

112TH CONGRESS  
1ST SESSION

# H. R. 2122

To renew the Export Administration Act of 1979, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2011

Ms. ROS-LEHTINEN (for herself, Mr. ROYCE, Mr. BURTON of Indiana, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To renew the Export Administration Act of 1979, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Export Administration  
5 Renewal Act of 2011”.

6 **TITLE I—EXPORT**  
7 **ADMINISTRATION ACT OF 1979**

8 **SEC. 101. VIOLATIONS.**

9 (a) CRIMINAL PENALTIES.—Section 11 of the Export  
10 Administration Act of 1979 (50 U.S.C. App. 2410) is

1 amended by striking subsections (a) and (b) and inserting  
2 the following:

3 “(a) CRIMINAL PENALTIES.—

4 “(1) VIOLATIONS BY AN INDIVIDUAL.—Any in-  
5 dividual who willfully violates, conspires to violate,  
6 attempts to violate, or aids or abets in the commis-  
7 sion of a violation of any provision of this Act or any  
8 regulation, license, or order issued under this Act  
9 shall be fined not more than \$1,000,000, imprisoned  
10 for not more than 20 years, or both, for each viola-  
11 tion.

12 “(2) VIOLATIONS BY A PERSON OTHER THAN  
13 AN INDIVIDUAL.—Any person, other than an indi-  
14 vidual, who willfully violates, conspires to violate, at-  
15 tempts to violate, or aids or abets in the commission  
16 of a violation of any provision of this Act or any reg-  
17 ulation, license, or order issued under this Act shall  
18 be fined not more than 10 times the value of the ex-  
19 ports involved or \$5,000,000, whichever amount is  
20 greater, for each violation.

21 “(b) REGULATORY AUTHORITY NOT AFFECTED.—  
22 Nothing in subsection (a) limits the authority of the Sec-  
23 retary to define by regulations violations under this Act.”.

24 (b) CIVIL PENALTIES.—Section 11(c)(1) of the Ex-  
25 port Administration Act of 1979 (50 U.S.C. 2410(c)(1))

1 is amended to read as follows: “(1) The Secretary may  
2 impose a civil penalty for each violation of this Act, or  
3 any regulation, license, or order issued under this Act, in  
4 an amount not to exceed the greater of \$250,000, or an  
5 amount that is twice the value of the transaction that is  
6 the basis of the violation. A civil penalty under this para-  
7 graph may be in addition to, or in lieu of, any other liabil-  
8 ity or penalty that may be imposed for such a violation.”

9 (c) FORFEITURE.—Section 11(g) of the Export Ad-  
10 ministration Act of 1979 (50 U.S.C. App. 2410) is amend-  
11 ed to read as follows:

12 “(g) FORFEITURE OF PROPERTY INTEREST AND  
13 PROCEEDS.—

14 “(1) CRIMINAL FORFEITURE.—Any person who  
15 is convicted of a violation under paragraph (1) or  
16 (2) of subsection (a) shall, in addition to any other  
17 penalty, forfeit to the United States such person’s—

18 “(A) security or other interest in, claim  
19 against, or property or contractual rights of any  
20 kind in, the real or personal property that was  
21 the subject of the violation;

22 “(B) interest in any property, real or per-  
23 sonal, constituting or traceable to gross profits  
24 or other proceeds obtained from the violation;  
25 and

1           “(C) interest in any property, real or per-  
2           sonal, used or intended to be used to commit or  
3           to promote the commission of the violation.

4           “(2) CIVIL FORFEITURE.—Any person con-  
5           victed of a violation under subsection (a), or subject  
6           to a civil penalty as set forth in subsection (c), shall  
7           forfeit to the United States such person’s interest  
8           in—

9           “(A) any security or other interest in,  
10          claim against, or property or contractual rights  
11          of any kind in, the real or personal property  
12          that was the subject of the violation;

13          “(B) any property, real or personal, consti-  
14          tuting or traceable to gross profits or other pro-  
15          ceeds obtained because of the act or acts consti-  
16          tuting the violation; and

17          “(C) any property, real or personal, used  
18          or intended to be used to commit or to promote  
19          the commission of the violation.

