

111TH CONGRESS  
1ST SESSION

# H. R. 3515

To make improvements in the electronic filing of export data, to strengthen enforcement authorities with respect to the Export Administration Regulations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. SHERMAN (for himself, Mr. MANZULLO, and Mr. SMITH of Washington) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To make improvements in the electronic filing of export data, to strengthen enforcement authorities with respect to the Export Administration Regulations, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Export Control Improvements Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVEMENTS IN ELECTRONIC FILING OF EXPORT  
DATA

- Sec. 101. Short title.  
 Sec. 102. Conferences; registration for filers; notifications; fees.  
 Sec. 103. Definitions.  
 Sec. 104. Conforming amendments.  
 Sec. 105. Authorization of appropriations.

TITLE II—EXPORT ENFORCEMENT ENHANCEMENT

- Sec. 201. Short title.

Subtitle A—Enforcement of Export Administration Regulations

- Sec. 211. Declaration of policy.  
 Sec. 212. Enforcement.  
 Sec. 213. Authorization of appropriations.  
 Sec. 214. Definitions.

Subtitle B—Prevention of Transfer of Sensitive Items to Countries of  
Concern

- Sec. 221. Identification of locations of concern with respect to transshipment,  
reexportation, or diversion of certain items to Iran.  
 Sec. 222. Destinations of Possible Diversion Concern and Destinations of Di-  
version Concern.  
 Sec. 223. Report on expanding diversion concern system to countries other than  
Iran.  
 Sec. 224. Annual report on transfers of militarily sensitive technology to coun-  
tries and entities of concern.  
 Sec. 225. Definitions.

1 **TITLE I—IMPROVEMENTS IN**  
 2 **ELECTRONIC FILING OF EX-**  
 3 **PORT DATA**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Securing Exports  
 6 Through Coordination and Technology Act”.

7 **SEC. 102. CONFERENCES; REGISTRATION FOR FILERS; NO-**  
 8 **TIFICATIONS; FEES.**

9 Chapter 9 of title 13, United States Code, is amend-  
 10 ed—

1           (1) by redesignating sections 302 through 307  
2           as sections 306 through 311, respectively; and

3           (2) by inserting after section 301 the following  
4           new sections:

5   **“§ 302. Conferences and seminars**

6           “(a) MANDATORY CONFERENCE PARTICIPATION.—

7   The Secretary shall work with the Secretary of State, the  
8   Secretary of Defense, the Secretary of Homeland Security,  
9   and the Secretary of the Treasury to ensure that appro-  
10   priate personnel of each of their respective departments  
11   and agencies that are involved in the regulation of exports  
12   or the enforcement of such regulation are made available,  
13   subject to the availability of such personnel, to participate  
14   in fora the purpose of which is to educate exporters about  
15   laws and regulations of the United States governing ex-  
16   ports and about the Automated Export System in par-  
17   ticular, including through seminars, educational or train-  
18   ing meetings, exhibitions, symposiums, and other similar  
19   meetings.

20           “(b) AUTHORITY TO COLLECT FEES.—The Sec-  
21   retary may collect fees from any individual or other person  
22   attending or participating in any forum described in sub-  
23   section (a) that is conducted by, or jointly with, the De-  
24   partment of Commerce. The Secretary may use contrac-

1 tors to collect such fees. Fees under this subsection may  
2 be collected in advance of the forum.

3 “(c) DISPOSITION OF COLLECTED FEES.—Amounts  
4 collected under subsection (b) shall be used to pay all or  
5 part of the cost of fora described in subsection (a), and  
6 shall be credited to the account from which the costs of  
7 such fora have been paid or will be paid.

8 “(d) BUDGET FOR PARTICIPATING AGENCIES.—In  
9 the case of any agency that does not have the available  
10 funds to participate in a forum under subsection (a), the  
11 Secretary shall make such sums available, from fees col-  
12 lected under subsection (b), as are necessary to allow such  
13 participation by the agency.

14 “(e) AVAILABILITY OF MATERIALS TO THE PUB-  
15 LIC.—The Secretary shall make available to the public, in-  
16 cluding through its public website, relevant materials pro-  
17 vided for the fora held under subsection (a).

18 **“§ 303. Automated Export System registrations for fil-**  
19 **ers**

20 “(a) REGISTRATIONS.—

21 “(1) IN GENERAL.—The Secretary may estab-  
22 lish a registration program for agents to file infor-  
23 mation in the Automated Export System on behalf  
24 of the United States principal party in interest or  
25 the foreign principal party in interest. Such registra-

1       tion program may include authorization for individ-  
2       uals to file as well as any corporation, association,  
3       or partnership that is organized under the laws of  
4       the United States or of any State, the District of  
5       Columbia, or any commonwealth, territory, or pos-  
6       session of the United States.

7               “(2) QUALIFICATIONS FOR INDIVIDUALS.—The  
8       Secretary may establish qualification requirements  
9       for an individual seeking to register under the pro-  
10      gram, except that an individual may be so registered  
11      only if the individual is a United States citizen, an  
12      alien lawfully admitted for permanent residence to  
13      the United States, or a national of the United States  
14      (in the case of a resident of a territory or possession  
15      of the United States). In assessing the qualification  
16      of an applicant for registration, the Secretary may  
17      conduct an examination to determine the applicant’s  
18      knowledge of the Automated Export System and  
19      laws, regulations, and procedures related to the ex-  
20      port of goods from the United States, and may re-  
21      quire participation in a continuing education pro-  
22      gram on a periodic basis. The Secretary may also  
23      obtain information to determine an applicant’s fit-  
24      ness and character to act as an Automated Export  
25      System filer. An individual who meets the require-

1       ments for registration under this paragraph shall be  
2       issued an Automated Export System registration.

3               “(3) QUALIFICATIONS FOR CORPORATIONS AND  
4       OTHER BUSINESS ENTITIES.—

5               “(A) REQUIREMENTS.—A corporation, as-  
6       sociation, or partnership may be registered  
7       under this subsection only if at least one official  
8       of the corporation or association who is des-  
9       ignated by the corporation or association, or  
10      one member of the partnership, who is author-  
11      ized to act on behalf of the corporation, associa-  
12      tion, or partnership, as the case may be—

13              “(i) holds a valid Automated Export  
14      System registration under paragraph (2);

15              “(ii) is responsible for the supervision  
16      and control of filing Shipper’s Export Dec-  
17      laration information in the Automated Ex-  
18      port System; and

19              “(iii) is a United States citizen, an  
20      alien lawfully admitted for permanent resi-  
21      dence to the United States, or a national  
22      of the United States (in the case of a resi-  
23      dent of a territory or possession of the  
24      United States).

1           “(B) ADDITIONAL REGISTRATION RE-  
2           QUIREMENTS.—The Secretary may establish  
3           such other registration requirements for cor-  
4           porations, associations, and partnerships as the  
5           Secretary considers appropriate. A corporation,  
6           association, or partnership that meets the re-  
7           quirements for registration under this para-  
8           graph shall be issued an Automated Export  
9           System registration.

