EXPORT CONTROL REFORM ACT OF 2018; GLOBAL FOOD SECURITY REAUTHORIZATION ACT OF 2018; GLOBAL ELECTORAL EXCHANGE ACT; AND WOMEN’S ENTREPRENEURSHIP AND ECONOMIC EMPOWERMENT ACT OF 2018

MARKUP
BEFORE THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION
ON
H.R. 5040, H.R. 5129, H.R. 5274, and H.R. 5480
APRIL 17, 2018
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WASHINGTON : 2018
The committee met, pursuant to notice, at 10 o’clock a.m., in room 2172, Rayburn House Office Building, Hon. Edward Royce (chairman of the committee) presiding.

Pursuant to notice, we meet today to mark up four measures. They are all bipartisan. And without objection, all members may have 5 days to submit any statements or any extraneous material into the record.

I think everyone was notified yesterday we intend to consider today’s measures en bloc. And so, without objection, the following items previously provided will be considered en bloc and are considered as read: H.R. 5040, the Export Control Reform Act, Royce Amendment 101 in the nature of a substitute, Sherman Amendment 45.

These are also all in your packets, by the way: H.R. 5129, the Global Food Security Reauthorization Act with Smith Amendment 85; H.R. 5274, the Global Electoral Exchange Act with the Castro amendment in the nature of a substitute to H.R. 5274 and the Titus Amendment 38; and I have H.R. 5480, this is the Women’s Entrepreneurship and Economic Empowerment Act and Royce Amendment 103.

[The information referred to follows:]
H.R. 5040

To authorize the President to control the export, reexport, and transfer of commodities, software, and technology to protect the national security, and to promote the foreign policy, of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 15, 2018

Mr. ROYCE of California (for himself and Mr. ENDELL) introduced the following bill, which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To authorize the President to control the export, reexport, and transfer of commodities, software, and technology to protect the national security, and to promote the foreign policy, of the United States, 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 Reform Act of 2018”.

Be it enacted by the Senate and House of Representa- tives of the United States of America in Congress assembled,
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—AUTHORITY AND ADMINISTRATION OF CONTROLS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Authority of the President.
Sec. 104. Additional authorities.
Sec. 105. Administration of export controls.
Sec. 106. Control lists.
Sec. 107. Licensing.
Sec. 108. Compliance assistance.
Sec. 109. Requirements to identify and control emerging critical technologies in export control regulations.
Sec. 110. Penalties.
Sec. 111. Enforcement.
Sec. 112. Administrative procedure.
Sec. 113. Annual report to Congress.
Sec. 114. Repeal.
Sec. 115. Effect on other Acts.
Sec. 116. Transition provisions.

TITLE II—ANTI-BOYCOTT ACT OF 2018

Sec. 201. Short title.
Sec. 203. Foreign boycotts.
Sec. 204. Enforcement.

TITLE III—SANCTIONS REGARDING MISSILE PROLIFERATION AND CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

Sec. 301. Missile proliferation control violations.
Sec. 302. Chemical and biological weapons proliferation sanctions.

3 SEC. 2. DEFINITIONS.

In this Act:

(1) CONTROLLED.—The term “controlled”, with respect to an item, means the export, reexport, or transfer of the item is controlled under title I.

(2) DUAL-USE.—The term “dual-use”, with respect to an item, means the item has civilian appli-
lations and military, terrorism, or weapons of mass
destruction-related applications.

(3) EXPORT.—The term “export”, with respect
to an item subject to controls under title I, in-
cludes—

(A) the shipment or transmission of the
item out of the United States, including the
sending or taking of the item out of the United
States, in any manner; and

(B) the release or transfer of technology or
source code relating to the item to a foreign
person in the United States.

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

(A) the Export Administration Regulations
as promulgated, maintained, and amended
under the authority of the International Emer-
gency Economic Powers Act and codified, as of
the date of the enactment of this Act, in sub-
chapter C of chapter VII of title 15, Code of
Federal Regulations; or

(B) regulations that are promulgated,
maintained, and amended under the authority
of title I on or after the date of the enactment of this Act.

(5) FOREIGN PERSON.—The term "foreign person" means a person that is not a United States person.

(6) ITEM.—The term "item" means a commodity, software, or technology.

(7) PERSON.—

(A) IN GENERAL.—The term "person" means—

(i) a natural person;

(ii) a corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) any successor to any entity described in clause (ii).

(B) APPLICATION TO GOVERNMENTAL ENTITIES.—The term "person" does not include a government or governmental entity that is not operating as a business enterprise.
(8) RE EXPORT.—The term “reexport”, with respect to an item subject to controls under title I, includes—

(A) the shipment or transmission of the item from a foreign country to another foreign country, including the sending or taking of the item from the foreign country to the other foreign country, in any manner; and

(B) the release or transfer of technology or source code relating to the item to a foreign person outside the United States.

(9) TECHNOLOGY.—The term “technology”—

(A) includes—

(i) information necessary for the development, production, use, operation, installation, maintenance, repair, overhaul or refurbishing of an item; and

(ii) information at whatever stage of its creation, such as foundational information and know-how, as further defined by regulations; and

(B) does not include published information, including prerecorded records, printed books, pamphlets, miscellaneous publications, or other information, that—
(i) arises during, or results from, fundamental research and is intended to be published;

(ii) is released by instruction in a catalog course or associated teaching laboratory of an academic institution;

(iii) appears in patents or open (published) patent publications available from or at any patent office, unless covered by an invention secrecy order;

(iv) is non-proprietary system descriptions;

(v) is telemetry data; or

(vi) is any other category or type of information, as determined by the President for purposes of national security or foreign policy concerns.

(10) Transfer.—The term “transfer”, with respect to an item subject to controls under title I, means a change in the end-use or end user of the item within the same foreign country.

(11) United States.—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Amer-
ican Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(12) United States person.—The term “United States person” means—

(A) any individual who is a citizen or national of the United States or who is an individual described in subparagraph (B) of section 274B(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(3)); and

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(13) Weapons of mass destruction.—The term “weapons of mass destruction” means nuclear, radiological, chemical, and biological weapons and delivery systems for such weapons.
TITLE I—AUTHORITY AND ADMINISTRATION OF CONTROLS

SEC. 101. SHORT TITLE.
This title may be cited as the “Export Controls Act of 2018”.

SEC. 102. STATEMENT OF POLICY.
The following is the policy of the United States:
(1) The national security and foreign policy of the United States require that the export, reexport, and transfer of items, and specific activities of United States persons, wherever located, be controlled for the following purposes:
   (A) To control the access to items for use in—
      (i) the proliferation of weapons of mass destruction or of conventional weapons;
      (ii) the acquisition of destabilizing numbers or types of conventional weapons;
      (iii) acts of terrorism;
      (iv) military programs that could pose a threat to the security of the United States or its allies; or
(v) activities undertaken specifically to cause significant interference with or disruption of critical infrastructure.

(B) To preserve the qualitative military superiority of the United States.

(C) To strengthen the United States industrial base.

(D) To carry out the foreign policy of the United States, including the protection of human rights and the promotion of democracy.

(E) To carry out obligations and commitments under international agreements and arrangements, including multilateral export control regimes.

(F) To facilitate military interoperability between the United States and its North Atlantic Treaty Organization (NATO) and other close allies.

(G) To ensure national security controls are tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States.

(2) The national security of the United States requires that the United States maintain its leader-
ship in the science, technology, engineering, and manufacturing sectors. Such leadership requires that United States persons are competitive in global markets. The impact of the implementation of this title on such leadership and competitiveness must be evaluated on an ongoing basis and applied in imposing controls under sections 103 and 104 to avoid negatively affecting such leadership.

(3) The national security and foreign policy of the United States require that the United States participate in multilateral organizations and agreements regarding export controls on items that are consistent with the policy of the United States, and take all the necessary steps to secure the adoption and consistent enforcement, by the governments of such countries, of export controls on items that are consistent with such policy.

(4) Export controls should be fully coordinated with the multilateral export control regimes. Export controls that are multilateral are most effective, and should be tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States and its allies.
(5) Export controls applied unilaterally to items widely available from foreign sources generally are less effective in preventing end-users from acquiring those items.

(6) The effective administration of export controls requires a clear understanding both inside and outside the United States Government of which technologies and other items are controlled and an efficient process should be created to update the controls, such as by removing and adding technologies and other items.

(7) The export control system must ensure that it is transparent, predictable, and timely, has the flexibility to be adapted to address new threats in the future, and allows seamless access to and sharing of export control information among all relevant United States national security and foreign policy agencies.

(8) Implementation and enforcement of United States export controls require robust capabilities in monitoring, intelligence, and investigation, appropriate penalties for violations, and the ability to swiftly interdict unapproved transfers.