20          “(3) PROCEDURES.—Forfeiture under this sub-  
21          section shall be carried out in accordance with the  
22          procedures set forth in chapter 46 of title 18, United  
23          States Code.”.

1 (d) TEMPORARY DENIAL ORDERS.—Section 11 of  
2 the Export Administration Act of 1979 (50 U.S.C. App.  
3 2410) is amended—

4 (1) by redesignating subsection (i) as subsection  
5 (j);

6 (2) by inserting after subsection (h) the fol-  
7 lowing:

8 “(i) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

9 “(1) AUTHORITY OF THE SECRETARY.—In any  
10 case in which it is necessary, in the public interest,  
11 to prevent an imminent violation of this Act or any  
12 regulation, order, or license issued under this Act,  
13 the Secretary may, without a hearing, issue an order  
14 temporarily denying United States export privileges  
15 (in this subsection referred to as a ‘temporary denial  
16 order’) to a person. A temporary denial order may  
17 be effective no longer than 180 days unless renewed  
18 in writing by the Secretary for additional 180-day  
19 periods in order to prevent such an imminent viola-  
20 tion, except that a temporary denial order may be  
21 renewed only after notice and an opportunity for a  
22 hearing is provided. The Secretary shall publish no-  
23 tice of the issuance of a temporary denial order in  
24 the Federal Register and may provide notice of the  
25 issuance of the order to the person that is the sub-

1       ject of the order by such additional means as the  
2       Secretary considers appropriate.

3           “(2) PROCEDURES.—A temporary denial order  
4       shall define the imminent violation and state why  
5       the temporary denial order was granted without a  
6       hearing. The person or persons subject to the  
7       issuance or renewal of a temporary denial order may  
8       file an appeal of the issuance or renewal of the tem-  
9       porary denial order with an administrative law judge  
10      who shall, within 10 working days after the appeal  
11      is filed, recommend that the temporary denial order  
12      be affirmed, modified, or vacated. Parties may sub-  
13      mit briefs and other material to the judge. The rec-  
14      ommendation of the administrative law judge shall  
15      be submitted to the Secretary who shall either ac-  
16      cept, reject, or modify the recommendation by writ-  
17      ten order within 5 working days after receiving the  
18      recommendation. The written order of the Secretary  
19      under the preceding sentence shall be final and is  
20      not subject to judicial review, except as provided in  
21      paragraph (3). The temporary denial order shall be  
22      affirmed only if it is reasonable to believe that the  
23      order is required in the public interest to prevent an  
24      imminent violation of this Act or any regulation,  
25      order, or license issued under this Act. All materials

1 submitted to the administrative law judge and the  
2 Secretary shall constitute the administrative record  
3 for purposes of review by the courts.

4 “(3) APPEALS.—An order of the Secretary af-  
5 firming, in whole or in part, the issuance of a tem-  
6 porary denial order may, within 15 days after the  
7 order is issued, be appealed by a person subject to  
8 the order to the United States Court of Appeals for  
9 the District of Columbia Circuit, which shall have  
10 jurisdiction of the appeal. The court may review only  
11 those issues necessary to determine whether the  
12 standard for issuing the temporary denial order has  
13 been met. The court shall vacate the Secretary’s  
14 order if the court finds that the Secretary’s order is  
15 arbitrary, capricious, an abuse of discretion, or oth-  
16 erwise not in accordance with law.”; and

17 (3) in subsection (j), as redesignated, by strik-  
18 ing “or (h)” and inserting “(h), or (i)”.

19 (e) CONFORMING AMENDMENTS.—Section 13 of the  
20 Export Administration Act of 1979 (50 U.S.C. App. 2412)  
21 is amended—

22 (1) by striking subsection (d); and

23 (2) by redesignating subsection (e) as sub-  
24 section (d).

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section apply with respect to acts constituting viola-  
3 tions under section 11 of the Export Administration Act  
4 of 1979 that occur on or after the date of the enactment  
5 of this Act.