10           “(4) FEDERAL MARITIME COMMISSION LI-  
11           CENSES.—An ocean transportation intermediary  
12           (OTI) license issued by the Federal Maritime Com-  
13           mission may be used to satisfy the initial qualifica-  
14           tion requirements of the registration program under  
15           this subsection, if the Federal Maritime Commission  
16           maintains sufficient requirements with respect to  
17           such license, as determined by the Secretary.

18           “(5) LAPSE OF REGISTRATION.—Registrations  
19           under this subsection shall be granted for a period  
20           of not less than 3 years, and may be renewed in  
21           such manner and under such conditions as are es-  
22           tablished by the Secretary.

23           “(b) DENIAL, SUSPENSION, OR REVOCATION OF  
24           REGISTRATION.—

1           “(1) GENERAL RULE.—The Secretary may re-  
2           voke or suspend a registration or deny an applica-  
3           tion for registration under subsection (a), which may  
4           take effect immediately, if the Secretary has reason  
5           to believe that the registrant or applicant has vio-  
6           lated or will violate any regulations issued under this  
7           section or any law or regulation of the United States  
8           controlling exports. The Secretary may provide rules  
9           for notifying registrants and registration applicants  
10          of the process for revoking or suspending a registra-  
11          tion or denying an application, consistent with the  
12          need to protect national security.

13           “(2) PROCEDURES FOR DENIAL, REVOCATION,  
14          OR SUSPENSION.—

15           “(A) IN GENERAL.—If a registration is re-  
16          voked or suspended or an application is denied  
17          under paragraph (1), the Secretary shall send  
18          the registrant or applicant notice in writing spe-  
19          cifically setting forth the grounds for suspen-  
20          sion, revocation, or denial, shall allow the reg-  
21          istrant or applicant a period of 30 calendar  
22          days beginning on the date on which the notice  
23          is received to respond in writing, and shall ad-  
24          vise the registrant or applicant of the right to  
25          a hearing. A registrant or applicant may re-

1           quest an extension of time for such response,  
2           and the Secretary shall grant such extension for  
3           good cause shown. If no response is filed within  
4           that 30-day period, or any extension thereof,  
5           and the Secretary determines that the revoca-  
6           tion, suspension, or denial is still warranted,  
7           the revocation, suspension, or denial shall be-  
8           come final.

9           “(B) HEARING.—If a timely response is  
10          received under subparagraph (A) and the reg-  
11          istrant or applicant requests a hearing, a hear-  
12          ing shall be held within 30 calendar days after  
13          the date on which the request is received, or at  
14          a later date if the registrant or applicant re-  
15          quests an extension and shows good cause  
16          therefor. An administrative law judge appointed  
17          under section 3105 of title 5 shall preside at  
18          the hearing, which shall be conducted in accord-  
19          ance with regulations issued by the Secretary.  
20          The administrative law judge shall issue a writ-  
21          ten decision either upholding, reversing, or  
22          modifying the decision of the Secretary, based  
23          solely on the record, setting forth the findings  
24          of fact, and the reasons for the decision.

1           “(C) SUSPENSION OF REGISTRATION  
2           PENDING APPEAL.—In a case in which a person  
3           appeals a decision revoking or suspending a  
4           registration under this subsection, including an  
5           appeal under subsection (c), the Secretary may  
6           order that the registration continue to be sus-  
7           pended while the appeal is pending.

8           “(3) SETTLEMENT AND COMPROMISE.—The  
9           Secretary may settle and compromise any proceeding  
10          that has been instituted under this subsection ac-  
11          cording to the terms and conditions agreed to by the  
12          parties, including the reduction of any proposed sus-  
13          pension or revocation.

14          “(4) LIMITATION OF ACTIONS.—The Secretary  
15          may revoke or suspend a registration or deny an ap-  
16          plication for registration under this subsection only  
17          if the appropriate service of written notice is made  
18          under paragraph (2)(A) within 5 years after the  
19          date on which the alleged act described in paragraph  
20          (1) was committed, except that if the alleged act  
21          consists of fraud, the 5-year period shall begin on  
22          the date on which the alleged act was discovered.

23          “(c) JUDICIAL APPEAL.—

24                 “(1) IN GENERAL.—A registrant under this sec-  
25          tion, or an applicant for a registration under this

1 section, may appeal any decision of the administra-  
2 tive law judge under subsection (b) suspending or  
3 revoking the registration or denying the application  
4 by filing in the appropriate United States district  
5 court, within 60 days after the date on which the de-  
6 cision is issued, a written petition requesting that  
7 the decision be modified or set aside in whole or in  
8 part. A copy of the petition shall be served upon the  
9 Secretary. In cases involving revocation or suspen-  
10 sion of a registration, the Secretary, after receiving  
11 the petition, shall file in the court the record upon  
12 which the decision complained of was entered.

13 “(2) FAILURE TO APPEAL.—If an appeal is not  
14 filed within the time limits specified in paragraph  
15 (1), the decision of the administrative law judge  
16 under subsection (b) shall be final and conclusive.

17 “(d) REGULATIONS.—The Secretary shall provide a  
18 period of at least 90 days for the submission of public  
19 comments on any regulations issued to carry out this sec-  
20 tion, before such regulations may become effective.

21 **“§ 304. Notification of relevant export requirements**

22 “(a) IN GENERAL.—The Secretary, with the concur-  
23 rence of the heads of the relevant departments and agen-  
24 cies, shall ensure that the Automated Export System will  
25 identify the filing of data in connection with an export

1 from the United States if the country of destination of  
2 intended export or the export control information, or lack  
3 thereof, would result in a violation of any prohibition or  
4 restriction on exports under the laws and regulations of  
5 the United States.

6       “(b) SUFFICIENCY AND TIMELINESS OF EXPORT  
7 CONTROL INFORMATION IN THE AUTOMATED EXPORT  
8 SYSTEM.—Not later than 1 year after the date of the en-  
9 actment of the Securing Exports Through Coordination  
10 and Technology Act, the Secretary, with the concurrence  
11 of the heads of the relevant departments and agencies and  
12 in consultation with representatives of affected industries  
13 and nongovernmental organizations with relevant exper-  
14 tise, shall—

15               “(1) ensure on an ongoing basis that changes  
16 in laws and regulations controlling exports from the  
17 United States are reflected in the Automated Export  
18 System upon implementation of those changes;

19               “(2) enable on an ongoing basis the classifica-  
20 tion of products to be exported in a manner suffi-  
21 cient to carry out the purposes of this section; and

22               “(3) ensure on an ongoing basis that all lists  
23 maintained by the United States and comprised of  
24 persons or entities to whom exports are restricted  
25 are available in a standardized format and contain

1 sufficient descriptive information to enable their ef-  
2 fective use by exporters (through the Automated Ex-  
3 port System or otherwise) to screen transactions and  
4 prevent diversions of exported items for unauthor-  
5 ized destinations, parties, or uses.