(9) Export controls should be balanced with United States counterterrorism, information secu-
rity, and cyber-security policies to ensure the ability
to export, reexport, and transfer technology and
other items in support of counterterrorism, critical
infrastructure, and other homeland security prior-
ities, while effectively preventing malicious cyber ter-
rorsists from obtaining items that threaten the
United States and its interests, including the protec-
tion of and safety of United States citizens abroad.

(10) Export controls complement and are a
critical element of the national security policies un-
derlying the laws and regulations governing foreign
direct investment in the United States, including
controlling the transfer of critical technologies to
certain foreign persons. Thus, the President, in close
coordination with the Department of Commerce, the
Department of Defense, the Department of State,
the Department of Energy, and other agencies re-
ponsible for export controls, should have a regular
and robust process to identify the emerging and
other types of critical technologies of concern, as de-
finied in United States foreign direct investment
laws, and regulate their release to foreign persons as
warranted regardless of the nature of the underlying
transaction. Such identification efforts should draw
upon the resources and expertise of all relevant
parts of the United States Government, industry, and academia. These efforts should be in addition to traditional efforts to modernize and update the lists of controlled items under the multilateral export control regimes.

(11) The authority under this title may be exercised only in furtherance of all of the objectives set forth in paragraphs (1) through (10).

SEC. 103. AUTHORITY OF THE PRESIDENT.

(a) Authority.—In order to carry out the policy set forth in paragraphs (1) through (10) of section 102, the President shall control—

(1) the export, reexport, and transfer of items, whether by United States persons, wherever located, or by foreign persons, wherever located; and

(2) the activities of United States persons, wherever located, relating to specific—

(A) nuclear explosive devices;

(B) missiles;

(C) chemical or biological weapons;

(D) whole plants for chemical weapons precursors;

(E) foreign maritime nuclear projects; and

(F) foreign intelligence services.
(b) REQUIREMENTS.—In exercising authority under this title, the President shall impose controls to achieve the following objectives:

(1) To regulate the export, reexport, and transfer of items described in subsection (a)(1) of United States persons, wherever located, or foreign persons, wherever located.

(2) To regulate the activities described in subsection (a)(2) of United States persons, wherever located.

(3) To secure the cooperation of other governments and multilateral organizations to impose control systems that are consistent, to the extent possible, with the controls imposed under subsection (a).

(4) To maintain the leadership of the United States in science, engineering, technology research and development, and manufacturing.

(5) To enhance the viability of commercial firms, academic institutions, and research establishments, and maintain the skilled workforce of such firms, institutions, and establishments, that are necessary to preserving the leadership of the United States described in paragraph (4).
To strengthen the United States industrial base, both with respect to current and future defense requirements.

(7) To enforce the controls through means such as regulations, requirements for compliance, lists of controlled items, lists of foreign persons who threaten the national security or foreign policy of the United States, and guidance in a form that facilitates compliance by United States persons and foreign persons, in particular academic institutions, scientific and research establishments, and small- and medium-sized businesses.

SEC. 104. ADDITIONAL AUTHORITIES.

(a) In General.—In carrying out this title, the President shall—

(1) establish and maintain lists published by the Secretary of Commerce of items that are controlled under this title;

(2) establish and maintain lists published by the Secretary of Commerce of foreign persons and end-uses that are determined to be a threat to the national security and foreign policy of the United States pursuant to the policy set forth in section 102(1)(A) and to whom exports, reexports, and transfers of items are controlled;
(3) prohibit unauthorized exports, reexports, and transfers of controlled items;

(4) restrict exports, reexports, and transfers of any controlled items to any foreign person or end-use listed under paragraph (2);

(5) require licenses or other authorizations, as appropriate, for exports, reexports, and transfers of controlled items, including imposing conditions or restrictions on United States persons and foreign persons with respect to such licenses or other authorizations;

(6) establish a process by which the Secretary of Commerce or a license applicant requests an assessment that a foreign item is comparable in quality to an item controlled under this title, and is available in sufficient quantities to render the United States export control of that item or the denial of a license ineffective;

(7) require measures for compliance with the export controls established under this title;

(8) require and obtain such information from United States persons and foreign persons as is necessary to carry out this title;
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(9) require, as appropriate, advance notice before an item is exported, reexported, or transferred, as an alternative to requiring a license;

(10) require, to the extent feasible, identification of items subject to controls under this title in order to facilitate the enforcement of such controls;

(11) inspect, search, detain, seize, or impose temporary denial orders with respect to items, in any form, that are subject to controls under this title, or conveyances on which it is believed that there are items that have been, are being, or are about to be exported, reexported, or transferred in violation of this title;

(12) monitor shipments, or other means of transfer;

(13) keep the public fully apprised of changes in policy, regulations, and procedures established under this title;

(14) appoint technical advisory committees in accordance with the Federal Advisory Committee Act;

(15) create, as warranted, exceptions to licensing requirements in order to further the objectives of this title; and
(16) undertake any other action as is necessary
to carry out this title and is not otherwise prohibited
by law.

(b) RELATIONSHIP TO IEEPA.—The authority under
this title may not be used to regulate or prohibit under
this title the export, reexport, or transfer of any item that
may not be regulated or prohibited under section 203(b)
of the International Emergency Economic Powers Act (50
U.S.C. 1702(b)).

(c) COUNTRIES SUPPORTING INTERNATIONAL TER-
RORISM.—

(1) LICENSE REQUIREMENT.—

(A) IN GENERAL.—A license shall be re-
quired for the export, reexport, or transfer of
items to a country if the Secretary of State has
made the following determinations:

(i) The government of such country
has repeatedly provided support for acts of
international terrorism.

(ii) The export, reexport, or transfer
of such items could make a significant con-
tribution to the military potential of such
country, including its military logistics ca-
pability, or could enhance the ability of
such country to support acts of international terrorism.

(B) Determination under other provisions of law.—A determination of the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law that the government of a country described in subparagraph (A) has repeatedly provided support for acts of international terrorism shall be deemed to be a determination with respect to such government for purposes of clause (i) of subparagraph (A).

(2) Notification to Congress.—The Secretary of State and the Secretary of Commerce shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by paragraph (1).

(3) Publication in Federal Register.—Each determination of the Secretary of State under paragraph (1)(A) shall be published in the Federal
Register, except that the Secretary of State may exclude confidential information and trade secrets contained in such determination.

(4) Rescission of Determination.—A determination of the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Affairs, and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 90 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—
(i) the government concerned has not provided any support for acts of international terrorism during the preceding 24-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(5) Disapproval of rescission.—No rescission under paragraph (4)(B) of a determination under paragraph (1)(A) with respect to the government of a country may be made if Congress, within 90 days after receipt of a report under paragraph (4)(B), enacts a joint resolution described in subsection (f)(2) of section 40 of the Arms Export Control Act with respect to a rescission under subsection (f)(1) of such section with respect to the government of such country.

(6) Notification and briefing.—Not later than—

(A) ten days after initiating a review of the activities of the government of the country concerned within the 24-month period referred to in paragraph (4)(B)(i), the Secretary of State shall notify the Committee on Foreign Affairs
of the House of Representatives and the Committee on Foreign Relations of the Senate of such initiation; and

(B) 20 days after the notification described in paragraph (1), the Secretary of State shall brief the congressional committees described in paragraph (1) on the status of such review.

(7) CONTENTS OF NOTIFICATION OF LICENSE.—The Secretary of State shall include in the notification required by paragraph (2)—

(A) a detailed description of the items to be offered, including a brief description of the capabilities of any item for which a license to export, reexport, or transfer the items is sought;

(B) the reasons why the foreign country, person, or entity to which the export, reexport, or transfer is proposed to be made has requested the items under the export, reexport, or transfer, and a description of the manner in which such country, person, or entity intends to use such items;

(C) the reasons why the proposed export, reexport, or transfer is in the national interest of the United States;
(D) an analysis of the impact of the proposed export, reexport, or transfer on the military capabilities of the foreign country, person, or entity to which such transfer would be made;

(E) an analysis of the manner in which the proposed export, reexport, or transfer would affect the relative military strengths of countries in the region to which the items that are the subject of such export, reexport, or transfer would be delivered and whether other countries in the region have comparable kinds and amounts of items; and

(F) an analysis of the impact of the proposed export, reexport, or transfer on the relations of the United States with the countries in the region to which the items that are the subject of such export, reexport, or transfer would be delivered.

(d) Enhanced Proliferation Controls.—

(1) In general.—In furtherance of section 103(a) of this title, the President shall, except to the extent authorized by a statute or regulation administered by a Federal department or agency other than the Department of Commerce, require a United States person, wherever located, to apply for and re-
receive a license from the Department of Commerce for the export, reexport, or transfer of items described in paragraph (2) or for the performance of services relating to such items.

