EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 21, 1979, section 117 and the remainder of the bill had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from California (Mr. DANNEMEYER).

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section, and renumber the succeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7 of the Export Administration Act of 1969 as such section is redesignated by section 104 (a) of the Act, is amended (1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

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

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

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

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

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

"(iv) are clearly necessary to protect the national interest; and

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

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment.

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

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. DANNEMEYER), and I would urge my colleagues to attend very carefully to what the Dannemeyer amendment would accomplish.

□ 1610

The Dannemeyer amendment would effectively allow exports of Alaskan oil to proceed without meeting a single test or condition, not even a national security test. The amendment of the gentleman from California would permit restrictions on the export of Alaskan oil only when, in the language of the amendment, "the major oil exporting countries have imposed severe restrictions on the export of oil to the United States."

In all other circumstances only the oil companies would decide what happens to Alaskan oil and the Congress would have no say whatsoever in its disposition.

The language that was adopted by the Committee on Foreign Affairs, that the gentleman from California seeks to amend, was approved overwhelmingly in a 21 to 9 vote after very thorough consideration and debate. The proposed restrictions on the export of Alaskan oil that are within the bill before you are motivated by two central concerns: first, the need to reduce American dependence on unstable foreign oil supplies; and, second, the desire to see the oil companies honor the promise made at the time of the authorization of the trans-Alaskan pipeline to put in place the domestic infrastructure that would insure that Alaskan oil would be available to domestic American markets.

Mr. Chairman, I want to emphasize there is nothing within the language of the bill before you that flatly prohibits the export of Alaskan oil. The bill simply states that the only acceptable basis for such exports is a showing of direct consumer benefit and a showing that such exports would not adversely affect America's oil supply. The question, really, before the House is whether or not those are unreasonable criteria to impose upon the export of such a critical resource.

Mr. Chairman, the language of the bill as approved by the Foreign Affairs Committee says, further, that the Congress should have a direct and affirmative role in making decisions with regard to this very critical resource.

Mr. Chairman, who would benefit by the oil exports that the gentleman from California would like to facilitate? Certainly not the consumer. It is true, as pointed out by the gentleman from California, that the transportation costs of taking Alaskan oil to Japan would be $2 lower per barrel than the cost presently incurred in transporting Alaskan oil through the Panama Canal. But the cost of transportation does not add a single cent to the price American consumers pay for Alaskan oil because the price of Alaskan North Slope crude oil is already decontrolled. It sells for whatever price the market will bear, regardless of how much—or how little—it costs to get the oil to its destination.

The fact of the matter is that the American consumer stands to gain absolutely nothing by the export of Alaskan oil. Nor would the American national interest be served by such exports, because they would only extend our dependence upon unstable foreign oil supplies.

Only the oil companies stand to gain. It is their argument that they need additional profits to enable them to expand their production on the North Slope and to realize the full potential of the Alaskan field.

Mr. Chairman, there is absolutely no evidence, oil company protestations notwithstanding, that existing price levels and financial incentives are inhibiting North Slope production. In fact, the Alaskan North Slope oil producers recently announced their plans to increase production by 15 percent, to 1.5 million barrels per day by the end of next year. Clearly, current restrictions on Alaskan oil exports are no disincentive whatever to increased production. The simple truth is that we can expect increased production in Alaska because decontrolled Alaskan North Slope oil is enormously profitable, and has been made all the more so by recent OPEC price increases.

At some point, when confronted with the issue of profits and incentives, we have to ask ourselves, "When is enough, enough." In the first quarter of this year, Sohio, the North Slope's largest producer, reported a 302 percent increase in profits over the first quarter of last year. In the second quarter of this year there was a further 70 percent increase. Clearly, the issue is whether we are developing a public policy designed to serve the American public interest or whether we are going to continue an energy policy designed to serve only the interests of the oil industry.

Mr. Chairman, I would urge opposition to the Dannemeyer amendment. It is not in the public interest. It removes any effective congressional role in determining the disposition of Alaskan oil. It will, most importantly, prolong the time when the oil companies will begin to put into place the refinery and pipeline capacity that is so vital to insuring the future domestic use of American oil supplies.

Mr. BARNES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to

the amendment offered by our colleague, Mr. DANNEMEYER. This amendment would effectively gut the committee provisions relating to the export of Alaskan oil.

The Dannemeyer amendment would eliminate the committee requirement that any exchange or swap of Alaskan oil result in lower acquisition costs for refiners and commensurately reduced wholesale and retail prices for consumers in the United States. It would further eliminate the provision that oil exchanged with an adjacent foreign state be refined and consumed in that adjacent foreign state. Therefore, it would allow so-called swaps which benefit only the oil companies.

The Dannemeyer amendment, although appearing to provide for findings of fact, congressional approval and the GAO audit, in reality does not. The conditions and restrictions would not have to be met unless the President determines "that the major exporting nations have imposed severe restrictions on the export of oil to the United States." In other words, under the Dannemeyer proposal, there would be absolutely no restrictions on the export of Alaskan oil unless OPEC imposed another embargo.

Mr. DANNEMEYER would allow exports to proceed without meeting a single test or condition, not even a national security test. In effect, this amendment would totally exclude Congress and the executive branch from important decisions affecting Alaskan oil; the oil companies would have a blank check to export this vital resource.

It seems to me that the only prudent and responsible course of action is to have in place some safeguard restrictions before an embargo goes into effect, not hastily adopted after the fact.

I believe that the language adopted overwhelmingly by the committee, after careful and extensive consideration, is the proper policy. I might add that the Senate adopted a similar provision by a wide margin. The committee provision does not preclude exports or swaps. It simply states that the only acceptable criteria for Alaskan oil exports are a showing of consumer benefit and a showing that such exports would not adversely affect America's oil supply.

The committee language would also create an additional incentive for building a west-to-east pipeline and for retrofitting west coast refineries to handle full Alaskan North Slope production. Another feature of the committee bill is that it requires that Congress play a key role in decisions affecting what happens to Alaska oil. Any export plan must have the approval of both Houses. Under the Dannemeyer proposal, only the oil companies would decide what happens to Alaska oil.

Finally, the bill as reported would reaffirm our commitment to a strong national energy policy. It would allow exports and swaps only if certain tests were met and Congress is given an affirmative role in dealing with these proposals. The Dannemeyer amendment would do neither of these.

I strongly urge my colleague to retain the Foreign Affairs Committee language and reject the Dannemeyer amendment, which I believe is an ill-conceived and misdirected effort.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from New York.

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

Mr. ZEFERETTI. Mr. Chairman, I strongly urge that my colleagues defeat this proposed amendment which would allow for an outright swap of Alaska North Slope oil. I urge that we approve the restrictions on export of Alaska oil as reported by the House Committee on Foreign Affairs.

It is inconceivable to me how we can allow for the export or swap of Alaska oil when it is the pronounced policy of this country to reduce our dependence on foreign oil.

It is vital that we all understand that the exchange of Alaska oil will in no way reduce our dependence on imported oil. In fact, swaps could well have the negative impact of actually increasing our reliance on foreign sources of oil.

We need look no further than to the Iranian oil cutoff for a prime example of how damaging and unwise our continued reliance on foreign sources is. Even if the United States is able to terminate the swap arrangement and to avoid our obligation to ship Alaska oil, our Nation will simply return to day one. We will not have an effective domestic oil distribution and transportation system to move Alaska oil to where it is needed the most; that is, the Midwest and the East.

Mr. Chairman, it is crystal clear to me that allowing the exchange or swap of Alaska oil will be placing an insurmountable obstacle in the way of any long-term solution to our domestic oil distribution problems. By permitting Alaska oil to be exported, we will surely sound the death knell for west-to-east pipelines. Any hope that we may have an efficient and equitable domestic oil transportation system will evaporate. Exporting Alaska oil is the surest way of guaranteeing that proposed pipelines are never built.

Mr. Chairman, we must ask ourselves who is going to benefit from these exports. Surely the oil companies stand to gain, as does the State of Alaska. But, Mr. Speaker, how about the American consumer? What is in the export of Alaska oil for him. The Dannemeyer amendment specifically eliminates the provision that would insure that any exchange or export of Alaskan oil result in a consumer benefit. Any transportation savings will be seen on the oil companies' income statement and not in the consumers' pocketbook.

I also want to point out that the export restrictions such as advocated by my colleagues, STEWART MCKINNEY and HOWARD WOLPE, do not flatly prohibit the exchange of Alaska oil. If Alaska oil is refined and consumed in the adjacent foreign state and will achieve lower oil prices for American consumers, then an exchange in like quantity and quality may take place.

Mr. Chairman, I would like to raise one final point. In most discussions of an Alaska oil swap, proponents have Alaska oil going to Japan in exchange for Mexican oil. This would hardly be an equitable exchange. According to the Cities Service Oil Company, Mexican oil is inferior to Alaska oil. More unleaded gasoline can be produced from a barrel of Alaska oil than from a barrel of Mexican oil. I am sure that the American public would be far from overjoyed at the prospect of an arrangement such as the proposed amendment would allow.

Once again, I urge you to defeat this amendment and to approve the language as reported by the House Foreign Affairs Committee.

□ 1620

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

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

Mr. MCKINNEY. Mr. Chairman, it seems very strange to me that we are here arguing this subject once again. The House overwhelmingly passed the McKinney amendment which stopped the exportation of Alaskan oil over 2 years ago. In fact, the House went to the almost unprecedented length of instructing the conferees to stick to the House position.

I appreciate the interest of my colleague, the gentleman from California (Mr. DANNEMEYER) in the issue of Alaskan oil distribution. However, I take strong exception with both the approach and substance of his amendment to remove the restriction on the export of North Slope crude. The effect of the gentleman's amendment would negate the entire purpose of building a trans-Alaskan pipeline and would run counter to our efforts to reduce reliance on foreign oil. The cornerstone of congressional approval for construction of the Alaskan pipeline, the watchword for development of Alaska's North Slope over the last decade and the impetus for constructing new pipelines to carry that oil eastward can be summed up in one word—independence.

We are on the threshold of completing a project that will deliver 2 million barrels of domestically produced oil every day to U.S. refineries. That is 2 million barrels a day that we would otherwise be importing, at exorbitant prices, from the OPEC cartel. Are we now, in the eleventh hour, going to undermine that entire project by exporting nearly a quarter of that oil to Japan?

There is no longer any question of domestic utilization of Alaskan oil. The "glut" no longer exists. Every drop of oil being produced on the North Slope is being refined and consumed in U.S. markets. And, other U.S. refiners are actually looking for more. The explanation is simple. Alaskan oil at any price is a desirable alternative to spot market crude. Are we actually going to consider throwing away the economic and political independence that Alaskan oil offers?