6 “(c) MINIMUM REQUIREMENTS.—The Secretary,  
7 with the concurrence of the heads of the relevant depart-  
8 ments and agencies and in consultation with representa-  
9 tives of affected industries and nongovernmental organiza-  
10 tions with relevant expertise, shall ensure that the Auto-  
11 mated Export System contains at least the following oper-  
12 ational features:

13 “(1) The Automated Export System will proc-  
14 ess data filed in connection with an export and will  
15 alert the filer to export license requirements under  
16 the laws and regulations of the United States.

17 “(2) If the data filed that is associated with the  
18 export does not satisfy requirements under the ex-  
19 port control laws and regulations of the United  
20 States, the Automated Export System will issue no-  
21 tices, compliance alerts, and other warnings, as ap-  
22 propriate, that the transaction may not satisfy ex-  
23 port requirements, accompanied by references to the  
24 applicable authorities.

1           “(3) The Automated Export System will retain  
2 records of actions of users while filing export data.

3           “(d) CONSTRUCTION.—Nothing in this section shall  
4 be construed to authorize an export solely because the  
5 Automated Export System accepts the filing of data.

6 **“§ 305. Fees and charges**

7           “The Secretary may issue regulations prescribing  
8 reasonable fees and charges, with particular sensitivity to  
9 small businesses, to defray the costs of the Secretary in  
10 carrying out this chapter.”.

11 **SEC. 103. DEFINITIONS.**

12           Chapter 9 of title 13, United States Code, is amended  
13 by adding at the end the following new section:

14 **“§ 312. Definitions**

15           “In this chapter:

16           “(1) AUTOMATED EXPORT SYSTEM.—The term  
17 ‘Automated Export System’ means the automated  
18 and electronic system for filing export information  
19 established under this chapter.

20           “(2) RELEVANT DEPARTMENTS AND AGEN-  
21 CIES.—The term ‘relevant departments and agen-  
22 cies’ means the Department of State, the Depart-  
23 ment of Defense, the Department of Homeland Se-  
24 curity, and the Department of the Treasury.

1           “(3) SHIPPER’S EXPORT DECLARATION.—The  
2           term ‘Shipper’s Export Declaration’ means the ex-  
3           port information filed under this chapter.”.

4 **SEC. 104. CONFORMING AMENDMENTS.**

5           (a) REGULATIONS, ORDERS, ETC.—Section 306 of  
6 title 13, United States Code, as redesignated by section  
7 102(1) of this Act, is amended by striking the last sen-  
8 tence and inserting “The Secretary shall make rules, regu-  
9 lations, and orders, and amendments thereto, with the  
10 concurrence of the Secretary of Homeland Security.”.

11           (b) CROSS REFERENCES.—Section 309 of title 13,  
12 United States Code, as redesignated by section 102(1) of  
13 this Act, is amended—

14                 (1) in subsection (b), by striking “304” and in-  
15                 serting “308”; and

16                 (2) in subsection (c)—

17                         (A) in paragraph (1), by striking “304”  
18                         and inserting “308”;

19                         (B) in paragraph (4), by striking “306”  
20                         and inserting “310”; and

21                         (C) in paragraph (5), by striking “304”  
22                         and inserting “308”.

23           (c) TABLE OF CONTENTS.—The table of contents for  
24 chapter 9 of title 13, United States Code, is amended to  
25 read as follows:

“301. Collection and publication.

- “302. Conferences and seminars.
- “303. Automated Export System registrations for filers.
- “304. Notification of relevant export requirements.
- “305. Fees and charges.
- “306. Rules, regulations, and orders.
- “307. Secretary of Treasury functions.
- “308. Filing export information, delayed filings, penalties for failure to file.
- “309. Penalties for unlawful export information activities.
- “310. Delegation of functions.
- “311. Relationship to general census law.
- “312. Definitions.”.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such sums  
 3 as may be necessary to carry out the amendments made  
 4 by this title.

5                                   **TITLE II—EXPORT**  
 6 **ENFORCEMENT ENHANCEMENT**

7 **SEC. 201. SHORT TITLE.**

8       This title may be cited as the “Export Enforcement  
 9 Act of 2009”.

10 **Subtitle A—Enforcement of Export**  
 11 **Administration Regulations**

12 **SEC. 211. DECLARATION OF POLICY.**

13       The Congress declares that, at a time of evolving  
 14 threats and changing relationships with other countries,  
 15 as well as rapid technological change and an increasingly  
 16 globalized economy, United States strategic export con-  
 17 trols are in urgent need of a comprehensive review in order  
 18 to assure those controls are achieving their intended pur-  
 19 poses of protecting the national security of the United  
 20 States in the Global War on Terrorism and of promoting

1 the economic and foreign policy interests of the United  
2 States, in particular by assuring that—

3           (1) export authorization procedures are prop-  
4 erly designed to prioritize which exports may be ap-  
5 proved quickly for trusted partners of the United  
6 States and which require greater scrutiny in order to  
7 safeguard national interests;

8           (2) strategic export controls appropriately and  
9 effectively identify and protect technologies critical  
10 to United States national security interests; and

11           (3) coordination among the responsible depart-  
12 ments and agencies of the Government of the United  
13 States is improved in order to enhance efficiency, in-  
14 formation sharing, and the consistent execution of  
15 United States policy.

16 **SEC. 212. ENFORCEMENT.**

17           (a) GENERAL AUTHORITY.—

18           (1) IN GENERAL.—To the extent necessary or  
19 appropriate for the enforcement of the Export Ad-  
20 ministration Regulations, or for the imposition of  
21 any penalty, forfeiture, or liability arising under the  
22 Export Administration Regulations—

23           (A) the head of any department or agency  
24 exercising any function under the Export Ad-  
25 ministration Regulations and officers or em-

1 employees of such department or agency specifi-  
2 cally designated by the head thereof) may con-  
3 duct investigations within the United States;

4 (B) the Secretary of Commerce (and offi-  
5 cers and employees of the Office of Export En-  
6 forcement of the Department of Commerce spe-  
7 cifically designated by the Secretary of Com-  
8 merce), and the head of any department or  
9 agency with responsibility for enforcing the Ex-  
10 port Administration Regulations (and officers  
11 and employees of such department or agency  
12 specifically designated by the head of such de-  
13 partment or agency), may conduct investiga-  
14 tions outside of the United States;

15 (C) the head of any department or agency  
16 with the responsibility for enforcing the Export  
17 Administration Regulations (and the officers or  
18 employees of such department or agency) may  
19 obtain information from, require reports or the  
20 keeping of records by, inspect the books,  
21 records, and other writings, premises, or prop-  
22 erty of, and take the sworn testimony of, any  
23 person;

24 (D)(i) the officers or employees of such de-  
25 partment or agency may administer oaths or af-

1 firmations, and may by subpoena require any  
2 person to appear and testify or to appear and  
3 produce books, records, and other writings, or  
4 both; and

5 (ii) in the case of contumacy by, or refusal  
6 to obey a subpoena issued to, any such person,  
7 a district court of the United States, after no-  
8 tice to any such person and hearing, shall have  
9 jurisdiction to issue an order requiring such  
10 person to appear and give testimony or to ap-  
11 pear and produce books, records, and other  
12 writings, or both, and any failure to obey such  
13 order of the court may be punished by such  
14 court as a contempt thereof; and

15 (E) the Secretary of Commerce (and offi-  
16 cers or employees of the Department of Com-  
17 merce designated by the Secretary) may con-  
18 duct, outside the United States, pre-license in-  
19 vestigations and post-shipment verifications of  
20 items licensed for export.