(2) Items described.—The items described in this paragraph are—

(A) nuclear explosive devices;
(B) missiles;
(C) chemical or biological weapons;
(D) whole plants for chemical weapons precursors; and
(E) foreign maritime nuclear projects that would pose a risk to the national security or foreign policy of the United States.

(e) Additional Prohibitions.—The Secretary of Commerce may inform United States persons, either individually by specific notice or through amendment to any regulation or order issued under this title, that a license from the Bureau of Industry and Security of the Department of Commerce is required to engage in any activity if the activity involves the types of movement, service, or support described in subsection (d). The absence of any such notification does not excuse the United States person from compliance with the license requirements of sub-
section (d), or any regulation or order issued under this title.

(f) LICENSE REVIEW STANDARDS.—The Secretary of Commerce shall deny an application to engage in any activity that involves the types of movement, service, or support described in subsection (d) if the activity would make a material contribution to any of the items described in subsection (d)(2).

SEC. 105. ADMINISTRATION OF EXPORT CONTROLS.

(a) IN GENERAL.—The President shall delegate to the Secretary of Commerce, the Secretary of Defense, the Secretary of State and, as appropriate, the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, the authority to carry out the purposes set forth in subsection (b).

(b) PURPOSES.—

(1) IN GENERAL.—The purpose of the delegations of authority pursuant to subsection (a) are—

(A) to advise the President with respect to—

(i) identifying specific threats to the national security and foreign policy that the authority of this title may be used to address; and
(ii) exercising the authority under this title to implement policies, regulations, procedures, and actions that are necessary to effectively counteract those threats;

(B) to review and approve—

(i) criteria for including items on, and removing such an item from, a list of controlled items established under this title;

(ii) an interagency procedure for compiling and amending any list described in clause (i);

(iii) criteria for including a person on a list of persons to whom exports, reexports, and transfers of items are prohibited or restricted under this title;

(iv) standards for compliance by persons subject to controls under this title; and

(v) policies and procedures for the end-use monitoring of exports, reexports, and transfers of items controlled under this title;

(C) to obtain independent evaluations, including from Inspectors General of the relevant departments or agencies, on a periodic basis on
the effectiveness of the implementation of this

title in carrying out the policy set forth in sec-
tion 102; and

(D) to benefit from the inherent equities,
experience, and capabilities of the Federal offi-
cials described in subsection (a), including—

(i) the views of the Department of De-
fense with respect to the national security
implications of a particular control or deci-
sion;

(ii) the views of the Department of
State with respect to the foreign policy im-
lications of a particular control or deci-
sion;

(iii) the views of the Department of
Energy with respect to the implications for
nuclear proliferation of a particular control
or decision; and

(iv) the views of the Department of
Commerce with respect to the administra-
tion of an efficient, coherent, reliable, en-
forceable, and predictable export control
system, and the resolution of competing
views or policy objectives described in sec-
tion 102.
(2) Authority to Seek Information.—The Federal officials described in subsection (a) may, in carrying out the purposes set forth in paragraph (1), seek information and advice from experts who are not officers or employees of the Federal Government.

(3) Transmittal and Implementation of Evaluations.—The results of the independent evaluations conducted pursuant to paragraph (1)(D) shall be transmitted to the President and the Congress, in classified form if necessary. Subject to the delegation of authority by the President, the Federal officials described in subsection (a) shall determine, direct, and ensure that improvements recommended in the evaluations are implemented.

SEC. 106. CONTROL LISTS.

The President shall, pursuant to the delegation of authority in section 105, ensure that—

(1) a process is established for regular inter-agency review of each list established under section 104(a)(1), that pursuant to such review the Secretary of Commerce regularly updates such lists to ensure that new items (including emerging critical technologies) are appropriately controlled, and that
the level of control of items on the lists are adjusted 
as conditions change;

(2) information and expertise is obtained from 
officers and employees from relevant Federal depart-
ments, agencies, and offices and persons outside the 
Federal Government who have technical expertise,
with respect to the characteristics of the items con-
sidered for each list established under section 
104(a)(1) and the effect of controlling the items on 
addressing the policy set forth in section 102;

(3) each list established under section 104(a)(1) 
appropriately identifies each entry that has been in-
cluded by virtue of the participation of the United 
States in a multilateral regime, organization, or 
group the purpose of which is consistent with and 
supports the policy of the United States under this 
title relating to the control of exports, reexports, and 
transfers of items; and

(4) each list established under section 104(a)(1) 
is published by the Secretary of Commerce in a form 
that facilitates compliance with it and related re-
requirements, particularly by small- and medium-sized 
businesses, and academic institutions.
SEC. 107. LICENSING.

(a) IN GENERAL.—The President shall, pursuant to the delegation of authority in section 105, establish a procedure for the Department of Commerce to license or otherwise authorize the export, reexport, and transfer of items controlled under this title in order to carry out the policy set forth in section 102 and the requirements set forth in section 103(b). The procedure shall ensure that—

(1) license applications, other requests for authorization, and related dispute resolution procedures are considered and decisions made with the participation of appropriate departments, agencies, and offices that have delegated functions under this title; and

(2) licensing decisions are made in an expeditious manner, with transparency to applicants on the status of license and other authorization processing and the reason for denying any license or request for authorization.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should make best efforts to ensure that an accurate, consistent, and timely evaluation and processing of licenses or other requests for authorization to export, reexport, or transfer items controlled under this title is accomplished within 30 days from the date of such license request.
(c) Fees.—No fee may be charged in connection with the submission, processing, or consideration of any application for a license or other authorization or other request made in connection with any regulation in effect under the authority of this title.

SEC. 108. COMPLIANCE ASSISTANCE.

(a) System for Seeking Assistance.—The President may establish a system to provide United States persons with assistance in complying with this title, which may include a mechanism for providing information, in classified form as appropriate, who are potential customers, suppliers, or business partners with respect to items controlled under this title, in order to further ensure the prevention of the export, reexport, or transfer of items that may pose a threat to the national security or foreign policy of the United States.

(b) Security Clearances.—In order to carry out subsection (a), the President may issue appropriate security clearances to persons described in that subsection who are responsible for complying with this title.

(c) Assistance for Certain Businesses.—

(1) In general.—Not later than 120 days after the date of the enactment of this Act, the President shall develop and submit to Congress a plan to assist small- and medium-sized United
States in export licensing and other processes under this title.

(2) CONTENTS.—The plan shall include, among other things, arrangements for the Department of Commerce to provide counseling to businesses described in paragraph (1) on filing applications and identifying items controlled under this title, as well as proposals for seminars and conferences to educate such businesses on export controls, licensing procedures, and related obligations.

SEC. 109. REQUIREMENTS TO IDENTIFY AND CONTROL EMERGING CRITICAL TECHNOLOGIES IN EXPORT CONTROL REGULATIONS.

(a) IN GENERAL.—The President shall, pursuant to the delegation of authority in section 105, establish and, in coordination with the Department of Commerce, the Department of Defense, the Department of State, the Department of Energy, and other departments determined to be necessary, lead a regular, ongoing interagency process to identify emerging critical technologies that are not identified in any list of items controlled for export under United States law or regulations, but that nonetheless could be essential for maintaining or increasing the technological advantage of the United States over countries that pose a significant threat to the national security of
the United States with respect to national defense, intelligence, or other areas of national security, or gaining such an advantage over such countries in areas where such an advantage may not currently exist.

(b) REQUIREMENTS.—The interagency process required under subsection (a) shall—

(1) draw upon the expertise, resources, and equities of all relevant United States Government agencies, industries, and academic institutions to identify and describe such emerging critical technologies;

(2) require the relevant export control authority to publish proposed regulations for public comment that would control heretofore unlisted emerging critical technologies identified pursuant to subsection (a) and control the release of each such technology to destinations, end uses, or end users as determined by the President;

(3) require the Secretary of Commerce, the Secretary of State, and the Secretary of Defense to propose to the relevant multilateral export control regimes in the following year that such emerging critical technologies be added to the list of technologies controlled by such regimes;
(4) determine whether national security concerns warrant continued unilateral export controls over technologies identified pursuant to subsection (a) if the relevant multilateral export control regime does not agree to list such technologies on its control list within three years; and

(5) require the agencies responsible for administering the export controls identified in subsection (a) to remove or revise, as appropriate, existing controls determined to warrant removal or revision as a result of insight or information obtained during efforts undertaken to comply with the requirements of this section.

SEC. 110. PENALTIES.

(a) UNLAWFUL ACTS.—

(1) IN GENERAL.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of this title or of any regulation, order, license, or other authorization issued under this title, including any of the unlawful acts described in paragraph (2).