The arguments offered by my colleague in support of his amendment are essentially three: Transportation cost savings;

balance of trade benefits; and the availability of foreign supply. It should be made clear that the export restriction contained in this bill does not prohibit the export of Alaskan crude. If an economic benefit to the consumer can be documented, the Congress could approve a swap. But the consumer benefits will not result from a savings in transportation costs. Those savings will be captured by the Alaskan producers and added to their recordbreaking earnings from the last three quarters. Further, the balance of trade savings that my colleague envisions from a swap cannot make up for the dollars lost due to the difference in price between Alaskan and Mexican crude. Alaskan oil is presently selling for approximately $22 a barrel. Mexican oil is priced over $23 a barrel and Mexico adds a 75-cents-a-barrel surcharge to offset the transportation cost savings derived from buying Mexican rather than Middle East crude. In short, a swap would result in a substantial loss in the balance of payments for each barrel we export.

Furthermore, Mr. Chairman, I doubt that anyone in this Chamber would dispute the fact that the only truly secure oil supply is a domestically produced supply. I am pleased that my colleague's amendment does not advocate the increased use of OPEC oil. Nevertheless, any exchange agreement would necessitate an increase in foreign oil imports.

While the obvious marketability of Mexican oil on the gulf coast makes that source preferable to OPEC supplies, the mere happenstance of common boundaries does not insure supply security. Canada has already announced its intention to eliminate oil exports to our northern tier refineries in the next few years. And Mexico, despite its willingness, was only able to fulfill 60 percent of its export contracts in May and June of this year due to production difficulties. Also, because of its overwhelming reliance on the United States for foreign trade, Mexico's Ministry of Patrimony and Industrial Development (under the firm policy direction of President Portillo), has developed a "2-year program" to reduce the U.S. share of Mexican oil exports from 80 to 60 percent. Such information not only casts legitimate doubts on the security of supply but raises the question of whether the proponents of a swap have bothered to obtain the Mexican Government's view of such a plan.

Finally, the question of national security as regards the transport of Alaskan oil has been raised. Mr. Chairman, the greatest threat to our national security—economically, politically, and militarily—is our continued dependence on other people's oil. We are racing against time in an attempt to free ourselves from that dangerously precarious position. To allow the export of Alaskan oil would undermine any progress we have made in freeing ourselves from the economic stranglehold of foreign producing nations. No defense budget of any size, no amount of troops or arsenal of missiles can protect this country from the threat of continued dependence. Don't talk to me of transportation savings, when the foundation of our economy is in the hands of foreign oil producers. Mr. Chairman, I urge the defeat of this amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to say to the gentleman, I oppose the Dannemeyer amendment. I am concerned about our trade balance, particularly with Japan. We are buying from Japan about $8 billion or $9 billion more than we sell and if they are able to buy American oil, they will liquidate some of that trade deficit. In other words, they will buy American oil and sell more Japanese products in our markets.

Mr. McKINNEY. Mr. Chairman, I would answer the gentleman simply this way. A trade deficit is a trade deficit. And, we would build a trade deficit of a minimum of $1 for every barrel of oil we exported to Japan, because Alaskan oil is currently selling at $22 a barrel. Mexican oil is selling at $23 a barrel, so we would have an automatic deficit of trade with the Mexican Government. It really makes very little difference where the deficit occurs. Uncle Sam would still be losing $1 per barrel of oil.

Mr. VANIK. But in addition to that, it would help the Japanese correct the imbalance of their commerce. They would be buying a very precious raw material from this country and coming back with other products to help to equalize the amount of the trade deficit.

Mr. McKINNEY. This gentleman coming from a highly technical State is not the slightest bit interested in helping the Japanese.

Mr. VANIK. Well, I am with the gentleman in opposing the amendment.

Mr. McKINNEY. I would suggest to the gentleman that once the Japanese allow the Ford Motor Co. and General Motors to have distribution plants and parts warehouses, I would be very interested in a more reliable trade relationship with them.

Mr. VANIK. In the meantime, I do not think we ought to alleviate the deficit by letting them have our oil.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

The amendment does not really create any additional oil for the people of the United States—it does create some additional profit for some oil companies.

But the amendment has a side effect which is likely to blunt our efforts to solve a major trade crisis. The amendment will permit the Japanese to reduce their trade deficit with the United States by about $3 billion per year, thus camouflaging the fact that we still have enormous and serious structural trade problems with that nation. This amendment could be labeled "The Get Japan Off the Hook Amendment."

Last year, our trade deficit with Japan was $11.6 billion. This year, it will probably be about $8.8 billion, and I predict that in the future the deficit may again widen, because of the depreciation of the yen relative to the dollar and because of our domestic energy problems and inflation. In many areas, it is still difficult to impossible to sell American manufactured and agricultural goods in Japan. The staggering trade deficits of the past several years have helped put the public spotlight on Japanese trade barriers—and as a result some of those barriers have been dismantled.

The amendment of the gentleman from California will have the effect of lobbing billions of dollars off our trade deficit with Japan—even though we are making only slow and tedious progress in solving our manufactured and agricultural trade problems with Japan. The amendment will defuse attention from the need to solve our long-range problems with Japan; it will contribute further to turning America into a giant plantation of raw materials for Japan—a plantation that supplies soybeans, phosphate rock, and oil to keep the factories of Japan humming.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Massachusetts.

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

Mr. CONTE. Mr. Chairman, I want to take this opportunity to commend the gentleman in the well and to associate myself with his remarks. I rise in opposition to this ill-conceived amendment.

Mr. Chairman, as the debate develops on the critical issue of extending and strengthening the American economy through increased exports, we must be equally cautious concerning exports crucial to our national security. One such area in which the risk in exporting exceeds opportunity is the exportation or "swapping" of Alaskan North Slope oil.

This country has watched its dependence upon imported oil rise from one-third to nearly one-half in less than 7 years. Our daily imports of foreign crude and product is nearly 8 million barrels per day. Our economic lifeblood has become a thick, black liquid which flows via tankers from the revolution-torn Middle East to our coastal ports. Today, this lifeline to our industrialized country's survival is tenuous at best. This great Nation cannot afford to lay bare its petroleum jugular vein to the Ayatollah Khomeini's of the world. Our vulnerability to the OPEC decisionmaking process will only be increased if we do not pass this strong piece of legislation which restricts the swapping of Alaskan oil.

The need to reaffirm our opposition to the exportation of our domestically produced Alaskan oil becomes greater with each increase in OPEC prices. Any swaps of oil will only increase our reliance on foreign imports by as much as 500,000 barrels per day.

In addition, it would eliminate any incentive for the establishment of a domestic delivery system of Alaskan crude to other sections of the country. It would also result in a loss of U.S. maritime jobs.

Let me quote a speech made by this country's Vice President MONDALE when he was a U.S. Senator on the issue of swapping Alaskan oil:

It seems very strange to me that as we try to do everything we can to deal with the energy problems we have in America that the first significant thing we would do would be to approve a pipeline, the purpose of which is to export massive quantities of U.S. oil outside our borders. That is what has been admitted here. The answer is that we will swap U.S. oil for something else. What is that something else? That something else is the very Middle East oil we have trouble getting today. In other words, we would be back in the frying pan. It seems to me this is utterly suicidal for this country.

Mr. Chairman, I sincerely hope that this continues to reflect the attitude of our administration concerning this critical issue of national security. We must pass this measure with section 107 as reported out of the Committee on Foreign Affairs to insure that our national security will not be adversely affected.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MCKINNEY) has expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman for his leadership on this issue. I want to say to the gentleman with regard to the balance of payments, the gentleman has answered that question very well.

I would like to add that there also would be an addition to the balance-of-payments deficit in that the cost of shipping the oil to Japan would be on the deficit side in that we would be using foreign-flag vessels and all that money would go outside of our economy.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. OBERSTAR. Mr. Chairman, this is a national issue but with a profound regional impact for the Northern Tier States, particularly those in the western Great Lakes area. Winter is fast approaching in our region. Already the thermostats are set at 65 degrees in our homes in Chisholm, Minn. We turned the furnaces on over this past weekend when I was home. The people are beginning to wonder where is the oil coming from now that Canada has put Minnesota refineries on a month-to-month standby basis. Canada is going to decide 1 month how much oil its American market is going to get next month. It is intolerable. The Northern Tier States have a right and an obligation to seek a secure and continuous source of oil. The best place to get that is the North Slope.

The Northern Tier pipeline, the best available hope for assuring that supply of oil, is a matter on which the Interior Department and the President are going to have to make a judgment in the next month. If we allow swaps of oil as proposed in this amendment and undo the Wolpe amendment, we will destroy any possibility of getting that Northern Tier pipeline built. The very substantial commitments of capital required for that project will be turned to other sources.

We must support the committee and stick by its language. A swap of oil is nothing but a delay in the plans to assure a continuous flow of North Slope oil into the Northern Tier States which are so desperately dependent on it, whose oil refineries are built to accommodate this high-sulphur crude oil.

To make our area dependent on some other source of oil is unreasonable.

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Connecticut, who is the author of this language in the committee bill.

Mr. MCKINNEY. Mr. Chairman, I think the gentleman from Minnesota (Mr. OBERSTAR) made a most important statement when he said we must stick with the committee language, because the House has stated that the President can export Alaskan oil if it is economically advantageous if he comes to the Congress and gets our approval. The other body has stated the President can go ahead and do it and we must disapprove.

It is far more important, I think, that the President be forced to come to us and make the case.

I remember this clearly, because at the heeding of the chairman of the committee 2½ years ago I changed my amendment to just a 2-year prohibition because I was promised by the administration and promised by the oil companies that this problem would be solved. Yet here we sit again 2½ years later.

So I admire the gentleman's remarks about sticking completely, strictly, and absolutely with the committee's language, and I hope that never again will I have to confront my good friend, the chairman of the committee, and move that the House instruct, because I know that hurt me and hurt him 2½ years ago when I was forced to do that.

Mr. OBERSTAR. Mr. Chairman, I commend the gentleman's leadership on this important issue.

I raise one final consideration—the effect the amendment would have on employment. If we accept this amendment, we deny the American seaman the benefits of transporting this oil. The Jones Act requires that cargo be moved between American ports by American ships. Shipment of our oil to Japan would not be bound by that requirement. Instead of reducing the balance of payments between the United States and Japan, this oil will help Japan build its industrial might even further.

Mr. Chairman, to insure the movement of vitally needed oil to America's agricultural and industrial heartland, it is vitally important to stick with the committee's language.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I would like to commend the gentleman from Minnesota (Mr. OBERSTAR) on his remarks and associate myself with them.

During the time I have been in the Congress I have spent much time on the Northern Tier pipeline issue. During the past several weeks the Departments of Agriculture and Energy have pointed out the Northern Tier pipeline proposal to which the gentleman referred is the best and most dependable method for bringing energy to the Northern Tier States, which include, of course, the gentleman's State and my own State of Iowa.

In order to maintain that agricultural heartland and provide heating oil for us in the winter, I think it is essential that we have that energy lifeline. Certainly we are much more anxious to be dependent upon Alaskan oil than we are to be dependent on foreign sources of oil coming through the Gulf of Mexico.

So, Mr. Chairman, I agree with the gentleman from Minnesota (Mr. OBERSTAR), and I commend him for his remarks.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Iowa (Mr. TAUKE) for his contribution, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, I think a little history will serve many of my friends in this body to understand where this prohibitive clause came from as far as exporting oil or swapping oil with Japan is concerned. It originally arose in the pipeline bill, the bill to build the Alaskan pipeline.