21 (2) ENFORCEMENT.—

22 (A) IN GENERAL.—Subject to subpara-  
23 graph (B)—

24 (i) the Secretary of Commerce shall  
25 have the responsibility for the enforcement

1 of the restrictive trade practices and boy-  
2 cott provisions of the Export Administra-  
3 tion Regulations;

4 (ii) to the extent necessary or appro-  
5 priate for the enforcement of the Export  
6 Administration Regulations, or for the im-  
7 position of any penalty, forfeiture, or liabil-  
8 ity arising under the Export Administra-  
9 tion Regulations, the Secretary of Com-  
10 merce may search, detain (after search),  
11 and seize goods or technology—

12 (I) at places within the United  
13 States other than those ports of entry  
14 or exit from the United States where  
15 officers of U.S. Immigration and Cus-  
16 toms Enforcement and U.S. Customs  
17 and Border Protection are authorized  
18 by law to conduct such activities; and

19 (II) at places outside the United  
20 States where the Office of Export En-  
21 forcement of the Department of Com-  
22 merce, pursuant to agreements or  
23 other arrangements with other coun-  
24 tries, is authorized to perform en-  
25 forcement activities;

1 (iii) the search, detention (after  
2 search), or seizure of goods or technology  
3 at ports and places authorized under  
4 clause (ii) may be conducted by officers or  
5 employees of the Department of Commerce  
6 designated by the Secretary of Commerce,  
7 with the concurrence of the Secretary of  
8 Homeland Security; and

9 (iv) enforcement activities under this  
10 section that are conducted outside the  
11 United States, except for prelicense inves-  
12 tigations and post-shipment verifications,  
13 shall be conducted with the concurrence of  
14 the Secretary of Homeland Security.

15 (B) AUTHORITY OF OFFICE OF EXPORT  
16 ENFORCEMENT.—The Secretary of Commerce  
17 may designate any employee of the Office of  
18 Export Enforcement of the Department of  
19 Commerce to do the following in carrying out  
20 enforcement authority under this section:

21 (i) Execute any warrant or other proc-  
22 ess issued by a court or officer of com-  
23 petent jurisdiction.

24 (ii) Make arrests without warrant for  
25 any offense against the United States com-

1           mitted in such officer’s presence or view or  
2           any felony offense against the United  
3           States if such officer has probable cause to  
4           believe that the person to be arrested has  
5           committed or is committing that felony of-  
6           fense.

7                   (iii) Carry firearms.

8           (3) ATTORNEY GENERAL GUIDELINES.—The  
9           authority conferred by paragraph (2) shall be exer-  
10          cised consistent with guidelines approved by the At-  
11          torney General.

12          (4) BEST PRACTICES GUIDELINES.—

13               (A) IN GENERAL.—The Secretary of Com-  
14               merce, in consultation with the technical advi-  
15               sory committees established pursuant to section  
16               5(h) of the Export Administration Act of 1979,  
17               and representative exporters, shippers, trade  
18               facilitators, freight forwarders, and reexporters,  
19               shall continue to publish and update “best prac-  
20               tices” guidelines to help industries develop and  
21               implement, on a voluntary basis, effective ex-  
22               port control programs in compliance with the  
23               Export Administration Regulations.

24               (B) EXPORT COMPLIANCE PROGRAM.—The  
25               existence of an effective export compliance pro-

1           gram and high quality overall export compliance  
2           effort is one of the factors that ordinarily  
3           should be given weight as a mitigating factor in  
4           a civil penalty action under the Export Admin-  
5           istration Regulations.

6           (5) REFERENCE TO ENFORCEMENT.—For pur-  
7           poses of this section, a reference to the enforcement  
8           of, or a violation of, the Export Administration Reg-  
9           ulations includes a reference to the enforcement or  
10          a violation of any order or license issued pursuant  
11          to the Export Administration Regulations.

12          (b) IMMUNITY.—A person shall not be excused from  
13          complying with any requirements under this section be-  
14          cause of the person's privilege against self-incrimination,  
15          but the immunity provisions of section 6002 of title 18,  
16          United States Code, shall apply with respect to any indi-  
17          vidual who specifically claims such privilege.

18          (c) CONFIDENTIALITY OF INFORMATION.—

19                  (1) EXEMPTIONS FROM DISCLOSURE.—

20                          (A) INFORMATION OBTAINED ON OR BE-  
21                          FORE JUNE 30, 1980.—Except as otherwise pro-  
22                          vided by the third sentence of section 8(b)(2)  
23                          and by section 11(e)(2)(C) of the Export Ad-  
24                          ministration Act of 1979, information obtained  
25                          under the Export Administration Act of 1979,

1 or any predecessor statute, on or before June  
2 30, 1980, that is deemed confidential, including  
3 Shipper's Export Declarations, or with respect  
4 to which a request for confidential treatment is  
5 made by the person furnishing such informa-  
6 tion, shall not be subject to disclosure under  
7 section 552 of title 5, United States Code, and  
8 such information shall not be published or dis-  
9 closed, unless the Secretary of Commerce deter-  
10 mines that withholding such information is con-  
11 trary to the national interest.

12 (B) INFORMATION OBTAINED AFTER JUNE  
13 30, 1980.—Except as otherwise provided by the  
14 third sentence of section 8(b)(2) and by section  
15 11(c)(2)(C) of the Export Administration Act  
16 of 1979, information obtained under the Export  
17 Administration Act of 1979 after June 30,  
18 1980, or under the Export Administration Reg-  
19 ulations may be withheld from disclosure only  
20 to the extent permitted by statute, except that  
21 information obtained for the purpose of consid-  
22 eration of, or concerning, license applications  
23 under the Export Administration Act of 1979  
24 or the Export Administration Regulations shall  
25 be withheld from public disclosure unless the

1 release of such information is determined by the  
2 Secretary of Commerce to be in the national in-  
3 terest.

