have concluded that the stringency of American licensing is grounds for building a technically self-sufficient European electronics industry.

Cheapest sources

No convincing evidence has been produced to show that American export controls do in practice discriminate against Europeans, nor that honest companies have suffered more than irritating interference and (sometimes expensive) delays. Whatever justifications there may be for an independent third force in world technology trade, the administrative burden of buying American is certainly not one of them. Just because the Pentagon sees advanced technology as a strategic issue does not mean that European industry should head for the bunker.

Like it or not, companies are operating in a world market and are compelled to buy their components from the cheapest and most reliable sources: the cost of duplicating in Europe low-price Japanese chip manufacture or sophisticated US systems would be unbearably high and absurdly wasteful of resources. Their own commercial alliances outside Western Europe show that companies recognise the fact. Britain's ICL has links with Fujitsu, and American manufacturers like Honeywell have taken similar refuge with the Japanese to meet the worldwide challenge of International Business Machines.

Yet so long as the Pentagon appears to be dictating commercial procedure to the Department of Commerce, the political cost of American export controls will be high. For example, the British and US governments have been arguing for over a year whether holders of American distribution licences in Britain should be forced to submit to inspection by US officials as required by American law. The extra-territorial application of that law has been a running sore in transatlantic commercial relations

Better balance

The huge embargo list of so called "dual use" items operated by the Nato allies and Japan is still seen by frustrated manufacturers as the product of American strategic obsessions rather than as a sensible restraint on high-technology trade with the Communist bloc. Efforts have been made to refine that list (Apple computers were taken off last year) so that yesterday's hardware is set free as tomorrow's technology is added.

No administrative system, however rigorous, will be proof against people who make money by leaking sensitive technology to the Soviet Union, just as no economic embargo is totally enforceable and no law will deter every potential traitor. It is a question of striking a better balance between the needs of honest traders and the opportunities for dishonest ones.

A still more discriminating approach by Nato's co-ordinating committee (CoCom) would go a long way to relieving the unnecessary burden of US controls on the free world's electronics manufacturers and traders. At the same time the Pentagon should trust allied governments to track down and punish those who smuggle technology to the East. Once American technology leaves US shores, it becomes a collective responsibility. The present system destroys business confidence and invites illogical responses that would only stifle innovation still further.

U.S suppliers of components incorporated into foreign manufactured systems are losing millions of dollars in sales each year because of U.S. reexport controls. As a recent survey of major West German electronics firms confirmed, some large European original equipment manufacturers (OEMs) have begun to redesign their products to incorporate fewer U.S. components since the U.S. controls took effect. When suitable components are available from non-U.S. suppliers, foreign OEMs are increasingly substituting them for U.S. parts.

Varian's Electron Device Group (EDG) is a leading producer of electronic devices and components used in commercial and military systems. Major customers for these products are the large OEMs located in COCOM countries of West Germany, France, Japan, Great Britain, and Italy. Varian estimates that EDG lost $3 million in sales in 1985 as a direct result of U.S. controls on reexports of our components. We can only guess at the value of other potential sales where these controls indirectly resulted in the decision to buy from non-U.S. suppliers. In other situations we are not invited to bid simply because we are a U.S. supplier.

Some specific examples:

A Radar Manufacturer

No U.S. suppliers were asked to quote. Requests for quotation were issued to European and Japanese manufacturers only: Thomson-CSF, English Electric Valve, Nippon Electric Corporation, etc.

European Fighter Aircraft

Only U.K., West German, Italian, and Spanish microwave tubes were used.

During a recent European trip, a Varian senior executive encountered very strong negative opinions from several major radar and electronic warfare OEMs about the reliability of U.S. sources due to the erratic administration of U.S. export laws. Examples of their comments:

"U.S. export regulations are administrated inconsistently. We do not know from day to day what will be approved for export."

"The power fights between U.S. agencies would jeopardize our industry if we continued to buy from the U.S."

Some of the above situations involve devices on the Munitions List which are subject to the International Traffic in Arms Regulations (ITAR) as administered by the Department of State. However, these same negative sentiments apply to sales of commercial items as well. U.S. manufacturers are regarded as unreliable because of the uncertainties resulting from the uneven application of U.S. export controls. OEMs do not want to be dependent upon an unreliable supplier, so they purchase parts from non-U.S. suppliers. They also feel that the requirement for a U.S. reexport authorization for components incorporated into their systems is very distasteful.

British Aerospace
Public Limited Company
ARMY WEAPONS DIVISION
SUPPLY DEPARTMENT PB331
P.O. Box 19 Six Hills Way, Stevenage, Hertfordshire SG1 2DA
Telephone: Stevenage (0438) 312422 Telex: 825125/6
Telegrams: Britair Stevenage

EV. 3847

Registered Office:
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London SW1Y 5HR
No: 1470151

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SUPPLY MANAGER [illegible]

F28476/003 11/84

United States. And I think that is where the mistake is coming from.

This happened in this country. It was an American citizen.

Mr. GEKAS. Will the gentleman yield?

Mr. MATSUI. I will yield to the gentleman whatever time I have remaining.

Mr. GEKAS. I have never placed the rights of American citizens under any coloration of ethnic background or of any race. Of course I would react the same way.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. MATSUI] has expired.

Mr. LEACH of Iowa. I yield the gentleman from Pennsylvania [Mr. GEKAS] 1 additional minute.

Mr. GEKAS. I think it is unseemly on the part of my comrade in arms here in the Congress to ascribe to me any kind of ethnic considerations here. There are none. We are not talking about that.

What we are talking about is, and the only comment I made was this is totally a different situation from where a country normally many times grants sanctuary to its citizens rather than prosecuting them. Here the Government of Formosa, of Taiwan, did take, in comparison, some other extraordinary measures to bring the culprits to justice. That is the only comment I made. It has nothing to do with the ethnicity or the ethnic background of the victim.

Mr. SOLARZ. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] has 2 minutes remaining.

Mr. SOLARZ. Mr. Speaker, I yield one of my precious 2 remaining minutes to my very good friend, the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I want to commend the gentleman from New York [Mr. SOLARZ] and my colleague from Iowa [Mr. LEACH] for this resolution. I think it is very important to do this for all Americans.

I had the privilege of representing the Liu in Congress for 2 years, and along with my colleague from California [Mr. LANTOS], I want to express my deepest sympathy to the Henry Liu family who have suffered an irreversible loss.

Why is what we do here today important to all Americans? First of all, we have to take a stand against terrorism in our own country. If we do nothing, there is a chilling effect on all our citizens who could be the victim of foreign terrorism, because they are exercising their rights of freedom of press, freedom of speech, rights that we treasure here in our Nation. So we must protect the rights of all Americans to be defended by our criminal justice system, the greatest criminal justice system in the world.

Mr. Liu deserves nothing less.

I yield back the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I would just like to conclude with the observation made by the gentleman from Pennsylvania [Mr. GEKAS]. It is impressive that the Government of Taiwan has convicted and sentenced to life imprisonment two of the triggermen involved in this incident. It is also impressive that they have brought to trial a higher ranking authority, although that verdict is still out.

But I would stress from the perspective of the United States that the higher ranking authorities that have so far been implicated, or at least the highest ranking authority that has so far been implicated, is the equivalent of what might be considered the head of our Defense Intelligence Agency or the head of the CIA. So it is an extraordinarily high ranking authority of a foreign state.

Finally let me just stress that there are indications that two murders were ordered by high ranking authorities of Taiwan. One was a citizen of the State of California; one was possibly a citizen of the State of Iowa. And as a citizen of the United States, we have to ask why were their murders ordered? They were ordered because these citizens criticized a foreign government. That is an extraordinary motivation: criticism, one a literature, one a journalist. For our society to tolerate the kind of behavior implied in this act without a very strong sense of outrage being reflected in this Congress I think would be a mistake.

I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I yield myself the remaining time.

In conclusion I would just like to say that if this was an isolated incident it would have been bad enough. What makes matters worse is that it is part of a pattern.

Four years ago the authorities on Taiwan murdered a permanent resident in the United States, Chen Wen-Cheng, a professor at the Carnegie-Mellon Institute in Pittsburgh, on a return visit which he made to see his family in Taiwan. In the interim there have been persistent reports that the authorities on Taiwan are intimidating Taiwanese Americans in our country. The bullet which was aimed at the heart of Henry Liu was also aimed at the heart of the Constitution of the United States. It was designed not only to silence Mr. Liu, it was designed to silence other critics of the Government of Taiwan.

That is why we need to adopt this resolution, in order to make it clear to the authorities on Taiwan that the Congress simply will not tolerate these activities in the future.

Mr. Speaker, I yield back the balance of my time.

● Mrs. BURTON of California. Mr. Speaker, I urge the House to pass this important resolution, which calls on the Government of Taiwan to cooperate in the case of Henry Liu and the extradition of the men accused of his murder.

Passage of this bill by the House today will send a strong message to Taiwan that the United States will not tolerate foreign nationals assassinating Americans.

The involvement of Taiwanese Government officials in this cold-blooded crime makes it all the more outrageous. I am committed to continue to pressure the Taiwanese Government and to ensure that our own Justice Department actively pursues this case.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 110.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPORT ADMINISTRATION ACT REAUTHORIZATION

Mr. BONKER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1786) to reauthorize the Export Administration Act of 1979, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Titles I and II of this Act may be cited as the "Export Administration Amendments Act of 1985".

TITLE I—AMENDMENTS TO EXPORT ADMINISTRATION ACT OF 1979

SEC. 101. REFERENCE TO THE ACT.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the the Export Administration Act of 1979.

SEC. 102. FINDINGS.

Section 2 (50 U.S.C. App. 2401) is amended as follows:

(1) Paragraph (2) is amended by striking out "by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation" and inserting in lieu thereof "by earning foreign exchange,

thereby contributing favorably to the trade balance".

(2) Paragraph (3) is amended by striking out "which would strengthen the Nation's economy" and inserting in lieu thereof "consistent with the economic, security, and foreign policy objectives of the United States".

(3) Paragraph (6) is amended to read as follows:

"(6) Uncertainty of export control policy can inhibit the efforts of United States business and work to the detriment of the overall attempt to improve the trade balance of the United States.".

(4) Paragraph (9) is amended by striking out "achievement of a positive balance of payments" and inserting in lieu thereof "a positive contribution to the balance of payments".

(5) Section 2 is amended by adding at the end the following:

"(10) It is important that the administration of export controls imposed for foreign policy purposes give special emphasis to the need to control exports of goods and substances hazardous to the public health and the environment which are banned or severely restricted for use in the United States, and which, if exported, could affect the international reputation of the United States as a responsible trading partner.

"(11) The acquisition of national security sensitive goods and technology by the Soviet Union and other countries the actions or policies of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.

"(12) Availability to controlled countries of goods and technology from foreign sources is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

"(13) Excessive dependence of the United States, its allies, or countries sharing common strategic objectives with the United States, on energy and other critical resources from potential adversaries can be harmful to the mutual and individual security of all those countries.".

SEC. 103. DECLARATION OF POLICY.

Section 3 (50 U.S.C. App. 2402) is amended as follows:

(1) Paragraph (3) is amended by inserting before the period at the end "or common strategic objectives".

(2) Paragraph (7) is amended—

(A) by striking out "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts"; and

(B) by striking out "resorting to the imposition of controls on exports from the United States" in the second sentence and inserting in lieu thereof "imposing export controls".

(3) Paragraph (8) is amended—

(A) by striking out "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts"; and

(B) by striking out "resorting to the imposition of export controls" in the second sentence and inserting in lieu thereof "imposing export controls".

(4) Paragraph (9) is amended—

(A) by inserting "or common strategic objectives" after "commitments" each place it appears; and

(B) by inserting before the period at the end the following: ", and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States".

(5) Section 3 is amended by adding at the end the following:

"(12) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange.

"(13) It is the policy of the United States to control the export of goods and substances banned or severely restricted for use in the United States in order to foster public health and safety and to prevent injury to the foreign policy of the United States as well as to the credibility of the United States as a responsible trading partner.

"(14) It is the policy of the United States to cooperate with countries which are allies of the United States and countries which share common strategic objectives with the United States in minimizing dependence on imports of energy and other critical resources from potential adversaries and in developing alternative supplies of such resources in order to minimize strategic threats posed by excessive hard currency earnings derived from such resource exports by countries with policies adverse to the security interests of the United States.

"(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard Korean Air Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.".

SEC. 104. GENERAL PROVISIONS.

(a) Validated Licenses Authorizing Multiple Exports.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended to read as follows:

"(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to, the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than controlled countries. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to controlled countries. The Secretary shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. The Secretary's determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses issued under this Act. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area, or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of a distribution license.

"(B) A comprehensive operations license, authorizing exports and reexports of technology and related goods, including items from the list of militarily critical technologies developed pursuant to section 5(d) of this Act which are included on the control list in accordance with that section, from a domestic concern to and among its foreign subsidiaries, affiliates, joint venturers, and licensees that have long-term, contractually defined relations with the exporter, are located in countries other than controlled countries, and are approved by the Secretary. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's systems of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act, and with the assistance of all appropriate agencies, shall periodically, but not less frequently than annually, perform audits of licensing procedures under this subparagraph in order to assure the integrity and effectiveness of those procedures.

"(C) A project license, authorizing exports of goods or technology for a specified activity.

"(D) A service supply license, authorizing exports of spare or replacement parts for goods previously exported.".

(b) Control List.—Section 4(b) is amended—

(1) by striking out "Commodity" and "commodity"; and

(2) by striking out "consisting of any goods or technology subject to export controls under this Act" and inserting in lieu thereof "stating license requirements (other than for general licenses) for exports of goods and technology under this Act".

(c) Foreign Availability.—Section 4(c) is amended—

(1) by striking out "significant" and inserting in lieu thereof "sufficient";

(2) by inserting after "those produced in the United States" the following: "so as to render the controls ineffective in achieving their purposes"; and

(3) by adding at the end the following: "In complying with the provisions of this subsection, the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and the Secretary of Defense shall cooperate in gathering information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system.".

(d) Notification of Public and Consultation With Business.—Section 4(f) is amended to read as follows:

"(f) Notification of the Public; Consultation With Business.—The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls, in order to obtain their views on United States export control policy and the foreign availability of goods and technology.".

SEC. 105. NATIONAL SECURITY CONTROLS.

(a) Authority.—

(1) Transfers to embassies of controlled countries.—Section 5(a)(1) (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the first sentence the following new sentence: "The authority contained in this subsection includes the authority to prohibit or curtail the transfer of goods or technology within the United States to embassies and affiliates of controlled countries.".

(2) Clerical amendment.—Section 5(a)(2) is amended—

(A) by striking out "(A)"; and

(B) by striking out subparagraph (B).

(3) SAFEGUARDS TO PREVENT DIVERSIONS.—Section 5(a)(3) is amended by striking out the last sentence.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—

(1) CONTROLLED COUNTRIES.—Section 5(b) is amended by striking out the first sentence and inserting in lieu thereof the following: "(1) In administering export controls for national security purposes under this section, the President shall establish as a list of controlled countries those countries set forth in section 620(f) of the Foreign Assistance Act of 1961, except that the President may add any country to or remove any country from such list of controlled countries if he determines that the export of goods or technology to such country would or would not (as the case may be) make a significant contribution to the military potential of such country or a combination of countries which would prove detrimental to the national security of the United States. In determining whether a country is added to or removed from the list of controlled countries, the President shall take into account—

"(A) the extent to which the country's policies are adverse to the national security interests of the United States;

"(B) the country's Communist or non-Communist status;

"(C) the present and potential relationship of the country with the United States;

"(D) the present and potential relationships of the country with countries friendly or hostile to the United States;

"(E) the country's nuclear weapons capability and the country's compliance record with respect to multilateral nuclear weapons agreements to which the United States is a party; and

"(F) such other factors as the President considers appropriate.

Nothing in the preceding sentence shall be interpreted to limit the authority of the President provided in this Act to prohibit or curtail the export of any goods or technology to any country to which exports are controlled for national security purposes other than countries on the list of controlled countries specified in this paragraph.".

(2) EXPORTS TO COCOM COUNTRIES.—Section 5(b) is amended by adding at the end the following:

"(2) No authority or permission to export may be required under this section before goods or technology are exported in the case of exports to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, if the goods or technology is at such a level of performance characteristics that the export of the goods or technology to controlled countries requires only notification of the participating governments of the Coordinating Committee.".

(3) TECHNICAL AMENDMENT.—Section 5(b)(1), as amended by paragraph (1) of this subsection, is amended in the last sentence by striking out "specified in the preceding sentence" and inserting in lieu thereof "set forth in this paragraph".

(c) CONTROL LIST.—

(1) ANNUAL REVIEW.—Section 5(c) is amended—

(A) in paragraph (1) by striking out "commodity"; and

(B) by amending paragraph (3) to read as follows:

"(3) The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each annual review, the Secretary shall publish notice of that annual review in the Federal Register. The Secretary shall provide an opportunity during such review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall further assess, as part of such review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) of this subsection shall take effect on October 1, 1985.

(d) EXPORT LICENSES.—Section 5(e) is amended—

(1) in paragraph (1) by striking out "a qualified general license in lieu of a validated license" and inserting in lieu thereof "the multiple validated export licenses described in section 4(a)(2) of this Act in lieu of individual validated licenses"; and

(2) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) The Secretary, subject to the provisions of subsection (l) of this section, shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that has been lawfully exported from the United States.