(2) SPECIFIC UNLAWFUL ACTS.—The unlawful acts described in this paragraph are the following:

(A) No person may engage in any conduct prohibited by or contrary to, or refrain from en-
gaging in any conduct required by this title, the

Export Administration Regulations, or any
order, license or authorization issued there-
under.

(B) No person may cause or aid, abet,
counsel, command, induce, procure, or approve
the doing of any act prohibited, or the omission
of any act required by this title, the Export Ad-
ministration Regulations, or any order, license
or authorization issued thereunder.

(C) No person may solicit or attempt a vio-
lation of this Act, the Export Administration
Regulations, or any order, license or authoriza-
tion issued thereunder.

(D) No person may conspire or act in con-
cert with one or more other persons in any
manner or for any purpose to bring about or to
do any act that constitutes a violation of this
title, the Export Administration Regulations, or
any order, license or authorization issued there-
under.

(E) No person may order, buy, remove,
conceal, store, use, sell, loan, dispose of, trans-
fer, transport, finance, forward, or otherwise
service, in whole or in part, any item exported
or to be exported from the United States, or
that is otherwise subject to the Export Admin-
istration Regulations, with knowledge that a
violation of this title, the Export Administration
Regulations, or any order, license or authoriza-
tion issued thereunder, has occurred, is about
to occur, or is intended to occur in connection
with the item unless valid authorization is ob-
tained therefor.

(F) No person may make any false or mis-
leading representation, statement, or certifi-
cation, or falsify or conceal any material fact,
either directly to the Department of Commerce,
or an official of any other United States agen-
cy, or indirectly through any other person—

(i) in the course of an investigation or
other action subject to the Export Admin-
istration Regulations;

(ii) in connection with the prepara-
tion, submission, issuance, use, or mainte-
nance of any export control document or
any report filed or required to be filed pur-
suant to the Export Administration Regu-
lations; or
(iii) for the purpose of or in connection with effecting any export, reexport, or transfer of an item subject to the Export Administration Regulations or a service or other activity of a United States person described in section 104.

(G) No person may engage in any transaction or take any other action with intent to evade the provisions of this title, the Export Administration Regulations, or any order, license, or authorization issued thereunder.

(H) No person may fail or refuse to comply with any reporting or recordkeeping requirements of the Export Administration Regulations or of any order, license, or authorization issued thereunder.

(I) Except as specifically authorized in the Export Administration Regulations or in writing by the Department of Commerce, no person may alter any license, authorization, export control document, or order issued under the Export Administration Regulations.

(J) No person may take any action that is prohibited by a denial order issued by the Department of Commerce to prevent imminent
violations of this title, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(3) ADDITIONAL REQUIREMENTS.—For purposes of subparagraph (G), any representation, statement, or certification made by any person shall be deemed to be continuing in effect. Each person who has made a representation, statement, or certification to the Department of Commerce relating to any order, license, or other authorization issued under this title shall notify the Department of Commerce, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention had occurred or may occur in the future.

(b) CRIMINAL PENALTY.—

(1) KNOWING VIOLATIONS.—Except as provided in paragraph (2), a person who knowingly violates or conspires or attempts to violate subsection (a) shall be fined not more than 5 times the amount or value of the exports, reexports, or transfers involved, or $500,000, whichever is greater, and, in the case of
an individual, imprisoned not more than 5 years, or
both.

(2) WILLFUL VIOLATIONS.—A person who will-
fully violates or conspires to or attempts to violate
any provision of subsection (a) shall be fined not
more than 5 times the amount or value of the ex-
ports, reexports, or transfers involved, or
$1,000,000, whichever is greater, and, in the case of
an individual, shall be fined not more than
$250,000, or imprisoned not more than 10 years, or
both.

(c) Civil Penalties.—

(1) AUTHORITY.—The President may impose
the following civil penalties on a person for each vi-
olation by that person of this title or any regulation,
order, or license issued under this title, for each vi-
olation:

(A) A fine of not more than $250,000 or
an amount that is twice the value of the trans-
action that is the basis of the violation with re-
spect to which the penalty is imposed, which-
ever is greater.

(B) Revocation of a license issued under
this title to the person.
(C) A prohibition on the person’s ability to export, reexport, or transfer any items, whether or not subject to controls under this title.

(2) PROCEDURES.—Any civil penalty under this subsection may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(3) STANDARDS FOR LEVELS OF CIVIL PENALTY.—The President may by regulation provide standards for establishing levels of civil penalty under this subsection based upon factors such as the seriousness of the violation, the culpability of the violator, and such mitigating factors as the violator’s record of cooperation with the Government in disclosing the violation.

(d) CRIMINAL FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under subsection (b) of a violation of a control imposed under section 103 (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States—
(A) any of that person’s interest in, security of, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person’s interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the violation; and

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

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

(e) Prior Convictions.—

(1) License Bar.—

(A) In general.—The President may—

(i) deny the eligibility of any person convicted of a criminal violation described in subparagraph (B) to export, reexport, or
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transfer outside the United States any
item, whether or not subject to controls
under this title, for a period of up to 10
years beginning on the date of the convic-
tion; and

(ii) revoke any license or other author-
ization to export, reexport, or transfer
items that was issued under this title and
in which such person has an interest at the
time of the conviction.

(B) VIOLATIONS.—The violations referred
to in subparagraph (A) are any criminal viola-
tions of, or criminal attempt or conspiracy to
violate—

(i) this title (or any regulation, li-
cense, or order issued under this title);

(ii) any regulation, license, or order
issued under the International Emergency
Economic Powers Act;

(iii) section 793, 794, or 798 of title
18, United States Code;

(iv) section 4(b) of the Internal Secu-
rity Act of 1950 (50 U.S.C. 783(b)); or

(v) section 38 of the Arms Export
Control Act (22 U.S.C. 2778).
(2) Application to other parties.—The President may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in subsection (c)(2).

(f) Other Authorities.—Nothing in subsection (c), (d), or (e) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this title, or any regulation, order, license or other authorization issued under this title;

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

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).
SEC. 111. ENFORCEMENT.

(a) AUTHORITIES.—In order to enforce this title, the President may—

(1) issue regulations, orders, and guidelines;

(2) require, inspect, and obtain books, records, and any other information from any person subject to the provisions of this title;

(3) administer oaths or affirmations and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both;

(4) conduct investigations (including undercover) in the United States and in other countries, including intercepting any wire, oral, and electronic communications, conducting electronic surveillance, using pen registers and trap and trace devices, and carrying out acquisitions, to the extent authorized under chapters 119, 121, and 206 of title 18, United States Code, and other applicable laws of the United States;

(5) inspect, search, detain, seize, or issue temporary denial orders with respect to items, in any form, that are subject to controls under this title, or conveyances on which it is believed that there are items that have been, are being, or are about to be exported, reexported, or transferred in violation of
this title, or any regulations, order, license, or other
authorization issued thereunder;
(6) conduct prelicense inspections and post-
shipment verifications; and
(7) execute warrants and make arrests.
(b) ENFORCEMENT OF SUBPOENAS.—In the case of
contumacy by, or refusal to obey a subpoena issued to,
any person under subsection (a)(3), a district court of the
United States, after notice to such person and a hearing,
shall have jurisdiction to issue an order requiring such
person to appear and give testimony or to appear and
produce books, records, and other writings, regardless of
format, that are the subject of the subpoena. Any failure
to obey such order of the court may be punished by such
court as a contempt thereof.
(c) BEST PRACTICE GUIDELINES.—
(1) IN GENERAL.—The President, in consulta-
tion with the Secretary of Commerce and other Fed-
eral officials described in section 105(a), should pub-
lish and update “best practices” guidelines to assist
persons in developing and implementing, on a vol-
untary basis, effective export control programs in
compliance with the regulations issued under this
title.
(2) EXPORT COMPLIANCE PROGRAM.—The implementation by a person of an effective export compliance program and a high quality overall export compliance effort by a person should ordinarily be given weight as mitigating factors in a civil penalty action against the person under this title.

(d) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of, or a violation of, this title includes a reference to the enforcement or a violation of any regulation, order, license or other authorization issued pursuant to this title.

(e) IMMUNITY.—A person shall not be excused from complying with any requirements under this section because of the person’s privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(f) CONFIDENTIALITY OF INFORMATION.—

(1) EXEMPTIONS FROM DISCLOSURE.—

(A) IN GENERAL.—Information obtained under this title may be withheld from disclosure only to the extent permitted by statute, except that information described in subparagraph (B) shall be withheld from public disclosure and shall not be subject to disclosure under section
552(b)(3) of title 5, United States Code, unless
the release of such information is determined by
the President to be in the national interest.