4 (2) WITHHOLDING OF INFORMATION FROM  
5 FEDERAL AGENCIES BARRED.—Nothing in this sec-  
6 tion or the Export Administration Regulations shall  
7 be construed as authorizing the withholding of infor-  
8 mation from other Federal agencies for purposes of  
9 the enforcement of the Export Administration Regu-  
10 lations, any regulation, rule, order, or license issued  
11 under the International Emergency Economic Pow-  
12 ers Act, or any other provision of law.

13 (3) INFORMATION TO THE CONGRESS AND  
14 GAO.—

15 (A) IN GENERAL.—Nothing in this section  
16 shall be construed as authorizing the with-  
17 holding of information from the Congress or  
18 from the Government Accountability Office.

19 (B) AVAILABILITY TO THE CONGRESS.—

20 (i) IN GENERAL.—Any information  
21 obtained at any time under the Export Ad-  
22 ministration Act of 1979, under previous  
23 Acts regarding the control of exports, or  
24 under the Export Administration Regula-  
25 tions, including any report or license appli-

1 cation required under any such Act or the  
2 Export Administration Regulations, shall  
3 be made available to a committee or sub-  
4 committee of Congress of appropriate ju-  
5 risdiction, upon the request of the chair-  
6 man or ranking minority member of such  
7 committee or subcommittee.

8 (ii) PROHIBITION ON FURTHER DIS-  
9 CLOSURE.—No such committee or sub-  
10 committee, or member thereof, may dis-  
11 close any information obtained under the  
12 Export Administration Act of 1979, under  
13 previous Acts regarding the control of ex-  
14 ports, or under the Export Administration  
15 Regulations, that is submitted on a con-  
16 fidential basis unless the full committee de-  
17 termines that the withholding of that infor-  
18 mation is contrary to the national interest.

19 (C) AVAILABILITY TO GAO.—

20 (i) IN GENERAL.—Notwithstanding  
21 paragraph (1), information described in  
22 clause (i) of subparagraph (B) shall, con-  
23 sistent with the protection of intelligence,  
24 counterintelligence, and law enforcement  
25 sources, methods, and activities, as deter-

1           mined by the agency that originally ob-  
2           tained the information, and consistent with  
3           section 716 of title 31, United States  
4           Code, be made available only by that agen-  
5           cy, upon request, to the Comptroller Gen-  
6           eral of the United States or to any officer  
7           or employee of the Government Account-  
8           ability Office authorized by the Comp-  
9           troller General to have access to such in-  
10          formation.

11           (ii) PROHIBITION ON FURTHER DIS-  
12          CLOSURE.—No officer or employee of the  
13          Government Accountability Office may dis-  
14          close, except to the Congress in accordance  
15          with this paragraph, any such information  
16          that is submitted on a confidential basis or  
17          from which any individual can be identi-  
18          fied.

19          (4) INFORMATION SHARING.—

20           (A) IN GENERAL.—Any department or  
21          agency that obtains information that is relevant  
22          to the enforcement of the Export Administra-  
23          tion Regulations, including information per-  
24          taining to any investigation, shall furnish such  
25          information to each department or agency with

1 enforcement responsibilities under this section  
2 to the extent consistent with the protection of  
3 intelligence, counterintelligence, and law en-  
4 forcement sources, methods, and activities.

5 (B) EXCEPTIONS.—The provisions of this  
6 paragraph shall not apply to information sub-  
7 ject to the restrictions set forth in section 9 of  
8 title 13, United States Code, and return infor-  
9 mation, as defined in subsection (b) of section  
10 6103 of the Internal Revenue Code of 1986 (26  
11 U.S.C. 6103(b)), may be disclosed only as au-  
12 thorized by that section.

13 (C) EXCHANGE OF INFORMATION.—The  
14 Secretary of Commerce and the Secretary of  
15 Homeland Security, upon request, shall ex-  
16 change any licensing and enforcement informa-  
17 tion with each other that is necessary to facili-  
18 tate enforcement efforts under this section.

19 (D) INTERAGENCY CONSULTATIONS.—The  
20 Secretary of Commerce, the Attorney General,  
21 and the Secretary of Homeland Security shall  
22 consult on a continuing basis with one another  
23 and with the head of other departments and  
24 agencies that obtain information subject to this

1 paragraph, in order to facilitate the exchange of  
2 such information.

3 (d) REPORTING REQUIREMENTS.—In the administra-  
4 tion of this section and the Export Administration Regula-  
5 tions, reporting requirements shall be so designed as to  
6 reduce the cost of reporting, recordkeeping, and export  
7 documentation required under this section and the Export  
8 Administration Regulations to the extent feasible con-  
9 sistent with effective enforcement and compilation of use-  
10 ful trade statistics. Reporting, recordkeeping, and export  
11 documentation requirements shall be periodically reviewed  
12 and revised in the light of developments in the field of  
13 information technology.

14 (e) SIMPLIFICATION OF REGULATIONS.—The Sec-  
15 retary of Commerce, in consultation with appropriate de-  
16 partments and agencies of the United States and with ap-  
17 propriate technical advisory committees established pursu-  
18 ant to section 5(h) of the Export Administration Act of  
19 1979, shall review the Export Administration Regulations,  
20 including the commodity control list, in order to determine  
21 how compliance with the provisions of the Export Admin-  
22 istration Regulations can be facilitated by simplifying the  
23 Export Administration Regulations, by simplifying or  
24 clarifying the commodity control list, or by any other  
25 means.

1 (f) FORFEITURE.—

2 (1) IN GENERAL.—Any tangible items lawfully  
3 seized under subsection (a) by designated officers or  
4 employees shall be subject to forfeiture to the United  
5 States.

6 (2) PROCEDURES.—Any seizure or forfeiture  
7 under this subsection shall be made in accordance  
8 with the procedures set forth in section 981 of title  
9 18, United States Code.

10 (g) UNDERCOVER INVESTIGATION OPERATIONS.—

11 (1) USE OF FUNDS.—In the case of any under-  
12 cover investigative operation conducted by the Office  
13 of Export Enforcement of the Department of Com-  
14 merce that is necessary for the detection and pros-  
15 ecution of a violation of the Export Administration  
16 Regulations—

17 (A) funds made available for export en-  
18 forcement under this section may be used to  
19 purchase property, buildings, and other facili-  
20 ties, and to lease equipment, conveyances, and  
21 space within the United States, without regard  
22 to sections 1341 and 3324 of title 31, United  
23 States Code, section 8141 of title 40, United  
24 States Code, sections 3732(a) and 3741 of the  
25 Revised Statutes of the United States (41

1 U.S.C. 11(a) and 22), and sections 304(a),  
2 304A, 304B, 304C, and 305 of the Federal  
3 Property and Administrative Services Act of  
4 1949 (41 U.S.C. 254(a), 254b, 254c, 254d, and  
5 255);

6 (B) funds made available for export en-  
7 forcement under this section may be used to es-  
8 tablish or to acquire proprietary corporations or  
9 business entities as part of an undercover oper-  
10 ation, and to operate such corporations or busi-  
11 ness entities on a commercial basis, without re-  
12 gard to sections 1341, 3324, and 9102 of title  
13 31, United States Code;

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

21 (D) the proceeds from undercover oper-  
22 ations may be used to offset necessary and rea-  
23 sonable expenses incurred in such operations  
24 without regard to section 3302 of title 31,  
25 United States Code, if the Secretary of Com-

1           merce certifies in writing that the action au-  
2           thorized by subparagraph (A), (B), (C), or (D)  
3           for which the funds would be used is necessary  
4           for the conduct of the undercover operation.