The intent was to have an Alaskan line, an American line, with American people and with American oil. That was my amendment. The amendment was adopted by the committee, it was adopted by this House, and it has been in place ever since.

But unfortunately, because of the inactivity of this administration, there have been no ways provided of transporting oil to the Midwest and the east coast. There have been none. In fact, we have what we call in the Committee on Interior and Insular Affairs a fast-track provision, and the administration conveniently excluded the possibility of expediting the process of either the Foothills project, which would take care of the problem of my good friend, the gentleman from Minnesota (Mr. OBERSTAR), or the Northern Tier.

So what we are faced with today, right now, is that there is a considerable quantity of oil going through the Panama Canal. As it goes through the Panama Canal, that raises the price from $2 for transportation costs, as a swap would allow, to $7 or $9, thus increasing the cost to the consumer by a considerable amount.

What this amendment does is, for a short period of time, to agree to an ex-

change of oil, thus giving the consumer a break and also giving the State of Alaska—and I will say this without any reservation—a good return on its oil in the way of royalty. That is the parochial position I am put in today.

But I would like to bring this to the attention of the Members again: The gentleman from Minnesota (Mr. OBERSTAR) hit the nail right on the head: It is absolutely mandatory that we build a transportation system from the West to the East. If we do not, this country puts itself further into the hole of dependency upon the OPEC nations, because, let me say to my good friends, the oil of this Nation is in the West. It is off the Santa Barbara Channel, it is off the Gulf of Alaska, it is in the Bering Sea of Alaska, it is in the Beaufort Sea of Alaska, and it is in the lands of Alaska.

I say that, although this body did not see the wisdom of allowing the majority of the oil fields in Alaska to be developed. That came about from their lack of knowledge and by listening to those who would convey half truths and conveniently put aside 65 percent of the oil potential in Alaska. I hope that will be rectified in the Senate so that we can have that oil after Prudhoe Bay goes dry in 1985.

I hope also that we will have accomplished a transportation system under an aggressive administration so that the West, the Midwest, and the East are no longer dependent upon the OPEC nations.

The amendment offered by the gentleman from California (Mr. DANNEMEYER) is a short-term amendment, but it gives us an opportunity to give the consumer a break. It gives the consumer who is paying a dollar a gallon a break, and it gives him a chance possibly to have fuel prices back at the price they were prior to the shortage we just experienced this past year.

Mr. Chairman, I am confident in my own mind this would be a short-term solution. But let us keep in mind that the secret of this is the long-term solution, a solution that involves providing a transportation system from the West to the East.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, the gentleman may not have been here the other day when I entered into a colloquy with my friend, the gentleman from Michigan, that stated we have a refining capacity in the Antilles and in the Virgin Islands, and that 1 refinery there now produces up to 700,000 barrels a day and another can produce 900,000 a day. That is excess capacity now in existence, and it could be retrofitted to the Alaskan sour crude.

Mr. YOUNG of Alaska. It is sad to say, though, that it is going through the Panama Canal, it is sad to say that with the vote on the Panama Canal issue that we had, the situation is very unsure politically, and it is sad to say that it still costs the consumer $9 for transportation to get the oil to the Virgin Islands and the Bahamas. Those are facts; that is not just hearsay.

So if we want to argue the economics of the situation, the swap or the exchange is better for the consumer over the short term. Long range, though, if we look at the long-range program, it would be best to have a pipeline or pipelines built through the northern tier and the southern part of California so we could have the Alaskan crude come into the Midwest and the east coast refineries.

Mr. BONKER. But it seems to me that the language in the Wolpe amendment emphasizes the cost benefit to the consumer. So I think that is an important ingredient in the bill, and I would hate to see that stricken.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas, who is an expert in the field about which we speak.

Mr. KAZEN. Mr. Chairman, I thank my colleague, the gentleman from Alaska (Mr. YOUNG). Let me ask the gentleman one question, because I want to get this straight in my mind.

We are going to swap Alaskan oil for Japanese oil, and the Japanese get that oil where?

Mr. YOUNG of Alaska. It is my understanding they have worked out a deal with Mexico and also with the OPEC nations.

Mr. KAZEN. Mr. Chairman, let me ask, what kind of a price f.o.b. the United States will the Japanese oil that come to us bring the Japanese?

Mr. YOUNG of Alaska. Mr. Chairman, I cannot truthfully answer the gentleman's question. I cannot answer the question on the exact price because I have not seen it.

Mr. KAZEN. Mr. Chairman, getting into the complexities of the swap and right down to the nuts and bolts, what are we swapping in the way of money?

Mr. YOUNG of Alaska. We are swapping the transportation cost of $2 a barrel to Japan versus the $9 a barrel it costs to bring the oil through the Panama Canal.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield? Perhaps I can answer the question.

Mr. KAZEN. Yes; I would like to get an answer. I would like an explanation of this.

I want to know the present transportation cost as opposed to what kind of transportation cost there will be for Japanese oil f.o.b. the United States.

Mr. YOUNG of Alaska. It is $2 to $3 versus $9. That is my understanding.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, let me give the gentleman my understanding at the current moment, and I want to remind the Members that the "current moment" does not last very long in the oil business.

□ 1640

The current situation is that we would sell Alaskan oil at somewhere in the neighborhood of $22 a barrel. We would receive Mexican oil at somewhere in the neighborhood of $23, plus a 75-cent charge they add. That would be $1.75 basic balance of trade deficit with each barrel exported.

True, the transportation costs are more. However, the transportation costs at the present moment are being borne on Jones bottom ships and being paid to American shipping companies and American workers and, therefore, are self-contained.

However, none of these savings on transportation would go to the American consumer. This is my argument to the gentleman. I understand the gentleman's parochial interest, and I have no desire to put him down; he runs from the State of Alaska. But the only transportation savings would go to the oil companies. Sohio has already announced a 302-percent increase in profits and expect to increase their production shortly.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Mr. Chairman, if I may respond, I have made my statement very clear. This is a parochial position. We are losing a considerable amount of money in the State of Alaska because of the cost factor of shipping our oil. That may not make many of the Members have bleeding hearts, but as a reality we are dealing with a nonrenewable resource that is being consumed by the people of the lower 48, not the Alaskan people, and we believe we should be reimbursed justifiably. It was my amendment that prohibited the export of Japanese oil. If there had been some aggressive leadership in this administration to build the transportation system—that has not occurred.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield, I just wanted to echo the gentleman's sentiments. I think we ought to have a mode of transportation for this oil from the west coast into the United States. I do not want to name names, but the State of California's chief executive raised a lot of questions and put a lot of stumbling blocks in the building of that pipeline into Texas that would have brought the stuff back up here into the Midwest and into the East.

Mr. YOUNG of Alaska. Maybe we will have some brownouts and people will recognize the problem we have.

Mr. KAZEN. Yes; whatever it takes, I hope it happens. But still and all, I want to make sure that if Japan is to get any oil from Mexico, that Mexico agree to deliver it through the pipelines to the United States; otherwise, we will not be able to make any kind of an agreement with Japan or anybody else. Somewhere in the long run it would be detrimental to our consumers. I can understand the

gentleman's point of view, and if I were in his place I would do the same thing.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield, let me back up the gentleman from Alaska in his point. When this whole discussion went forth, when the Alaskan pipeline was built, when we did put in fast-track legislation into the Alaskan pipeline we listened to the oil companies' promise that they would immediately set about building a distribution system. That has not happened.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, finally, after millions and millions of dollars being spent on a pipeline and approvals, we see a sudden attraction of interest on the part of the oil companies on a distribution system. And why, one has to ask himself? Because June 22, 1979, they knew they could get away with their little ploy.

Mr. YOUNG of Alaska. If I may reclaim some of my time to sort of refute what the gentleman said, that is not all necessarily the fact. I can say that they tried to establish that line early in the ball game, but because of 710 permits, of the uncertainty, they reached a point it was no longer economically feasible to build a line for the rest of Prudhoe Bay. Again I must remind my good friend that we do not know if there are going to be any more Prudhoe Bays, and put most of the potential oil fields onshore off limits. So Sohio had to pull out. But they could make—and I make no bones about that—a better return on their dollar by the Japanese swap, but for a short period of time.

Mr. McKINNEY. Would not the gentleman agree that we would have to keep their feet to the fire in order to build this distribution system?

Mr. YOUNG of Alaska. You cannot keep the oil companies' feet to the fire. You have to keep this administration and those States who have impeded the process of a distribution system for the rest of the United States.

Mr. McKINNEY. I agree with the gentleman totally.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I do not come from Alaska; I come from New Jersey. We are not talking about keeping feet to the fire. The only feet to the fire are going to be the consumers, and that is the truth. Surely, we should have had that pipeline through to Midland, Tex., but we did not get it, because of obstruction of one kind or another, as the gentleman from Texas has alluded to. And we know why. It is commonsense that if you can get an equal amount of oil from Mexico or Venezuela cheaper, landing in Texas and in Louisiana refineries cheaper, we can still insist upon the pipelines being built. Certainly there is going to be trouble, as we know it, as to which route they take. But we are buying now oil from Canada to feed our midwestern refineries, and we should feed them with Alaskan oil. There is no doubt. But this does not have to be forever. Permits take several years.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

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

Mr. LAGOMARSINO. Mr. Chairman, I had hoped we had finally put this issue to rest. As a matter of fact, I am surprised there is still discussion of the issue when it seems so obvious to me, anyway, that when we have an oil shortage, we should be using our Alaskan oil at home. That feeling has been particularly emphasized by the recent strong public reaction to the sale of oil products to Iran.

Since I have studied the issue of exports of Alaskan oil for some time, all the testimony I have heard and conversations I have had have convinced me that the tougher the provision on Alaskan oil that we can enact the better off we will be.

Let me give you just a couple of reasons: First, any pipeline that is being proposed from the west coast to the middle of this country, with or without a Northern Tier pipeline, I think, will never be built unless it is very clearly understood that it is going to be extremely difficult, if not impossible, to export oil. I am well aware that Sohio has announced abandonment of its plans. But that does not mean they—or some new applicant—cannot decide to go ahead with it or some other pipeline. The Northern Tier pipeline is still very much in the picture.

Second, probably the best argument that was used by the administration, if you believed it, was that if we did not export oil it would preclude an increase in oil production in Alaska.

Very interestingly, early May, Atlantic Richfield Oil Co., which is one of the Alaskan producers, announced it is going to increase its production by 25 percent—300,000 barrels a day—in 1980. Company officials also said they anticipated no serious problems in transporting and distributing the oil to refineries in the continental United States, although transportation under current conditions would be relatively expensive. The present surplus of Alaskan crude oil that cannot be refined on the west coast is shipped through the Panama Canal to refineries in the Southeast.

With regard to the Panama Canal, I am surprised that some of the people who support the administration generally and who support the Panama Canal Treaty are lining up on the wrong side of this issue. Because, if we should export Alaskan oil, it would cut down on the tolls for the Panama Canal, which is not one of the things that has been forecast. And then, American taxpayers are going to have to either dig that money up, tolls are going to have to be increased, or we are going to have a serious problem with Panama. If tolls are increased as a result of export of oil, it will have a very serious adverse effect on the countries of South America, especially western South America. It could easily do more harm than any good from the canal treaty.