(B) INFORMATION DESCRIBED.—Information
described in this subparagraph is informa-
tion submitted or obtained in connection with
an application for a license or other authoriza-
tion to export, reexport, or transfer items, en-
gage in other activities, a recordkeeping or re-
porting requirement, enforcement activity, or
other operations under this title, including—

(i) the license application, license, or
other authorization itself;

(ii) classification or advisory opinion
requests, and the response thereto;

(iii) license determinations, and infor-
mation pertaining thereto;

(iv) information or evidence obtained
in the course of any investigation; and

(v) information obtained or furnished
in connection with any international agree-
ment, treaty, or other obligation.

(2) INFORMATION TO THE CONGRESS AND
GAO.—
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(A) IN GENERAL.—Nothing in this section
shall be construed as authorizing the with­
holding of information from the Congress or
from the Government Accountability Office.

(B) AVAILABILITY TO THE CONGRESS.—

(i) IN GENERAL.—Any information
obtained at any time under any provision
of the Export Administration Act of 1979
(as in effect on the day before the date of
the enactment of this Act and as continued
in effect pursuant to the International
Emergency Economic Powers Act), under
the Export Administration Regulations, or
under this title, including any report or li­
cense application required under any such
provision, shall be made available to a
committee or subcommittee of Congress of
appropriate jurisdiction, upon the request
of the chairman or ranking minority mem­
er of such committee or subcommittee.

(ii) PROHIBITION ON FURTHER DIS­
CLOSURE.—No such committee or sub­
committee, or member thereof, may dis­
close any information made available under
clause (i), that is submitted on a confiden­
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tial basis unless the full committee deter-
mines that the withholding of that infor-
mation is contrary to the national interest.

(C) AVAILABILITY TO GAO.—

(i) IN GENERAL.—Information de-
scribed in clause (i) of subparagraph (B)
shall be subject to the limitations con-
tained in section 716 of title 31, United
States Code.

(ii) PROHIBITION ON FURTHER DIS-
closure.—An officer or employee of the
Government Accountability Office may not
disclose, except to the Congress in accord-
ance with this paragraph, any such infor-
mation that is submitted on a confidential
basis or from which any individual can be
identified.

(3) INFORMATION SHARING.—

(A) IN GENERAL.—Any Federal official de-
scribed in section 105(a) who obtains infor-
mation that is relevant to the enforcement of this
title, including information pertaining to any in-
vestigation, shall furnish such information to
each appropriate department, agency, or office
with enforcement responsibilities under this sec-
tion to the extent consistent with the protection
of intelligence, counterintelligence, and law en-
forcement sources, methods, and activities.

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

(C) EXCHANGE OF INFORMATION.—The
President shall ensure that the heads of depart-
ments, agencies, and offices with enforcement
authorities under this title, consistent with pro-
tection of law enforcement and its sources and
methods—

(i) exchange any licensing and en-
forcement information with one another
that is necessary to facilitate enforcement
efforts under this section; and

(ii) consult on a regular basis with
one another and with the head of other de-
partments, agencies, and offices that ob-
tain information subject to this paragraph,
in order to facilitate the exchange of such information.

(D) INFORMATION SHARING WITH FEDERAL AGENCIES.—Licensing or enforcement information obtained under this title may be shared with heads of departments, agencies, and offices that do not have enforcement authorities under this title on a case-by-case basis at the discretion of the President. Such information may be shared only when the President makes a determination that the sharing of this information is in the national interest.

(g) REPORTING REQUIREMENTS.—In the administration of this section, reporting requirements shall be designed so as to reduce the cost of reporting, recordkeeping, and documentation to the extent consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(h) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any tangible items seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States in accordance with applicable law, except that
property seized shall be returned if the property
owner is not found guilty of a civil or criminal viola-
tion under section 109.

(2) PROCEDURES.—Any seizure or forfeiture
under this subsection shall be carried out in accord-
ance with the procedures set forth in section 981 of
title 18, United States Code.

SEC. 112. ADMINISTRATIVE PROCEDURE.

(a) IN GENERAL.—The functions exercised under
this title shall be subject to sections 551, 553 through
559, and 701 through 706 of title 5, United States Code.

(b) AMENDMENTS TO REGULATIONS.—The President
shall notify in advance the Committee on Banking, Hous-
ing, and Urban Affairs of the Senate and the Committee
on Foreign Affairs of the House of Representatives of any
proposed amendments to the Export Administration Regu-
lations with an explanation of the intent and rationale of
such amendments.

SEC. 113. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—The President shall submit to
Congress, by December 31 of each year, a report on the
implementation of this title during the preceding fiscal
year. The report shall include an analysis of—

(1) the effect of controls imposed under this
title on exports, reexports, and transfers of items in
addressing threats to the national security or foreign policy of the United States, including a description of licensing processing times;

(2) the impact of such controls on the scientific and technological leadership of the United States;

(3) the consistency with such controls of export controls imposed by other countries;

(4) efforts to provide exporters with compliance assistance, including specific actions to assist small- and medium-sized businesses;

(5) a summary of regulatory changes from the prior fiscal year;

(6) a summary of export enforcement actions, including of actions taken to implement end-use monitoring of dual-use, military, and other items subject to the Export Administration Regulations;

(7) a summary of approved license applications to proscribed persons; and

(8) efforts undertaken within the previous year to comply with the requirements of section 109, including any “critical technologies” identified under such section and how or whether such critical technologies were controlled for export.
(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 114. REPEAL.

(a) IN GENERAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) (as continued in effect pursuant to the International Emergency Economic Powers Act) is repealed.

(b) IMPLEMENTATION.—The President shall implement the amendment made by subsection (a) by exercising the authorities of the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 115. EFFECT ON OTHER ACTS.

(a) IN GENERAL.—Except as otherwise provided in this title, nothing contained in this title shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports, reexports, or transfers of any item, or activities of United States persons subject to the Export Administration Regulations.

(b) COORDINATION OF CONTROLS.—

(1) IN GENERAL.—The authority granted to the President under this title shall be exercised in such manner so as to achieve effective coordination with
all export control and sanctions authorities exercised
by Federal departments and agencies delegated with
authority under this title, particularly the Depart-
ment of State, the Department of the Treasury, and
the Department of Energy.

(2) SENSE OF CONGRESS.—It is the sense of
Congress that in order to achieve effective coordina-
tion described in paragraph (1), such Federal de-
partments and agencies—

(A) should continuously work to create en-
forceable regulations with respect to the export,
reexport, and transfer by United States and
foreign persons of commodities, software, tech-
nology, and services to various end uses and
end users for foreign policy and national secu-

(B) should regularly work to reduce com-
plexity in the system, including complexity
caused merely by the existence of structural,
definitional, and other non-policy based dif-
fferences between and among different export
control and sanctions systems; and

(C) should coordinate controls on items ex-
ported, reexported, or transferred in connection
with a foreign military sale under chapter 2 of
the Arms Export Control Act or a commercial sale under section 38 of the Arms Export Control Act to reduce as much unnecessary administrative burden as possible that is a result of differences between the exercise of those two authorities.

(c) NONPROLIFERATION CONTROLS.—Nothing in this title shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

SEC. 116. TRANSITION PROVISIONS.

(a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that have been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act), or the Export Administration Regulations, and are in effect as of the date of the enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of this title.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—This title shall not affect any administrative
or judicial proceedings commenced, or any applications for licenses made, under the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act), or the Export Administration Regulations.

(c) CERTAIN DETERMINATIONS AND REFERENCES.—

(1) STATE SPONSORS OF TERRORISM.—Any determination that was made under section 6(j) of the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act) shall continue in effect as if the determination had been made under section 104(c) of this Act.

(2) REFERENCE.—Any reference in any other provision of law to a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act), is a government that has repeatedly provided support for acts of international terrorism shall be deemed to refer to a country the
government of which the Secretary of State has determined, for purposes of section 104(c) of this Act, is a government that has repeatedly provided support for acts of international terrorism.

**TITLE II—ANTI-BOYCOTT ACT OF 2018**

**SEC. 201. SHORT TITLE.**

This Act may be cited as the “Anti-Boycott Act of 2018”.

**SEC. 202. STATEMENT OF POLICY.**

Congress declares it is the policy of the United States—

1. to oppose restrictive trade practices or boycotts fostered or imposed by any foreign country, or requests to impose restrictive trade practices or boycotts by any foreign country, against other countries friendly to the United States or against any United States person;

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

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

SEC. 203. FOREIGN BOYCOTTS.