5           (2) DISPOSITION OF BUSINESS ENTITIES.—If a  
6           corporation or business entity established or ac-  
7           quired as part of an undercover operation has a net  
8           value of more than \$250,000 and is to be liquidated,  
9           sold, or otherwise disposed of, the Secretary of Com-  
10          merce shall report the circumstances to the Comp-  
11          troller General of the United States as much in ad-  
12          vance of such disposition as the Secretary of Com-  
13          merce determines is practicable. The proceeds of the  
14          liquidation, sale, or other disposition, after obliga-  
15          tions incurred by the corporation or business enter-  
16          prise are met, shall be deposited in the Treasury of  
17          the United States as miscellaneous receipts. Any  
18          property or equipment purchased pursuant to para-  
19          graph (1) may be retained for subsequent use in un-  
20          dercover operations under this section. When such  
21          property or equipment is no longer needed, it shall  
22          be considered surplus and disposed of as surplus  
23          government property.

24          (3) DEPOSIT OF PROCEEDS.—As soon as the  
25          proceeds from an undercover investigative operation

1 of the Office of Export Enforcement of the Depart-  
2 ment of Commerce with respect to which an action  
3 is authorized and carried out under this subsection  
4 are no longer needed for the conduct of such oper-  
5 ation, the proceeds or the balance of the proceeds re-  
6 maining at the time shall be deposited into the  
7 Treasury of the United States as miscellaneous re-  
8 ceipts.

9 (4) AUDIT AND REPORT.—

10 (A) AUDIT.—The Secretary of Commerce  
11 shall conduct a detailed financial audit of each  
12 closed undercover investigative operation of the  
13 Office of Export Enforcement of the Depart-  
14 ment of Commerce. Not later than 180 days  
15 after an undercover operation is closed, the Sec-  
16 retary of Commerce shall submit to the Con-  
17 gress a report on the results of the audit.

18 (B) REPORT.—The Secretary of Commerce  
19 shall submit to the appropriate congressional  
20 committees, in the Secretary's annual report to  
21 the Congress on the administration of export  
22 controls and the Export Administration Regula-  
23 tions, the following additional information:

24 (i) The number of undercover inves-  
25 tigative operations pending as of the end of

1 the period for which the report is sub-  
2 mitted.

3 (ii) The number of undercover inves-  
4 tigative operations commenced in the 1-  
5 year period preceding the period for which  
6 the report is submitted.

7 (iii) The number of undercover inves-  
8 tigative operations closed in the 1-year pe-  
9 riod preceding the period for which such  
10 report is submitted and, with respect to  
11 each such closed undercover operation, the  
12 results obtained and any civil claims made  
13 with respect to the operation.

14 (5) DEFINITIONS.—In this subsection:

15 (A) CLOSED.—The term “closed”, with re-  
16 spect to an undercover investigative operation,  
17 refers to the earliest point in time at which all  
18 criminal proceedings (other than appeals) pur-  
19 suant to the investigative operation are con-  
20 cluded, or covert activities pursuant to such op-  
21 eration are concluded, whichever occurs later.

22 (B) UNDERCOVER INVESTIGATIVE OPER-  
23 ATION AND UNDERCOVER OPERATION.—

24 (i) IN GENERAL.—The terms “under-  
25 cover investigative operation” and “under-

1 cover operation” mean any undercover in-  
2 vestigative operation conducted by the Of-  
3 fice of Export Enforcement of the Depart-  
4 ment of Commerce—

5 (I) in which the gross receipts  
6 (excluding interest earned) exceed  
7 \$25,000, or expenditures (other than  
8 expenditures for salaries of employees)  
9 exceed \$75,000; and

10 (II) which is exempt from section  
11 3302 or 9102 of title 31, United  
12 States Code.

13 (ii) EXCEPTION.—Subclauses (I) and  
14 (II) of clause (i) shall not apply with re-  
15 spect to the report to the Congress re-  
16 quired by paragraph (4)(B).

17 (h) AUTHORIZATION FOR BUREAU OF INDUSTRY AND  
18 SECURITY.—The Secretary of Commerce may authorize,  
19 without fiscal year limitation, the expenditure of funds  
20 transferred to, paid to, received by, or made available to  
21 the Bureau of Industry and Security of the Department  
22 of Commerce as a reimbursement in accordance with sec-  
23 tion 9703 of title 31, United States Code (as added by  
24 Public Law 102–393).

1 **SEC. 213. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such sums  
3 as may be necessary to carry out this subtitle for each  
4 fiscal year.

5 **SEC. 214. DEFINITIONS.**

6       In this subtitle:

7           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
8       TEES.—The term “appropriate congressional com-  
9       mittees” means the Committee on Foreign Affairs of  
10      the House of Representatives and the Committee on  
11      Foreign Relations of the Senate.

12          (2) EXPORT ADMINISTRATION REGULATIONS.—  
13      The term “Export Administration Regulations”  
14      means the Export Administration Regulations as  
15      maintained and amended under the authority of the  
16      International Emergency Economic Powers Act and  
17      codified, as of the date of the enactment of this Act,  
18      in subchapter C of chapter VII of title 15, Code of  
19      Federal Regulations.

1 **Subtitle B—Prevention of Transfer**  
2 **of Sensitive Items to Countries**  
3 **of Concern**

4 **SEC. 221. IDENTIFICATION OF LOCATIONS OF CONCERN**  
5 **WITH RESPECT TO TRANSSHIPMENT, RE-**  
6 **EXPORTATION, OR DIVERSION OF CERTAIN**  
7 **ITEMS TO IRAN.**

8 Not later than 180 days after the date of the enact-  
9 ment of this Act, and annually thereafter, the President  
10 shall submit to the appropriate congressional committees  
11 a report that identifies all countries that the President de-  
12 termines are of concern with respect to transshipment, re-  
13 exportation, or diversion of items subject to the provisions  
14 of the Export Administration Regulations to an entity  
15 owned or controlled by the Government of Iran.