Let me mention another thing. Everyone was assured when the Alaskan pipeline was built that the oil would not be exported; it would be used in this country. Substantial investments were made by the American maritime industry to build ships to carry that extra volume of oil from Alaska. The only savings that there really are in shipping oil to Japan is by using foreign ships. If you use foreign ships, that certainly does not contribute to the favorable balance of trade because the money would then go outside of the country, and the considerable investment of the American maritime industry would be lost, or at least substantially impaired.

I would cite another point as well. Many of us met with Prime Minister Ohira, of Japan, when he was in the United States. We are putting considerable pressure on the Japanese to increase their imports of our good, agricultural products as well as manufactured goods. If we sell them hundreds of millions of dollars worth of oil it certainly is going to cut down on their interest in buying more from us. They will be able to say, "We have improved the balance of trade," and, of course, the United States will be left having to buy that oil from someone else—with no change then in our overall balance of trade.

Many environmentalists are opposed to exporting Alaskan crude oil. They have also given further consideration to the question of building new refineries. Their conclusion is that compared to older, polluting refineries, new large refineries using the latest technology are preferable for meeting our domestic oil needs.

This is especially true to meet the requirements of refining our heavy crude resources. Without a prohibition on the export of Alaskan oil, there will be little incentive to proceed with changing existing refineries to be able to process Alaskan oil or the heavy crude which is so abundant in California. It will be interesting to see if the environmental groups continue to endorse such programs once they are actually proposed.

Those who argue that we should allow export of Alaskan oil because there is not enough refinery capacity on the west coast ignore the new refinery being built in Alaska itself. The Alpetco refinery will have the capacity to process 150,000 barrels of petroleum per day, and of that amount, 75,000 barrels of unleaded gasoline will be available for California. That refinery should provide one more incentive for increasing production of Alaskan crude oil.

It is noteworthy that although we were advised several years ago that total west coast refinery capacity was 500,000 barrels per day, such refining capability is now some 830,000 barrels per day.

It is also important to remember that the language in this bill does not automatically prohibit export of Alaskan oil. The conditions to be met are very

stringent, to be sure, but they do provide that if benefits can be passed on to the consumer and the refiner, then exports are possible. If those provisions can be met, then a trade could be a good thing. However, until those conditions are met, we should not export Alaskan oil.

Probably the best reason for not exporting Alaskan oil is that if we do not prevent it—or at least preserve that option—if we do not take strong action, I think that the credibility of the American people in the government of the United States in relation to oil—and how we handle oil—is going to be even more seriously eroded than it already is—if such a thing is possible. I do not know how you go from zero to minus. But that will happen, I can guarantee you, especially when you remember public reaction to export of oil products to Iran.

The bottom line is that if the Congress of the United States is going to have anything to say about oil policy in this country, I think we had better preserve the strong provisions concerning export of Alaskan crude oil that do give the Congress the final say.

□ 1650

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 7 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each.

(By unanimous consent, Mr. BINGHAM, Mr. LEE, and Mrs. FENWICK yielded their time to Mr. DANNEMEYER.)

The CHAIRMAN. The gentleman from California (Mr. DANNEMEYER) is recognized for 4 minutes.

Mr. DANNEMEYER. Mr. Chairman, the argument has been made that we should not lift this restriction, because it will continue to put heat under the effort to build a pipeline from the north slope of Alaska across Canada in order to bring energy to the northern tier States of our Union. Let us examine that for a moment.

We had a representative of the Department of Energy come before the Committee on Interstate and Foreign Commerce, on which I served some 3 months ago, and tell us that because of land use restrictions and environmental restrictions in this country, we probably cannot build another refinery.

So if we are thinking about building or bringing oil to the northern tier States, we are going to have to ask very clearly and concisely what are we going to do after we get it there. If we think we are going to build a refinery in some place in the northern part of the United States, I do not think that objective has a realistic chance of being attained.

Let me make my position very clear. I am prepared, as a Member of this House, to vote the legislation to build that pipeline, because I think it is badly needed.

But until we get it built, what are we going to do with the oil that we hope to obtain from increased production in the north slope of Alaska?

Currently we are producing 1.2 million barrels a day. It has been estimated that the capacity of that pipeline is some 2 million barrels a day, and we have to ask the question, where is that additional oil going to be used in our system?

Right now, the west coast capacity is some 850,000 barrels a day. About 350,000 barrels a day is going through the Panama Canal, and we are in the ridiculous position today of tankers passing one another in the Panama Canal, one going to Japan from the east coast of Mexico, because Mexico has no shipping port on its west coast.

Now, in 1974, when this amendment first came into our law prohibiting Alaskan oil from being shipped to any place besides the United States, Mexico had 10.09 billion barrels in reserve. In that year it was producing 551,000 barrels a day.

Today, Mexico has 46.5 billion barrels of reserve and is producing 1.6 million barrels per day.

The point is, there are changed circumstances in the last 5 years. These changed circumstances require us at this time on a temporary basis to look at this amendment very seriously because all it says is that we will permit the export of Alaska oil to a foreign country to the extent we are able to obtain it from a contiguous foreign nation, which by definition almost exclusively would be Mexico.

The Mexican oil would be shipped from the east coast to the refineries in the Gulf States of this country, and the oil from Alaska could go to Japan, to the extent of maybe 300,000 barrels a day. That works out to a significant saving to consumers, based on $2 per day of saving and transportation costs of about $219 million a year.

It would improve our balance of payments with Japan to the extent, assuming we would sell 300,000 barrels a day, of $2.19 billion per year. That is a significant reduction of our adverse balance of payments with Japan. It is something I think we should achieve. I ask for an "aye" vote on the amendment.

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

Mr. GORE. Mr. Chairman, I want to congratulate my colleague for offering this amendment. I do not support this amendment, but I think it is an extremely close question. I am glad he has brought the question up for debate.

I have studied this very carefully. I think there is a great deal of merit in the position he is advocating if we had a true free market in the world trade of oil. I think the amendment surely should pass, but I have decided a "no" vote is indicated on this amendment for the following reasons:

First, the consumers would not benefit at all from the savings effected by the swap.

Second, the increased revenues to the oil companies would not result in additional incentives to step up production in Alaska because the recent OPEC increases which apply to Alaskan production have already increased that incentive enormously.

Third, I think we need to maintain the incentive in this country to reconfigure our refineries to handle the heavy crude oil and create an incentive to build the PacTex pipeline or Northern Tier pipeline so we can get this oil into the parts of the country where we can refine it.

Fourth, I think that a "no" vote is indicated. It is a worthy amendment, regardless.

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

Mr. LAGOMARSINO. Mr. Chairman, I want to commend my colleagues from California, too, for offering this amendment, although I do not agree with it. I think it should be defeated. I think he has performed a useful purpose in bringing this issue. I think it is an issue worthy of debate. I think there are two main reasons why the amendment should be defeated.

□ 1700

One is that at this time, as I mentioned in my remarks a little while ago, the credibility of the U.S. Government with regard to oil policy is very low. The shipment of oil products in very limited amounts to Iran certainly demonstrated that. I think if we were to embark on a program of exporting Alaskan oil to Japan, while we say we have a shortage, would be very damaging to our credibility and our efforts to get an energy policy into the works.

But I think really the bottom line is the one I mentioned before, and that is if we are going to be involved, we as Members of Congress are going to be involved in the important decisions relating to energy, then I think we certainly should preserve that option with regard to this very important issue. I urge a "no" vote.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Thank you, Mr. Chairman.

I want to correct a possible misunderstanding about Northern Tier pipelines in remarks made earlier. It is not a matter of building new refineries in the upper Midwest. The refineries exist. The question is the cutoff of Canadian crude. The Canadians have put the upper Midwest on a month-to-month allocation.

We have to build a Northern Tier pipeline. We must bring excess Alaskan crude oil to the upper Midwest refineries, which are built to accommodate that high-sulfur sour crude. They can continue operating; we can continue to feed the industrial heartland of the United States.

The decision on building the Northern Tier pipeline is hardly a month away; the Interior Department is about ready to make its decision. The President has the recommendation of former Secretary Schlesinger and of Secretary Bergland to go ahead with the Northern Tier pipeline project. The decision we make today on the question of swapping Alaskan crude can decide whether or not we go

ahead with the Northern Tier pipe. I say defeat the Dannemeyer amendment, build the Northern Tier pipeline.

The CHAIRMAN. The question is on the amendment offered gy the gentleman from California (Mr. DANNEMEYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 61, noes 340, not voting 33, as follows:

[Roll No. 506]

AYES—61

Alexander	Forsythe	Pritchard
Anthony	Frenzel	Rhodes
Archer	Gingrich	Rudd
Ashley	Goldwater	Satterfield
Aspin	Hagedorn	Scheuer
Badham	Hansen	Schulze
Bingham	Heftel	Shuster
Bolling	Jones, Okla.	Simon
Brown, Calif.	Kelly	Smith, Iowa
Collins, Tex.	Kemp	Steed
Conable	Kindness	Symms
Corman	LaFalce	Thomas
Crane, Daniel	Lehman	Van Deerlin
Crane, Philip	Lent	Whittaker
Dannemeyer	McDonald	Wilson, Bob
Derwinski	McEwen	Wirth
Dornan	Madigan	Wyatt
Duncan, Oreg.	Martin	Young, Alaska
Erlenborn	Michel	Zablocki
Evans, Del.	Nedzi	
Fenwick	Paul	