"(4) The Secretary shall periodically review the procedures with respect to the multiple validated export licenses, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.

"(5) The export of goods subject to export controls under this section shall be eligible, at the discretion of the Secretary, for a distribution license and other licenses authorizing multiple exports of goods, in accordance with section 4(a)(2) of this Act. The export of technology and related goods subject to export controls under this section shall be eligible for a comprehensive operations license in accordance with section 4(a)(2)(B) of this Act.".

(e) INDEXING.—Section 5(g) is amended to read as follows:

"(g) INDEXING.—In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology from such license requirements the anticipated needs of the military of controlled countries. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.".

(f) MULTILATERAL EXPORT CONTROLS.—Section 5(i) is amended—

(1) by striking out paragraph (3);

(2) in paragraph (4)—

(A) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(B) by striking out "pursuant to paragraph (3)" and inserting in lieu thereof "by the members of the Committee"; and

(3) by adding at the end the following:

"(4) Agreement to enhance full compliance by all parties with the export controls imposed by agreement of the Committee through the establishment of appropriate mechanisms.

"(5) Agreement to improve the International Control List and minimize the approval of exceptions to that list, strengthen enforcement and cooperation in enforcement efforts, provide sufficient funding for the Committee, and improve the structure and function of the Secretariat of the Committee by upgrading professional staff, translation services, data base maintenance, communications, and facilities.

"(6) Agreement to coordinate the systems of export control documents used by the participating governments in order to verify effectively the movement of goods or technology subject to controls by the Committee from the country of any such government to any other place.

"(7) Agreement to establish uniform, adequate criminal and civil penalties to deter more effectively diversions of items controlled for export by agreement of the Committee.

"(8) Agreement to increase on-site inspections by national enforcement authorities of the participating governments to ensure that end users who have imported items controlled for export by agreement of the Committee are using such items for the stated end uses, and that such items are, in fact, under the control of those end users.

"(9) Agreement to strengthen the Committee so that it functions effectively in controlling export trade in a manner that better protects the national security of each participant to the mutual benefit of all participants.".

(g) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—Section 5(j) is amended to read as follows:

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into an agreement with any agency of the government of a controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report to the Secretary the agreement with such agency in sufficient detail.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.".

(h) NEGOTIATIONS WITH OTHER COUNTRIES.—Section 5(k) is amended—

(1) by inserting after "conducting negotiations with other countries" the following: ", including those countries not participating in the group known as the Coordinating Committee,"; and

(2) by adding at the end the following: "In cases where such negotiations produce agreements on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports, whether by individual or

multiple licenses, to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated, including the same manner as exports are treated under subsection (b)(2) of this section and section 10(o) of this Act.".

(i) DIVERSION OF CONTROLLED GOODS OR TECHNOLOGY.—Section 5(l) is amended to read as follows:

"(l) DIVERSION OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence, as determined by the Secretary, that goods or technology which were exported subject to national security controls under this section to a controlled country have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

"(A) shall deny all further exports, to or by the party or parties responsible for that diversion or who conspired in that diversion, of any goods or technology subject to national security controls under this section, regardless of whether such goods or technology are available from sources outside the United States; and

"(B) may take such additional actions under this Act with respect to the party or parties referred to in subparagraph (A) as the Secretary determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

"(2) As used in this subsection, the term 'unauthorized use' means the use of United States goods or technology in the design, production, or maintenance of any item on the United States Munitions List, or the military use of any item on the International Control List of the Coordinating Committee.".

(j) ADDITIONAL NATIONAL SECURITY PROVISIONS.—Section 5 is amended by adding at the end the following new subsections:

"(m) GOODS CONTAINING MICROPROCESSORS.—Export controls may not be imposed under this section on a good solely on the basis that the good contains an embedded microprocessor, if such microprocessor cannot be used or altered to perform functions other than those it performs in the good in which it is embedded. An export control may be imposed under this section on a good containing an embedded microprocessor referred to in the preceding sentence only on the basis that the functions of the good itself are such that the good, if exported, would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States.

"(n) SECURITY MEASURES.—The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act, and in consultation with the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to export controls under this section to develop security systems to prevent violations or evasions of those export controls.

"(o) RECORDKEEPING.—The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application under this Act or a revision of a list of goods or technology subject to export controls under this Act, shall make and keep records of their respective advice, recommendations, or decisions in connection with any such license application or revision, including the factual and analytical basis of the advice, recommendations, or decisions.

"(p) NATIONAL SECURITY CONTROL OFFICE.—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there is established in the Department of Defense a National Security Control Office under the direction of the Under Secretary of Defense for Policy. The Secretary of Defense may delegate to that office such of those authorities and responsibilities, together with such ancillary functions, as the Secretary of Defense considers appropriate.

"(q) EXCLUSION FOR AGRICULTURAL COMMODITIES.—This section does not authorize export controls on agricultural commodities, including fats, oils, and animal hides and skins.".

SEC. 106. MILITARILY CRITICAL TECHNOLOGIES.

(a) Section 5(d) (50 U.S.C. App. 2404(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B) by striking out "and" after "test equipment,";

(B) by adding "and" at the end of subparagraph (C);

(C) by inserting after subparagraph (C) the following:

"(D) keystone equipment which would reveal or give insight into the design and manufacture of a United States military system,"; and

(D) by striking out "countries to which exports are controlled under this section" and inserting in lieu thereof the following: ", or available in fact from sources outside the United States to, controlled countries"; and

(2) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) The Secretary and the Secretary of Defense shall integrate items on the list of militarily critical technologies into the control list in accordance with the requirements of subsection (c) of this section. The integration of items on the list of militarily critical technologies into the control list shall proceed with all deliberate speed. Any disagreement between the Secretary and the Secretary of Defense regarding the integration of an item on the list of militarily critical technologies into the control list shall be resolved by the President. Except in the case of a good or technology for which a validated license may be required under subsection (f)(4) or (h)(6) of this section, a good or technology shall be included on the control list only if the Secretary finds that controlled countries do not possess that good or technology, or a functionally equivalent good or technology, and the good or technology or functionally equivalent good or technology is not available in fact to a controlled country from sources outside the United States in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such good or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section. The Secretary and the Secretary of Defense shall jointly submit a report to the Congress, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985, on actions taken to carry out this paragraph. For the purposes of this paragraph, assessment of whether a good or technology is functionally equivalent shall include consideration of the factors described in subsection (f)(3) of this section.

"(5) The Secretary of Defense shall establish a procedure for reviewing the goods and technology on the list of militarily critical technologies at least annually for the purpose of removing from the list of militarily critical technologies any goods or technology that are no longer militarily critical. The Secretary of Defense may add to the list of militarily critical technologies any good or technology that the Secretary of Defense determines is militarily critical, consistent with the provisions of paragraph (2) of this subsection. If the Secretary and the Secretary of Defense disagree as to whether any change in the list of militarily critical technologies by the addition or removal of a good or technology should also be made in the control list, consistent with the provisions of the fourth sentence of paragraph (4) of this subsection, the President shall resolve the disagreement.

"(6) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls on the products of that technology and equipment.

"(7) The Secretary of Defense shall, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985, report to the Congress on efforts by the Department of Defense to assess the impact that the transfer of goods or technology on the list of militarily critical technologies to controlled countries has had or will have on the military capabilities of those countries.".

SEC. 107. FOREIGN AVAILABILITY.

(a) CONSULTATIONS ON FOREIGN AVAILABILITY.—Section 5(f)(1) (50 U.S.C. App. 2404(f)(1)) is amended by inserting after "The Secretary, in consultation with" the following: "the Secretary of Defense and other".

(b) DETERMINATIONS OF FOREIGN AVAILABILITY.—Section 5(f)(3) is amended to read as follows:

"(3) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this paragraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operation or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.".

(c) NEGOTIATIONS ON FOREIGN AVAILABILITY.—Section 5(f)(4) is amended by striking out the first sentence and inserting in lieu thereof the following: "In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. If, within 6 months after the President's determination, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month

period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export control involved would prove detrimental to the national security of the United States.".

(d) OFFICE OF FOREIGN AVAILABILITY.—

(1) ESTABLISHMENT.—Section 5(f)(5) is amended to read as follows:

"(5) The Secretary shall establish in the Department of Commerce an Office of Foreign Availability which, in the fiscal year 1985, shall be under the direction of the Assistant Secretary of Commerce for Trade Administration, and, in the fiscal year 1986 and thereafter, shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Foreign Commercial Service officers. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.".

(2) CLERICAL AMENDMENT.—Section 5(f)(6) is amended by striking out "Office of Export Administration" and inserting in lieu thereof "Office of Foreign Availability".

(e) REGULATIONS ON FOREIGN AVAILABILITY.—Section 5(f) is amended by adding at the end the following new paragraph:

"(7) The Secretary shall issue regulations with respect to determinations of foreign availability under this Act not later than 6 months after the date of the enactment of the Export Administration Amendments Act of 1985.".

(f) TECHNICAL ADVISORY COMMITTEES.—

(1) MEMBERSHIP.—Section 5(h)(1) is amended by inserting ", the intelligence community," after "Departments of Commerce, Defense, and State".

(2) MATTERS ON WHICH COMMITTEES CONSULTED.—Section 5(h)(2) is amended in the second sentence—

(A) by striking out "and" at the end of clause (C); and

(B) by inserting before the period at the end of the second sentence the following: ", and (E) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act.".

(3) FOREIGN AVAILABILITY CERTIFICATIONS.—Section 5(h)(6) is amended by striking out "and provides adequate documentation" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "the technical advisory committee shall submit that certification to the Congress at the same time the certification is made to the Secretary, together with the documentation for the certification. The Secretary shall investigate the foreign availability so certified and, not later than 90 days after the certification is made, shall submit a report to the technical advisory committee and the Congress stating that—

"(A) the Secretary has removed the requirement of a validated license for the export of the goods or technology, on account of the foreign availability,

"(B) the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, or

"(C) the Secretary has determined on the basis of the investigation that the foreign availability does not exist.

To the extent necessary, the report may be submitted on a classified basis. In any case in which the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, the President shall actively pursue such negotiations with the governments of the appropriate foreign countries. If, within 6 months after the Secretary submits such report to the Congress, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export control involved would prove detrimental to the national security of the United States.".

(i) STANDARD FOR FOREIGN AVAILABILITY.—Subsections (f)(1), (f)(2), and (h)(6) of section 5 are each amended by striking out "sufficient quality" and inserting in lieu thereof "comparable quality".

(j) TECHNICAL AMENDMENTS.—Subsections (f)(1), (f)(4), and (h)(6) of section 5 are each amended by striking out "countries to which exports are controlled under this section" and inserting in lieu thereof "controlled countries".

SEC. 108. FOREIGN POLICY CONTROLS.

(a) AUTHORITY.—Section 6(a) (50 U.S.C. App. 2405(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "or (8)" and inserting in lieu thereof "(8), or (13)"; and

(B) by inserting in the second sentence after "Secretary of State" the following: ", the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative,";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) Any export control imposed under this section shall apply to any transaction or activity undertaken with the intent to evade that export control, even if that export control would not otherwise apply to that transaction or activity."; and

(4) in paragraph (3), as redesignated by paragraph (2) of this subsection, by striking out "(e)" and inserting in lieu thereof "(f)".

(b) CRITERIA.—Section 6(b) is amended to read as follows:

"(b) CRITERIA.—(1) Subject to paragraph (2) of this subsection, the President may impose, extend, or expand export controls under this section only if the President determines that—

"(A) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls, and that foreign policy purpose cannot be achieved through negotiations or other alternative means;

"(B) the proposed controls are compatible with the foreign policy objectives of the United States and with overall United States policy toward the country to which exports are to be subject to the proposed controls;

"(C) the reaction of other countries to the imposition, extension, or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to United States foreign policy interests;

"(D) the effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or on the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

"(E) the United States has the ability to enforce the proposed controls effectively.

"(2) With respect to those export controls in effect under this section on the date of the enactment of the Export Administration Amendments Act of 1985, the President, in determining whether to extend those controls, as required by subsection (a)(3) of this section, shall consider the criteria set forth in paragraph (1) of this subsection and shall consider the foreign policy consequences of modifying the export controls.".

(c) CONSULTATION WITH INDUSTRY.—Section 6(c) is amended to read as follows:

"(c) CONSULTATION WITH INDUSTRY.—The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 before imposing any export control under this section. Such consultation and advice shall be with respect to the criteria set forth in subsection (b)(1) and such other matters as the Secretary considers appropriate.".

(d) CONSULTATION WITH OTHER COUNTRIES.—Section 6 is amended—

(1) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) CONSULTATION WITH OTHER COUNTRIES.—When imposing export controls under this section, the President shall, at the earliest appropriate opportunity, consult with the countries with which the United States maintains export controls cooperatively, and with such other countries as the President considers appropriate, with respect to the criteria set forth in subsection (b)(1) and such other matters as the President considers appropriate.".

(e) CONSULTATION WITH THE CONGRESS.—Section 6(f), as redesignated by subsection (d) of this section, is amended to read as follows:

"(f) CONSULTATION WITH THE CONGRESS.—(1) The President may impose or expand export controls under this section, or extend such controls as required by subsection (a)(3) of this section, only after consultation with the Congress, including the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) The President may not impose, expand, or extend export controls under this section until the President has submitted to the Congress a report—

"(A) specifying the purpose of the controls;

"(B) specifying the determinations of the President (or, in the case of those export controls described in subsection (b)(2), the considerations of the President) with respect to each of the criteria set forth in subsection (b)(1), the bases for such determina-

tions (or considerations), and any possible adverse foreign policy consequences of the controls;

"(C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry pursuant to subsection (c) and with other countries pursuant to subsection (d);

"(D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and

"(E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations.

"(3) To the extent necessary to further the effectiveness of the export controls, portions of a report required by paragraph (2) may be submitted to the Congress on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. Each such report shall, at the same time it is submitted to the Congress, also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

"(4) In the case of export controls under this section which prohibit or curtail the export of any agricultural commodity, a report submitted pursuant to paragraph (2) shall be deemed to be the report required by section 7(g)(3)(A) of this Act.

"(5) In addition to any written report required under this section, the Secretary, not less frequently than annually, shall present in oral testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on policies and actions taken by the Government to carry out the provisions of this section.".

(f) EXCLUSION OF CERTAIN ITEMS FROM FOREIGN POLICY CONTROLS.—Section 6(g), as redesignated by subsection (d) of this section, is amended—

(1) by inserting after the first sentence the following: "This section also does not authorize export controls on donations of goods (including, but not limited to, food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies) that are intended to meet basic human needs."; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "This subsection shall not apply to any export control on medicine, medical supplies, or food, except for donations, which is in effect on the date of the enactment of the Export Administration Amendments Act of 1985. Notwithstanding the preceding provisions of this subsection, the President may impose export controls under this section on medicine, medical supplies, food, and donations of goods in order to carry out the policy set forth in paragraph (13) of section 3 of this Act.".

(g) FOREIGN AVAILABILITY.—

(1) IN GENERAL.—Section 6(h), as redesignated by subsection (d) of this section, is amended—

(A) by inserting "(1)" immediately before the first sentence; and

(B) by adding at the end the following:

"(2) Before extending any export control pursuant to subsection (a)(3) of this section, the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his report to the Congress pursuant to subsection (f) of this section.

"(3) If, within 6 months after the date on which export controls under this section are imposed or expanded, or within 6 months after the date of the enactment of the Export Administration Amendments Act of 1985 in the case of export controls in effect on such date of enactment, the President's efforts under paragraph (1) are not successful in securing the cooperation of foreign governments described in paragraph (1) with respect to those export controls, the Secretary shall thereafter take into account the foreign availability of the goods or technology subject to the export controls. If the Secretary affirmatively determines that a good or technology subject to the export controls is available in sufficient quantity and comparable quality from sources outside the United States to countries subject to the export controls so that denial of an export license would be ineffective in achieving the purposes of the controls, then the Secretary shall, during the period of such foreign availability, approve any license application which is required for the export of the good or technology and which meets all requirements for such a license. The Secretary shall remove the good or technology from the list established pursuant to subsection (l) of this section if the Secretary determines that such action is appropriate.

"(4) In making a determination of foreign availability under paragraph (3) of this subsection, the Secretary shall follow the procedures set forth in section 5(f)(3) of this Act.".

(2) AMENDMENTS NOT APPLICABLE TO CERTAIN EXISTING CONTROLS.—The amendments made by paragraph (1) of this subsection shall not apply to export controls in effect under subsection (i), (j), or (k) of section 6 of the Export Administration Act of 1979 (as redesignated by subsection (d) of this section) immediately before the date of the enactment of this Act, or to export controls made effective by subsection (i)(2) of this section or by section 6(n) of the Export Administration Act of 1979 (as added by subsection (l)(1) of this section).

(h) INTERNATIONAL OBLIGATIONS.—Section 6(i), as redesignated by subsection (d) of this section, is amended by striking out "(f), and (g)" and inserting in lieu thereof "(e), (g), and (h)".

(i) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—

(1) IN GENERAL.—Section 6(j), as redesignated by subsection (d) of this section, is amended to read as follows:

"(j) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—(1) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repeatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding 6-month period; and

"(B) the country concerned has provided assurances that it will not support acts of international terrorism in the future.".