6 **SEC. 102. ENFORCEMENT.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) On July 1, 2010, the Comprehensive Iran  
9 Sanctions, Accountability, and Divestment Act of  
10 2010 (Public Law 111–195) was signed into law by  
11 the President of the United States.

12 (2) Section 305 of that Act provides the De-  
13 partment of Commerce with the authority to enforce  
14 the provisions of that Act as well as the Export Ad-  
15 ministration Act of 1979.

16 (3) Statutory authority to conduct investiga-  
17 tions overseas, as well as undercover authority, is  
18 necessary for the Office of Export Enforcement of  
19 the Department of Commerce to combat increasingly  
20 complex international proliferation activities involv-  
21 ing Iran and other hostile state and non-state ac-  
22 tors.

23 (b) ENFORCEMENT AUTHORITY.—Section 12 of the  
24 Export Administration Act of 1979 (50 U.S.C. App. 2411)  
25 is amended—



1 (1) in subsection (a)—

2 (A) in paragraph (1), in the first sentence,  
3 by striking “within the United States, and” and  
4 inserting “within the United States, the Sec-  
5 retary of Commerce (and officers and employees  
6 of the Department of Commerce specifically  
7 designated by the Secretary of Commerce) may  
8 conduct investigations outside of the United  
9 States and, in addition,”;

10 (B) by striking paragraph (6) and redesign-  
11 ating paragraphs (7) and (8) as paragraphs  
12 (6) and (7), respectively; and

13 (C) in paragraph (7) (as redesignated) by  
14 inserting before the period the following: “, and  
15 the enforcement or a violation of the Export  
16 Administration Regulations as maintained and  
17 amended under the authority of the Inter-  
18 national Emergency Economic Powers Act (50  
19 U.S.C. 1701 et seq.)”; and

20 (2) by adding at the end the following new sub-  
21 sections:

22 “(f) FORFEITURE.—

23 “(1) IN GENERAL.—Any tangible items lawfully  
24 seized under subsection (a) by designated officers or

1 employees shall be subject to forfeiture to the United  
2 States.

3 “(2) PROCEDURES.—Any seizure or forfeiture  
4 under this subsection shall be carried out in accord-  
5 ance with the procedures set forth in chapter 46 of  
6 title 18, United States Code.

7 “(g) UNDERCOVER INVESTIGATION OPERATIONS.—

8 “(1) USE OF FUNDS.—With respect to any un-  
9 dercover investigative operation conducted by the Of-  
10 fice of Export Enforcement of the Department of  
11 Commerce that is necessary for the detection and  
12 prosecution of violations under this Act—

13 “(A) funds made available for export en-  
14 forcement under this Act may be used to pur-  
15 chase property, buildings and other facilities,  
16 and to lease equipment, conveyances, and space  
17 within the United States, without regard to sec-  
18 tions 1341 and 3324 of title 31, United States  
19 Code, section 8141 of title 40, United States  
20 Code, and sections 3901(a), 3903, 4501  
21 through 4506, 4706, 6301(a), and 6306 of title  
22 41, United States Code;

23 “(B) funds made available for export en-  
24 forcement under this Act may be used to estab-  
25 lish or to acquire proprietary corporations or

1 business entities as part of an undercover oper-  
2 ation, and to operate such corporations or busi-  
3 ness entities on a commercial basis, without re-  
4 gard to sections 1341, 3324, and 9102 of title  
5 31, United States Code;

6 “(C) funds made available for export en-  
7 forcement under this Act and the proceeds from  
8 undercover operations may be deposited in  
9 banks or other financial institutions without re-  
10 gard to section 648 of title 18, United States  
11 Code, and section 3302 of title 31, United  
12 States Code; and

13 “(D) the proceeds from undercover oper-  
14 ations may be used to offset necessary and rea-  
15 sonable expenses incurred in such operations  
16 without regard to section 3302 of title 31,  
17 United States Code, if the Secretary (or the  
18 Secretary’s designee) certifies, in writing, that  
19 the action authorized by subparagraph (A), (B),  
20 or (C) for which the funds would be used is  
21 necessary for the conduct of the undercover op-  
22 eration.