16 **SEC. 222. DESTINATIONS OF POSSIBLE DIVERSION CON-**  
17 **CERN AND DESTINATIONS OF DIVERSION**  
18 **CONCERN.**

19 (a) DESTINATIONS OF POSSIBLE DIVERSION CON-  
20 CERN.—

21 (1) DESIGNATION.—The Secretary of Com-  
22 merce shall designate a country as a Destination of  
23 Possible Diversion Concern if the Secretary, in con-  
24 sultation with the Secretary of State and the Sec-  
25 retary of the Treasury, determines that such des-

1       ignation is appropriate to carry out activities to  
2       strengthen the export control systems of that coun-  
3       try based on criteria that include—

4               (A) the volume of items that originated in  
5               the United States that are transported through  
6               the country to end-users whose identities cannot  
7               be verified;

8               (B) the inadequacy of the export and reex-  
9               port controls of the country;

10              (C) the unwillingness or demonstrated in-  
11              ability of the government of the country to con-  
12              trol diversion activities; and

13              (D) the unwillingness or inability of the  
14              government of the country to cooperate with the  
15              United States in interdiction efforts.

16              (2) STRENGTHENING EXPORT CONTROL SYS-  
17              TEMS OF DESTINATIONS OF POSSIBLE DIVERSION  
18              CONCERN.—If the Secretary of Commerce designates  
19              a country as a Destination of Possible Diversion  
20              Concern under paragraph (1), the United States  
21              shall initiate government-to-government activities de-  
22              scribed in paragraph (3) to strengthen the export  
23              control systems of the country.

1           (3) GOVERNMENT-TO-GOVERNMENT ACTIVITIES  
2 DESCRIBED.—The government-to-government activi-  
3 ties described in this paragraph include—

4           (A) cooperation by agencies and depart-  
5 ments of the United States with counterpart  
6 agencies and departments in a country des-  
7 ignated as a Destination of Possible Diversion  
8 Concern under paragraph (1) to—

9           (i) develop or strengthen export con-  
10 trol systems in the country;

11           (ii) strengthen cooperation and facili-  
12 tate enforcement of export control systems  
13 in the country; and

14           (iii) promote information and data ex-  
15 changes among agencies of the country  
16 and with the United States; and

17           (B) efforts by the Office of International  
18 Programs of the Department of Commerce to  
19 strengthen the export control systems of the  
20 country to—

21           (i) facilitate legitimate trade in high-  
22 technology goods; and

23           (ii) prevent terrorists and state spon-  
24 sors of terrorism, including Iran, from ob-  
25 taining nuclear, biological, and chemical

1                    weapons, defense technologies, components  
2                    for improvised explosive devices, and other  
3                    defense items.

4                    (b) DESTINATIONS OF DIVERSION CONCERN.—

5                    (1) DESIGNATION.—The Secretary of Com-  
6                    merce shall designate a country as a Destination of  
7                    Diversion Concern if the Secretary, in consultation  
8                    with the Secretary of State and the Secretary of the  
9                    Treasury, determines—

10                    (A) that the government of the country is  
11                    directly involved in transshipment, reexpor-  
12                    tation, or diversion of items that originated in  
13                    the United States to end-users whose identities  
14                    cannot be verified or to entities owned or con-  
15                    trolled by the Government of Iran; or

16                    (B) in the case of a country that has been  
17                    designated as a Destination of Possible Diver-  
18                    sion Concern under subsection (a)(1), that the  
19                    country has, upon the expiration of the 12-  
20                    month period beginning on the date of such  
21                    designation—

22                    (i) failed to cooperate with the govern-  
23                    ment-to-government activities initiated by  
24                    the United States under subsection (a)(2);  
25                    or

1           (ii) based on the criteria described in  
2           subsection (a)(1), failed to adequately  
3           strengthen the export control systems of  
4           the country.

5           (2) LICENSING CONTROLS WITH RESPECT TO  
6           DESTINATIONS OF DIVERSION CONCERN.—

7           (A) REPORT ON SUSPECT ITEMS.—

8           (i) IN GENERAL.—Not later than 45  
9           days after the date of the enactment of  
10          this Act, the Secretary of Commerce, in  
11          consultation with appropriate representa-  
12          tives of the United States intelligence com-  
13          munity, the Secretary of State, and the  
14          Secretary of the Treasury, shall submit to  
15          the appropriate congressional committees a  
16          report containing a list of items that, if the  
17          items were transshipped, reexported, or di-  
18          verted to Iran, could contribute to—

19                 (I) Iran obtaining nuclear, bio-  
20                 logical, or chemical weapons, defense  
21                 technologies, components for impro-  
22                 vised explosive devices, or other de-  
23                 fense items; or

24                 (II) support by Iran for acts of  
25                 international terrorism.

1 (ii) CONSIDERATIONS FOR LIST.—In  
2 developing the list required under clause  
3 (i), the Secretary of Commerce shall con-  
4 sider—

5 (I) the items subject to licensing  
6 requirements under section 742.8 of  
7 title 15, Code of Federal Regulations  
8 (or any corresponding similar regula-  
9 tion or ruling) and other existing li-  
10 censing requirements; and

11 (II) the items added to the list of  
12 items for which a license is required  
13 for exportation to North Korea by the  
14 final rule of the Bureau of Export Ad-  
15 ministration of the Department of  
16 Commerce issued on June 19, 2000  
17 (65 Fed. Reg. 38148; relating to ex-  
18 port restrictions on North Korea).

19 (B) LICENSING REQUIREMENT.—Not later  
20 than 180 days after the date of the enactment  
21 of this Act, the Secretary of Commerce shall re-  
22 quire a license to export an item on the list re-  
23 quired under subparagraph (A)(i) to a country  
24 designated as a Destination of Diversion Con-  
25 cern.

1           (3) WAIVER.—The President may waive the im-  
2           position of the licensing requirement under para-  
3           graph (2)(B) with respect to a country designated as  
4           a Destination of Diversion Concern if the Presi-  
5           dent—

6                   (A) determines that such a waiver is in the  
7                   national interest of the United States; and

8                   (B) submits to the appropriate congres-  
9                   sional committees a report describing the rea-  
10                  sons for the determination.

11          (c) TERMINATION OF DESIGNATION.—The designa-  
12          tion of a country as a Destination of Possible Diversion  
13          Concern or a Destination of Diversion Concern shall ter-  
14          minate on the date on which the Secretary of Commerce  
15          determines, based on the criteria described in subpara-  
16          graphs (A) through (D) of subsection (a)(1), and certifies  
17          to the appropriate congressional committees and the  
18          President that the country has adequately strengthened  
19          the export control systems of the country to prevent trans-  
20          shipment, reexportation, and diversion of items through  
21          the country to end-users whose identities cannot be  
22          verified or to entities owned or controlled by the Govern-  
23          ment of Iran.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary to carry out this section.