(2) APPLICABILITY TO PRIOR DETERMINATIONS.—Any determination with respect to any country which was made before January 1, 1982, under section 6(i) of the Export Administration Act of 1979, as in effect before the date of the enactment of this Act, and which was no longer in effect on the date of the enactment of this Act, shall be reinstated upon the expiration of 90 days after such date of enactment unless, within that 90-day period, the President submits a report under section 6(j)(2) of the Export Administration Act of 1979, as amended by subsection (d) of this section and paragraph (1) of this subsection, containing the certification described in such section 6(j)(2) with respect to that country.

(j) CRIME CONTROL INSTRUMENTS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Section 6(k)(1), as redesignated by subsection (d) of this section, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act—

"(A) any determination of the Secretary of what goods or technology shall be included on the list established pursuant to subsection (l) of this section as a result of the export restrictions imposed by this subsection shall be made with the concurrence of the Secretary of State, and

"(B) any determination of the Secretary to approve or deny an export license application to export crime control or detection instruments or equipment shall be made in concurrence with the recommendations of the Secretary of State submitted to the Secretary with respect to the application pursuant to section 10(e) of this Act,

except that, if the Secretary does not agree with the Secretary of State with respect to any determination under subparagraph (A) or (B), the matter shall be referred to the President for resolution.".

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) of this subsection shall apply to determinations of the Secretary of Commerce which are made on or after the date of the enactment of this Act.

(k) CONTROL LIST.—Section 6(l), as redesignated by subsection (d) of this section, is amended—

(1) in the first sentence by striking out "commodity"; and

(2) by amending the second sentence to read as follows: "The Secretary shall clearly identify on the control list which goods or technology, and which countries or destinations, are subject to which types of controls under this section.".

(l) ADDITIONAL PROVISIONS ON FOREIGN POLICY CONTROLS.—

(1) CONTRACT SANCTITY, EXTENSION OF CERTAIN CONTROLS, AND EXPANDED AUTHORITY.—Section 6 is amended by adding at the end the following:

"(m) EFFECT ON EXISTING CONTRACTS AND LICENSES.—The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information—

"(1) in performance of a contract or agreement entered into before the date on which the President reports to the Congress, pursuant to subsection (f) of this section, his intention to impose controls on the export or reexport of such goods, technology, or other information, or

"(2) under a validated license or other authorization issued under this Act,
unless and until the President determines and certifies to the Congress that—

"(A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States,

"(B) the prohibition or curtailment of such contracts, agreements, licenses, or authorizations will be instrumental in remedying the situation posing the direct threat, and

"(C) the export controls will continue only so long as the direct threat persists.

"(n) EXTENSION OF CERTAIN CONTROLS.—Those export controls imposed under this section with respect to South Africa which were in effect on February 28, 1982, and ceased to be effective on March 1, 1982, September 15, 1982, or January 20, 1983, shall become effective on the date of the enactment of this subsection, and shall remain in effect until 1 year after such date of enactment. At the end of that 1-year period, any of those controls made effective by this subsection may be extended by the President in accordance with subsections (b) and (f) of this section.

"(o) EXPANDED AUTHORITY TO IMPOSE CONTROLS.—(1) In any case in which the President determines that it is necessary to impose controls under this section without any limitation contained in subsection (c), (d), (e), (g), (h), or (m) of this section, the President may impose those controls only if the President submits that determination to the Congress, together with a report pursuant to subsection (f) of this section with respect to the proposed controls, and only if a law is enacted authorizing the imposition of those controls. If a joint resolution authorizing the imposition of those controls is introduced in either House of Congress within 30 days after the Congress receives the determination and report of the President, that joint resolution shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the appropriate committee of the House of Representatives. If either such committee has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution.

"(2) For purposes of this subsection, the term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress, having received on   a determination of the President under section 6(o)(1) of the Export Administration Act of 1979 with respect to the export controls which are set forth in the report submitted to the Congress with that determination, authorizes the President to impose those export controls.', with the date of the receipt of the determination and report inserted in the blank.

"(3) In the computation of the periods of 30 days referred to in paragraph (1), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.".

(2) APPLICABILITY OF AMENDMENTS.—Subsections (m) and (o) of section 6 of the Export Administration Act of 1979, as added by paragraph (1) of this subsection, shall not apply to export controls in effect immediately before the date of the enactment of this Act, or to export controls made effective by subsection (i)(2) of this section or by section 6(n) of the Export Administration Act of 1979 (as added by paragraph (1) of this subsection).

SEC. 109. PETITIONS FOR MONITORING OR SHORT SUPPLY CONTROLS.

Section 7(c) (50 U.S.C. App. 2406(c)) is amended to read as follows:

"(c) PETITIONS FOR MONITORING OR CONTROLS.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, that is representative of an industry or a substantial segment of an industry that processes metallic materials capable of being recycled may transmit a written petition to the Secretary requesting the monitoring of exports or the imposition of export controls, or both, with respect to any such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating that each of the criteria set forth in paragraph (3)(A) of this subsection is satisfied.

"(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall—

"(A) include the name of the material that is the subject of the petition,

"(B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States,

"(C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and

"(D) provide that interested persons shall have a period of 30 days beginning on the date of publication of such notice to submit to the Secretary written data, views or arguments, with or without opportunity for oral presentation, with respect to the matter involved.
At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material that is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

"(3)(A) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall determine whether to impose monitoring or controls, or both, on the export of the material that is the subject of the petition, in order to carry out the policy set forth in section 3(2)(C) of this Act. In making such determination, the Secretary shall determine whether—

"(i) there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand;

"(ii) there has been a significant increase in the domestic price of such material or a domestic shortage of such material relative to demand;

"(iii) exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand found under clause (ii);

"(iv) a domestic price increase or shortage relative to demand found under clause (ii) has significantly adversely affected or may significantly adversely affect the national economy or any sector thereof, including a domestic industry; and

"(v) monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) The Secretary shall publish in the Federal Register a detailed statement of the reasons for the Secretary's determination pursuant to subparagraph (A) of whether to impose monitoring or controls, or both, including the findings of fact in support of that determination.

"(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days after the publication of such proposed regulations, and after considering any public comments on the proposed regulations, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

"(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses to such petitions, which involve the same or related materials.

"(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after the consideration of the prior petition has been completed does not merit complete consideration under this subsection.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls, on a temporary basis, on the export of a metallic material after a petition is filed under paragraph (1)(A) with respect to that material but before the Secretary makes a determination under paragraph (3) with respect to that material only if—

"(A) the failure to take such temporary action would result in irreparable harm to the entity filing the petition, or to the national economy or segment thereof, including a domestic industry, and

"(B) the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

"(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act, except that if the Secretary determines, on the Secretary's own initiative, to impose monitoring or controls, or both, on the export of metallic materials capable of being recycled, under the authority of this section, the Secretary shall publish the reasons for such action in accordance with paragraph (3)(A) and (B) of this subsection.

"(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consid-

eration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.".

SEC. 110. SHORT SUPPLY CONTROLS.

(a) DOMESTICALLY PRODUCED CRUDE OIL.—Section 7(d) (50 U.S.C. App. 2406(d)) is amended—

(1) in paragraph (1) by striking out "unless" and all that follows through "met" and inserting in lieu thereof "subject to paragraph (2) of this subsection";

(2) in paragraph (2)(A) by striking out "makes and publishes" and inserting in lieu thereof "so recommends to the Congress after making and publishing";

(3) in paragraph (2)(B)—

(A) by striking out "reports such findings" and inserting in lieu thereof "includes such findings in his recommendation"; and

(B) by striking out "thereafter" and all that follows through the end of the sentence and inserting in lieu thereof "after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law."; and

(4) by adding at the end the following:

"(4) Notwithstanding the provisions of section 20 of this Act, the provisions of this subsection shall expire on September 30, 1990.".

(b) REFINED PETROLEUM PRODUCTS.—Section 7(e)(1) is amended in the first sentence by striking out "No" and inserting in lieu thereof the following: "In any case in which the President determines that it is necessary to impose export controls on refined petroleum products in order to carry out the policy set forth in section 3(2)(C) of this Act, the President shall notify the Congress of that determination. The President shall also notify the Congress if and when he determines that such export controls are no longer necessary. During any period in which a determination that such export controls are necessary is in effect, no".

(c) UNPROCESSED RED CEDAR.—Section 7(i) is amended—

(1) in the last sentence of paragraph (1) by inserting "harvested from State or Federal lands" after "red cedar logs";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of this Act in lieu of validated licenses for exports under this subsection."; and

(4) by amending paragraph (5)(A), as redesignated by paragraph (2) of this subsection, to read as follows:

"(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;".

(d) AGRICULTURAL COMMODITIES.—Section 7(g)(3) is amended to read as follows:

"(3)(A) If the President imposes export controls on any agricultural commodity in order to carry out the policy set forth in paragraph (2)(B), (2)(C), (7), or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If the Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to paragraph (4) approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(B) The provisions of subparagraph (A) and paragraph (4) shall not apply to export controls—

"(i) which are extended under this Act if the controls, when imposed, were approved by the Congress under subparagraph (A) and paragraph (4); or

"(ii) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(4)(A) For purposes of this paragraph, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(g)(3) of the Export Administration Act of 1979, the President may impose export controls as specified in the report submitted to the Congress on .', with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (3), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(D) If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(E) A joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this paragraph, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this paragraph which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(F) In the case of a joint resolution described in subparagraph (A), if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

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

"(5) In the computation of the period of 60 days referred to in paragraph (3) and the period of 30 days referred to in subparagraph (D) of paragraph (4), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.".

(e) CONTRACT SANCTITY.—Section 7 is amended by striking out subsection (j) and inserting in lieu thereof the following:

"(j) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—The export restrictions contained in subsection (i) of this section and any export controls imposed under this section shall not affect any contract to harvest unprocessed western red cedar from State lands which was entered into before October 1, 1979, and the performance of which would make the red cedar available for export. Any export controls imposed under this section on any agricultural commodity (including fats, oils, and animal hides and skins) or on any forest product or fishery product, shall not affect any contract to export entered into before the date on which such controls are imposed. For purposes of this subsection, the term 'contract to export' includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology.".

SEC. 111. LICENSING PROCEDURES.

(a) REDUCTION OF PROCESSING TIME.—Section 10 (50 U.S.C. App. 2409) is amended—

(1) by striking out "60" each place it appears and inserting in lieu thereof "40";

(2) by striking out "90" each place it appears and inserting in lieu thereof "60"; and

(3) by striking out "30" each place it appears and inserting in lieu thereof "20".

(b) AMENDMENTS WITH REGARD TO EXPORTS TO COCOM COUNTRIES.—

(1) ACTION ON APPLICATIONS NOT REFERRED TO OTHER DEPARTMENTS OR AGENCIES.—Section 10(c) is amended by striking out "In each case" and inserting in lieu thereof "Except as provided in subsection (o), in each case".

(2) REFERRALS TO OTHER DEPARTMENTS AND AGENCIES.—Section 10(d) is amended—

(A) by striking out "In each case" and inserting in lieu thereof "Except in the case of exports described in subsection (o), in each case"; and

(B) by adding at the end the following: "Notwithstanding the 10-day period set forth in subsection (b), in the case of exports described in subsection (o), in each case in which the Secretary determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, immediately upon receipt of the properly completed application, refer the application to such department or agency for its review. Such review shall be concurrent with that of the Department of Commerce.".

(3) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—Section 10(e) is amended—

(A) in paragraph (1) by striking out the first sentence and inserting in lieu thereof the following: "Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary the information or recommendations requested with respect to the application.

The information or recommendations shall be submitted within 20 days after the department or agency receives the application or, in the case of exports described in subsection (o), before the expiration of the time periods permitted by that subsection."; and

(B) in paragraph (2)—

(i) by striking out "If the head" and inserting in lieu thereof "(A) Except in the case of exports described in subsection (o), if the head", and

(ii) by adding at the end the following:

"(B) In the case of exports described in subsection (o), if the head of any such department or agency notifies the Secretary, before the expiration of the 15-day period provided in subsection (o)(1), that more time is required for review by such department or agency, the Secretary shall notify the applicant, pursuant to subsection (o)(1)(C), that additional time is required to consider the application, and such department or agency shall have additional time to consider the application within the limits permitted by subsection (o)(2). If such department or agency does not submit its recommendations within the time periods permitted under subsection (o), it shall be deemed by the Secretary to have no objection to the approval of such application.".

(4) ACTION BY THE SECRETARY.—Section 10(f) is amended in paragraphs (1) and (4) by adding at the end of each such paragraph the following: "The provisions of this paragraph shall not apply in the case of exports described in subsection (o).".

(c) RIGHT OF APPLICANT TO RESPOND TO NEGATIVE RECOMMENDATIONS.—Section 10(f)(2) is amended—

(1) by inserting "in writing" after "inform the applicant"; and

(2) by striking out ", and shall accord" and all that follows through the end of the paragraph and inserting in lieu thereof the following: ". Before a final determination with respect to the application is made, the applicant shall be entitled—

"(A) to respond in writing to such questions, considerations, or recommendations within 30 days after receipt of such information from the Secretary; and

"(B) upon the filing of a written request with the Secretary within 15 days after the receipt of such information, to respond in person to the department or agency raising such questions, considerations, or recommendations.

The provisions of this paragraph shall not apply in the case of exports described in subsection (o).".

(d) RIGHTS OF APPLICANT WITH RESPECT TO PROPOSED DENIAL.—Section 10(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of—

"(A) the determination,

"(B) the statutory basis for the proposed denial,

"(C) the policies set forth in section 3 of this Act which would be furthered by the proposed denial,

"(D) what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with export controls imposed under this Act,

"(E) which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate,

"(F) to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the determination to deny the application, and

"(G) the availability of appeal procedures.

The Secretary shall allow the applicant at least 30 days to respond to the Secretary's determination before the license application is denied.".

(e) ADDITIONAL PROVISIONS.—Section 10 is amended—

(1) in the section heading by adding "; OTHER INQUIRIES" after "APPLICATIONS"; and

(2) by adding at the end the following new subsections:

"(k) CHANGES IN REQUIREMENTS FOR APPLICATIONS.—Except as provided in subsection (b)(3) of this section, in any case in which, after a license application is submitted, the Secretary changes the requirements for such a license application, the Secretary may request appropriate additional information of the applicant, but the Secretary may not return the application to the applicant without action because it fails to meet the changed requirements.

"(l) OTHER INQUIRIES.—(1) In any case in which the Secretary receives a written request asking for the proper classification of a good or technology on the control list, the Secretary shall, within 10 working days after receipt of the request, inform the person making the request of the proper classification.

"(2) In any case in which the Secretary receives a written request for information about the applicability of export license requirements under this Act to a proposed export transaction or series of transactions, the Secretary shall, within 30 days after receipt of the request, reply with that information to the person making the request.

"(m) SMALL BUSINESS ASSISTANCE.—Not later than 120 days after the date of the enactment of this subsection, the Secretary shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process under this Act. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.

"(n) REPORTS ON LICENSE APPLICATIONS.—(1) Not later than 180 days after the date of the enactment of this subsection, and not later than the end of each 3-month period thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing—

"(A) all applications on which action was completed during the preceding 3-month period and which required a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, before notification of a decision to approve or deny the application was sent to the applicant; and

"(B) in a separate section, all applications which have been in process for a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, and upon which final action has not been taken.

"(2) With regard to each application, each listing shall identify—

"(A) the application case number;

"(B) the value of the goods or technology to which the application relates;

"(C) the country of destination of the goods or technology;

"(D) the date on which the application was received by the Secretary;

"(E) the date on which the Secretary approved or denied the application;

"(F) the date on which the notification of approval or denial of the application was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application, in its properly completed form, and the earlier of the last day of the 3-month period to which the report relates, or the date on which notification of approval or denial of the application was sent to the applicant.

"(3) With respect to an application which was referred to other departments or agencies, the listing shall also include—

"(A) the departments or agencies to which the application was referred;

"(B) the date or dates of such referral; and

"(C) the date or dates on which recommendations were received from those departments or agencies.

"(4) With respect to an application referred to any other department or agency which did not submit or has not submitted its recommendations on the application within the period permitted under subsection (e) of this section to submit such recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period of time that elapsed before the recommendations were submitted or that has elapsed since referral of the application, as the case may be.

"(5) Each report shall also provide an introduction which contains—

"(A) a summary of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, grouped according to—

"(i) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, as follows: 61 to 75 days, 76 to 90 days, 91 to 105 days, 106 to 120 days, and more than 120 days; and

"(ii) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, beyond the period permitted under subsection (c), (f)(1), or (h) of this section for the processing of applications, as follows: not more than 15 days, 16 to 30 days, 31 to 45 days, 46 to 60 days, and more than 60 days; and

"(B) a summary by country of destination of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, on which action was not completed within 60 days.

"(o) EXPORTS TO MEMBERS OF COORDINATING COMMITTEE.—(1) Fifteen working days after the date of formal filing with the Secretary of an individual validated license application for the export of goods or technology to a country that maintains export controls on such goods or technology pursuant to the agreement of the governments participating in the group known as the Coordinating Committee, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless—

"(A) the application has been otherwise approved by the Secretary, in which case it shall be valid and effective according to the terms of the approval;

"(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the

applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied; or

"(C) the Secretary requires additional time to consider the application and the applicant has been so informed.