23 “(2) DISPOSITION OF BUSINESS ENTITIES.—If  
24 a corporation or business entity established or ac-  
25 quired as part of an undercover operation has a net

1 value of more than \$250,000 and is to be liquidated,  
2 sold, or otherwise disposed of, the Secretary shall re-  
3 port the circumstances to the Comptroller General of  
4 the United States as much in advance of such dis-  
5 position as the Secretary determines is practicable.  
6 The proceeds of the liquidation, sale, or other dis-  
7 position, after obligations incurred by the corpora-  
8 tion or business entity are met, shall be deposited in  
9 the Treasury of the United States as miscellaneous  
10 receipts. Any property or equipment purchased pur-  
11 suant to paragraph (1)(A) may be retained for sub-  
12 sequent use in undercover operations under this sub-  
13 section. When such property or equipment is no  
14 longer needed, it shall be considered as surplus and  
15 disposed of as surplus government property.

16 “(3) DEPOSIT OF PROCEEDS.—As soon as the  
17 proceeds from an undercover investigative operation  
18 of the Office of Export Enforcement of the Depart-  
19 ment of Commerce with respect to which an action  
20 is authorized and carried out under this subsection  
21 are no longer needed for the conduct of such oper-  
22 ation, the proceeds or the balance of the proceeds re-  
23 maining at the time shall be deposited into the  
24 Treasury of the United States as miscellaneous re-  
25 ceipts.

1 “(4) AUDIT AND REPORT.—

2 “(A) AUDIT.—The Secretary shall conduct  
3 a detailed financial audit of each closed under-  
4 cover operation of the Office of Export Enforce-  
5 ment of the Department of Commerce. Not  
6 later than 180 days after an undercover oper-  
7 ation is closed, the Secretary shall submit to  
8 the Congress a report on the results of that  
9 audit.

10 “(B) REPORT.—The Secretary shall sub-  
11 mit annually to the Congress a report, which  
12 may be included in the annual report under sec-  
13 tion 14(a), including the following information:

14 “(i) The number of undercover inves-  
15 tigative operations pending as of the end of  
16 the period for which the report is sub-  
17 mitted.

18 “(ii) The number of undercover inves-  
19 tigative operations commenced in the 1-  
20 year period preceding the period for which  
21 the report is submitted.

22 “(iii) The number of undercover in-  
23 vestigative operations closed in the 1-year  
24 period preceding the period for which such  
25 report is submitted and, with respect to

1 each such closed undercover operation, the  
2 results obtained and any civil claims made  
3 with respect to such operation.

4 “(C) DEFINITIONS.—In this paragraph:

5 “(i) CLOSED.—The term ‘closed’, with  
6 respect to an undercover investigative oper-  
7 ation, refers to the earliest point in time at  
8 which all criminal proceedings (other than  
9 appeals) pursuant to the investigative oper-  
10 ation are concluded, or covert activities  
11 pursuant to such operation are concluded,  
12 whichever occurs later.

13 “(ii) UNDERCOVER INVESTIGATIVE  
14 OPERATION AND UNDERCOVER OPER-  
15 ATION.—

16 “(I) IN GENERAL.—Subject to  
17 subclause (II), the terms ‘undercover  
18 investigative operation’ and ‘under-  
19 cover operation’ mean any undercover  
20 investigative operation conducted by  
21 the Office of Export Enforcement of  
22 the Department of Commerce in  
23 which the gross receipts (excluding in-  
24 terest earned) exceed \$25,000, or ex-  
25 penditures (other than expenditures

1 for salaries of employees) exceed  
2 \$75,000.

3 “(II) EXCEPTION.—The report  
4 to Congress required by subparagraph  
5 (B) shall be made with respect to un-  
6 dercover investigative operations con-  
7 ducted by the Office of Export En-  
8 forcement of the Department of Com-  
9 merce without regard to the gross re-  
10 ceipts and expenditures limitations  
11 under subclause (I).