NOES—340

Abdnor	Chappell	Fountain
Akaka	Cheney	Fowler
Albosta	Clausen	Frost
Ambro	Clay	Fuqua
Anderson, Calif.	Cleveland	Garcia
	Clinger	Gaydos
Andrews, N.C.	Coelho	Gephardt
Andrews, N. Dak.	Coleman	Giaimo
	Collins, Ill.	Gilman
Annunzio	Conte	Ginn
Applegate	Conyers	Glickman
Ashbrook	Cotter	Gonzalez
Atkinson	Coughlin	Goodling
AuCoin	Courter	Gore
Bafalis	D'Amours	Gradison
Bailey	Daniel, Dan	Gramm
Baldus	Daniel, R. W.	Grassley
Barnard	Danielson	Gray
Barnes	Daschle	Green
Bauman	Davis, Mich.	Grisham
Beard, R.I.	Davis, S.C.	Guarini
Beard, Tenn.	de la Garza	Gudger
Bedell	Dellums	Guyer
Bellenson	Derrick	Hall, Ohio
Benjamin	Devine	Hall, Tex.
Bennett	Dicks	Hamilton
Bereuter	Dingell	Hammer-schmidt
Bethune	Dixon	
Bevill	Dodd	Hance
Blanchard	Dougherty	Hanley
Boggs	Downey	Harkin
Boland	Drinan	Harris
Boner	Duncan, Tenn.	Harsha
Bonior	Early	Hawkins
Bonker	Eckhardt	Heckler
Bouquard	Edgar	Hefner
Bowen	Edwards, Ala.	Hightower
Brademas	Edwards, Calif.	Hillis
Breaux	Edwards, Okla.	Hinson
Brinkley	Emery	Holland
Brodhead	English	Hollenbeck
Brooks	Erdahl	Holt
Broomfield	Ertel	Hopkins
Brown, Ohio	Evans, Ga.	Horton
Broyhill	Evans, Ind.	Howard
Buchanan	Fary	Hubbard
Burgener	Fascell	Huckaby
Burlison	Findley	Hughes
Burton, John	Fish	Hutto
Burton, Phillip	Fisher	Hyde
Butler	Fithian	Ichord
Byron	Flippo	Ireland
Campbell	Florio	Jacobs
Carney	Foley	Jeffords
Carr	Ford, Mich.	Jeffries
Cavanaugh	Ford, Tenn.	Jenkins
Jenrette	Moore	Shannon
Johnson, Calif.	Moorhead, Calif.	Sharp
Johnson, Colo.		Shelby
Jones, N.C.	Moorhead, Pa.	Shumway
Jones, Tenn.	Mottl	Skelton
Kastenmeier	Murphy, N.Y.	Slack
Kazen	Murphy, Pa.	Smith, Nebr.
Kildee	Murtha	Snowe
Kogovsek	Myers, Pa.	Snyder
Kostmayer	Natcher	Solarz
Kramer	Neal	Solomon
Lagomarsino	Nelson	Spellman
Latta	Nichols	Spence
Leach, Iowa	Nolan	St Germain
Leach, La.	Nowak	Stack
Leath, Tex.	O'Brien	Staggers
Lederer	Oakar	Stangeland
Lee	Oberstar	Stanton
Leland	Obey	Stark
Levitas	Ottinger	Stenholm
Lewis	Panetta	Stewart
Livingston	Pashayan	Stokes
Lloyd	Patten	Stratton
Loeffler	Patterson	Studds
Long, La.	Pease	Stump
Long, Md.	Pepper	Swift
Lowry	Perkins	Synar
Lujan	Petri	Tauke
Luken	Peyser	Taylor
Lundine	Pickle	Traxler
Lungren	Preyer	Trible
McClory	Price	Udall
McCloskey	Pursell	Ullman
McCormack	Quayle	Vander Jagt
McDade	Rahall	Vanik
McHugh	Railsback	Vento
McKay	Rangel	Volkmer
McKinney	Ratchford	Walgren
Maguire	Regula	Walker
Markey	Reuss	Wampler
Marks	Richmond	Watkins
Marlenee	Rinaldo	Weaver
Marriott	Ritter	Weiss
Matsui	Robinson	White
Mattox	Roe	Whitehurst
Mavroules	Rostenkowski	Whitley
Mazzoli	Roth	Whitten
Mica	Rousselot	Williams, Mont.
Mikulski	Roybal	Williams, Ohio
Miller, Calif.	Royer	Wilson, Tex.
Miller, Ohio	Runnels	Wolpe
Mineta	Russo	Wydler
Minish	Sabo	Wylie
Mitchell, Md.	Santini	Yates
Mitchell, N.Y.	Sawyer	Yatron
Moakley	Schroeder	Young, Fla.
Moffett	Sebelius	Young, Mo.
Mollohan	Seiberling	Zeferetti
Montgomery	Sensenbrenner	

NOT VOTING—33

Addabbo	Ferraro	Rodino
Anderson, Ill.	Flood	Rose
Biaggi	Gibbons	Rosenthal
Carter	Holtzman	Stockman
Chisholm	Lott	Thompson
Corcoran	Mathis	Treen
Deckard	Mikva	Waxman
Dickinson	Murphy, Ill.	Wilson, C. H.
Diggs	Myers, Ind.	Winn
Donnelly	Quillen	Wolff
Fazio	Roberts	Wright

□ 1710

Messrs. ASHLEY, ALEXANDER, LEHMAN, and NEDZI changed their votes from "no" to "aye."

Messrs. REUSS, HUCKABY, ABDNOR, and ECKHARDT changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1720

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

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

Mr. BINGHAM. Mr. Chairman, there have been some assertions during debate on this bill to the effect that other House committees share the jurisdiction over this legislation. I simply want to state for the record that there can be no such interpretation of the rules. The rules are absolutely clear. Under rule X, clause 1 (h)(14), jurisdiction over export controls is granted solely to the Committee on Foreign Affairs. That has been the case since 1975. I have examined the jurisdiction of the other committees that have an interest in this legislation and there is no reference in the rules of any kind to export controls or other issues touched upon by H.R. 4034. So there should be no doubt that the Foreign Affairs Committee has sole legislative jurisdiction over export controls, including controls for the purpose of national security which is an essential part of the legislation now before the committee. It is true that one particular bill in this Congress, H.R. 3216, was coreferred to another committee as well as to the Foreign Affairs Committee. The only difference between that bill and the export control bills referred solely to the Foreign Affairs Committee was a provision authorizing funds for the Department of Defense. Such an authorization, of course, is not within the jurisdiction of the Foreign Affairs Committee. But including such a provision in a bill dealing with export controls does not give another committee jurisdiction over export controls, and should not be so interpreted.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

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

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this bill.

I wish to take this opportunity to congratulate my colleagues for the excellent work they have done in shaping this legislation to protect our national security interests for exports of military critical technologies and at the same time to provide for greater specificity for the export licensing process, thereby giving business a clearer definition of what to expect in the administration of export controls.

I would also like to point out those provisions which were amended and which reflect the changes I have been seeking since the markup process began in subcommittee last April.

The sections on "findings" and "policy" clarify the necessity of export controls for national security purposes.

The role of the Department of Defense is reaffirmed in the military critical technologies approach to export controls for national security purposes for development of the control list and for review of license applications for national security reasons.

Notwithstanding foreign availability, national security interests will be preserved under export controls and reexport controls will be maintained.

The legislation, as amended, requires negotiations to eliminate foreign availability of critical technologies.

The role of the technical advisory committees is made more explicit with respect to their functions in assisting the Secretary of Defense in decisions related to national security controls.

I would like to add that with regard to the diversion of technology by a consignee to significant military use, this

legislation prevents further exports until such diversion is terminated and provides that additional steps as necessary be taken to prevent further military use of such diverted technology.

I also believe that the foreign policy provisions of this bill make a substantial improvement in the existing law and will help to get rid of some of the uncertainty in the business community. Specifically, the provision for congressional review will provide a role for Congress on this important subject.

With the balance this House has struck in preserving the national security interests of our country in exports of technology as well as providing greater certainty to business, I urge my colleagues to vote for this legislation.

Mr. BONKER. Mr. Chairman, I move to strike the last word.

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

Mr. BONKER. Mr. Chairman, I rise in support of this bill.

H.R. 4034, the Export Administration Act Amendments of 1979 is the product of several months of work and many more months of study by the Subcommittee on International Economic Policy and Trade. I have the honor of being the ranking majority member of that subcommittee and worked very hard on this legislation. I have always believed that the encouragement of exports must be a national objective; that our export policy must be affirmative. The Export Administration Act is basically a negative instrument. It contains sections where controls are imposed on exports because of national security or foreign policy or short supply considerations. It also contains other sections where licenses for exports are denied for various reasons.

We faced several monumental problems in trying to refrom the export control policy. Our biggest dilemma was how to reconcile the conflicting tendencies between a policy that promoted exports and a policy which maintained those controls that would insure our national security. In my judgment we have achieved that fine balance.

As the subcommittee chairman, Mr. BINGHAM, said recently:

In the world in which we live, we cannot afford to relax our controls on technology exports which our adversaries could use to reduce the military technology gap which is the key to the superior performance of U.S. weapons systems. At the same time, considering the unprecedented trade deficit which is sapping our economic strength and vitality, we cannot afford to continue controlling products which are being exported by other advanced free-world countries. Nor can we afford inefficiencies and delays in the licensing system which act as needless barriers to exports.

That was another problem we had to resolve. There is no doubt that delays in the licensing decisions have been a major cause for our export loss. Foreign purchasers have come to look upon us as an unreliable supplier because the licensing policy has often been unclear. I believe this bill goes a long way in resolving the licensing issue.

H.R. 4034 is probably one of the most complicated pieces of legislation to come before the Congress in a long time. I participated in the hearings and drafting of new amendments with great care. I was especially interested in finding a way which would give us an export policy that gave the people full economic benefits and yet preserved our dwindling resources. My red cedar amendment is one good example. This is a unique situation that warranted special attention.

Studies have shown that at the present rate of cutting this rare species (redcedar) will be extinct in 8 to 10 years and it takes over 300 years to grow. Because faster growing species such as Douglas fir produce greater economic return, foresters generally do not replace these large, very old western redcedar trees with cedar seedlings. This amendment applies only to logs harvested from State and Federal lands (excluding Indian lands). Virtually all redcedar logs currently harvested and exported from Federal and State lands are from my State. By banning the exports of unprocessed redcedar logs from State and Federal lands we will help to slow down consumption and we will help to preserve a precious nonrenewable resource.

A second good example is the section in H.R. 4034 which strengthens the existing restrictions on the export or swap of Alaska oil. This provision requires the President to demonstrate to the Congress that exporting Alaskan oil will benefit the American consumer. It will also insure that the Congress, as well as the administration, plays a major role in deciding whether or not Alaskan oil should be exported.

Mr. Chairman, let me reiterate, H.R. 4034 is a responsible bill, it addresses all relevant issues, fully protecting our national security while increasing our competitiveness in the world market.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, pursuant to House Resolution 286, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

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

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

(3) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national (and goods which contribute significantly to the transfer of such technology) which (and gods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by

the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

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

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

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a) (1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request or application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or tech-

nology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In an instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b) (1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a) (2) (B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a) (2) (B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control. Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce 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 the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d) (1) (A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies, and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period pre-

scribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6)(A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7)(A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

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

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g)(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

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

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

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

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

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

(iv) are clearly necessary to protect the national interest; and

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

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act: *Provided*, That the President promptly notifies Congress of each such agreement.

(h) Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(C) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2) (A) or (B) of this Act.

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Cogress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii) (I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designess.

An amendment to the motion is not in order.

(E)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l)(1) Any United States firm, enterprise, or other non-governmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and 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 such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export re-

strictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and 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.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORTS ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interests so require.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

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

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

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycottting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent

with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

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

(B) potential serious financial loss to the applicant if not granted an exception;

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

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

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

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

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

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

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a)(1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opoprtunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a)(1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

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

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicabil-

ity of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon requests of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to

violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

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

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) action taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact of the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

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

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

SEC. 15. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

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

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the pur-

poses of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

MOTION OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BINGHAM moves to strike out all after the enacting clause of the Senate bill, S. 737, and to insert in lieu thereof the provisions of the bill, H.R. 4034, as passed, as follows:

TITLE I—EXPORT ADMINISTRATION

SHORT TITLE

SECTION 101. This title may be cited as the "Export Administration Act Amendments of 1979".

FINDINGS

SEC. 102. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended to read as follows:

"FINDINGS

"SEC. 2. The Congress makes the following findings:

"(1) Exports are important to the economic well-being of the United States.