"(2) In the event that the Secretary notifies an applicant pursuant to paragraph (1)(C) that more time is required to consider an individual validated license application, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license 30 working days after the date that such license application was formally filed with the Secretary unless—

"(A) the application has been otherwise approved by the Secretary, in which case it shall be valid and effective according to the terms of the approval; or

"(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied.

"(3) In reviewing an individual license application subject to this subsection, the Secretary shall evaluate the information set forth in the application and the reliability of the end-user.

"(4) Nothing in this subsection shall affect the scope or availability of licenses authorizing multiple exports set forth in section 4(a)(2) of this Act.

"(5) The provisions of this subsection shall take effect 4 months after the date of the enactment of the Export Administration Amendments Act of 1985.".

SEC. 112. VIOLATIONS.

(a) IN GENERAL.—Section 11(a) (50 U.S.C. App. 2410(a)) is amended by inserting after "violates" the following: "or conspires to or attempts to violate".

(b) WILLFUL VIOLATIONS.—Section 11(b) is amended—

(1) in paragraph (1)—

(A) by striking out "exports anything contrary to" and inserting in lieu thereof "violates or conspires to or attempts to violate";

(B) by striking out "such exports" and inserting in lieu thereof "the exports involved";

(C) by inserting after "benefit of" the following: ", or that the destination or intended destination of the goods or technology involved is,"; and

(D) by striking out "country to which exports are restricted for national security or" and inserting in lieu thereof "controlled country or any country to which exports are controlled for";

(2) in paragraph (2) by striking out the last sentence; and

(3) by adding after paragraph (2) the following new paragraphs:

"(3) Any person who possesses any goods or technology—

"(A) with the intent to export such goods or technology in violation of an export control imposed under section 5 or 6 of this Act or any regulation, order, or license issued with respect to such control, or

"(B) knowing or having reason to believe that the goods or technology would be so exported,

shall, in the case of a violation of an export control imposed under section 5 (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in paragraph (1) of this subsection and shall, in the case of a violation of an export control imposed under section 6 (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in subsection (a).

"(4) Any person who takes any action with the intent to evade the provisions of this Act or any regulation, order, or license issued under this Act shall be subject to the penalties set forth in subsection (a), except that in the case of an evasion of an export control imposed under section 5 or 6 of this Act (or any regulation, order, or license issued with respect to such control), such person shall be subject to the penalties set forth in paragraph (1) of this subsection.

"(5) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act.".

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—Section 11(c) is amended—

(1) by striking out "head" and all that follows in paragraph (1) through "thereof," and inserting in lieu thereof "Secretary (and officers and employees of the Department of Commerce specifically designated by the Secretary)"; and

(2) by adding at the end the following new paragraphs:

"(3) An exception may not be made to any order issued under this Act which revokes the authority of a United States person to export goods or technology unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are first consulted concerning the exception.

"(4) The President may by regulation provide standards for establishing levels of civil penalty provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the Government in disclosing the violation.".

(d) REFUNDS OF PENALTIES.—Section 11(e) is amended—

(1) by inserting after "subsection (c)" the following: ", or any amounts realized from the forfeiture of any property interest or proceeds pursuant to subsection (g),"; and

(2) by inserting after "refund any such penalty" the following: "imposed pursuant to subsection (c)".

(e) FORFEITURES; PRIOR CONVICTIONS.—Section 11 is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—(1) Any person who is convicted under subsection (a) or (b) of a violation of an export control imposed under section 5 of this Act (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States—

"(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(2) The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of section 1963 of title 18, United States Code.

"(h) PRIOR CONVICTIONS.—No person convicted of a violation of section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778) shall be eligible, at the discretion of the Secretary, to apply for or use any export license under this Act for a period of up to 10 years from the date of the conviction. The Secretary may revoke any export license under this Act in which such person has an interest at the time of the conviction.".

(f) TECHNICAL AMENDMENT.—Section 11(i), as redesignated by subsection (e) of this section, is amended by striking out "or (f)" and inserting in lieu thereof "(f), (g), or (h)".

SEC. 113. ENFORCEMENT.

(a) GENERAL AUTHORITY.—Section 12(a) (50 U.S.C. App. 2411(a)) is amended—

(1) by inserting "(1)" immediately before the first sentence;

(2) by striking out "such investigations and" and inserting in lieu thereof "such investigations within the United States, and the Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may";

(3) by striking out "the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and" and inserting in lieu thereof "a district court of the United States,";

(4) by adding at the end the following new sentence: "In addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act."; and

(5) by adding at the end the following new paragraphs:

"(2)(A) Subject to subparagraph (B) of this paragraph, the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize goods or technology at those ports of entry or exit from the United States where officers of the Customs Service are authorized by law to conduct such searches, detentions, and seizures, and at those places outside the United States where the Customs Service, pursuant to agreements or other arrangements with other countries, is authorized to perform enforcement activities.

"(B) An officer of the United States Customs Service may do the following in carrying out enforcement authority under this Act:

"(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

"(ii) Search any package or container in which such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

"(iii) Detain (after search) or seize and secure for trial any goods or technology on or about such vehicle, vessel, aircraft, or person, or in such package or container, if such officer has probable cause to believe the goods or technology has been, is being,

or is about to be exported from the United States in violation of this Act.

"(iv) Make arrests without warrant for any violation of this Act committed in his or her presence or view or if the officer has probable cause to believe that the person to be arrested has committed or is committing such a violation.

The arrest authority conferred by clause (iv) of this subparagraph is in addition to any arrest authority under other laws.

"(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall have the responsibility for the enforcement of section 8 of this Act and, in the enforcement of the other provisions of this Act, the Secretary is authorized to search, detain (after search), and seize goods or technology at those places within the United States other than those ports specified in paragraph (2)(A) of this subsection. The search, detention (after search), or seizure of goods or technology at those ports and places specified in paragraph (2)(A) may be conducted by officers or employees of the Department of Commerce designated by the Secretary with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

"(B) The Secretary may designate any employee of the Office of Export Enforcement of the Department of Commerce to do the following in carrying out enforcement authority under this Act:

"(i) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act.

"(ii) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing such a violation.

"(iii) Carry firearms in carrying out any activity described in clause (i) or (ii).

"(4) The authorities conferred by paragraphs (2) and (3) shall be exercised pursuant to regulations promulgated by the Attorney General concerning searches, detentions, stops, examinations, seizures, arrests, execution of warrants, or use of firearms.

"(5) All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 11(c) of this Act, or to the Attorney General for criminal action in accordance with this Act.

"(6) Notwithstanding any other provision of law, the United States Customs Service may expend in the enforcement of export controls under this Act not more than $12,000,000 in the fiscal year 1985 and not more than $14,000,000 in the fiscal year 1986.

"(7) Not later than 90 days after the date of the enactment of the Export Administration Amendments Act of 1985, the Secretary, with the concurrence of the Secretary of the Treasury, shall publish in the Federal Register procedures setting forth, in accordance with this subsection, the responsibilities of the Department of Commerce and the United States Customs Service in the enforcement of this Act. In addition, the Secretary, with the concurrence of the Secretary of the Treasury, may publish procedures for the sharing of information in accordance with subsection (c)(3) of this section, and procedures for the submission to the appropriate departments and agencies by private persons of information relating to the enforcement of this Act.

"(8) For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, order, or license issued under this Act.".

(b) CONFIDENTIALITY.—Section 12(c)(3) is amended—

(1) by striking out "Departments or agencies which obtain" and inserting in lieu thereof "Any department or agency which obtains";

(2) by inserting ", including information pertaining to any investigation," after "enforcement of this Act";

(3) by striking out "the department" and inserting in lieu thereof "each department"; and

(4) by adding at the end the following: "The Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions. The Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.".

SEC. 114. ADMINISTRATIVE PROCEDURE.

Section 13 (50 U.S.C. App. 2412) is amended—

(1) in the section heading by striking out "EXEMPTION FROM CERTAIN PROVISIONS RELATING TO";

(2) in subsection (a) by inserting "and subsection (c) of this section" after "11(c)(2)"; and

(3) by adding at the end the following:

"(c) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—(1) In any case in which a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Subject to the provisions of this subsection, any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his or her representative. After the hearing, the administrative law judge shall make findings of fact and conclusions of law in a written decision, which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving the decision. The order of the Secretary shall be final and is not subject to judicial review.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of 1 year after the complaint is submitted, unless the administrative law judge extends such period for good cause shown.

"(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—(1) In any case in which it is necessary, in the public interest, to prevent an imminent violation of this Act or any regulation, order, or license issued under this Act, the Secretary may, without a hearing, issue an order temporarily denying United States export privileges (hereinafter in this subsection referred to as a 'temporary denial order') to a person. A temporary denial order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent such an imminent violation, except that a temporary denial order may be renewed only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the temporary denial order was granted without a hearing. The person or persons subject to the issuance or renewal of a temporary denial order may file an appeal of the issuance or renewal of the temporary denial order with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that the temporary denial order be affirmed, modified, or vacated. Parties may submit briefs and other material to the judge. The recommendation of the administrative law judge shall be submitted to the Secretary who shall either accept, reject, or modify the recommendation by written order within 5 working days after receiving the recommendation. The written order of the Secretary under the preceding sentence shall be final and is not subject to judicial review. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any regulation, order, or license issued under this Act.

"(e) APPEALS FROM LICENSE DENIALS.—A determination of the Secretary, under section 10(f) of this Act, to deny a license may be appealed by the applicant to an administrative law judge who shall have the authority to conduct proceedings to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days after the appeal is filed. Any determination by an administrative law judge under this subsection and all materials filed before such judge in the proceedings shall be reviewed by the Secretary, who shall either affirm or vacate the determination in a written decision within 30 days after receiving the determination. The Secretary's written decision shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act, the Secretary's decision shall be published in the Federal Register.".

SEC. 115. ANNUAL REPORT.

(a) CONTENTS OF REPORT.—Section 14(a)(15) (50 U.S.C. App. 2413(a)(15)) is amended by striking out "an analysis" and all that follows through "process, and".

(b) ADDITIONAL REPORTING REQUIREMENTS.—Section 14 is amended by adding at the end the following:

"(d) REPORT ON EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed report which lists every license for exports to controlled countries which was approved under this Act during the preceding fiscal year. Such report shall specify to whom the license was granted, the type of goods or technology exported, and the country receiving the goods or technology. The information required by this subsection shall be subject to the provisions of section 12(c) of this Act.

"(e) REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed description of the extent of injury to United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries. The annual report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to controlled countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.".

SEC. 116. UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION; REGULATIONS.

(a) IN GENERAL.—Section 15 (50 U.S.C. App. 2414) is amended to read as follows:

"ADMINISTRATIVE AND REGULATORY AUTHORITY

"SEC. 15. (a) UNDER SECRETARY OF COMMERCE.—The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary under this Act which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration before the date of the enactment of the Export Administration Amendments Act of 1985, and such other functions under this Act which were delegated to such office before such date of enactment, as the Secretary may delegate. The Secretary shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.

"(b) ISSUANCE OF REGULATIONS.—The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person. Any such regulations the purpose of which is to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only after the regulations are submitted for review to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate. The preceding sentence does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

"(c) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the technical advisory committees authorized under section 5(h) of this Act in formulating or amending regulations issued under this Act. The procedures defined by regulations in effect on January 1, 1984, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of substantial and reliable evidence, that specific change is necessary to enhance the prevention of diversions of exports which would prove detrimental to the national security of the United States or to reduce the licensing and paperwork burden on exporters and their distributors.".

(b) PAY FOR THE UNDER SECRETARY.—Section 5314 of title 5, United States Code, is amended by inserting "Under Secretary of Commerce for Export Administration," after "Under Secretary of Commerce for Economic Affairs,".

(c) PAY FOR THE ASSISTANT SECRETARIES.—Section 5315 of such title is amended by striking out

"Assistant Secretaries of Commerce (8)."

and inserting in lieu thereof

"Assistant Secretaries of Commerce (12).".

(d) EFFECTIVE DATE.—The provisions of section 15(a) of the Export Administration Act of 1979, as amended by subsection (a) of this section, and the amendments made by subsections (b) and (c) of this section shall take effect on October 1, 1985.

(e) BUDGET ACT.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 117. DEFINITIONS.

Section 16 (50 U.S.C. App. 2415) is amended—

(1) in paragraph (3), by inserting "natural or manmade substance," after "article,";

(2) by amending paragraph (4) to read as follows:

"(4) the term 'technology' means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;";

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) the term 'export' means—

"(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

"(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

"(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

"(6) the term 'controlled country' means a controlled country under section 5(b)(1) of this Act;

"(7) the term 'United States' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and".

SEC. 118. EFFECT ON OTHER ACTS.

(a) CLARIFYING AMENDMENT.—Section 17(a) (50 U.S.C. App. 2416(a)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as otherwise provided in this Act, nothing".

(b) ACT NOT TO AFFECT CERTAIN PROVISIONS OF AGRICULTURAL ACT OF 1970.—Section 17 is amended by adding at the end the following:

"(f) AGRICULTURAL ACT OF 1970.—Nothing in this Act shall affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).".

SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

Section 18 (50 U.S.C. App. 2417) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—(1) Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act may be obligated or expended only if—

"(A) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of the Export Administration Amendments Act of 1985; or

"(B) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

"(2) To the extent that legislation enacted after the making of an appropriation to carry out the purposes of this Act authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

"(3) The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the Export Administration Amendments Act of 1985 which specifically repeals, modifies, or supersedes the provisions of this subsection.

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $24,600,000 for the fiscal year 1985, of which $8,712,000 shall be available only for enforcement, $1,851,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $14,037,000 shall be available for all other activities under this Act;

"(2) $29,500,000 for the fiscal year 1986, of which $10,000,000 shall be available only for enforcement, $2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $17,500,000 shall be available for all other activities under this Act; and

"(3) such additional amounts for each of the fiscal years 1985 and 1986 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 120. TERMINATION OF AUTHORITY.

Section 20 (50 U.S.C. App. 2419) is amended to read as follows:

"TERMINATION DATE

"SEC. 20. The authority granted by this Act terminates on September 30, 1989.".

SEC. 121. IMPORT SANCTIONS.

Chapter 4 of title II of the Trade Expansion Act of 1962 (19 U.S.C. 1861 et seq.) is amended by adding at the end the following new section:

"SEC. 233. IMPORT SANCTIONS FOR EXPORT VIOLATIONS.

"(a) Any person who violates any national security export control imposed under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404), or any regulation, order, or license issued under that section, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

"(b) Except as provided in subsection (a) of this section, any person who violates any regulation issued under a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe, but only if—

"(1) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulation involved;

"(2) the President, after the failure of such negotiations, has notified the government or governments described in paragraph (1) and the other parties to the multilateral agreement that the United States proposes to subject the person committing the violation to specific controls on the importing of goods or technology into the United States upon the expiration of 60 days from the date of such notification; and

"(3) a majority of the parties to the multilateral agreement (other than the United

States), before the end of that 60-day period, have expressed to the President concurrence in the proposed import controls or have abstained from stating a position with respect to the proposed controls.".

SEC. 122. HOURS OF OFFICE OF EXPORT ADMINISTRATION.

The Secretary of Commerce shall modify the office hours of the Office of Export Administration of the Department of Commerce on at least four days of each workweek so as to accommodate communications to the Office by exporters throughout the continental United States during the normal business hours of those exporters.

SEC. 123. TECHNICAL AMENDMENTS.

(a) ARMS EXPORT CONTROL ACT.—Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "(f)" and inserting in lieu thereof "(g)".

(b) MINERAL LEASING ACT OF 1920.—Subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) is amended—

(1) by striking out "1969 (Act of December 30, 1969; 83 Stat. 841)" and inserting in lieu thereof "1979 (50 U.S.C. App. 2401 and following)"; and

(2) by striking out "1969" each subsequent place it appears and inserting in lieu thereof "1979".

SEC. 124. AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961.

Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended by inserting after "Senate" the first place it appears the following: "and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979).".

SEC. 125. EXPORT OF HORSES.

The Act of March 3, 1891 (46 U.S.C. 466a and 466b), is amended by adding at the end the following:

"SEC. 3. EXPORT OF HORSES.

"(a) RESTRICTION ON EXPORT OF HORSES.—Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories or possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) GRANTING OF WAIVERS.—The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c) PENALTIES.—

"(1) CRIMINAL PENALTY.—Any person who knowingly violates this section or any regulation, order, or license issued under this section shall be fined not more than 5 times the value of the consignment of horses involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) CIVIL PENALTY.—The Secretary of Commerce, after providing notice and an opportunity for an agency hearing on the record, may impose a civil penalty of not to exceed $10,000 for each violation of this section or any regulation, order, or license issued under this section, either in addition to or in lieu of any other liability or penalty which may be imposed.".

SEC. 126. ALASKAN OIL STUDY.

(a) REVIEW OF ALASKAN OIL POLICY.—

(1) IN GENERAL.—The President shall undertake a comprehensive review of the issues and related data concerning possible changes in the existing incentives to produce crude oil from the North Slope of Alaska (including changes in Federal and State taxation, pipeline tariffs, and Federal leasing policies) and possible changes in the existing distribution of crude oil from the North Slope of Alaska (including changes in export restrictions which would permit exports at free market levels and at levels of 50,000 barrels per day, 100,000 barrels per day, 200,000 barrels per day, and 500,000 barrels per day), as well as the appropriateness of continuing existing controls. Such review shall include, but not be limited to, a study of—

(A) the effect of such changes on the energy and national security of the United States and its allies;

(B) the role of such changes in United States foreign policymaking, including international energy policymaking;

(C) the impact of such changes on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such changes on the refiners and on consumers;

(E) the impact of such changes on the revenues and expenditures of the Federal Government and the government of Alaska;

(F) the effect of such changes on incentives for oil and gas exploration and development in the United States; and

(G) the effect of such changes on the overall trade deficit of the United States, and the trade deficit of the United States with respect to particular countries, including the effect of such changes on trade barriers of other countries.