12 “(h) AUTHORIZATION FOR BUREAU OF INDUSTRY  
13 AND SECURITY.—The Secretary may authorize, without  
14 fiscal year limitation, the expenditure of funds transferred  
15 to, paid to, received by, or made available to the Bureau  
16 of Industry and Security of the Department of Commerce  
17 as a reimbursement in accordance with section 9703 of  
18 title 31, United States Code (as added by Public Law  
19 102–393).”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Subject to paragraphs (2)  
22 and (3), the amendments made by subsection (a)  
23 shall take effect on the date of the enactment of this  
24 Act.

1           (2) FORFEITURE.—Section 12(f) of the Export  
2 Administration Act of 1979, as added by subsection  
3 (a)(2) of this section, shall apply to items seized on  
4 or after the date of the enactment of this Act.

5           (3) UNDERCOVER OPERATIONS.—Section 12(g)  
6 of the Export Administration Act of 1979, as added  
7 by subsection (a)(2) of this section, shall apply with  
8 respect to undercover investigative operations com-  
9 menced on or after the date of the enactment of this  
10 Act.

11 **SEC. 103. ADMINISTRATIVE AND REGULATORY AUTHORITY.**

12       Section 15 of the Export Administration Act of 1979  
13 (50 U.S.C. App. 2414) is amended—

14           (1) in subsection (a), in the first sentence—

15               (A) by striking “Under Secretary of Com-  
16 merce for Export Administration” and inserting  
17 “Under Secretary of Commerce for Industry  
18 and Security”; and

19               (B) by striking “such other statutes” and  
20 all that follows through the end of the sentence  
21 and in inserting “other statutes that the Sec-  
22 retary has delegated to the Under Secretary of  
23 Commerce for Industry and Security or any  
24 predecessor (including the Under Secretary of  
25 Commerce for Export Administration and the



1 Assistant Secretary of Commerce for Trade Ad-  
2 ministration) as of the date of the enactment of  
3 the Export Administration Renewal Act of  
4 2011, or may delegate to the Under Secretary  
5 of Commerce for Industry and Security on or  
6 after that date.”;

7 (2) in subsection (b)—

8 (A) by striking “the President and the  
9 Secretary” and inserting—

10 “(1) IN GENERAL.—The President and the Sec-  
11 retary”; and

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

13 “(2) ADVANCE NOTICE TO CONGRESS.—Any  
14 significant regulations issued pursuant to this Act  
15 shall be provided to the Committee on Foreign Af-  
16 fairs of the House of Representatives and the Com-  
17 mittee on Banking, Housing, and Urban Affairs of  
18 the Senate not less than 30 days in advance of the  
19 publication of the regulations in the Federal Reg-  
20 ister, unless exigent circumstances require the Sec-  
21 retary to shorten that 30-day period.”; and

22 (3) in subsection (c)—

23 (A) by inserting after the first sentence the  
24 following: “The Secretary shall submit the re-  
25 port under the preceding sentence not less than

1           30 days in advance of the publication of the  
2           proposed amendments in the Federal Register,  
3           unless exigent circumstances require the Sec-  
4           retary to shorten that 30-day period.”; and

5                   (B) in the succeeding sentence, by striking  
6           “evaluate the cost and burden to United States  
7           exporters” and inserting “include the text of  
8           the proposed amendments, as well as evaluate  
9           the economic and national security impact on  
10          the United States”.

11 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

12          Section 18(b) of the Export Administration Act of  
13 1979 (50 U.S.C. App. 2417(b)) is amended—

14               (1) by striking paragraphs (1) and (2) and in-  
15               serting the following:

16                   “(1) \$100,141,000 for fiscal year 2012;  
17                   \$101,643,115 for fiscal year 2013; \$103,167,647 for  
18                   fiscal year 2014; and \$104,926,000 for fiscal year  
19                   2015; and”;

20               (2) by redesignating paragraph (3) as para-  
21               graph (2).

22 **SEC. 105. TERMINATION DATE.**

23          Section 20 of the Export Administration Act of 1979  
24 (50 U.S.C. App. 2419) is amended to read as follows:

1 “TERMINATION DATE

2 “SEC. 20. The authority granted by this Act termi-  
3 nates on September 30, 2015, except that the authority  
4 granted by sections 11 and 12 shall not terminate.”.