(a) Prohibitions and Exceptions.—

(1) Prohibitions.—For the purpose of imple-
menting the policies set forth in section 202, the
President shall issue regulations prohibiting any
United States person, with respect to that person’s
activities in the interstate or foreign commerce of
the United States, from taking or knowingly agree-
ting to take any of the following actions with intent
to comply with, further, or support any boycott fos-
tered or imposed by any foreign country, or request
to impose any boycott by any foreign country,
against a country which is friendly to the United
States and which is not itself the object of any form
of boycott pursuant to United States law or regula-
tion:

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

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

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.
(D) Furnishing information, or requesting the furnishing of information, about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotted country. Nothing in this subparagraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

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

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

(2) EXCEPTIONS.—Regulations issued pursuant
to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with
requirements—

(i) prohibiting the import of goods or
services from the boycotted country or
goods produced or services provided by any
business concern organized under the laws
of the boycotted country or by nationals or
residents of the boycotted country; or

(ii) prohibiting the shipment of goods
to the boycotting country on a carrier of
the boycotted country, or by a route other
than that prescribed by the boycotting
country or the recipient of the shipment;

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

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

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

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

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.
(3) SPECIAL RULES.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

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

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

(b) FOREIGN POLICY CONTROLS.—

(1) IN GENERAL.—In addition to the regulations issued pursuant to subsection (a), regulations issued under title I of this Act to carry out the policies set forth in section 102(1)(D) shall implement the policies set forth in this section.
(2) REQUIREMENTS.—Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in subsection (a) shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers
appropriate for carrying out the policies set forth in section 202.

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

SEC. 204. ENFORCEMENT.

(a) CIVIL PENALTIES.—The President may impose the following civil penalties on a person who violates section 203 or any regulation issued under this title:

(1) A fine of not more than $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) Revocation of a license issued under title I to the person.
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(3) A prohibition on the person’s ability to export, reexport, or transfer any items, whether or not subject to controls under this title.

(b) PROCEDURES.—Any civil penalty under this section may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code, and shall be subject to judicial review in accordance with chapter 7 of such title.

(c) STANDARDS FOR LEVELS OF CIVIL PENALTY.—The President may by regulation provide standards for establishing levels of civil penalty under this section based upon factors such as the seriousness of the violation, the culpability of the violator, and the violator’s record of cooperation with the Government in disclosing the violation.

TITLE III—SANCTIONS REGARDING MISSILE PROLIFERATION AND CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

SEC. 301. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) SANCTIONABLE ACTIVITY.—The President shall impose the applicable sanctions de-
scribed in subparagraph (B) if the President determines that a United States person knowingly—

(i) exports, reexports, or transfers of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title I of this Act, or any regulations or orders issued under any such provisions; or

(ii) conspires to or attempts to engage in such export, reexport, or transfer.

(B) SANCTIONS.—The sanctions that apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, reexport, or transfer is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under title I.

(ii) If the item on the MTCR Annex involved in the export, reexport, or transfer
is missile equipment or technology within
category I of the MTCR Annex, then the
President shall deny to such United States
person, for a period of not less than 2
years, all licenses for items the transfer of
which is controlled under title I.

(2) DISCRETIONARY SANCTIONS.—In the case
of any determination referred to in paragraph (1),
the President may pursue any other appropriate
penalties under section 109 of this Act.

(3) WAIVER.—The President may waive the im-
position of sanctions under paragraph (1) on a per-
son with respect to a product or service if the Presi-
dent certifies to the Congress that—

(A) the product or service is essential to
the national security of the United States; and

(B) such person is a sole source supplier of
the product or service, the product or service is
not available from any alternative reliable sup-
plier, and the need for the product or service
cannot be met in a timely manner by improved
manufacturing processes or technological develop-
ments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECH-
NOLOGY BY FOREIGN PERSONS.—
(1) Sanctions.—

(A) Sanctionable Activity.—Subject to paragraphs (3) through (7), the President shall impose the applicable sanctions under subparagraph (B) on a foreign person if the President—

(i) determines that a foreign person knowingly—

(I) exports, reexports, or transfers any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under title I;

(II) conspires to or attempts to engage in such export, reexport, or transfer; or

(III) facilitates such export, reexport, or transfer by any other person; or
has made a determination with respect to the foreign person under section 73(a) of the Arms Export Control Act.

(B) Sanctions.—The sanctions that apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, reexport, or transfer is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the transfer of which is controlled under title I.

(ii) If the item involved in the export, reexport, or transfer is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the transfer of which is controlled under title I.

(2) Inapplicability with respect to MTCR adherents.—Paragraph (1) does not apply with respect to—

(A) any export, reexport, or transfer that is authorized by the laws of an MTCR adher-
ent, if such authorization is not obtained by
misrepresentation or fraud; or

(B) any export, reexport, or transfer of an
item to an end user in a country that is an
MTCR adherent.

(3) Effect of enforcement actions by
MTCR adherents.—Sanctions set forth in para-
graph (1) may not be imposed under this subsection
on a person with respect to acts described in such
paragraph or, if such sanctions are in effect against
a person on account of such acts, such sanctions
shall be terminated, if an MTCR adherent is taking
judicial or other enforcement action against that
person with respect to such acts, or that person has
been found by the government of an MTCR adher-
ent to be innocent of wrongdoing with respect to
such acts.

(4) Waiver and report to Congress.—

(A) Waiver authority.—The President
may waive the application of paragraph (1) to
a foreign person if the President determines
that such waiver is essential to the national se-
curity of the United States.

(B) Notification and report to Con-
gress.—In the event that the President decides
to apply the waiver described in subparagraph
(A), the President shall so notify the appro-
appropriate congressional committees not less than
20 working days before issuing the waiver.
Such notification shall include a report fully ar-
ticulating the rationale and circumstances
which led the President to apply the waiver.

(5) ADDITIONAL WAIVER.—The President may
waive the imposition of sanctions under paragraph
(1) on a person with respect to a product or service
if the President certifies to the appropriate congres-
sional committees that—

(A) the product or service is essential to
the national security of the United States; and

(B) such person is a sole source supplier of
the product or service, the product or service is
not available from any alternative reliable sup-
plier, and the need for the product or service
cannot be met in a timely manner by improved
manufacturing processes or technological devel-
opments.

(6) EXCEPTIONS.—The President shall not
apply the sanction under this subsection prohibiting
the importation of the products of a foreign per-
son—
(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles or defense services, that the defense articles or defense services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—
(i) spare parts;
(ii) component parts, but not finished products, essential to United States products or production;
(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available; or
(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs of the House of Representatives; and
(B) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) DEFENSE ARTICLES; DEFENSE SERVICES.—The terms “defense articles” and “defense services” mean those items on the United States Munitions List as defined in section 47(7) of the Arms Export Control Act (22 U.S.C. 2794 note).
(3) **MISSILE.**—The term “missile” means a category I system as defined in the MTCR Annex.

(4) **MISSILE TECHNOLOGY CONTROL REGIME; MTCR.**—The term “Missile Technology Control Regime” or “MTCR” means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(5) **MTCR ADHERENT.**—The term “MTCR adherent” means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(6) **MTCR ANNEX.**—The term “MTCR Annex” means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(7) **MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.**—The terms “missile equipment or technology” and “MTCR
equipment or technology” mean those items listed in
category I or category II of the MTCR Annex.

SEC. 302. CHEMICAL AND BIOLOGICAL WEAPONS PRO-
LIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President
shall impose the sanction described in subsection (c)
if the President determines that a foreign person has
knowingly and materially contributed—

(A) through the export from the United
States of any item that is subject to the juris-
diction of the United States under this title; or

(B) through the export from any other
country of any item that would be, if they were
United States goods or technology, subject to
the jurisdiction of the United States under this
title,

to the efforts by any foreign country, project, or en-
tity described in paragraph (2) to use, develop,
produce, stockpile, or otherwise acquire chemical or
biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the
case of—
(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 104(c) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PersonS AGAINST WHICH SanCTIONS ARE TO BE IMPOSED.—A sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;
(B) any successor entity to that foreign person; and
(C) any foreign person that is a parent, subsidiary, or affiliate of that foreign person if that parent, subsidiary, or affiliate knowingly assisted in the activities which were the basis of that determination.

(b) Consultations With and Actions by Foreign Government of Jurisdiction.—

(1) Consultations.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of a sanction pursuant to this section.

(2) Actions by Government of Jurisdiction.—In order to pursue such consultations with that government, the President may delay imposition of a sanction pursuant to this section for a period of up to 90 days. Following such consultations, the President shall impose the sanction unless the President determines and certifies to the appropriate congressional committees that the Government has taken specific and effective actions, including appro-
priate penalties, to terminate the involvement of the
foreign person in the activities described in sub-
section (a)(1). The President may delay imposition
of the sanction for an additional period of up to 90
days if the President determines and certifies to the
Congress that the government is in the process of
taking the actions described in the preceding sen-
tence.

(3) REPORT TO CONGRESS.—The President
shall report to the appropriate congressional commit-
tees, not later than 90 days after making a deter-
mination under subsection (a)(1), on the status of
consultations with the appropriate government under
this subsection, and the basis for any determination
under paragraph (2) of this subsection that such
government has taken specific corrective actions.