(2) FINDINGS, OPTIONS, AND RECOMMENDATIONS.—The President shall develop, after consulting with appropriate State and Federal officials and other persons, findings, options, and recommendations regarding the production and distribution of crude oil from the North Slope of Alaska.

(b) CONSULTATION AND REPORT.—In carrying out subsection (a), the President shall consult with the Committees on Foreign Affairs and Energy and Commerce of the House of Representatives and the appropriate committees of the Senate. Not later than 9 months after the date of the enactment of this Act, the President shall transmit to each of those committees a report which contains the results of the review under subsection (a)(1), and the findings, options, and recommendations developed under subsection (a)(2).

TITLE II—EXPORT PROMOTION PROGRAMS

SEC. 201. REQUIREMENT OF PRIOR AUTHORIZATION.

(a) GENERAL RULE.—Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out any export promotion program may be obligated or expended only if—

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

(2) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(b) EXCEPTION FOR LATER LEGISLATION AUTHORIZING OBLIGATIONS OR EXPENDITURES.—To the extent that legislation enacted after the making of an appropriation to carry out any export promotion program authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) PROVISIONS MUST BE SPECIFICALLY SUPERSEDED.—The provisions of this section shall not be superseded except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) EXPORT PROMOTION PROGRAM DEFINED.—For purposes of this title, the term "export promotion program" means any activity of the Department of Commerce designed to stimulate or assist United States businesses in marketing their goods and services abroad competitively with businesses from other countries, including, but not limited to—

(1) trade development (except for the trade adjustment assistance program) and dissemination of foreign marketing opportunities and other marketing information to United States producers of goods and services, including the expansion of foreign markets for United States textiles and apparel and any other United States products;

(2) the development of regional and multilateral economic policies which enhance United States trade and investment interests, and the provision of marketing services with respect to foreign countries and regions;

(3) the exhibition of United States goods in other countries; and

(4) the operations of the United States and Foreign Commercial Service, or any successor agency.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $113,273,000 for each of the fiscal years 1985 and 1986 to the Department of Commerce to carry out export promotion programs.

SEC. 203. BARTER ARRANGEMENTS.

(a) REPORT ON STATUS OF FEDERAL BARTER PROGRAMS.—The Secretary of Agriculture and the Secretary of Energy shall, not later than 90 days after the date of the enactment of this Act, submit to the Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. Such report shall include details of any changes necessary in existing law to allow the Department of Agriculture and, in the case of petroleum resources, the Department of Energy, to implement fully any barter program.

(b) AUTHORITIES OF THE PRESIDENT.—The President is authorized—

(1) to barter stocks of agricultural commodities acquired by the Government for petroleum and petroleum products, and for other materials vital to the national interest, which are produced abroad, in situations in which sales would otherwise not occur; and

(2) to purchase petroleum and petroleum products, and other materials vital to the national interest, which are produced abroad and acquired by persons in the United States through barter for agricultural commodities produced in and exported from the United States through normal commercial trade channels.

(c) OTHER PROVISIONS OF LAW NOT AFFECTED.—In the case of any petroleum, petroleum products, or other materials vital to the national interest, which are acquired under subsection (b), nothing in this section shall be construed to render inapplicable the provisions of any law then in effect which apply to the storage, distribution, or use of such petroleum, petroleum products, or other materials vital to the national interest.

(d) CONVENTIONAL MARKETS NOT TO BE DISPLACED BY BARTERS.—The President shall take steps to ensure that, in making any barter described in subsection (a) or (b)(1)

or any purchase authorized by subsection (b)(2), existing export markets for agricultural commodities operating on conventional business terms are safeguarded from displacement by the barter described in subsection (a), (b)(1), or (b)(2), as the case may be. In addition, the President shall ensure that any such barter is consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

(e) REPORT TO THE CONGRESS.—The Secretary of Energy shall report to the Congress on the effect on energy security and on domestic energy supplies of any action taken under this section which results in the acquisition by the Government of petroleum or petroleum products. Such report shall be submitted to the Congress not later than 90 days after such acquisition.

TITLE III—NUCLEAR AGREEMENTS FOR COOPERATION

SEC. 301. AGREEMENTS FOR COOPERATION.

(a) NOTIFICATION OF AND CONSULTATION WITH THE CONGRESS; HEARINGS.—Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection a. by inserting after "Assessment Statement" the following: "(A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)";

(2) in subsection b. by inserting before "the President" the following: "the President has submitted text of the proposed agreement for cooperation, together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 130 g. of this Act) concerning the consistency of the terms of the proposed agreement with all the requirements of this Act, and"; and

(3) in subsection d. by inserting before the sentence which begins "Any such proposed agreement" the following: "During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved.".

(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—Subsection d. of section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended—

(1) by striking out "adopts a concurrent resolution" and inserting in lieu thereof "adopts, and there is enacted, a joint resolution";

(2) by striking out the period at the end of the first proviso and inserting in lieu thereof ": *Provided further*, That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement."; and

(3) by striking out "130 of this Act for the consideration of Presidential submissions" and inserting in lieu thereof "130 i. of this Act".

(c) PROCEDURES FOR CONSIDERATION OF AGREEMENTS.—

(1) TECHNICAL CHANGES.—Section 130 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2159(a)) is amended—

(A) in the first sentence—

(i) by striking out "123 d.,"; and

(ii) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(B) in the proviso, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(2) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—Section 130 of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"i. (1) For the purposes of this subsection, the term 'joint resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .', with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

"(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 123 d., a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 91 c., 144 b., or 144 c., the Committee on Armed Services.

"(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.".

(d) APPLICABILITY OF AMENDMENTS.—The amendments made by this section shall apply to any agreement for cooperation which is entered into after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROTH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington [Mr. BONKER] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, H.R. 1786 is the extension and reauthorization of the Export Administration Act of 1979. This measure has been thoroughly considered by the House of Representatives in the last session of Congress. It has been the subject of extensive hearings and markup and over 6 months in conference with the other body in 15 separate conference meetings.

In the final hours of the last session, we were unable to resolve two very controversial features of this bill: Title III, which related to economic sanctions on South Africa, and section 10(G), which pertains to the authority of the Defense Department to review shipments to free world countries.

Now both those issues have been resolved. Title III has been removed and introduced as a separate bill and amendments to 10(G) have been removed from the legislation before us.

Mr. Speaker, H.R. 1786 attempts to balance the competing priorities which are affected by this complex

legislation. It represents a consensus of the Foreign Affairs Committee, as well as a coordinated effort with other standing committees which have claimed some jurisdiction over this bill. The modifications we have made in H.R. 1786 have been closely coordinated with the other body and I have every reason to expect that the Senate will act promptly and favorably on this bill. It has the support of the business community and, I believe, the ranking member will attest to this later on, the support of the Reagan administration.

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H.R. 1786 contains only minor modifications of what the conference committee produced in the last session of Congress. In addition to removing title III, which will be the subject of separate legislation, the committee also deleted the section dealing with nuclear exports, offered by Mr. WOLPE, which will also be addressed in a separate bill.

The Export Administration Act is the President's principal authority for controlling exports for foreign policy and for national security reasons. In this legislation, we have attempted to remove the President's authority to terminate existing contracts for foreign policy reasons. The contract sanctity provision protects all U.S. export contracts from disruption for foreign policy reasons. The retroactive application of foreign policy export controls brands American companies as unreliable suppliers in the eyes of our trading partners. As a result, foreign purchasers have sought out alternative foreign suppliers. The committee believes the "sanctity of contract" provision set forth in section 108 of H.R. 1786 will restore the reputation of U.S. exporting companies as reliable suppliers by extensively constraining the retroactive application of foreign policy export controls.

We have also included language that requires the President to consult before he imposes foreign policy controls in the future, with the Congress of the United States, industry, and our allies. We have established elaborate criteria which must be followed. We have provided for consideration of foreign availability in case the President feels disposed to use the foreign policy control authority in the future.

I believe that these contract sanctity provisions will restore the reputation of U.S. exporters as reliable suppliers in international markets.

We have also dealt effectively with national security problems. The reforms in H.R. 1786 enable U.S. high technology exports to compete more effectively in foreign markets. We have done this simply by decontrolling at least the low technology licensing requirements on shipments to countries that maintain controls in cooperation with the United States that otherwise would be destined for adversary nations.

On mid-level and high-level technology we have provided for expedited procedures so there will be no further delays in the licensing process. We have also put into the language a foreign availability section that will require the Secretary of Commerce to deal effectively with our controls when there are comparable products that are in circulation worldwide. He will have 18 months in which to negotiate with the other country to have that item controlled if it is in circulation, and if the Secretary does not succeed, then he has no choice but to decontrol the item.

We have also decontrolled those products that are being restricted solely because they have an embedded microprocessor. We have provided for notification to Congress of license application exceeding the statutory time limits for decision, the result of an amendment put forth by Congressman LES AUCOIN.

At the same time, we have also put forth additional programs for enforcement. We have done this by broadening the prohibitions and allowing for tougher penalties for violators of national security export controls. We have provided new authority to impose import controls against foreign violators of our export control policy, if approved by the allies. We have strengthened and clarified enforcement authorities for the customs and for the Commerce Department to deter and detect violations in the future.

This legislation also contains new provisions that protect the agricultural and commodity exports of this Nation. We have done this by exempting agricultural exports from national security controls, providing for sanctity of agricultural contracts both under foreign policy and the short supply sections of the legislation. Any future agricultural export embargo is subject to an automatic termination unless approved by the Congress in 60 days.

Let me say with respect to agricultural products, I cannot imagine how we can constrain the President any more effectively than by way of this legislation. There is simply no way that he can find authority in the future to tamper with existing contracts on exports of agricultural commodities.

Finally, the legislation has a number of other provisions, including the extension of the existing prohibition on exports of Alaskan crude oil from the North Slope. For nuclear cooperation agreements, where the Congress previously has had a procedure for dealing with bilateral nuclear agreements that was ruled unconstitutional by the Chadda decision, we have provided a new two-tier procedure for congressional approval or disapproval of bilateral nuclear agreements. That is in this legislation as well.

Finally, we have an extension of the Export Administration Act that will carry this law through September 1989.

Now let me conclude, Mr. Speaker, by noting that since March 1984, we have been without an Export Administration Act. The 1979 act originally expired in September 1983 but the House and the Senate extended the law several times. Since March 1984, however, exports have been controlled under the International Emergency Economic Powers Act. It is a rather inadequate emergency authority under which to administer export controls, particularly for the antiboycott provision and the short supply provisions. Therefore, many parts of this elaborate law are subject to challenges because the President lacks the explicit authority he needs to carry out these controls effectively.

So I think it is the responsible and necessary action of this Congress to vote favorably on this legislation and hopefully the Senate will do likewise. That way we can restore the Export Administration Act authorities and procedures, and put this issue to rest for another 4 years.

Mr. Speaker, I would like to acknowledge the leadership of the ranking member of the committee, Mr. ROTH. He has been knowledgeable and informed, involved in all aspects of this complex legislation. He has worked cooperatively with the majority. He has had a very difficult job in that the administration has never spoken with a single voice on these issues. This legislation has been known to bitterly divide some of the departments and agencies that are involved in our export control program. Yet he has managed to keep communication going on all sides, as well as with the leadership in the other body.

I would also like to acknowledge Congressman ZSCHAU from California and Congressman BEREUTER, both of whom have been heavily involved in this legislation, as well as a number of Members on the majority side, notably Congressman BERMAN, for putting forth a considerable effort over a 2-year period of time to make the Export Administration Amendments Act of 1985 a reality.

Mr. Speaker, the Committee on Foreign Affairs in H.R. 1786 has adopted without change most of the provisions worked out in the last Congress by the conferees on similar bills passed in that Congress, H.R. 3231 and S. 979. In so doing, the committee endorses the reasoning and intent expressed on behalf of the House conferee, at least, in the draft statement of managers inserted in the CONGRESSIONAL RECORD of October 11, 1984, at pages H12150 and following. I would like to mention just a few sections of H.R. 1786 to review and reaffirm the intent of the committee in the 99th Congress, and the House conferees in the 98th Congress, on certain important points.

Among other amendments to section 3 of the act, the committee added a

policy statement on sustaining the ability of scientists and other scholars freely to communicate their research findings. The committee is deeply concerned that an overly broad interpretation of the Export Administration Act may seriously limit, on grounds of national security, the legitimate scientific communication process on which scientific productivity in the United States depends.

Clearly, the strength of U.S. technology which underlies national security will not be maintained or improved if scientific and technological progress and innovation are inhibited as a result of overreaching security limitations on dissemination of scientific information under the Export Administration Act. As a National Academy of Sciences panel on Scientific Communication and National Security concluded in September 1982, the country's long-term security is best protected through the continued vitality and achievements of its economic, technical, scientific, and intellectual communities.

Moreover, science and national security are not antagonistic to one another. Scientists and Government leaders demonstrate a broad appreciation of the national security concept, including not only military applications and preparations, but also economic, cultural, and other considerations.

The committee shares the concerns expressed by the Academy panel. The policy statement on scientific enterprise was added to make explicit the view of the committee that traditional scientific communication activities of universities and the academic community, such as basic research, publications, and exchanges in the open classroom and among scholars, should be free from restriction unless the scientific information in question is subject to security classification under the President's Executive Order 12356 or its availability in the United States is limited by Government contract controls or proprietary or trade secret restrictions. The Committee recognizes that there are legitimate concerns about the flow of sensitive U.S. technology through scientific communication and exchanges which may be damaging to U.S. national security and that there is an important role for U.S. Government oversight.

However, the committee conferees believes that existing Government authority to declare material classified, to control work performed under contracts, and to limit the entry to and movement within the United States of foreign nationals is adequate to meet virtually all of our reasonable security needs. Any application of the provisions of the Export Administration Act to traditional scientific communication that deviates from the views stated here bears a heavy burden of justification to the Congress.

Amendments to section 4(a) of the act repeal the authority of the Secretary to offer qualified general licenses and authorize the Secretary to offer distribution, comprehensive operations, project, and service supply licenses, except that distribution and comprehensive operations licenses may not be offered for exports to controlled countries.

In agreeing to the executive branch's request to repeal the authority of the Secretary to offer qualified general licenses, the committee does not intend that the Secretary rescind such licenses currently in effect; nor does the committee necessarily intend that qualified general licenses not be available in the future. The committee notes that the Secretary retains authority to create by regulation such types of licenses as may assist in the effective and efficient implementation of the act, and leaves to the Secretary's discretion the possibility of continuing to offer the qualified general license or to create new types of licenses which the Secretary finds appropriate to protect national security and reduce the burden of individual validated licenses on U.S. exporters and on U.S. Government agencies.

The committee strongly supports the use of licenses authorizing multiple exports. The use of such licenses for transactions between reliable suppliers and customers will result in more effective and efficient export control by permitting greater attention to unknown customers while enhancing the competitive position of U.S. firms through prompt deliveries to reliable consignees.

By designating in this bill certain multiple licensing procedures, such as the Comprehensive Operations License, the committee does not intend to limit the Secretary's discretionary authority to establish new categories of multiple licenses to assist in the effective and efficient implementation of export controls and enforcement of the EAA. (If the Secretary determines that a multiple licensing procedure for exports of certain commodities or to certain geographic locations is needed for the effective and efficient operation of the act, he may establish the license under his general authority of section 4(a)(4) of the EAA.)

The committee endorses the distribution license for exports to countries other than the controlled countries listed pursuant to section 5(b) of the act, as amended, as a means of reducing the burden on exporters engaging in trade not prejudicial to the national security, and of reducing the license processing burden on administering authorities. The factors described in the provision to be considered when relevant in individual applications for a license are not to be determinative in creating categories or general criteria for denial of applications or for withdrawal of such a license. This does not limit the authority of the Secretary to determine which items on the control list are eligible for export under a distribution license.

The committee agreed to create a new type of license authorizing multiple exports, the comprehensive operations license, which is to be made available for exports to all countries other than the controlled countries listed pursuant to section 5(b) of the act, as amended. The license is intended to facilitate cooperative innovation and transfer of know-how among the affiliated companies, including subcontractors and suppliers, of the international operations of U.S. exporters. The comprehensive operations license should not affect or restrict the scope or availability of other licenses authorizing multiple exports, such as the distribution license.

The committee notes that in deleting the House requirement that a comprehensive operations license be valid for more than 1 year, their intent is to leave to the Secretary's discretion the length of time for which such a license would be valid. The committee expects that on a case-by-case basis the Secretary may find it appropriate to authorize such a license for a period of several years; however, the Secretary and the Commissioner of Customs, consistent with their respective authorities under section 12(a) of the act, are required to perform annual audits of exports pursuant to such licenses.

The committee agreed to amend section 5(b) of the act to eliminate U.S. licensing requirements for exports to Cocom countries with respect to relatively low-technology items that require only notification for export under Cocom multilateral controls, that is, for items specified in the Administrative Exception Notes [AEN's] of the control list. The committee preserved U.S. licensing requirements for all other shipments of controlled goods and technology to such cooperating countries but, through amendments in section 111 of this bill, modified the licensing process, effective 4 months after the date of enactment of this bill, to provide greater speed and predictability for export license applicants.