5 **SEC. 106. FOREIGN POLICY CONTROLS.**

6 (a) **TERRORIST STATES.**—Section 6(j)(4) of the Ex-  
7 port Administration Act of 1979 (50 U.S.C. App.  
8 2405(j)(4)) is amended—

9 (1) in the matter preceding subparagraph (A),  
10 by striking “the Speaker” and inserting “the chair-  
11 man of the Committee on Foreign Affairs”; and

12 (2) in subparagraph (B)—

13 (A) in clause (i), by striking “6-month pe-  
14 riod; and” and inserting “36-month period;”;

15 (B) in clause (ii), by striking the period at  
16 the end and inserting a semicolon; and

17 (C) by adding after clause (ii) the fol-  
18 lowing:

19 “(iii) that government is not a ‘country of  
20 proliferation concern’ as defined in section  
21 1055(g)(2) of the National Defense Authoriza-  
22 tion Act for Fiscal Year 2010 (50 U.S.C.  
23 2371(g)(2)); and

24 “(iv) that government has provided assur-  
25 ances that it will not knowingly facilitate, di-

1           rectly or indirectly, the proliferation of nuclear  
2           materials, items, or technology in the future.”.

3           (b) CONFORMING AMENDMENTS.—

4           (1) FOREIGN ASSISTANCE ACT OF 1961.—Sec-  
5           tion 620A(e) of the Foreign Assistance Act of 1961  
6           (22 U.S.C. 2371(e)) is amended—

7                   (A) in the matter preceding paragraph (1),  
8                   by striking “the Speaker” and inserting “the  
9                   chairman of the Committee on Foreign Af-  
10                   fairs”; and

11                   (B) in paragraph (2)—

12                           (i) in subparagraph (A), by striking  
13                           “6-month period; and” and inserting “36-  
14                           month period;”;

15                           (ii) in subparagraph (B), by striking  
16                           the period at the end and inserting a semi-  
17                           colon; and

18                           (iii) by adding after subparagraph (B)  
19                           the following:

20                           “(C) that government is not a ‘country of  
21                           proliferation concern’ as defined in section  
22                           1055(g)(2) of the National Defense Authoriza-  
23                           tion Act for Fiscal Year 2010 (50 U.S.C.  
24                           2371(g)(2)); and

1           “(D) that government has provided assur-  
2           ances that it will not knowingly facilitate, di-  
3           rectly or indirectly, the proliferation of nuclear  
4           materials, items, or technology in the future.”.

5           (2) ARMS EXPORT CONTROL ACT.—Section  
6           40(f)(1) of the Arms Export Control Act (22 U.S.C.  
7           2780(f)(1)) is amended—

8                   (A) in the matter preceding subparagraph  
9                   (A), by striking “the Speaker” and inserting  
10                  “the chairman of the Committee on Foreign Af-  
11                  fairs”; and

12                  (B) in subparagraph (B)—

13                          (i) in clause (i), by striking “6-month  
14                          period; and” and inserting “36-month pe-  
15                          riod;”;

16                          (ii) in clause (ii), by striking the pe-  
17                          riod at the end and inserting a semicolon;  
18                          and

19                          (iii) by adding after clause (ii) the fol-  
20                          lowing:

21                                  “(iii) that government is not a ‘country of  
22                                  proliferation concern’ as defined in section  
23                                  1055(g)(2) of the National Defense Authoriza-  
24                                  tion Act for Fiscal Year 2010 (50 U.S.C.  
25                                  2371(g)(2)); and

1           “(iv) that government has provided assur-  
2           ances that it will not knowingly facilitate, di-  
3           rectly or indirectly, the proliferation of nuclear  
4           materials, items, or technology in the future.”.

5 **SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.**

6       (a) RENAMING OF UNDER SECRETARY.—

7           (1) IN GENERAL.—Section 5(f)(6) of the Ex-  
8           port Administration Act of 1979 (50 U.S.C. App.  
9           2404(f)(6)) is amended by striking “Under Sec-  
10          retary of Commerce for Export Administration” and  
11          inserting “Under Secretary of Commerce for Indus-  
12          try and Security”.