"(2) A large United States trade deficit weakens the value of the United States dollar, intensifies inflationary pressures in the domestic economy, and heightens instability in the world economy.

"(3) Poor export performance is an important factor contributing to a United States trade deficit.

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

"(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

"(6) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

"(7) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

"(8) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

"(9) The export of goods or technology without regard to whether such export makes a significant contribution to the military potential of individual countries may adversely affect the national security of the United States.

"(10) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States.

"(11) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.".

POLICY

SEC. 103. (a) Section 3 of the Export Administration Act of 1969 (50 U.S.C. App. 2402) is amended by amending paragraph (2) to read as follows:

"(2) It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities, including to restrict exports to countries which violate the principles of the Monroe Doctrine; and (C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.".

(b) Such section is further amended—

(1) in paragraph (5) by striking out "articles, materials, supplies, or information" and inserting in lieu thereof "goods, technology, or other information ";

(2) in paragraph (6) by striking out "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof "goods, technology, or other information"; and

(3) by adding at the end thereof the following new paragraph:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries, which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

"(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are essential to achieve fundamental national security, foreign policy, or short supply objectives, (B) will clearly achieve such objectives, and (C) are administered consistent with basic standards of due process. It is also the policy of the United States that such controls shall not be retained unless their efficacy is annually established in detailed reports available to both the Congress and to the public, to the maximum extent consistent with the national security and foreign policy of the United States.

"(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.".

EXPORT LICENSES; TYPES OF CONTROLS

SEC. 104. (a) The Export Administration Act of 1969 is amended—

(1) by redesignating section 4 as section 7;

(2) by repealing sections 5 and 9;

(3) by redesignating sections 6, 7, 8, 10, 11, 12, 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18, 19 and 20, respectively; and

(4) by redesignating sections 4A and 4B as sections 8 and 9, respectively.

(b) The Export Administration Act of 1969 is amended by adding after section 3 the following new sections:

"EXPORT LICENSES; COMMODITY CONTROL LIST; LIMITATION ON CONTROLLING EXPORTS

"SEC. 4. (a) TYPES OF LICENSES.—The Secretary may, in accordance with the provisions of this Act, issue any of the following export licenses:

"(1) A validated license, which shall be a document issued pursuant to an application by an exporter authorizing a specific export or, under procedures established by the Secretary, a group of exports, to any destination.

"(2) A qualified general license, which shall be a document issued pursuant to an application by the exporter authorizing the export to any destination, without specific application by the exporter for each such export, of a category of goods or technology, under such conditions as may be imposed by the Secretary.

"(3) A general license, which shall be a standing authorization to export, without application by the exporter, a category of goods or technology, subject to such conditions as may be set forth in the license.

"(4) Such other licenses, consistent with this subsection and this Act, as the Secretary considers necessary for the effective and efficient implementation of this Act.

"(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the 'commodity control list') consisting of any goods or technology subject to export controls under this Act.

"(c) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under any rules or regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

"NATIONAL SECURITY CONTROLS

"SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or

destinations, affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modification in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

"(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may consider appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence.

"(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

"(3) The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled for export from the United States under this section.

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing knowhow;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance knowhow,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3)(A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

"(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license, in lieu of a validated license, to the maximum extent practicable, consistent with the national security of the United States.

"(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

"(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

"(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

"(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

"(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

"(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection with respect to national security, the good or technology concerned is critical to United States national security and, if available to an adversary country, would permit a significant contribution to the military potential of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

"(4) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to re-

move a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

"(5) Whenever the Secretary of State, in consultation with the Secretary, has reason to believe that the availability of any goods or technology from sources outside the United States can be prevented or eliminated by means of negotiations with other countries, the Secretary of State shall undertake such negotiations. The Secretary shall not make any determination of foreign availability under paragraph (1) or (2) of this subsection with respect to such goods or technology until the Secretary of State has had a reasonable amount of time to conclude such negotiations.

"(6) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in each report to the Congress made pursuant to section 14 of this Act.

"(7) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

"(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become 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. Any such goods or technology which no longer meet the performance levels established by the latest such increase 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 Government agency 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.

"(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under subsection (a) or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

"(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

"(3) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

"(4) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a), and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(i) MULTILATERAL EXPORT CONTROLS.—(1) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee of the Consultative Group (hereinafter in this subsection referred to as the 'Committee') with a view toward accomplishing the following objectives:

"(A) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement, and all changes thereto.

"(B) Agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

"(C) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

"(D) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

"(2) The President shall include, in each annual report required by section 14 of this Act, a detailed report on the progress of the negotiations required by paragraph (1), until such negotiations are concluded.

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States person who, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation, and which agreement 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 such agreement to the Secretary.

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

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

"FOREIGN POLICY CONTROLS

"SEC. 6. (a) AUTHORITY.—(1) In order to effectuate the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods, technology, or other information or with respect to the countries or destinations affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision, and shall specify in the notice that the revision relates to controls imposed under the authority contained in this subsection.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that

the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section that the Secretary requests to review, and to appeal to the President any decision of the Secretary with respect to such license application.

"(b) CRITERIA.—In determining whether to impose export controls under this section, the President, acting through the Secretary and the Secretary of State, shall consider—

"(1) the likely effectiveness of the proposed controls in achieving their purpose, including the availability from other countries of any goods or technology comparable to goods or technology proposed for export controls under this section;

"(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts; and

"(4) the ability of the United States Government to enforce the proposed controls effectively.

"(c) CONSULTATION WITH INDUSTRY.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (3) of subsection (b) and such other matters as the Secretary considers appropriate.

"(d) ALTERNATIVE MEANS.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

"(e) NOTIFICATION TO CONGRESS.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Whenever the President imposes any export control with respect to any country under this section, he shall immediately notify the Congress of the imposition of such export control, and shall submit with such notification a report specifying—

"(1) the reasons for the control, the purposes the control is designed to achieve, and the conditions under which the control will be removed;

"(2) those considerations of the criteria set forth is subsection (b) which led him to determine that on balance such export control would further the foreign policy interests of the United States or fulfill its international responsibilities, including those criteria which were determined to be inapplicable;

"(3) the nature and results of consultations with industry undertaken pursuant to subsection (c); and

"(4) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing the control without attempting any such alternative means.

To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. If the Congress, within sixty days after the receipt of such notification, adopts a concurrent resolution disapproving such export control, then such export control shall cease to be effective upon the adoption of the resolution. In the computation of such sixty-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die. The procedures set forth in section 130 of the Atomic Energy Act of 1954 shall apply to any concurrent resolution referred to in this subsection, except that any such resolution shall be reported by the appropriate committees of both Houses of Congress not later than forty-five days after the receipt of the notification submitted pursuant to this subsection.

"(f) EXCLUSION FOR FOOD AND MEDICINE.—This section does not authorize export controls on food, medicine, or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of food, medicine, or medical supplies, under the International Emergency Economic Powers Act.

"(g) TRADE EMBARGOES.—This section does not authorize the imposition by the United States of a total trade embargo on any country. This subsection shall not be construed to prohibit the President from imposing a trade embargo under the International Emergency Economic Powers Act.

"(h) FOREIGN AVAILABILITY.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled for export under this section.

"(i) INTERNATIONAL OBLIGATIONS.—The limitations contained in subsections (b), (c), (d), (f), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill commitments of the United States pursuant to treaties to which the United States is a party, or to comply with decisions or other actions of international organizations of which the United States is a member.

"(j) EXISTING CONTROLS.—The provisions of subsection (f) and (g) shall not apply to any export control on food or medicine or to any trade embargo in effect on the effective date of the Export Administration Act Amendments of 1979.

"(k) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate 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:

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

"(2) 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.

"(l) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President for resolution. The Secretary shall issue regulations providing for periodic revision of such list for the purpose of eliminating export controls which are no longer necessary to fulfill the purpose set forth in subsection (a) of this section or are no longer advisable under the criteria set forth in subsection (b) of this section.".

(c) The Export Administration Act of 1969 is amended by inserting after section 9, as redesignated by subsection (a) of this section, the following new section:

"PROCEDURES FOR PROCESSING VALIDATED AND QUALIFIED GENERAL LICENSE APPLICATIONS

"SEC. 10. (a) GENERAL RESPONSIBILITY OF THE SECRETARY; DESIGNATED OFFICIAL.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section for objections by other agencies. The Secretary may not delegate the authority to deny any such application to any official holding a rank lower than Deputy Assistant Secretary.

"(2) For purposes of this section, the term 'designated official' means an official designated by the Secretary to carry out functions under this Act with respect to the administration of export licenses.

"(b) APPLICATIONS TO BE REVIEWED TO OTHER AGENCIES.—(1) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

"(2) The head of any Government agency concerned with export controls may, within ninety days after the effective date of this section, and periodically thereafter, in consultation with the Secretary, determine the specific types and categories of license applications to be reviewed by such agency before the Secretary approves or disapproves any such application. The Secretary shall, in accordance with the provisions of this section, submit to the agency involved any license application of any such type or category.

"(c) INITIAL SCREENING.—Within ten days after the date on which any export license application is received, the designated official shall—

"(1) send to the applicant an acknowledgment of the receipt of the application and the date of the receipt;

"(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

"(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section; and

"(4) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred.

"(d) ACTION BY THE DESIGNATED OFFICIAL.—Within thirty days after the date on which an export license application is received, the designated official shall—

"(1) approve or disapprove the application and formally issue or deny the license, as the case may be; or

"(2)(A) submit the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to any other agencels pursuant to subsection (b)(2); and

"(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation submitted to such other agency with respect to such application.

"(e) ACTION BY OTHER AGENCIES.—(1) Any agency to which an application is submitted pursuant to subsection (d)(2)(A) shall submit to the designated official, within thirty days after the end of the thirty-day period referred to in subsection (d), any recommendations with respect to such application. Except as provided in paragraph (2), any such agency which does not so submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the designated official to have no objection to the approval of such application.

"(2) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review of the application by such agency, the agency shall have an additional thirty-day period to submit its recommendations to the designated official. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the designated official to have no objection to the approval of the application.

"(f) DETERMINATION BY THE DESIGNATED OFFICIAL.—(1) The designated official shall take into account any recommendation of an agency submitted with respect to an application to the designated official pursuant to subsection (e), and, within twenty days after the end of the appropriate period specified in subsection (e) for submission of such agency recommendations, shall—

"(A) approve or disapprove the application and inform such agency of such approval or disapproval; or

"(B) if unable to reach a decision with respect to the application, refer the application to the Secretary and notify such agency and the applicant of such referral.

"(2) The designated official shall formally issue or deny the license, as the case may be, not more than ten days after such official makes a determination under paragraph (1)(A), unless any agency which submitted a recommendation to the designated official pursuant to subsection (e) with respect to the license application, notifies such official, within such ten-day period, that it objects to the determination of the designated official.