The application process for individual validated licenses for exports to such countries under section 10 of the act is amended to provide that if the Secretary does not inform the applicant within 15 working days after receipt of the export license application of the disposition of the application or that more time is necessary to consider it, a license automatically becomes valid and effective and shipment can be made pursuant to that license. If the Secretary notifies the applicant that more time is necessary to consider the application, an additional 15-working-day period is available for the Secretary to take action. At the end of this second 15-working-day period, however, absent action by the Secretary to deny, a license automatically becomes valid and effective.

The committee intends that the notification by the Department of Com-

merce to an export license applicant that the Department has received an export license application shall contain an application number that shall be identical to the number of the subsequent license to export, and when a license becomes effective, either by Government action or by the expiration of the specified time periods, the exporter may refer to that number—such as on a Shipper's Export Declaration—in exporting the goods or technology specified in the application, without waiting to receive a formal license to export.

U.S. exporters gain certainty that they may ship their products to cooperating countries after no more than 15 or, if necessary, 30 working days of submitting an application, unless the application is denied within such time periods. Export authority obtained in this manner constitutes an individual validated export license in all respects, while general and multiple licensing procedures remain unaffected.

The same treatment of license applications shall be applied, as provided in section 5(k), as amended, to all exports to non-Cocom countries which cooperate formally or informally with the United States in the application of export controls to controlled countries.

The committee's review of the implementation of the Export Administration Act during the last session of the Congress has revealed instances in which the competitiveness of U.S. exporters has been hampered by the inefficiency of the agencies with regulatory and enforcement authority. Specifically, the committee is aware that the application of the export administration regulations in some cases is inconsistent and irrational, and that some U.S. exporters and foreign customers are not accorded the fair and equal treatment on a day-to-day basis to which they are entitled.

The committee has not attempted to specifically address these problems in this bill, in the belief that it is the express policy of the United States that these controls be administered fairly. The committee intends, however, to monitor closely the administrative practices in the future and, if necessary, to consider remedial legislation.

The committee agreed to expand the category of agreements to export technical data which must be reported to the Secretary under section 5(j) of the act, and to retain the existing exemption for educational institutions.

In retaining the exemption in current law for colleges, universities, and other educational institutions from the requirement to report agreements which involve technical cooperation, the committee notes and emphasizes that educational institutions remain subject to the same controls and license requirements for technology transfers as all other exporters. Prior reporting of technical cooperation agreements, however, is a mechanism for possible prior restraint of scientific discourse. The courts have generally recognized and upheld a freer standard for such discourse in the academic setting than for commercial speech. (See, for example, *Trane Co.* v. *Baldrige*, 552 Fed. Supp. 1378, Aff'd 728 F. 2d 915.)

On that basis, the committee concludes that it is appropriate to require prior reporting of commercial agreements with foreign government agencies, but to place no such requirement on colleges, universities, and other educational institutions, which must nevertheless obtain appropriate licenses before exporting any controlled technology, technical data, or goods. It is the intent of the committee that U.S. Government agencies should require, as part of U.S. Government research contracts with colleges, universities, and other educational institutions, reporting to the Commerce Department of such institutions' agreements with any agency of the Government of a controlled country that might involve transfer of technology or technical data, to the extent that any U.S. Government agency might wish to be informed of such agreements.

The committee is particularly concerned by recent reports that the Defense Department is imposing restrictions on the exchange of technical and scientific information by educational institutions through international conferences and other scholarly activities. The Defense Department has no unilateral authority under this legislation or the Export Administration Act to determine what activities of educational institutions may require an export license, to require prior reporting, or to exercise prior censorship of scientific meetings and exchanges unless, as I have noted, the information involved comes under a Defense Department contract with the institution or individuals involved which specifically contains such a stipulation. It would appear that the Defense Department may be taking actions which exceed its authority.

It is certainly the intention of this legislation to reaffirm the exemption for universities and educational institutions from prior reporting requirements, and to reaffirm that any export license required of those institutions for the export of any technology is subject to the procedures of the Export Administration Act. Those procedures give the Secretary of Commerce final authority to interpret licensing requirements, with the advice of the Defense Department is some circumstances, and to issue or deny licenses. In no case under this legislation, however, are such authorities to be excercised directly or solely by the Department of Defense.

The committee agreed to amend section 5(k) of the act to require negotiations on controls with countries which are not members, of COCOM, to provide that countries which enter into agreements on export restrictions comparable in practice to those of COCOM are to be treated like COCOM countries for purposes of export controls, and to specify that treating other countries like COCOM countries includes comparable treatment on exports by multiple as well as individual licenses, the elimination of licenses for low-technology items indicated in the Administration Exception Notes, and the expedited processing of applications provided in the new subsection (o) of section 10 of the act.

The committee feels that the Secretary should focus on the practical effect of agreements with non-COCOM countries in restricting transfer of goods and technology to potential adversaries, rather than the formal or informal nature of the agreements or arrangements, in deciding whether to extend favorable licensing treatment on exports to such cooperating countries.

The committee agreed to amend section 5 of the act to state that controls may not be imposed on a good containing an embedded microprocessor unless the function of the good itself is such that export of the good would make a significant contribution to the military potential of a controlled country. The committee concurred with actions of the Secretary, in consultation with the Secretary of Defense, in April 1984 to decontrol 94 categories of unilaterally-controlled instruments incorporating microprocessors.

The committee is deeply concerned, however, that the United States may have overstated the agreement of COCOM during the recently-completed COCOM list review in U.S. regulations issued on December 31, 1984, which appear to reimpose controls on the decontrolled instruments through an impractical definition of embedded. The committee notes that no comparable definition yet has appeared in the regulations of any other COCOM member. The December 31, 1984, regulations therefore constitute unilateral U.S. controls. The committee notes that no national security justification has been provided for reimposing such controls, that the definition of embedded is inconsistent with the intent of the committee, and that an apparently unilateral control over previously decontrolled items has been deceptively promulgated in the regulations as a multilateral control. The committee expects a national security justification for controlling any nonstrategic item with an embedded microprocessor and a delay in the effective date of the December 31, 1984, regulations until the regulations can be revised to eliminate all unilateral controls over any good or technology and to conform U.S. regulations to the COCOM agreement and the intent of the committee in adopting this provision.

The committee agreed in section 108 to a number of constraints on the President's authority to impose new foreign policy controls, including addi-

tional requirements for consultations and reports, and greater attention to foreign availability of items controlled for foreign policy purposes.

It is important to note that the act refers to imposition, expansion, or extension of foreign policy controls. Controls in effect on the date of enactment, or made effective by enactment, may be extended for an additional time period upon their renewal date and in some cases are exempted from these new constraints. But addition of items or destinations to the control list constitutes imposition of new controls, even if the items or destinations are added to an existing category of controls. Imposition of new controls or expansion of existing controls after the date of enactment is subject to these new constraints.

Section 113 of H.R. 1786 amends section 12(a) of the Export Administration Act regarding investigation and other enforcement authorities. The intent of these amendments is that the Secretary of Commerce and the Commissioner of Customs should have complementary and cooperative roles in the enforcement of this act inside and outside the United States. The committee does not intend for the Commissioner of Customs to have exclusive responsibility for investigations outside the United States. The Commerce Department should continue to use and upgrade its prelicense checks and post-shipment verification techniques. The committee intends that the Commerce Department have independent authority to investigate potential export control violations, both domestically and overseas. Any investigations undertaken, expanded, or continued on the basis of prelicense or post-shipment inquiries should be considered part of the prelicensing and post-shipment verification authority granted to Commerce in this act.

The committee intends that the Commission of Customs have primary, but again not exclusive, responsibility for enforcement at ports of entry and exit from the United States. For purposes of this act, the term ports of entry and exit from the United States is limited to the actual areas at which international carriers arrive and depart, such as airports, boat docks, or bus terminals, and public and private premises immediately adjacent to such areas which provide direct services to ports, such as port authority facilities, warehouses, and freight forwarding terminals. It also includes the international vehicles and carriers entering such port areas.

In carrying out its enforcement and investigation authority inside the United States, at places other than ports of entry and exit from the United States, Commerce is not required to consult with our seek the concurrence of the Commissioner of Customs. Exercise by Commerce of its authority at ports of entry and exit requires the concurrence of the Commissioner of Customs or a person designated by the Commissioner. The concurrence should not unreasonably be withheld, and should be provided in a timely manner so that law enforcement officials can effectively prevent the illegal export of goods and technology. To that end, the committee intends that Customs and Commerce development procedures which will allow for swift and routine concurrence on the part of the Commissioner.

Section 12(c) of the act is amended to provide for greater sharing of information between the Commerce Department and the Customs Service. This amendment is not intended, however, to provide or entitle either agency to unlimited access to the other's enforcement or licensing data. Rather, the amendment is intended to provide for a reasonable and timely sharing of information pertinent to ongoing investigations, export control violations, and license decisions. Specifically, whenever the Secretary uncovers evidence or information pertaining to an ongoing investigation of the Commissioner of Customs, the Secretary shall provide that information or evidence to the Commissioner. Whenever the Commissioner uncovers evidence or information pertaining to an ongoing investigation being conducted by the Secretary, or whenever the Commissioner uncovers evidence or information pertaining to an export control violation, the Commissioner shall provide such information or evidence to the Secretary. The sharing of data by the Commissioner is essential not only to further enforcement efforts, but also to ensure that the Secretary makes informed licensing decisions in the meantime. It is not intended that the agency furnishing information or evidence is, by so doing, relinquishing investigatory jurisdiction over the matter or case to which the information or evidence pertains. Whenever the two agencies may determine that they are independently investigating the same apparent export control violations, the Secretary and Commissioner should take appropriate steps to establish which agency will have primary responsibility for completion of the investigation.

The committee expects that H.R. 1786 will result in a greater number of criminal prosecutions for violations of the EAA. However, I also wish to emphasize that the Commerce Department should continue to bring administrative proceedings seeking to impose civil penalties and other administrative sanctions. In this regard, I understand that some confusion has arisen concerning the time limits for initiating administrative actions and on bringing actions in Federal court to collect civil penalties.

Our intent is that the Commerce Department must bring its administrative case within 5 years from the date the violation occurred. Thereafter, if it is necessary for the Government to seek to enforce collection of the civil penalty, the complaint must be filed in Federal court within 5 years from the date the penalty was due, but not paid. Any other interpretation would have the Commerce Department discover, investigate, prosecute, and, file a complaint in U.S. District Court to collect the penalty imposed, but not paid, in the administrative proceeding all within 5 years from the date of the violation. In many instances, particularly those involving well-hidden diversions through foreign countries, such a task would be impossible.

Section 113 of H.R. 1786 requires that the grant of police powers given by this bill to the Department of Commerce and the U.S. Customs Service shall be exercised pursuant to regulations promulgated by the Attorney General concerning the use of police powers. The intent of this provision is to ensure that, through guidance to be provided by the Attorney General, police powers are exercised in a uniform manner by all agencies that have the legislative authority to use such powers. This provision is not intended to dilute or fundamentally to alter, in any manner, the authority of Commerce and Customs to exercise the police powers given to them by this bill.

Section 123 of the Atomic Energy Act, as amended by the 1978 Nuclear Non-Proliferation Act [NNPA], 42 U.S.C. 2153, requires that proposed agreements for nuclear cooperation with other countries shall include the terms, duration, nature, scope of cooperation, and other requirements listed in that section. Subsection (d) of that section presently provides that the President must submit proposed agreements for nuclear cooperation to the Congress and that such agreements cannot become effective if, during a 60-day review period, Congress adopts a concurrent resolution stating Congress does not favor the agreement. The Supreme Court's June 1983, Chadha decision raised serious questions about the constitutionality of that concurrent resolution disapproval procedure. In order to remedy that legal problem, and to ensure an adequate and timely congressional review procedure for agreements for nuclear cooperation proposed by the President, the provisions of this bill dealing with such agreements make changes to the existing provisions of sections 123 and 130.

Section 123(a) presently requires, among other things, that the Director of the Arms Control and Disarmament Agency [ACDA] must prepare a nuclear proliferation assessment statement regarding any proposed agreement for nuclear cooperation. This bill amends section 123(a) to require that any such assessment statement must analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in section

123(a). This provision is intended to ensure that the ACDA director specifically analyzes in writing why any proposed agreement is or is not consistent with each of these nine criteria.

This provision is very important because section 123(d) of the bill is also amended to provide that if the President exempts a proposed agreement from one or more of the criteria for nuclear agreements which are set forth in section 123(a), then the agreement cannot be brought into force unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor the agreement. If there is no exemption, then such agreements for cooperation can be brought into effect after the congressional review period is completed unless Congress adopts a joint resolution of disapproval.

This bill also amends section 123(b) of the present law to require that before the beginning of the 60-day congressional review period set forth in section 123(d), as amended by this bill, the President submit the text of a proposed agreement along with the Nuclear Proliferation Assessment Statement to the Committees on Foreign Affairs and Foreign Relations of the House and Senate respectively, and consult with these committees for a period of not less than 30 days of continuous session concerning the consistency of the terms of the proposed agreement with all the requirements of the Atomic Energy Act. This special provision—the amendment to section 123(b)—does not have any precedential value for other agreements concluded by the President and is included here solely because we are adopting a new system for nuclear cooperation agreements so that the balance between the Congress and the President on nuclear agreements that was upset by the Chadha decision can be restored. Since the track chosen for approving such agreements depends on whether they are outside the parameters of the nine section 123(a) nonproliferation criteria, the provision is intended to ensure that the committees can advise the President on that all important issue during the 30-day prior consultation period but not necessarily before that agreement is signed.

For example, if during the 30-day prior consultation period either the House Foreign Affairs Committee or the Senate Foreign Relations Committee indicates that in its judgment the proposed agreement is outside the parameters of the nine section 123(a) nonproliferation criteria, the Congress expects that the President will submit an exemption. When an exemption is submitted, the amendment to section 123(d) requires that the Congress pass a joint resolution of approval before such an agreement becomes effective. During the 30-day period of informal committee review, the respective committees could, of course, conduct hearings to assist their Members in reaching a recommendation as to whether the President should submit an exemption.

The provisions of section 123(b), as amended, are not intended to insert Congress into the process of negotiating agreements. After the 30-day period of informal consultation, the President may choose to renegotiate an agreement. However, the provision does not require renegotiation of an agreement prior to its final consideration by the Congress. These provisions are intended to ensure that the President has the advice of the Congress as to whether there should be an exemption from any of the nine nonproliferation criteria of section 123(a).

The steps for submitting, consulting and approving nuclear cooperation agreements set forth in section 123(b), as amended, need not be taken in any particular sequence. It is up to the President to decide if he wants to authorize the execution of an agreement for cooperation before seeking congressional advice regarding whether an exemption is required, and thus the agreement may or may not be approved and executed prior to submission for the 30-day prior consultation review period. While the President may choose to resubmit an agreement following the 30-day consultation period, these amendments do not require separate submissions under section 123(b) and section 123(d). A single submission would satisfy the law. The Congress fully expects, however, that the President will resubmit any agreement for which he has not submitted an exemption if either committee during the prior consultation period recommends that an exemption is required.

This bill, as noted above, also amends section 123(d) of present law to provide that if the President exempts a proposed agreement for nuclear cooperation from any section 123(a) nonproliferation criteria, then the agreement cannot be brought into force unless the Congress enacts a joint resolution of approval. If there is no exemption, the agreement can go into effect after the 60-day congressional review period in section 123(d) unless Congress passes a joint resolution of disapproval.

Section 123(d) is further amended to provide that during the 60-day period proposed agreements for nuclear cooperation are formally before the Congress that the Committees on Foreign Affairs and Foreign Relations of the House and Senate shall hold hearings on them and report to their respective bodies whether such agreements should be approved or disapproved. This is to ensure that Members of each body are given an opportunity to cast an informed vote on such agreements. It is our clear intention that the respective committees shall hold hearings on each proposed agreement for cooperation. We fully expect and are directing and mandating in law that the committees of jurisdiction comply with this requirement.

However, if for some reason, either of the committees fails to hold the hearings and/or submit the reports by the end of the congressional review period mandated by this subsection, that would not constitute a procedural defect in the congressional review of an agreement for nuclear cooperation, and would not prevent the entry into force of the agreement. This amendment to section 123 makes clear that only a joint resolution of disapproval may prevent the entry into force of such an agreement unless there has been a Presidential exemption of a required provision, in which case a joint resolution of approval is needed to permit such an agreement to come into force. If unanticipated circumstances prevent a hearing from being held or a report from being issued during the statutory period, we fully expect the appropriate committee chairman will explain in writing to the respective House the precise reasons for such an unexpected omission.

Section 130 of existing law has also been amended with respect to its provisions providing expedited procedures for consideration of nuclear cooperation agreements. That section has been amended to state, among other things, that all joint resolutions of approval and disapproval which are introduced in the House of Representatives shall be referred to the "appropriate Committee or Committees." This does not mean that such agreements or resolutions relating to them will be referred to an expanded number of committees in the House or will be subjected to hearings before an expanded number of committees in the House.