13          (2) CONFORMING AMENDMENT.—Section 5314  
14          of title 5, United States Code, is amended by strik-  
15          ing “Under Secretary of Commerce for Export Ad-  
16          ministration” and inserting “Under Secretary of  
17          Commerce for Industry and Security”.

18       (b) AMENDMENTS TO TITLE 31, UNITED STATES  
19       CODE.—

20          (1) Section 9703(a) of title 31, United States  
21          Code (as added by Public Law 102–393), is amend-  
22          ed, in the matter preceding paragraph (1), by strik-  
23          ing “or the United States Coast Guard” and insert-  
24          ing, “, the United States Coast Guard, or the Bu-

1       reau of Industry and Security of the Department of  
2       Commerce”.

3           (2) Section 9703(o)(1) of title 31, United  
4       States Code (as added by Public Law 102–393) is  
5       amended by adding at the end the following: “In ad-  
6       dition, for purposes of this section, the Bureau of  
7       Industry and Security of the Department of Com-  
8       merce shall be considered to be a Department of the  
9       Treasury law enforcement organization.”.

10       (c) CIVIL FORFEITURE PROCEEDINGS.—Section  
11       983(i)(2) of title 18, United States Code, is amended—

12           (1) by striking “or” at the end of subparagraph  
13       (D);

14           (2) by striking the period at the end of sub-  
15       paragraph (E) and inserting “; or”; and

16           (3) by adding at the end the following new sub-  
17       paragraph:

18                   “(F) the Export Administration Act of  
19       1979.”.

20       (d) CLERICAL AMENDMENT.—Paragraph (3) of sec-  
21       tion 11A(k) of the Export Administration Act of 1979 (50  
22       U.S.C. App. 2410A(k)(3)) is amended—

23           (1) by redesignating that paragraph as para-  
24       graph (2); and

1           (2) by striking “paragraph (2)” and inserting  
2           “paragraph (1)”.

3           (e) ANNUAL REPORT.—Section 14(a)(15) of the Ex-  
4 port Administration Act of 1979 (50 U.S.C. App.  
5 2413(a)(15)) is amended by striking “the export licensing  
6 process and” and inserting export licensing, an assessment  
7 of the impact of licensing exemptions on licensing case-  
8 loads, numbers of licensing officers, and the budget of the  
9 Bureau of Industry and Security, and efforts.

10 **SEC. 108. REPORTS BY COMPTROLLER GENERAL ON EX-**  
11 **PORT CONTROL VULNERABILITIES.**

12           (a) IN GENERAL.—Not later than the date that is  
13 1 year, 2 years, and 3 years after the date of the enact-  
14 ment of this Act, the Comptroller General of the United  
15 States shall submit to the appropriate congressional com-  
16 mittees a report assessing any progress made in resolving  
17 export control issues identified by the Government Ac-  
18 countability Office in—

19           (1) its report (GAO–09–767T) entitled “Export  
20 Controls: Fundamental Reexamination of System Is  
21 Needed to Help Protect Critical Technologies”,  
22 dated June 4, 2009; and

23           (2) its report (GAO–11–278) entitled “High-  
24 Risk Series: An Update”, dated February 16, 2011.



1 (b) APPROPRIATE CONGRESSIONAL COMMITTEES.—  
2 For purposes of subsection (a), the term “appropriate con-  
3 gressional committees” means—

4 (1) the Committee on Foreign Affairs and the  
5 Committee on Armed Services of the House of Rep-  
6 resentatives; and

7 (2) the Committee on Banking, Housing, and  
8 Urban Affairs, the Committee on Armed Services,  
9 and the Committee on Foreign Relations of the Sen-  
10 ate.

11 **SEC. 109. EFFECTIVE DATE.**

12 Subject to sections 101(f) and 102(b), this title and  
13 the amendments made by this title shall take effect on  
14 the date of the enactment of this Act.