(e) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction
to be imposed pursuant to subsection (a)(1) is, ex-
cept as provided that the United States Government
shall not procure, or enter into any contract for the
procurement of, any goods or services from any per-
son described in subsection (a)(3).
(2) EXCEPTIONS.—The President shall not be required to apply or maintain a sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or defense services, that the defense articles or defense services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;
(C) to—

(i) spare parts;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of one sanction and shall cease to apply thereafter only if the President determines and certifies to the appropriate congressional committees that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—
(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the appropriate congressional committees that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the appropriate congressional committees not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Affairs of the House of Representatives; and
(B) the Committee on Foreign Relations

and the Committee on Banking, Housing, and

Urban Affairs of the Senate.

(2) Defense articles; defense services.—

The terms “defense articles” and “defense services”

mean those items on the United States Munitions

List or are otherwise controlled under the Arms Ex-

port Control Act.
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5040
OFFERED BY MR. ROYCE OF CALIFORNIA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Export Control Reform Act of 2018”.

(b) Table of Contents.—The table of contents of this Act is as follows:

See. 1. Short title; table of contents.
See. 2. Definitions.

TITLE I—AUTHORITY AND ADMINISTRATION OF CONTROLS

See. 101. Short title.
See. 102. Statement of policy.
See. 103. Authority of the President.
See. 104. Additional authorities.
See. 105. Administration of export controls.
See. 106. Control lists.
See. 107. Licensing.
See. 108. Compliance assistance.
See. 109. Requirements to identify and control emerging critical technologies in export control regulations.
See. 110. Penalties.
See. 111. Enforcement.
See. 112. Administrative procedure.
See. 113. Annual report to Congress.
See. 114. Repeal.
See. 115. Effect on other Acts.

TITLE II—ANTI-BOYCOTT ACT OF 2018

See. 201. Short title.
See. 203. Foreign boycotts.
See. 204. Enforcement.
TITLE III—SANCTIONS REGARDING MISSILE PROLIFERATION
AND CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

Sec. 301. Missile proliferation control violations.
Sec. 302. Chemical and biological weapons proliferation sanctions.

TITLE IV—ADMINISTRATIVE AUTHORITIES

Sec. 401. Under Secretary of Commerce for Industry and Security.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONTROLLED.—The term “controlled” means the export, reexport, or transfer of an item subject to the jurisdiction of the United States under title I.

(2) Dual-use.—The term “dual-use”, with respect to an item, means the item has civilian applications and military, terrorism, weapons of mass destruction, or law-enforcement-related applications.

(3) Export.—The term “export”, with respect to an item subject to controls under title I, includes—

(A) the shipment or transmission of the item out of the United States, including the sending or taking of the item out of the United States, in any manner; and

(B) the release or transfer of technology or source code relating to the item to a foreign person in the United States.
(4) **Export Administration Regulations.**—

The term “Export Administration Regulations” means—

(A) the Export Administration Regulations as promulgated, maintained, and amended under the authority of the International Emergency Economic Powers Act and codified, as of the date of the enactment of this Act, in subchapter C of chapter VII of title 15, Code of Federal Regulations; or

(B) regulations that are promulgated, maintained, and amended under the authority of title I on or after the date of the enactment of this Act.

(5) **Foreign person.**—The term “foreign person” means a person that is not a United States person.

(6) **Item.**—The term “item” means a commodity, software, or technology.

(7) **Person.**—The term “person” means—

(A) a natural person;

(B) a corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovern-
mental entity, organization, or group, or any
government or agency thereof; and

(C) any successor to any entity described
in subparagraph (B).

(8) REEXPORT.—The term “reexport”, with re-
spect to an item subject to controls under title I, in-
cludes—

(A) the shipment or transmission of the
item from a foreign country to another foreign
country, including the sending or taking of the
item from the foreign country to the other for-
egn country, in any manner; and

(B) the release or transfer of technology or
source code relating to the item to a foreign
person outside the United States.

(9) SECRETARY.—Except as otherwise provided,
the term “Secretary” means the Secretary of Com-
merce.

(10) TECHNOLOGY.—The term “technology”
includes foundational information and information
and know-how necessary for the development (at all
stages prior to serial production), production, use,
operation, installation, maintenance, repair, overhaul
or refurbishing of an item.
(11) TRANSFER.—The term “transfer”, with respect to an item subject to controls under title I, means a change in the end-use or end user of the item within the same foreign country.

(12) UNITED STATES.—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(13) UNITED STATES PERSON.—The term “United States person” means—

(A) for purposes of titles I and III—

(i) any individual who is a citizen or national of the United States or who is an individual described in subparagraph (B) of section 274B(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(3));

(ii) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia; and
(iii) any person in the United States;

and

(B) for purposes of title II, any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations by the Secretary.

(14) Weapons of mass destruction.—The term “weapons of mass destruction” means nuclear, radiological, chemical, and biological weapons and delivery systems for such weapons.

TITLE I—AUTHORITY AND ADMINISTRATION OF CONTROLS

SEC. 101. SHORT TITLE.

This title may be cited as the “Export Controls Act of 2018”.

SEC. 102. STATEMENT OF POLICY.

The following is the policy of the United States:
(1) The national security and foreign policy of
the United States require that the export, reexport,
and transfer of items, and specific activities of
United States persons, wherever located, be con-
trolled for the following purposes:

(A) To control the release of items for use
in—

(i) the proliferation of weapons of
mass destruction or of conventional weap-
ons;

(ii) the acquisition of destabilizing
numbers or types of conventional weapons;

(iii) acts of terrorism;

(iv) military programs that could pose
a threat to the security of the United
States or its allies; or

(v) activities undertaken specifically to
cause significant interference with or dis-
ruption of critical infrastructure.

(B) To preserve the qualitative military su-
periority of the United States.

(C) To strengthen the United States in-
dustrial base.
(D) To carry out the foreign policy of the United States, including the protection of human rights and the promotion of democracy.

(E) To carry out obligations and commitments under international agreements and arrangements, including multilateral export control regimes.

(F) To facilitate military interoperability between the United States and its North Atlantic Treaty Organization (NATO) and other close allies.

(G) To ensure national security controls are tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States.

(2) The national security of the United States requires that the United States maintain its leadership in the science, technology, engineering, and manufacturing sectors, including foundational technology that is essential to innovation. Such leadership requires that United States persons are competitive in global markets. The impact of the implementation of this title on such leadership and competitiveness must be evaluated on an ongoing basis.
and applied in imposing controls under sections 103 and 104 to avoid negatively affecting such leadership.

(3) The national security and foreign policy of the United States require that the United States participate in multilateral organizations and agreements regarding export controls on items that are consistent with the policy of the United States, and take all the necessary steps to secure the adoption and consistent enforcement, by the governments of such countries, of export controls on items that are consistent with such policy.

(4) Export controls should be fully coordinated with the multilateral export control regimes. Export controls that are multilateral are most effective, and should be tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States and its allies.

(5) Export controls applied unilaterally to items widely available from foreign sources generally are less effective in preventing end-users from acquiring those items.

(6) The effective administration of export controls requires a clear understanding both inside and
outside the United States Government of which tech-
ologies and other items are controlled and an effi-
cient process should be created to update the con-
trols, such as by removing and adding technologies
and other items.

(7) The export control system must ensure that
it is transparent, predictable, and timely, has the
flexibility to be adapted to address new threats in
the future, and allows seamless access to and shar-
ing of export control information among all relevant
United States national security and foreign policy
agencies.

(8) Implementation and enforcement of United
States export controls require robust capabilities in
monitoring, intelligence, and investigation, appro-
priate penalties for violations, and the ability to
swiftly interdict unapproved transfers.

(9) Export controls should be balanced with
United States counterterrorism, information secu-
ry, and cyber-security policies to ensure the ability
to export, reexport, and transfer technology and
other items in support of counterterrorism, critical
infrastructure, and other homeland security prior-
ities, while effectively preventing malicious cyber ter-
rorists from obtaining items that threaten the
United States and its interests, including the protection of and safety of United States citizens abroad. (10) Export controls complement and are a critical element of the national security policies underlying the laws and regulations governing foreign direct investment in the United States, including controlling the transfer of critical technologies to certain foreign persons. Thus, the President, in close coordination with the Department of Commerce, the Department of Defense, the Department of State, the Department of Energy, and other agencies responsible for export controls, should have a regular and robust process to identify the emerging and other types of critical technologies of concern and regulate their release to foreign persons as warranted regardless of the nature of the underlying transaction. Such identification efforts should draw upon the resources and expertise of all relevant parts of the United States Government, industry, and academia. These efforts should be in addition to traditional efforts to modernize and update the lists of controlled items under the multilateral export control regimes.
(11) The authority under this title may be exercised only in furtherance of all of the objectives set forth in paragraphs (1) through (10).