It is our intention that both agreements and related resolutions dealing with civil nuclear cooperation will continue to be referred to the House Foreign Affairs Committee, as under current law, and that agreements and resolutions for defense nuclear cooperation will continue to be referred to the Armed Services Committee as well. This is what would occur currently under House rules, and this is appropriate in view of the expertise and jurisdiction of these committees in this area.

The SPEAKER pro tempore (Mr. MINETA). The gentleman from Washington has consumed 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ROTH asked and was given permission to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, let me begin by complimenting our chairman Mr. BONKER for his excellent statement and for his expertise in this area. Mr. BONKER is possibly the most gifted Member of this body and it is a pleasure to work with him. I also wish to

compliment all the members of our subcommittee and the staff, for their diligent and superb work. When we began work on this comprehensive and far-reaching legislation, 2½ years ago, we had four goals in mind.

First, to reduce the number of goods and technology subject to export controls;

Second, to increase and improve the security of any foreign sales of our most sophisticated and militarily critical technologies;

Third, to improve the efficiency of the export licensing process so as not to unduly handicap our exporters' ability to be competitive; and

Fourth, to establish a set of criteria and procedural requirements to govern the use of foreign policy controls.

These goals have been addressed in this legislation. This is a complicated bill and probably the most important legislation affecting trade to come before Congress this session.

To hammer out a compromise agreed to by all, was not an easy task. But I think we have managed to do it. This compromise enjoys the support of the Senate and the House, Republicans and Democrats, the administration and the business community.

We have a moral obligation to enact this legislation into law without delay. Export controls strike at the national security of our Nation. The President is now invoking national emergency measures to control and prohibit the export of U.S. technology to our adversaries abroad, and he has been forced to use these extraordinary measures because Congress has not passed an EAA bill.

There is not more urgent trade matter before the Congress than the renewal of the Export Administration Act. Exporters in your district and mine are subjected to lengthy delays in obtaining export licenses. Critical high-technology items are being diverted to the Soviet bloc because Government resources are spread too thin. The export licensing morass urgently requires corrections.

That is why I reintroduced a renewal of the Export Administration Act—H.R. 28—on the very first day of this Congress. Under the very fine leadership of our subcommittee chairman, the gentleman from Washington [Mr. BONKER] we immediately took action in our subcommittee and in our full committee to report this bill to the floor, now as a committee bill H.R. 1756. Congressman BONKER and I agreed early in this session that a fast-track approach to this legislation was essential.

Many people contributed to this bill. I would like to extend my personal gratitude to the gentleman from Washington for his dedication to this bill. It is a truly bipartisan product. Let me just enumerate some of the improvements contained in this bill:

With respect to national security—

It imposes much tougher penalties for violators of national security export controls.

It grants authority to the President to impose import controls against foreign violators of export controls.

It adds enforcement powers for Customs and Commerce to deter and detect violations.

With respect to streamlining the export licensing process—

We have eliminated the need for some 40 percent of the volume of export licenses now required. Exporters selling low-technology items to our allies will no longer have to file for export licensing permits.

We have mandated a faster licensing process in all product categories. With respect to high-technology exports to our allies, our exporters must receive a response on their applications for licenses within 15 days.

The bill provides a process for eliminating restrictions on U.S. exports of items freely available in other countries.

Agricultural exports are largely exempted from national security, foreign policy, and short supply controls.

Any future agricultural export embargoes are subject to automatic termination unless a continuation is approved by Congress within 60 days.

With respect to foreign policy controls—

The criteria that the President must meet in order to impose foreign policy controls are significantly tightened. That is, trade sanctions can only be used if all other channels of diplomacy have been tried.

The President must now take into account, among other criteria, the foreign availability of comparable goods and technology before imposing trade sanctions.

And, a "contract sanctity" provision protects all U.S. exports covered by contracts in the event of trade sanctions.

This is a comprehensive bill that will make a substantial difference in our conduct of national security, foreign policy, and short supply controls. We have worked diligently to take into account the many diverse concerns of the administration, our allies, and the business community and to meet the four goals which we established for ourselves 2½ years ago. I therefore ask my colleagues to join me in passing H.R. 1786.

□ 1410

Mr. BONKER. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AuCOIN].

(Mr. AuCOIN asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I rise in support of the export policy amendments before us today and urge their prompt adoption.

I am particularly pleased that the bill before us includes the amendment I authored in the last Congress—an amendment which is critical to the future of the high technology industry in Oregon and elsewhere—to expedite export licenses for U.S. manufacturers.

International competition in the high-technology sector is ferocious, a fact all of us here know only too well. Innovation is the lifeblood of that competition, and the premium is on being the first to the market with a new product. Unfortunately, the ability of American innovators to win customers against foreign competitors is hamstrung by infuriating delays in U.S. Government export applications. Companies in my district are still waiting for approval of export applications involving our own allies filed more than a year ago—applications that are supposed to be handled within 180 days.

We address that problem in this bill with a provision that holds agencies responsible for processing export applications accountable to Congress for undue delays. We give the oversight committees of Congress a new tool with which to identify and alleviate backlogs that damage the credibility of U.S. manufacturers as reliable suppliers, cost them customers and profits abroad, and cost jobs and payrolls at home.

I also want to commend my colleague, Mr. BONKER, and members of the committee, for including provisions which recognize that every piece of U.S. equipment that has a microchip in it isn't a threat to our national security. Companies in my district, such as Tektronix, have told me that this is one of their top priorities. This bill takes a first step in removing excessive controls that only damage our competitive position abroad. And, as new technologies develop and others become less sensitive, we should keep in mind that need to impose controls only on those products which raise legitimate national security concerns.

Mr. Speaker, one of the very regrettable casualties of the last session of Congress was the failure of the House and Senate to reach a consensus on what our national policies should be concerning the products we export to other countries * * * regrettable because every day's delay in resolving this critical policy dispute costs us jobs and profits here at home. A year ago, this country ended up with a trade deficit of $70 billion, then a record. We've just ended a year in which the trade deficit hit $123 billion.

Every billion-dollar increment in this soaring deficit represents 20,000 to 40,000 jobs here at home that aren't created.

By adopting the export policy amendments before the House today, we can begin to attack this problem—not with protectionism—but by implementing sensible policies that will give U.S. manufacturers some predictability in shaping their strategies for marketing their products overseas.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I want to commend the distinguished gentleman from Washington State, the chairman of the subcommittee, and my distinguished friend from Florida, the chairman of the full committee.

I observed that we can rejoice that we were able to resolve in such a gentlemanly fashion the jurisdictional concerns that have involved this bill to the satisfaction of both the distinguished Committee on Foreign Affairs and the Committee on Energy and Commerce.

As I note, H.R. 1786 addresses certain energy matters and certain programs and activities of the Department of Commerce under the jurisdiction of the Commerce Committee, which could be defined as export promotion.

Because the Committee on Foreign Affairs agreed to certain energy amendments, and an explicit recognition of some of the programs and activities covered by section 201 and that they fall within the jurisdiction of the Committee on Energy and Commerce, that committee did not insist on sequential referral.

I want to again commend my colleague from Washington and also my colleague from Florida, the chairman of the full committee, because of this.

I note that as a part of the resolution of these concerns, an exchange of correspondence between the chairmen of the two committees addressed these various jurisdictional concerns and that those documents will be included in the record.

I also wish to express my thanks to my colleagues, the gentleman from Washington, and also the gentleman from Florida, for the gracious and statement-like fashion in which they and their staffs handled this matter so that we were able to resolve the issues that related to jurisdiction in an expeditious and gentlemanly fashion.

Mr. BONKER. I thank the gentleman, and speaking on behalf of the chairman of the full committee, we concur with the sentiments which the gentleman has just expressed. We also are rejoicing that we were able to settle these jurisdictional issues.

Mr. ROTH. Mr. Speaker, I yield 3 minutes to the ranking member of the Committee on Foreign Affairs, the very able gentleman from Michigan [Mr. BROOMFIELD].

(Mr. BROOMFIELD asked and was given permission to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Wisconsin [Mr. ROTH] and the subcommittee chairman, Mr. BONKER, for their leadership in developing legislation to reauthorize the Export Administration Act. Mr. ROTH, as the ranking Republican on the subcommittee, has helped provide the leadership and dedication necessary to bring this legislation to the House floor.

On the first day of this session, he introduced H.R. 28—the fast-track vehicle needed for rallying a coalition that includes the administration, the business community, and a bipartisan team in the House and the Senate. With only minor technical amendments made to H.R. 28, a clean bill—H.R. 1786—was reported out of the Foreign Affairs Committee and is before us today.

An exhaustive evaluation was made throughout the last Congress to devise ways to deter more effectively the illicit transfer of American technology to the Eastern bloc. This bill contains many new provisions that will help safeguard our militarily critical technologies from falling into Soviet hands. At the same time, many improvements are made in this bill to correct a deficient and cumbersome export licensing system that has caused unnecessary hardships for many American exporters.

In my opinion, this bill strikes a balance between the twin objectives of abating the transfer of sensitive Western technologies to the Soviet bloc and streamlining the export licensing process so as not to unduly handicap the competitiveness of U.S. exporters.

Business has a right to expect the Congress to set standards and criteria for exporting U.S. technology abroad and it behooves us to act now. We, as a Nation, cannot afford to delay this effort any longer. I again extend my sincere congratulations to Mr. ROTH, Mr. BONKER, and the staff for the decisive action taken in this session to move this bill forward. I urge my colleagues to support H.R. 1786.

□ 1420

Mr. ROTH. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL], who I am sure will agree with us because he usually agrees with us on these matters.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I want to endorse the comments made by the distinguished gentleman from Washington, the chairman of the Subcommittee on International Economic Policy, and to congratulate him and the distinguished gentleman from Wisconsin for their persistence in moving this bill along.

Members will recall that the House bill was passed nearly a year ago at this time. It was in conference for about 8 months, many long weeks of consistent actual discussion with the other body in that conference. As the last Congress adjourned, we were not able to reach agreement in the conference committee. Now the managers of the bill, particularly the gentleman from Washington and the gentleman from Wisconsin, have brought us back a bill which is very similar to the House position of last year. In my judgment, it is a good compromise.

We do not yet have a bill that suits exactly what the House would have wanted. We do not have a bill that suits what I would have wanted or probably exactly the way the gentleman from Wisconsin and the gentleman from Washington would like to see that bill. Nevertheless, it is an enormous improvement. It does provide a better opportunity for American companies, particularly smaller ones, to move goods in world commerce; both West West and West East and, therefore, it will help America's export prospects, in my judgment.

I do believe that there have been seldom wider differences between the two bodies of Congress than in this bill. The other body took a very strong position on national defense, ours on expanding commerce. I think this is a good compromise. I hope it will be accepted.

Mr. ROTH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I am not a member of the committee, but I and many other Members of Congress on both sides of the aisle who are trying to reduce Federal spending in a fair and equitable way are carefully watching these authorization bills. I am disappointed that the bill is on the suspension calendar, that we have not had a chance to look at the hard numbers because no CBO estimates were available and, due to the circumstances surrounding the bill, no report was filed, and, finally, that amendments thereto that would bring this bill back to the 1985 appropriation level are not permitted because it is on the Suspension Calendar.

As I understand the bill, and I would encourage either manager of the bill to correct me if I am wrong, we are requesting $24.6 million for administration in this piece of legislation for 1985 which matches the fiscal year 1985 appropriation, obtained in the last Congress through a waiver of the House rules. This legislation also calls for a 1986 authorization of $29.6 million for administration only. The export promotion activities portion of the bill is $113.3 million per year through 1989. If you look at this and if my figures are correct—and I think we are going to have a colloquy on the other side with the gentleman from Connecticut [Mr. MORRISON] later—this authorization bill on suspension calls for an increase in administrative expenditures alone of 21 percent. My first question to our chairman is: Are we getting a 21-percent increase in administration in this authorization bill?

Mr. BONKER. If the gentleman will yield, first of all, the figures that are in the measure before us were all rec-

ommended by the administration. These were not increases by the committee.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. PURSELL] has expired.

Mr. BONKER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan.

If the gentleman will yield further, the figures come from the administration. They are the administration's requests for fiscal years 1985 and 1986.

The legislation enhances the enforcement responsibilities of the Department of Commerce. Hopefully, the additional funds will equip them to better process licenses that until now have been subject to lengthy delays and which has frustrated American exporters and hindered U.S. competitiveness.

Mr. PURSELL. How many new personnel will this authorization bill give us over and above 1985 levels?

Mr. BONKER. There is a distinction between money that is set aside for the administration of the licensing program and the money that is set aside for enforcement. Most of the increases have come with respect to enforcement.

This is one issue of which there was a consensus between the Senate and the House, and that is Commerce had to do more with respect to enforcement.

I might add that, while we have increased Commerce's enforcement budget slightly, we have cut back the Customs Service budget for enforcement on export controls by about $16 million. So, overall, the taxpayer is much better off with this legislation.

Mr. PURSELL. But that is in Treasury, not in Commerce. I will ask the gentleman again—I have not had an answer yet—how many additional personnel are we hiring under this authorization bill? All programs: administration, new office, restructuring, total, aggregate, bottom line, personnel.

Mr. BONKER. Let me read from the administration's fiscal year 1985 budget proposal: The increase to be used to audit distribution licenses, that will be 31 positions; support COCOM and the technical advisory committee's work to integrate the militarily critical technologies list, that is 5 positions; assess foreign availability, which is required now in this legislation, 24 positions.

Mr. PURSELL What is the total number?

Mr. BONKER. The total number would be 60 new positions.

Mr. PURSELL. Sixty new positions?

Mr. BONKER Yes.

Mr. PURSELL. I think it is unfortunate, in the limited time here, with all due respect to the committee, that we have an expenditure in growth not only in dollars but also in personnel. In light of the deficit, I would suggest that the bill should not have been on the Suspension Calendar so that we could have had full debate on this.

I am not against safeguarding national security or facilitating commerce, two of the basic functions of this country's export administration activities. However, I am against increasing funding for any program in fiscal year 1986 over what was appropriated in fiscal year 1985.

At least a freeze in funding must be accomplished in fiscal year 1986 if we are to make any progress at reducing the deficit. The budget deficit now under current law will increase to well over $200 billion next fiscal year—and that accounts for inflation. If we increase budgets on top of that, the budget deficit will go even higher. To get a real reduction in the deficit, we must freeze spending at fiscal year 1985 appropriated levels.

Unfortunately, because this bill is being considered on the Suspension Calendar, there is no ability to amend this bill to reduce funding fiscal year 1985 appropriated levels. We did that with the NASA authorization for fiscal year 1986 2 weeks ago on this very floor. The gentleman from Connecticut [Mr. MORRISON] and myself introduced an amendment to freeze NASA authorization for fiscal year 1986 at fiscal year 1985 appropriated levels. It passed overwhelmingly—369 to 36. The Members of this body expressed their will in a bipartisan and unequivocal way, and hence expressed the will of the people of this country—that we have to reduce Federal spending and hence the deficit. And we have to do it across the board—there can be no sacred cows. But without the ability to amend this bill as we did the NASA authorization and as we will do again this week with National Science Foundation and National Bureau of Standards authorizations for fiscal year 1986, we have no alternative to represent that will but to vote against the bill, to continue across the board the movement to freeze spending, and to send a message to those committees that have yet to report out their authorizations that an overwhelming number of Members of this House are serious in their commitment to reduce Federal spending and hence the burgeoning Federal deficit, which threatens the economic health of this country.

I therefore urge my colleagues to oppose this legislation. Thank you.

Mr. ROTH. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ZSCHAU].

(Mr. ZSCHAU asked and was given permission to revise and extend his remarks.)

Mr. ZSCHAU. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 1786. This is a bill that has been carefully worked out over a 2-year period with hours of hearings, hours of discussions in the House of Representatives, in the various committee levels, and then over a period of months last year with the other body in conference. It is a tribute to the leadership of the gentleman from Washington [Mr. BONKER] and the leadership of the gentleman from Wisconsin [Mr. ROTH] that we have brought together this carefully crafted bill. It attempts to do almost the impossible, the impossible task of controlling better our militarily critical technologies, while streamlining the procedures under which export licenses are granted, so that our exporting companies are not subjected to undue or unnecessary delays as they attempt to compete in very competitive markets.

The question was raised earlier by the gentleman from Michigan [Mr. PURSELL]: How can we justify in times of large budget deficits a small increase in millions of dollars for this legislation?

□ 1430

If we want to have economic growth in this country, we are going to have to have a strong export policy. The amount of money that we are spending in this bill in order to speed up the licensing process and enable our companies to compete better, will be paid for many, many times by the increase in exports and the increase in economic growth.

I think that at a time when our trade deficit is so large, when our budget deficit is so large, this is a very high-leverage way of expending money now in order to improve the overall economic situation.

I would, in conclusion, like to pose a question to the gentleman from Washington [Mr. BONKER], the chairman of the subcommittee. I would like to ask this question of his interpretation of a change that we did not make in H.R. 1786. I notice that H.R. 1786 does not amend the section 10G of the Export Administration Act, and I ask the chairman: Does he interpret this to mean that the Department of Defense has no authority in the Export Administration Act, as amended by this bill, H.R. 1786, to review export license applications for exports to countries other than the control countries?

I yield to the gentleman for his reply.

Mr. BONKER. The gentleman is correct. The law is explicit, and this legislation is explicit in that DOD has review authority only on shipments to controlled countries. It does not possess statutory authority to review license shipments to free world or COCOM countries, and no such authority is contained in this legislation.