4 **SEC. 223. REPORT ON EXPANDING DIVERSION CONCERN**  
5 **SYSTEM TO COUNTRIES OTHER THAN IRAN.**

6 Not later than 180 days after the date of the enact-  
7 ment of this Act, the President shall submit to the appro-  
8 priate congressional committees a report that—

9 (1) identifies any country that the President de-  
10 termines may be transshipping, reexporting, or di-  
11 verting items subject to the provisions of the Export  
12 Administration Regulations to another country if  
13 such other country—

14 (A) is seeking to obtain nuclear, biological,  
15 or chemical weapons, defense technologies, com-  
16 ponents for improvised explosive devices, or  
17 other defense items; or

18 (B) provides support for acts of inter-  
19 national terrorism; and

20 (2) assesses the feasibility and advisability of  
21 expanding the system established under section 222  
22 for designating countries as Destinations of Possible  
23 Diversion Concern and Destinations of Diversion  
24 Concern to include countries identified under para-  
25 graph (1).

1 **SEC. 224. ANNUAL REPORT ON TRANSFERS OF MILITARILY**  
2 **SENSITIVE TECHNOLOGY TO COUNTRIES AND**  
3 **ENTITIES OF CONCERN.**

4 (a) ANNUAL REPORT.—Not later than March 30 of  
5 each year beginning in 2010, the President shall transmit  
6 to the Congress a report on transfers to countries and en-  
7 tities of concern during the preceding calendar year of the  
8 most significant categories of United States technologies  
9 and technical information with potential military applica-  
10 tions.

11 (b) CONTENTS OF REPORT.—The report required by  
12 subsection (a) shall include, at a minimum, the following:

13 (1) An assessment by the President of efforts  
14 by countries and entities of concern to acquire tech-  
15 nologies and technical information referred to in  
16 subsection (a) during the preceding calendar year.

17 (2) An assessment by the President of the cu-  
18 mulative impact of licenses granted by the United  
19 States for exports of technologies and technical in-  
20 formation referred to in subsection (a) to countries  
21 and entities of concern during the preceding 5-cal-  
22 endar year period on—

23 (A) the military capabilities of such coun-  
24 tries and entities; and

1           (B) countermeasures that may be nec-  
2           essary to overcome the use of such technologies  
3           and technical information.

4           (3) An audit by the Inspectors General of the  
5           Departments of Defense, State, Commerce, Home-  
6           land Security, Energy, and the Treasury, in con-  
7           sultation with appropriate representatives of the  
8           United States intelligence community, of the policies  
9           and procedures of the United States Government  
10          with respect to the export of technologies and tech-  
11          nical information referred to in subsection (a) to  
12          countries and entities of concern.

13          (c) **ADDITIONAL REQUIREMENT FOR FIRST RE-**  
14 **PORT.**—The first annual report required by subsection (a)  
15 shall include an assessment by the Inspectors General of  
16 the Departments of Defense, State, Commerce, Homeland  
17 Security, Energy, and the Treasury of the adequacy of  
18 current export controls and counterintelligence measures  
19 to protect against the acquisition by countries and entities  
20 of concern of United States technology and technical infor-  
21 mation referred to in subsection (a).

22          (d) **SUPPORT OF OTHER AGENCIES.**—Upon the re-  
23 quest of any of the officials responsible for preparing an  
24 assessment or audit required by subsection (b) or (c), the  
25 heads of other departments and agencies shall make avail-

1 able to those officials all information necessary to carry  
2 to prepare such assessment or audit.

3 (e) CLASSIFIED AND UNCLASSIFIED REPORTS.—

4 Each report required by this section shall be submitted  
5 in classified form and unclassified form.

6 (f) DEFINITION.—In this section, the term “countries  
7 and entities of concern” means—

8 (1) any country that is a state sponsor of ter-  
9 rorism;

10 (2) any country that—

11 (A) has detonated a nuclear explosive de-  
12 vice (as defined in section 830(4) of the Nu-  
13 clear Proliferation Prevention Act of 1994 (22  
14 U.S.C. 6305(4))); and

15 (B) is not a member of the North Atlantic  
16 Treaty Organization; and

17 (3) any entity that—

18 (A) is engaged in international terrorism  
19 or activities in preparation thereof; or

20 (B) is directed or controlled by the govern-  
21 ment of a country described in paragraph (1) or

22 (2).

23 **SEC. 225. DEFINITIONS.**

24 In this subtitle:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Banking, Housing,  
5                   and Urban Affairs, the Committee on Foreign  
6                   Relations, and the Select Committee on Intel-  
7                   ligence of the Senate; and

8                   (B) the Committee on Financial Services,  
9                   the Committee on Foreign Affairs, and the Per-  
10                  manent Select Committee on Intelligence of the  
11                  House of Representatives.

12          (2) END-USER.—The term “end-user” means  
13          an end-user as that term is used in the Export Ad-  
14          ministration Regulations.

15          (3) ENTITY OWNED OR CONTROLLED BY THE  
16          GOVERNMENT OF IRAN.—The term “entity owned or  
17          controlled by the Government of Iran” includes—

18                   (A) any corporation, partnership, associa-  
19                   tion, or other entity in which the Government  
20                   of Iran owns a majority or controlling interest;  
21                   and

22                   (B) any entity that is otherwise controlled  
23                   by the Government of Iran.

24          (4) EXPORT ADMINISTRATION REGULATIONS.—  
25          The term “Export Administration Regulations”

1 means the Export Administration Regulations as  
2 maintained and amended under the authority of the  
3 International Emergency Economic Powers Act and  
4 codified, as of the date of the enactment of this Act,  
5 in subchapter C of chapter VII of title 15, Code of  
6 Federal Regulations.

7 (5) GOVERNMENT.—The term “government”  
8 includes any agency or instrumentality of a govern-  
9 ment.

10 (6) IRAN.—The term “Iran” includes any agen-  
11 cy or instrumentality of Iran.

12 (7) STATE SPONSOR OF TERRORISM.—The term  
13 “state sponsor of terrorism” means any country the  
14 government of which the Secretary of State has de-  
15 termined has repeatedly provided support for acts of  
16 international terrorism pursuant to—

17 (A) section 6(j)(1)(A) of the Export Ad-  
18 ministration Act of 1979 (50 U.S.C. App.  
19 2405(j)(1)(A)) (or any successor thereto);

20 (B) section 40(d) of the Arms Export Con-  
21 trol Act (22 U.S.C. 2780(d)); or

22 (C) section 620A(a) of the Foreign Assist-  
23 ance Act of 1961 (22 U.S.C. 2371(a)).

24 (8) TRANSSHIPMENT, REEXPORTATION, OR DI-  
25 VERSION.—The term “transshipment, reexportation,

1 or diversion” means the exportation, directly or indi-  
2 rectly, of items that originated in the United States  
3 to an end-user whose identity cannot be verified or  
4 to an entity owned or controlled by the Government  
5 of Iran in violation of the laws or regulations of the  
6 United States by any means, including by—

7 (A) shipping such items through one or  
8 more foreign countries; or

9 (B) using false information regarding the  
10 country of origin of such items.

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