"(3) The designated official shall fully inform the applicant, to the maximum extent consistent with the national security and foreign policy of the United States—

"(A) within five days after a denial of the application, of the statutory basis for the denial, the policies in section 3 of this Act that formed the basis of the denial, the specific circumstances that led to the denial, and the applicant's right to appeal the denial to the Secretary under subsection (k) of this section; or

"(B) in the case of a referral to the Secretary under paragraph (1)(B) or an objection by an agency under paragraph (2) of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

"(g) ACTION BY THE SECRETARY.—(1)(A) In the case of an objection of an agency of which the designated official is notified under subsection (f)(2), the designated official shall refer the application to the Secretary The Secretary shall consult with the head of such agency, and, within twenty days after such notification, shall approve or disapprove the license application and immediately inform such agency head of such approval or disapproval.

"(B) In the case of a referral to the Secretary under subsection (f)(1)(B), the Secretary shall, within twenty days after notification of the referral is transmitted pursuant to such subsection, approve or disapprove the application and immediately inform any agency which submitted recommendations with respect to the application, of such approval or disapproval.

"(2) The Secretary shall formally issue or deny the license, as the case may be within ten days after approving or disapproving an application under paragraph (1), unless the head of the agency referred to in paragraph (1)(A), or the head of an agency described in paragraph (1)(B), as the case may be, notifies the Secretary of his or her objection to the approval or disapproval

"(3) The Secretary shall immediately and fully inform the applicant, in accordance with subsection (f)(3), of any action taken under paragraph (1) or (2) of this subsection.

"(4) The Secretary may not delegate the authority to carry out the actions required by this subsection to any official holding a rank lower than Deputy Assistant Secretary.

"(h) ACTION BY THE PRESIDENT —In the case of notification by an agency head, under subsection (g)(2), of an objection to the Secretary's decision with respect to an application, the Secretary shall immediately refer the application to the President. Within thirty days after such notification, the President shall approve or disapprove the application and the Secretary shall immediately issue or deny the license, in accordance with the President's decision In any case in which the President does not approve or disapprove the application within such thirty-day period, the decision of the Secretary shall be final and the Secretary shall immediately issue or deny the license in accordance with the Secretary's decision.

"(i) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the appropriate export control office or agency to which such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to the request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this paragraph and, not later than thirty days after notification of the request, shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology

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

"(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section

"(j) MULTILATERAL REVIEW —(1) In any case in which an application. which has been finally approved under subsection (d), (f), (g), (h), or (i) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the United States Government, subject to such multilateral review The license shall be issued upon approval of the application under such multilateral review If such multilateral review has not resulted in a determination with respect to the application within sixty days after such date, the Secretary's approval of the application shall be final and the license shall be issued The Secretary shall institute such procedures for preparation of necessary documentation before final approval of the application by the United States Government as the Secretary considers necessary to implement the provisions of this paragraph.

"(2) In any case in which the approval of the United States Government is sought by a foreign government for the export of goods or technology pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the Secretary of State, after consulting with other appropriate United States Government agencies, shall, within sixty days after the date on which the request for such approval is made, make a determination with respect to the request for approval Any such other agency which does not submit a recommendation to the Secretary of State before the end of such

sixty-day period shall be deemed by the Secretary of State to have no objection to the request for United States Government approval. The Secretary of State may not delegate the authority to disapprove a request for United States Government approval under this paragraph to any official of the Department of State holding a rank lower than Deputy Assistant Secretary.

"(k) EXTENSIONS.—If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

"(l) APPEAL AND COURT ACTION.—(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

"(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (k) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

"(3) If, within thirty days after petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or, if the application has been brought into conformity with such requirements, the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section The United States district courts shall have jurisdiction to provide such relief as appropriate.

"(m) RECORDS.—The Secretary and any agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such agency."

SHORT SUPPLY LICENSE ALLOCATION

SEC. 105. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by adding the following at the end of paragraph (1): "Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply".

MONITORING OF EXPORTS

SEC. 106. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by amending paragraph (1) of subsection (c) to read as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of sction 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.".

DOMESTIC CRUDE OIL

SEC. 107. Subsection (1) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to the territory of an adjacent foreign state to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States, such exchange achieving, through convenience or increased efficiency of transportation, lower oil prices described in paragraph (2)(A)(ii) of this subsection for consumers in the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

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

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

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

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

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

"(iv) are clearly necessary to protect the national interest; and

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

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.".

UGANDA

SEC. 108. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by repealing subsection (m), as added by section 5(d) of the Act of October 10, 1978 (Public Law 95-435).

PETITIONS FOR MONITORING OR CONTROLS

SEC. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which a serious inflationary impact resulting from an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to 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 (1) that 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 (2) that there has been a serious inflationary impact resulting from a significant increase in the price of such material which may be related to exports.

"(2) Within fifteen 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 which 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 thirty days commencing with 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 described in paragraph (1)(A) with respect to the material which 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 event the thirty-day period may be extended for forty-five days.

"(3) Within forty-five days after the end of the thirty or forty-five-day period described in paragraph (2), as the case may be, or within seventy-five days after the publication in the Federal Register, pursuant to paragraph (2), whichever occurs later, the Secretary shall—

"(A) determine whether to impose monitoring or controls, or both, on the exportation of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

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

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

"(5) For purposes of publishing notices in the Federal Register and scheduling pub-

lic hearings, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

"(6) If a petition has been fully considered within the past six months under this section and a notice has been published with respect to a particular material or group of materials and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that the petition for monitoring or control of such material does not merit the full consideration mandated under this section.

"(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 after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if 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 section shall not be construed to affect the authority of the Secretary under the other provision of this Act.

"(10) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of of this subsection are not intended to change the applicability of section 552(b) of title 5, Uinted States Code."

BARTER AGREEMENTS

SEC. 110. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by adding at the end thereof the following new subsection:

"(n)(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantiative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section (3)(2)(C) of this Act, or imposed by the President under the International Emergency Economic Powers Act (50 U.S.C. App. 1701 et seq.) on account of a threat to the economy of the United States.

"(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the head of any appropriate agency of the United States, that—

"(A) for the period during which the barter agreement is to be performed—

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

"(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

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

"(3) For purposes of this subsection, the term 'barter agreement' means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

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

EXPORTS OF HIDES AND SKINS

SEC. 111. Paragraph (1) of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended by adding at the end thereof the following: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.".

UNPROCESSED RED CEDAR

SEC. 112. (a) The Secretary of Commerce shall require a validated license, under section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the three-year period beginning on the effective date of this Act as follows:

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

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

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

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

(b) The Secretary of Commerce shall allocate export licenses to exporters pursuant to this section on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(c) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignatd by section 104(a) of this Act.

(d) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(1) lumber without wane;

(2) chips, pulp, and pulp products;

(3) veneer and plywood;

(4) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(5) shakes and shingles.

CIVIL AIRCRAFT EQUIPMENT

SEC. 113. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

NONPROLIFERATION CONTROLS

SEC. 114. (a) Nothing in section 5 or 6 of the Export Administration Act of 1969, as added by section 104(b) of this Act, shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(b) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other intergency group, the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within one hundred and eighty days after the receipt of the application by the Secretary of Commerce, the applicant shall have the rights of appeal and court action provided in subsection (k) of such section 10.

VIOLATIONS

SEC. 115. Section 11 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

"(2) any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes willfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, which ever is greater, or imprisoned for not more than five years, or both, for purposes of this paragraph, 'controlled country' means any Communist country as defined in section 620(f) of the "Foreign Assistance Act of 1961.".

(3) Subsection (c)(2)(A) is amended by striking out "articles, materials, supplies, or technical data or other information" and inserting in lieu thereof, "goods, technology, or other information".

SEC. 116. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such in-

formation shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

REPORT TO CONGRESS

SEC. 117. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

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

"(2) general licensing activities under section 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 5(b);

"(9) actions taken to carry out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (l) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

RULES AND REGULATIONS

SEC. 118. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or 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.".

DEFINITION

SEC. 119. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 120. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out 'section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. Section 18 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATIONS.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 122. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

REFINED PETROLEUM PRODUCTS

SEC. 123. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o)(1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection.".

TECHNICAL AMENDMENTS

SEC. 124. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS;"

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2)(C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods".

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)".

(ii) by striking out "of Commerce".

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2)(C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

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

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (p), (l), subsection (m), as added by section 6(d)(2) of the International Security Assistance Act of 1978, subsection (n), as added by section 109 of this Act, and subsection (o), as added by section 124 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), (h) and (i), respectively.

(c) Section 8 is amended—

(1) in subparagraph (1)(D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4(b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c)(2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(3) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 125. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6(c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406)".

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

(1) by striking out "40(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403(b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 126. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 127. (a) Except as proovided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979.

(b) The amendments made by section 107 and 108 of this Act shall take effect on the date of enactment of this Act.

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104 (c) of this Act, shall be issued and take effect not later than July 1, 1980.

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 128. Section 5 of the Export Administration Act of 1969, as added by section 104 (b) of this Act, is amended by adding at the end thereof the following new subsection:

"(l) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent, the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

The motion was agreed to.

The Senate bill was ordered to be read the third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for continuation of au-

thority to regulate exports, and for other purposes.

A similar House bill, H.R. 4034, was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 737

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the text of the Senate bill, S. 737, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4034.

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

There was no objection.

APPOINTMENT OF CONFEREES ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 737, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. ZABLOCKI, FASCELL, BINGHAM, BONKER, PEASE, BARNES, WOLPE, FITHIAN, BROOMFIELD, LAGOMARSINO, FINDLEY, and GILMAN.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 27 TO FILE CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979, AND MAKING IN ORDER ITS CONSIDERATION ON SEPTEMBER 28 OR ANY DAY THEREAFTER

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House conferees have until midnight Thursday, September 27, 1979, to file a conference report on the Senate bill, S. 737, and that it shall be in order to consider the conference report on S. 737 on Friday, September 28, 1979, or any day thereafter, and that said conference report shall be considered as having been read.

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

Mr. BAUMAN. Mr. Speaker, reserving the right to object. I just wanted to ask the gentleman from New York if this permission is granted, will the gentleman assure us that there will be written copies available, since if it is filed after midnight on Thursday and is brought up on Friday, Members may not have the benefit of knowing precisely what has been done.

Mr. BINGHAM. If the gentleman will yield, the gentleman is as familiar with the procedures as I am, probably more so. I cannot assure the gentleman that there will be printed copies available. There will be copies available.

Mr. BAUMAN. But there will be some written copies available for consideration?

Mr. BINGHAM. There will be some written copies available.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

IMPROVING GSA'S CONTRACTING OPERATIONS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JOHN L. BURTON. Mr. Speaker, as chairman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I am introducing today a bill to redirect and strengthen the General Services Administration in order to reform contract procedures and supervision within the Government. Joining me in sponsoring this legislation is our subcommittee's ranking minority member from Pennsylvania (Mr. WALKER).

Our subcommittee has been investigating aspects of GSA's procurement and contracting activities for more than a year. GSA's new Inspector General and the GSA Task Force in the Justice Department's Criminal Division are proceeding with investigation of individual cases of fraud. The subcommittee is giving close attention to assuring full capability of the Office of Inspector General to carry on the needed audit and investigation work.

Our subcommittee has laid special stress on GSA's major buying program for commercial products. This is the multiple award schedule program, which involves 4 million products, 8,000 yearly contracts, and $2 billion in total purchases for fiscal year 1978.