Mr. ZSCHAU. I thank the chairman for that clarification. In conclusion, I would urge my colleagues to support H.R. 1786.

Mr. ROTH. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding me this time.

Mr. Speaker, a short while ago, the American public was shocked to learn of the shipment of a whole flock of helicopters to North Korea. Following that bizarre event, editorially at least, and on many occasions from the floor of this House, questions were asked as to how that could have happened, and various targets were fomented for blame.

I would like to know whether or not, if the ranking member, the gentleman from Wisconsin, would care to answer, whether or not, as I believe it does, that this piece of legislation goes a long way toward preventing a repeat of that kind of bizarre incident.

I yield to the gentleman for his reply.

Mr. ROTH. As usual, the gentleman from Pennsylvania is very astute in his interpretation of the legislation. I think that had we had this legislation, we have tougher penalties for violators; it adds enforcement powers to Customs and to Commerce, and that is precisely why I think the gentleman would want to vote for this legislation.

Mr. GEKAS. I thank the gentleman for that explanation. I tell you, I feel better about the prospective prevention of this thing happening again than I do about any explanation yet forthcoming on how it happened in the first place. At least we have some confidence, at least from the drafters and from the interpretation of this particular piece of legislation that we are not likely to have to undergo that embarrassing situation again.

Mr. ROTH. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER], who has done such a yeoman job on this legislation.

(Mr. BEREUTER asked and given permission to revise and extend his remarks.)

Mr. BEREUTER. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to begin my comments by commending the chairman, the gentleman from Washington [Mr. BONKER] for his very able, diligent and skillful leadership in bringing back to the floor this compromise legislation once again. It has been a long time in the making. The conference last year was the longest before the 98th Congress.

I would like also to extend my congratulations and recognition, on a personal basis, to the gentleman from Wisconsin [Mr. ROTH] for his outstanding role in formulating this legislation and its predecessor in the 98th Congress.

To our chairman, the gentleman from Florida, and to our ranking member, we appreciate the expedited treatment given by the committee to bring the bill to the floor today.

The bill has been very comprehensively explained by the gentleman from Wisconsin and the gentleman from Washington. This legislation builds almost totally upon the bill as it existed at the end of our very long conference last year. There are at least several exceptions.

Those exceptions relate to two very controversial areas, where, with the recognition and support of the primary cosponsors, we deleted those two very controversial sections of the bill.

Second, through the able work of our staff and our chairman, we were able to iron out jurisdictional difficulties with the Energy and Commerce Committee through technical amendments.

With those exceptions, we are building upon the experience of the last Congress. I, of course, am interested in all of the provisions. As the gentleman from California said, the importance of this legislation, in terms of increasing our export base and solving some of our trade deficits, cannot be overemphasized. But I am particularly pleased with the strong antiembargo and strong contract sanctity provisions that relate to agriculture.

I thank my colleagues and our staff for all of the work that they have done in bringing us once again to this point. We hope for a similar expeditious treatment of the legislation by the other body.

Again, I want to thank the chairman. It has been a very knowledgeable experience working with you, and I very much appreciate the cooperation that I have received.

Mr. ROTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to join with the gentleman from Michigan to express my concern about an increase in the administration expense for this authorization from an appropriated level of this time, for fiscal 1985, of $18.5 to $29.5 million for fiscal 1986.

We are talking here about a 60-percent increase. It is true that this may be an area of priority for increased expenditures, but writing in the dark without a budget at a time when we have a $200 billion budget deficit is not the way to solve our budget deficit crisis. We ought not to have this increase now before us on suspension with no chance to deal with that amount of money.

I think it is unfortunate that the substantial content of this bill is put in jeopardy by this relatively small budget consideration.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman.

Mr. BONKER. I think it should be remembered by those who are concerned about the cost that we have effectively reduced the Customs Service budget from $30 to $12 million. That is a considerable savings. We have increased the enforcement responsibility of the Commerce Department, and we cannot expect them to carry out that work if they do not have the resources to do the job.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman from yielding me this time.

Mr. Speaker, I have to add my comments to those of the speakers before me. What a tremendous amount of respect and regard should be paid to both the gentleman from Washington and the gentleman from Wisconsin. For those who are not on the subcommittee or the conference committee, they can have very little understanding of the incredible number of obstacles and hurdles that were overcome in reaching the point that we seem to be today. It is only through their perseverence, and hard work, and patience that we are able to come to this point.

Mr. Speaker, the legislation before this House is the result of 2 years of work by the Foreign Affairs Committee. It achieves the two goals which guided us throughout the process. The bill reduces the licensing requirements which burden the exporting community and cause delays in foreign trade. At the same time it strengthens the controls necessary to protect our national security. The bill's provisions make export controls more effective and efficient.

One of the bill's central reforms is a decontrol of low-technology exports to Cocom member countries—NATO minus Iceland, plus Japan. This will reduce the number of licenses required by at least 12,000 and possibly by as much as 18,000. Low-technology goods are available to the Soviet Union from other countries. This legislation recognizes the fact of foreign availability and ensures that American businesses will not face continued delays and redtape because of outdated restrictions.

The bill requires action on most Cocom licenses within 15 days and on all within 30. Throughout our work on the legislation, we heard business complaints about delays in processing licenses. Congress now mandates swift action on all license applications. This efficiency is necessary if the United States is to regain its competitive edge in foreign trade.

One provision mandates Cocom negotiations and requires that one-third of the commodity control list be negotiated annually. This ensures a timely review of the list of sensitive commodities. It will keep the list up to date and should speed the process of removing goods which no longer require controls.

The legislation decontrols much equipment containing embedded microprocessors. This is another example of the committee's recognition that current controls place outmoded restrictions on the export of these goods.

The bill contains a range of other reforms to streamline the export process. These include:

Preservation of the distribution license and the project license;

Creation of a new bulk license for technology transfer, known as a comprehensive operations license;

Defining integration of the military critical technologies list and the commodity control list.

One significant reform is a decontrol of goods readily available to the Eastern bloc from other nations. If a good is available to the Soviet Union from other sources, the United States does not enhance its security by maintaining controls on the good. The provisions in this bill facilitate findings of foreign availability and decontrol of such goods. It requires an official finding on foreign availability when an exporter or a technical advisory committee say that a good is available. Once foreign availability was found, a good would have to be decontrolled within 18 months if other exporters did not agree in negotiations to remove its availability to controlled countries.

The bill makes important reforms in foreign policy export controls. It establishes stricter procedures for imposition of foreign policy controls and limits a President's authority to halt contracted exports.

The Export Administration Act is this Nation's basic legal authority for administering controls on U.S. exports. We have been operating for too long under the unwieldy, International Emergency Economic Powers Act. It is time to bring our export control regime back into order. I urge my colleagues to support passage of H.R. 1786.

In one area of particular interest, I want to clarify my view that we have significantly constrained, although not prohibited, the Presidential authority in the area of nonagricultural commerce from imposing foreign policy controls where there are existing contracts. This bill reflects significant constraints but not prohibitions on such Presidential authority.

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Mr. BONKER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The Chair will advise the gentleman from Washington that he has 1 minute remaining.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Texas very briefly.

Mr. COLEMAN of Texas. I thank the gentleman for yielding.

Mr. Speaker, the only question I had from the chairman was whether or not the amendment which was dropped out of the conference last year that was added in 1983 by this House would not be prohibited; that is, the utilization of computer terminals at ports of entry into and exiting from this country for utilization by the Department of Commerce. They could still do that with this legislation?

Mr. BONKER. The gentleman is correct.

Mr. Speaker, I yield the balance of my time to the gentleman from Florida [Mr. GIBBONS].

Mr. ROTH. Mr. Speaker, I have 1 minute remaining, and I would like to yield that time also to the gentleman from Florida [Mr. GIBBONS].

The SPEAKER pro tempore. The gentleman from Florida [Mr. GIBBONS] is recognized for 1½ minutes.

Mr. GIBBONS. I want to thank both gentlemen for yielding me this time.

Mr. Speaker, I want to say that I have carefully watched and closely watched the development of this legislation. It is an excellent, workmanlike job. All of us have some complaints about every piece of legislation, but when you see what we started with, you will have to commend these two gentlemen and their committee for the fine work that they have done.

Some complaint has been made about the personnel involved in this. Let me say that we are operating an industry at the border that is vastly larger and is growing each year by leaps and bounds. The Department of Commerce and the people who monitor our laws at the border are administering a business that essentially did about $50 billion worth of business a few years ago, and today they are doing $600 billion worth of business at the border, the Department of Commerce and the Customs Service. There is no way you can carry on any kind of function like that with lesser personnel unless you are just going to say there are no laws; we will have laws but not enforcement.

There is already too much complaint that there is not adequate enforcement of our laws at the border, and that is true to some extent, but there is no way you can cut out more law enforcement and have better law enforcement. It is just not possible. You have to open crates, you have to look in trucks, and you have to examine, and people have to be there, and they have to know what they are doing.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of section 126 of this act, which directs the President to undertake a comprehensive review of the issues and related data concerning possible changes in the existing incentives to produce crude oil from the North Slope of Alaska.

Since 1973, Alaska North Slope crude oil has been subject to an export ban, resulting in inefficiencies in transportation to east coast refineries and increased change of environmental damage from tanker traffic, the leading source of oil spills in the world. Additionally, the State of Alaska and the Federal Government have lost hundreds of millions of dollars in revenue due to the existence of the ban.

This section would direct the President to consider the following impacts of lifting the export ban:

Impacts on energy and national security interests of the United States.

The role of lifting the ban on international energy policymaking;

The impact on jobs in the maritime, oil and other industries;

Impacts on refineries and consumers;

Impacts on Federal and State revenues;

Impacts upon future explorations and development of oil and gas;

And, the effect on the trade deficit of the United States.

In short, this section requires a comprehensive look at the question of lifting the export ban, and requires he report his findings and recommendations to Congress within 9 months.

I believe the facts will show great benefits to the State and Federal Governments, and that a partial lifting of the ban with certain conditions will prove attractive for Congress. I urge that the members support this important provisions by voting to suspend the rules for consideration of H.R. 1786. Thank you Mr. Speaker.●

● Mr. LAGOMARSINO. Mr. Speaker, I rise to express my support for H.R. 1786, legislation to revise and extend the Export Administration Act of 1979, for the next 4 years.

While this legislation is not perfect, it does resolve some of the most contentious issues that have confronted the Congress for the past 2 years during its consideration of renewal legislation involving export controls.

With bipartisan support, this legislation, which is largely identical to a bill agreed to in conference last year, generally satisfies and strikes an important balance between needed national security and foreign policy controls for high tech strategically significant exports and the needed reforms urged by American industry.

I urge prompt adoption of this legislation so that our exporters can finally function with the certainty of clearly defined ground rules for their exporting operations.●

● Mr. FEIGHAN. Mr. Speaker, I rise in support of H.R. 1786, legislation to reauthorize the Export Administration Act of 1979. This important piece of legislation defines the way in which the President can control American exports for economic, national security or foreign policy reasons. In granting this authority, Congress must consider both our national security and the legitimate interests of U.S. exporters. It must evaluate the effectiveness of export controls and weigh their political and military benefits against their economic costs.

In the past, a reasonable balance between export restrictions and export promotion has not always been achieved. The economic costs of the grain embargo of 1980 and the pipeline sanctions of 1982 far outweighed

their political benefits. The U.S. trade deficit for 1984 amounted to $123 billion. We can no longer afford to impose ineffective and costly export controls. We need a more realistic and restrained approach to export restrictions.

With H.R. 1786, which essentially reflects the compromise achieved in conference last year, we have made substantial progress toward balanced legislation that protects our security interests abroad without hurting our business interests at home. This bill will prevent the flow of militarily sensitive technology to our adversaries more effectively by strenghtening our ability to enforce existing export controls. It ensures a more cautious and effective use of foreign policy controls through improved congressional oversight and better defined criteria to be considered before imposing foreign policy controls. Finally, this bill will help promote exports and improve America's image as a reliable trading partner by providing contract sanctity and major improvements in the export licensing procedure.

Mr. Speaker, I am happy with the provisions of H.R. 1786, but I would like to express my deepest concern about one section that has been taken out of the Export Administration bill as passed by the House nearly 2 years ago. H.R. 1786 is without title III, the provisions dealing with South Africa. They were taken out as a sign of good faith on the part of the House to ensure a quick passage of the Export Administration Amendments Act.

I would hope that this fast-track approach, which has indeed produced remarkable progress on this legislation so far, will also be honored by the Senate and result in the passage of an identical version by that body. Furthermore, especially in light of the horrible massacres in South Africa, I would hope that both the House and the Senate act quickly and favorably on H.R. 1460. This bill, which was introduced by the gentleman from Pennsylvania [Mr. GRAY], and which I have cosponsored, includes most of the provisions on South Africa previously contained in title III of the Export Administration bill.

With these reservations in mind, I urge my colleagues to join me in my support of H.R. 1786 to reauthorize the Export Administration Act of 1979.●

● Mr. McKINNEY. Mr. Speaker, I would like to register my support for H.R. 1786, legislation to reauthorize the Export Administration Act of 1979. For more than 2½ years, Congress has worked to revise and extend the Export Administration Act [EAA]. The EAA is complex legislation which is enormously important because it governs the exportation of critical technologies to potential adversaries, promotes foreign policy objectives, and controls exports of strategic materials. One of these strategic materials controlled by the EAA is Alaskan North Slope crude oil.

Last Congress, my distinguished colleague from Michigan, Representative HOWARD WOLPE, and I introduced legislation to amend the EAA to indefinitely extend the export restrictions on Alaskan oil. That legislation received overwhelming support in the House. Some 237 Members cosponsored the bill. We again have introduced similar legislation in an effort to demonstrate our concern over the importance of this portion of the EAA. H.R. 1786 contains an extension of controls on North Slope crude for 5 years and a provision to allow a comprehensive Presidential study on the impact of exporting Alaskan oil. While we believe a permanent export ban would be more desirable, we accept the House-Senate Conference agreement of last session as a sufficient measure to continue the export ban on this vital domestic resource.

Today, the reasons for not exporting Alaskan oil are as compelling as ever. Exporting Alaskan oil to Japan would be a dangerous smoke screen that would mask the fundamental problems underlying our trade inequities wiht Japan. This illusion of progress would seriously undermine our efforts to reduced Japanese barriers to American manufactured and agricultural goods. In addition, because of the higher cost of foreign imports versus the price of Alaskan oil, exporting Alaskan oil would mean that consumers would pay $1 to $2 billion more each year for petroleum products. Finally, the oil lost through exports would have to be replaced by imports from foreign sources. This would be a tremendous blow to our Nation's efforts to become energy independent.

Currently the controls on Alaskan North Slope crude and the many other provisions of the EAA are administered under the President's emergency authorities of the International Economic Emergency Powers Act. However, these emergency powers have been challenged in court, and will be subject to further legal challenges unless an EAA bill is promptly enacted. Therefore, I commend the members of the House Committee on Foreign Affairs for expeditiously reporting this reauthorization measure, and urge the support of the entire House on this matter. Passage of H.R. 1786 will ensure that the United States can effectively achieve its foreign policy aims, safeguard national security, and facilitate commerce.●

● Mr. FASCELL. Mr. Speaker, I would like to acknowledge the efforts of those Members of the House who have worked so diligently to resolve the differences which have made the renewal of the Export Administration Act such a lengthy and arduous process.

First, I would like to commend the chairman of the Subcommittee on International Economic Policy and Trade, Mr. BONKER, and his ranking member, Mr. ROTH, for devoting the better part of 2 years to guiding and staying with the difficult and complex process of moving a bill through the House and then negotiating with the Senate. They have done a masterful job and the House owes them a debt of gratitude. They have been supported in this process by the other members of the subcommittee who also have devoted considerable time to bringing to the House a finished product.

The chairman and members of other committees have also played an important role along the way. Members of the Committee on Ways and Means and the Committee on Armed Services served on the conference committee and helped produce the compromises. Some of those conference agreements led to jurisdictional issues with other committees in the House. I would like to express my personal appreciation to the chairmen and staffs of those committees—Chairman PEPPER of the Committee on Rules, Chairman DINGELL of the Committee on Energy and Commerce, and Chairman RODINO of the Committee on the Judiciary—for their willingness over the last several weeks to work with us in finding means to recognize and respect their jurisdictional interests while still permitting the expedited consideration of this bill. At this point I would like to insert in the RECORD an exchange of correspondence with Chairman DINGELL and Chairman ROSTENKOWSKI.

Mr. Speaker, this bill has been carefully drafted and the differences have been resolved, and I urged its support by the Members of the House.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, March 22, 1985.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with regard to H.R. 28, the Export Administration Amendments Act of 1985, which the Committee on Foreign Affairs ordered favorably reported on March 21. Section 121 of that bill authorizes the President to impose import restrictions to enforce national security export controls under certain circumstances.

Through the cooperation of your Committee with conferees from the Committee on Ways and Means, this Senate provision was incorporated last year into H.R. 4230 as an amendment to the Trade Expansion Act of 1962 and passed by the House.

Since this same provision as amended is now contained in H.R. 28, the Committee on Ways and Means will not seek sequential referral of the legislation, with the understanding that waiver in this instance in no way establishes a precedent or prejudices our jurisdiction over this section of the bill.

I appreciate the consideration that you and other Members of your Committee have given to the views of our Members on this and other Export Administration Act issues and wish you success in completing satisfactory Congressional action on this important legislation.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.