15 **TITLE II—CONTROL OF GENERIC**  
16 **PARTS AND COMPONENTS**

17 **SEC. 201. TREATMENT OF GENERIC COMPONENTS OR**  
18 **PARTS.**

19 Section 38(a)(1) of the Arms Export Control Act (22  
20 U.S.C. 2778(a)(1)) is amended by adding at the end the  
21 following: “Nothing in this section shall be construed to  
22 require the President to include as a defense article any  
23 component, accessory, attachment, or part associated with  
24 any end-item included on the United States Munitions  
25 List, if such component, attachment, or part does not have

1 specialized or unique military or intelligence capability or  
2 significance such that control under the Arms Export Con-  
3 trol Act is warranted.”.

4 **SEC. 202. INTERAGENCY PROCESS FOR SUBSEQUENT CON-**  
5 **TROL OF ITEMS REMOVED FROM U.S. MUNI-**  
6 **TIONS LIST.**

7 (a) LEVEL OF EXPORT CONTROLS ON ITEMS RE-  
8 MOVED FROM UNITED STATES MUNITIONS LIST.—If an  
9 item is removed from the United States Munitions List  
10 under section 38(f) of the Arms Export Control Act (22  
11 U.S.C. 2778(f)), the item may not be made subject to ex-  
12 port controls that are less restrictive than the export con-  
13 trols that are imposed on the item at the time it is re-  
14 moved from the Munitions List, unless the President—

15 (1) determines that such less restrictive controls  
16 are appropriate and in the national security and eco-  
17 nomic interests of the United States; and

18 (2) complies with the 30-day notification re-  
19 quirement set forth in section 15(b)(2) of the Export  
20 Administration Act of 1979 with respect to the pro-  
21 posed controls, together with a description of, and  
22 justification for, the less restrictive controls.

23 (b) CONSENSUS OF DEPARTMENT HEADS.—The  
24 President shall ensure, through interagency procedures or  
25 regulation, that when an item that is removed from the

1 United States Munitions List under section 38(f) of the  
2 Arms Export Control Act is subject to controls under the  
3 Export Administration Act of 1979, the Secretaries of  
4 State, Defense, and Commerce concur on all subsequent  
5 modifications to the export controls on the item.

6 **SEC. 203. EXPORTS TO CERTAIN COUNTRIES.**

7 (a) EXPORTS TO CHINA.—

8 (1) PRESUMPTION OF DENIAL.—There shall be  
9 a presumption of denial of any application for a li-  
10 cense or other approval to export to the People’s Re-  
11 public of China any item that is removed from the  
12 United States Munitions List under section 38 of  
13 the Arms Export Control Act and is listed on the  
14 “Very Sensitive List” or “Sensitive List” of the  
15 Wassenaar Arrangement on Export Controls for  
16 Conventional Arms and Dual-Use Goods and Tech-  
17 nologies.

18 (2) WAIVER.—The President may waive the ap-  
19 plication of paragraph (1) on a case-by-case basis if  
20 the President—

21 (A) determines that the waiver is in the  
22 national security and economic interest of the  
23 United States; and

24 (B) at least 15 days before the waiver is  
25 to take effect, the President submits to the

1           Committee on Foreign Affairs of the House of  
2           Representatives and the Committees on Bank-  
3           ing, Finance, and Urban Affairs and on For-  
4           eign Relations of the Senate a report describing  
5           the reasons for the waiver.

6           (b) EXPORTS TO CERTAIN COUNTRIES.—An applica-  
7           tion for a license or other approval to export any item that  
8           is removed from the United States Munitions List under  
9           section 38 of the Arms Export Control Act for export to  
10          any country or end-user that is subject to section 126.1  
11          of title 22, Code of Federal Regulations (and any suc-  
12          cessor regulations), or to a multilateral arms embargo  
13          under the United Nations Security Council shall be de-  
14          nied.

15       **SEC. 204. EFFECTIVE DATE.**

16          (a) SECTION 201.—Section 201 shall take effect on  
17          the date of the enactment of this Act.

18          (b) SECTION 202.—Section 202 shall apply with re-  
19          spect to any item removed from the United States Muni-  
20          tions List on or after the date of the enactment of this  
21          Act.

22          (c) SECTION 203.—Section 203 shall apply to any ap-  
23          plication for a license or other approval to export that is  
24          made on or after the date of the enactment of this Act.

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