On May 2, 1979, the General Accounting Office submitted, pursuant to our request, a comprehensive report on the multiple award schedule program. It found that there was little price competition, slight monitoring of items ordered, too many items on the schedules, and too many suppliers. In general, it found that GSA does not have the capability to make sure the Government's interests are protected. Pointing out that these problems were basic and of long standing, GSA recommended major legislative changes:

First. To put GSA under a deadline to accomplish management improvements.

Second. To strengthen GSA's position as a primary supplier of products for Federal agencies.

GAO spoke of GSA's "Service-oriented" approach to satisfying the agencies' individual needs in critical terms, declaring: "Without a fundamental change in its philosophy, GSA management will be unable to correct the current situation."

In view of these and other weaknesses our investigations have disclosed, we are proposing now a bill to lay out new powers and duties of GSA with time limits for action. It will bring about greater involvement of the new Inspector General through special consultative, investigative, and report responsibilities. In receiving a larger and clearer mandate of responsibility and accountability, GSA should be able to evolve the new philosophy which it needs and which since 1949 has been the underlying principle of the Federal Property Act; namely, centralized procurement and supply for the Government.

It is a good sign that GSA's leadership has agreed with the GAO report's findings and recommendations. Its new Administrator reaffirmed GSA's agreement by letter on July 11, 1979.

The proposed bill is the product of much study and discussion. GAO, GSA, the Department of Justice, and the Congressional Research Service have been consulted and many of their helpful suggestions have been incorporated in this bill. Nevertheless, I recognize that further changes may become advisable as hearings develop. I want to emphasize that no honest vendors need fear the impact of this bill since it should help to strengthen their role by reducing their unfair competition from shady practices.

Hearings on this bill will begin October 15, 1979.

The bill's main points are these:

First. Section 1 requires contractors to certify their data. It subjects those who furnish fraudulent or misleading information to special civil penalties, including specific monetary assessments and debarment. The contractor's right to hearing and appeal is spelled out.

Second. Section 2 provides for improved and systematized contract administration. Requirements include detailed record-keeping about decisions, personal accountability for decisions as well as operations, periodic review of contracting practices, and a GSA-centralized contract information system.

Third. Section 3 requires GSA to establish a uniform and regular system of contract audits. It requires the Inspector General to conduct periodic evaluation of agencies' audit resources.

Fourth. Section 4 assures greater economy in the repair or alteration of Government-leased office space. It requires additional Congressional oversight and control of proposed work. It will also provide that the current dollar threshold for congressional review is lower so that such review is less easily circumvented.

It is important that the Congress signal its legislative intent with respect to GSA's contracting problems now. The proposed bill is a major step toward that goal. I hope other Members will want to join me and our ranking minority member, Mr. WALKER, as further sponsors of this legislation.

WE MUST HAVE A LARGER INVESTMENT IN MILITARY SPENDING

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, we will have

another opportunity to agree to a 3 percent real growth in defense spending when the House takes up the second concurrent budget resolution again this week.

This investment is vitally needed for military hardware to help modernize our armed forces, as Edward Luttwak of the Georgetown Center for Strategic and International Studies demonstrated in his column in today's daily newspaper.

Urgent priorities include 125 new warships over the next 5 years, instead of the total of 46 now planned.

We also need 18 new Navy combat aircraft a year to keep pace with attrition, and larger stocks of Air Force spares across the board.

The Army's problems will only be solved by an adequate registration machinery in order to fill its ranks with young men fit to fight in the event of war.

But the Army's urgent needs for a new infantry combat vehicle, new-design tank destroyers, and other hardware have also been shelved owing to ruinous budget stringency.

As a result, Dr. Luttwak noted—

It is not a U.S.-Soviet nuclear war we have to fear, but rather the steady deterioration of our leverage over world events.

I include his column at this point in the RECORD:

[From the Washington Post, Sept. 25, 1979]

LESS AND LESS FOR HARDWARE

(By Edward N. Luttwak)

Nothing could have been more clear than the Kissinger argument: SALT II will merely register the military inferiority of the United States unless prompt action is taken.

Nothing could have been more obfuscating than what followed. How much more money would be needed? Three percent over inflation, the level promised by President Carter but not in fact delivered? Five percent, the increase suggested by Sen. Sam Nunn and others? And on what should the money be spent? Senior figures of the administration, men who had just gone through weeks of bureaucratic agony over excrutiating budget-cutting choices, did their best to add to the confusion by claiming that the Pentagon would not know how to spend the money anyway. With their desks littered by service warnings of just how much the forces would be run down as inflation cut into real funding, the administration's loyalists could not stand their ground for very long; they soon explained that it was the "strategic-nuclear programs" that were already fully funded, not the rest.

In fact, Henry Kissinger had made it emphatically clear that, in calling for more spending, his first concern was precisely "the rest"—that is, the Navy, the Air Force and the Army, and not just the Trident missile submarines and the MX missile system, which are indeed fully funded. And there could scarcely be an argument over the reality of those needs, at a time when the Navy is down to 398 ships (from 950-plus 10 years ago, with 600 needed for proper coverage of two oceans), when our ground forces are so constrained for training funds that tank crews in Germany can fire only a single round during a single annual exercise, and when our finest Air Force fighters are kept on the ground because there isn't money for spare parts. Single episodes reveal more than reams of statistics: Pentagon budgeteers have just ordered the Navy to provide the refueling tankers it needs by converting S3 aircraft, instead of buying new tanker versions of the same S3 aircraft. It sounds like plain common sense; tankers, after all, need not be tip-top new, theirs being an undemanding mission that calls for no acrobatics. But in fact this is a real horror story, an extreme example of how painful the budget situation really is: The S3 is not some older transport aircraft, just right for a new lease on life after conversion. It is a brand new anti-submarine aircraft crammed with advanced electronics—a key instrument of one of our very few remaining military advantages, our superiority in submarine detection. As things now stand, the imperative need for carrier-based tankers (without which our Navy fighters would lose much of their effectiveness) could only be made good by ripping out sophisticated electronics to make way for jet fuel.

There are all too many such examples of ruinous stringency, where major capabilities are being sacrificed to save small amounts; the two-way squeeze between manpower costs and inflation leaves less and less for the hardware.

One more source of needless confusion has been the misleading assertion that the Pentagon is already awash with money duly appropriated by Congress but not spent. The congressmen who play this tune would hardly dare to deny their wives housekeeping money on the grounds that they still had some cash in hand. There are bills already in the mail for the Pentagon, too, and there are larger amounts already fully committed where contract negotiations are still not completed. There is now a real danger that the Pentagon might be driven to hasty decisions to avoid an accusation issued by those who have every reason to know better.

Beyond all the obfuscating talk of 1975 dollars and 1980 dollars, current dollars and deflated dollars, authorized funds and appropriated funds, there are harsh facts that will not be talked away. It is time to become serious. The Soviet Union is now very evidently on its way to globalizing its armed strength. Unless effectively discouraged by countervailing force, its new power will make the world an even nastier place for us and our friends. We are spending less than 5 percent of our gross national product on defense, they are spending around 15 percent of theirs, or roughly one-third more than we do in real terms.

The present Carter defense budget does not meet the need. Urgent priorities include a new aircraft carrier this year and another two over the next five years; 25 warships a year for the next five years, instead of the total of 46 now planned; and more Navy aircraft. For the Air Force, larger stocks of spare parts across the board and money for a new all-weather fighter-bomber in lieu of the cheaper daylight-only aircraft now being imposed. (The Russians might be excused for choosing to attack at night or in bad weather, but there is no excuse for equipping our Air Force as if Central Europe enjoyed the weather of Nevada.) For the Marines, old landing craft and amphibious vehicles badly need to be replaced, preferably with fighting vehicles that can meet Russian armor—now to be found all over the world. The Army's problems cannot really be solved by money alone; only conscription will fill its ranks with young men fit to fight a modern war But it, too, needs money urgently to provide a combat vehicle for the infantry (even the Yugoslavs are ahead of us in that department), new-design tank destroyers and mobile air defense across the board, both guns and missiles.

Finally, the strategic forces: there is much to be said for a cheaper submarine to fit the Trident II missile than the 1,800-ton monsters now slowly being built, but equally there is little merit in relying on ancient B-52s where a new bomber is badly needed; a cut-price B-1 is now available that will be of use for non-nuclear missions over the oceans and as an assault-stopper on land, as well as to deliver nuclear air-ground missiles and plain bombs.

For a 5 percent budget growth fully clear of inflation, we could have all this, and nothing less will do. It is not a U.S.-Soviet nuclear war that we have to fear, but rather the steady deterioration of our leverage over world events. In the recent jamboree that gathered in Cuba, which included most members of OPEC, the "non-aligned" revealed their opinion of the balance of power all too clearly, in their open contempt for American power. It is time to "get with it"

HORRORS, CARIBOU LIKE THAT PIPELINE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

O Mr. DEVINE. Mr. Speaker, in the Grand Junction, Colo., Daily Sentinel of September 10, 1979, Bill Hams authorized a great tongue-in-cheek, column. It would be truly a laugher were it not so tragic. A must dissertation of dramatic bureaucratic bungling:

HORRORS, CARIBOU LIKE THAT PIPELINE

(By Bill Hams)

Things I would never know if I didn't read junk mail:

Two University of Colorado scientists recently discovered that the chemical composition of rain and snow near the Continental Divide is changing drastically—and as could be expected of C.U. scientists working for a federal grant, they are unduly alarmed.

They have found a steady increase in acidity over a three-year period. They say it may have "direct implications" in recreation and forestry They claim acid rain and snowfall can cause an imbalance or shift in environmental cycles and "we could lose species and abundance of species."

While this acidity is far from eating holes in raincoats, ski boots, woolen sweaters, leather gloves or even nylon drawers, it has the C.U people upset—It just might stamp out the squawfish, the pokenoe shad, the speckled blister bugs and the uncommon louse wart, all extremely vital to ecologists who smoke pot instead of Luckies. It also might reduce the alkali in the western deserts.

Consolidated Cigar Co has announced that it has developed an aromaless cigar. It is called the "Flite." There, is a rumor that one firm making a rug decdorant will protest to the Federal Trade Commission that an aromaless cigar will damage its market.

If you have an old Parker fountain pen stashed back in your desk someplace it is worth hanging onto. It is now a collectors item despite the fact that Parker Pen Co. says sales of its old-style pens have more than doubled in the last 10 years. The price has beat that. One popular model now goes for $60. Just think, they used to sell for $5.

Remember that Alaskan pipeline the environmentalists fought tooth and nail, because they claimed it might disrupt the lifestyle of the caribou? Well, one reason it cost a bundle was because of the additional engineering required to please the ecologists and "Friends of the Caribou." Special "gates" were created, for example, at the migratory paths of the animals At those points, the pipeline, which is mostly above ground, was buried, and special measures were taken to prevent its heat from melting the permafrost and turning it into mud.

Now, it turns out, the caribou don't appreciate the efforts of their ecologist friends. They prefer the pipeline above ground. They sleep under it. They play under it, leap over it and enjoy its friendly warmth. You don't