SEC. 103. AUTHORITY OF THE PRESIDENT.

(a) Authority.—In order to carry out the policy set forth in paragraphs (1) through (10) of section 102, the President shall control—

(1) the export, reexport, and transfer of items subject to the jurisdiction of the United States, whether by United States persons or by foreign persons; and

(2) the activities of United States persons, wherever located, relating to specific—

(A) nuclear explosive devices;

(B) missiles;

(C) chemical or biological weapons;

(D) whole plants for chemical weapons precursors;

(E) foreign maritime nuclear projects; and

(F) foreign military intelligence services.

(b) Requirements.—In exercising authority under this title, the President shall impose controls to achieve the following objectives:
(1) To regulate the export, reexport, and transfer of items described in subsection (a)(1) of United States persons or foreign persons.

(2) To regulate the activities described in subsection (a)(2) of United States persons, wherever located.

(3) To secure the cooperation of other governments and multilateral organizations to impose control systems that are consistent, to the extent possible, with the controls imposed under subsection (a).

(4) To maintain the leadership of the United States in science, engineering, technology research and development, manufacturing, and foundational technology that is essential to innovation.

(5) To protect United States technological advances by prohibiting unauthorized technology transfers to foreign persons in the United States or outside the United States, particularly with respect to countries that may pose a significant threat to the national security of the United States.

(6) To enhance the viability of commercial firms, academic institutions, and research establishments, and maintain the skilled workforce of such firms, institutions, and establishments, that are nec-
(7) To strengthen the United States industrial base, both with respect to current and future defense requirements.

(8) To enforce the controls through means such as regulations, requirements for compliance, lists of controlled items, lists of foreign persons who threaten the national security or foreign policy of the United States, and guidance in a form that facilitates compliance by United States persons and foreign persons, in particular academic institutions, scientific and research establishments, and small- and medium-sized businesses.

(c) APPLICATION OF CONTROLS.—The President shall impose controls over the export, reexport, or transfer of items for purposes of the objectives described in subsections (b)(1) or (b)(2) without regard to the nature of the underlying transaction or any circumstances pertaining to the activity, including whether such export, reexport, or transfer occurs pursuant to a purchase order or other contract requirement, voluntary decision, intercompany arrangement, marketing effort, or during a joint venture, joint development agreement, or similar collaborative agreement.
SEC. 104. ADDITIONAL AUTHORITIES.

(a) In General.—In carrying out this title, the President shall—

(1) establish and maintain lists published by the Secretary of items that are controlled under this title;

(2) establish and maintain lists published by the Secretary of foreign persons and end-uses that are determined to be a threat to the national security and foreign policy of the United States pursuant to the policy set forth in section 102(1)(A);

(3) prohibit unauthorized exports, reexports, and transfers of controlled items, including to foreign persons in the United States or outside the United States;

(4) restrict exports, reexports, and transfers of any controlled items to any foreign person or end-use listed under paragraph (2);

(5) require licenses or other authorizations, as appropriate, for exports, reexports, and transfers of controlled items, including imposing conditions or restrictions on United States persons and foreign persons with respect to such licenses or other authorizations;

(6) establish a process by which a license applicant may request an assessment to determine wheth-
er a foreign item is comparable in quality to an item
controlled under this title, and is available in suffi-
cient quantities to render the United States export
control of that item or the denial of a license ineffec-
tive, including a mechanism to address that dis-
parity;

(7) require measures for compliance with the
export controls established under this title;

(8) require and obtain such information from
United States persons and foreign persons as is ne-
cessary to carry out this title;

(9) require, as appropriate, advance notice be-
fore an item is exported, reexported, or transferred,
as an alternative to requiring a license;

(10) require, to the extent feasible, identifica-
tion of items subject to controls under this title in
order to facilitate the enforcement of such controls;

(11) inspect, search, detain, seize, or impose
temporary denial orders with respect to items, in
any form, that are subject to controls under this
title, or conveyances on which it is believed that
there are items that have been, are being, or are
about to be exported, reexported, or transferred in
violation of this title;
(12) monitor shipments, or other means of transfer;
(13) keep the public fully apprised of changes in policy, regulations, and procedures established under this title;
(14) appoint technical advisory committees in accordance with the Federal Advisory Committee Act;
(15) create, as warranted, exceptions to licensing requirements in order to further the objectives of this title;
(16) establish and maintain processes to inform persons, either individually by specific notice or through amendment to any regulation or order issued under this title, that a license from the Bureau of Industry and Security of the Department of Commerce is required to export; and
(17) undertake any other action as is necessary to carry out this title that is not otherwise prohibited by law.

(b) RELATIONSHIP TO IEEPA.—The authority under this title may not be used to regulate or prohibit under this title the export, reexport, or transfer of any item that may not be regulated or prohibited under section 203(b) of the International Emergency Economic Powers Act (50
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U.S.C. 1702(b)), except to the extent the President has
made a determination necessary to impose controls under
subparagraph (A), (B), or (C) of paragraph (2) of such
section.

(c) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—

(1) LICENSE REQUIREMENT.—

(A) IN GENERAL.—A license shall be re­
quired for the export, reexport, or transfer of
items to a country if the Secretary of State has
made the following determinations:

(i) The government of such country
has repeatedly provided support for acts of
international terrorism.

(ii) The export, reexport, or transfer
of such items could make a significant con­
tribution to the military potential of such
country, including its military logistics ca­
pability, or could enhance the ability of
such country to support acts of inter­
national terrorism.

(B) DETERMINATION UNDER OTHER PRO­
VISIONS OF LAW.—A determination of the Sec­
retary of State under section 620A of the For­
eign Assistance Act of 1961 (22 U.S.C. 2371),
section 40 of the Arms Export Control Act (22
U.S.C. 2780), or any other provision of law
that the government of a country described in
subparagraph (A) has repeatedly provided sup-
port for acts of international terrorism shall be
deemed to be a determination with respect to
such government for purposes of clause (i) of
subparagraph (A).

(2) NOTIFICATION TO CONGRESS.—The Sec-
retary of State or the Secretary of Commerce shall
notify the Committee on Foreign Affairs of the
House of Representatives and the Committee on
Banking, Housing, and Urban Affairs and the Com-
mittee on Foreign Relations of the Senate at least
30 days before issuing any license required by para-
graph (1).

(3) PUBLICATION IN FEDERAL REGISTER.—
Each determination of the Secretary of State under
paragraph (1)(A) shall be published in the Federal
Register, except that the Secretary of State may ex-
clude confidential information and trade secrets con-
tained in such determination.

(4) RESCISSION OF DETERMINATION.—A deter-
mination of the Secretary of State under paragraph
(1)(A) may not be rescinded unless the President
submits to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Affairs, and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 90 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for acts international terrorism during the preceding 24-month period; and

(ii) the government concerned has provided assurances that it will not sup-
port acts of international terrorism in the future.

(5) DISAPPROVAL OF RESECISSION.—No rescission under paragraph (4)(B) of a determination under paragraph (1)(A) with respect to the government of a country may be made if Congress, within 90 days after receipt of a report under paragraph (4)(B), enacts a joint resolution described in subsection (f)(2) of section 40 of the Arms Export Control Act with respect to a rescission under subsection (f)(1) of such section with respect to the government of such country.

(6) NOTIFICATION AND BRIEFING.—Not later than—

(A) ten days after initiating a review of the activities of the government of the country concerned within the 24-month period referred to in paragraph (4)(B)(i), the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such initiation; and

(B) 20 days after the notification described in paragraph (1), the Secretary of State shall
brief the congressional committees described in paragraph (1) on the status of such review.

(7) CONTENTS OF NOTIFICATION OF LICENSE.—The Secretary of State shall include in the notification required by paragraph (2)—

(A) a detailed description of the items to be offered, including a brief description of the capabilities of any item for which a license to export, reexport, or transfer the items is sought;

(B) the reasons why the foreign country, person, or entity to which the export, reexport, or transfer is proposed to be made has requested the items under the export, reexport, or transfer, and a description of the manner in which such country, person, or entity intends to use such items;

(C) the reasons why the proposed export, reexport, or transfer is in the national interest of the United States;

(D) an analysis of the impact of the proposed export, reexport, or transfer on the military capabilities of the foreign country, person, or entity to which such transfer would be made;
(E) an analysis of the manner in which the proposed export, reexport, or transfer would affect the relative military strengths of countries in the region to which the items that are the subject of such export, reexport, or transfer would be delivered and whether other countries in the region have comparable kinds and amounts of items; and

(F) an analysis of the impact of the proposed export, reexport, or transfer on the relations of the United States with the countries in the region to which the items that are the subject of such export, reexport, or transfer would be delivered.

(d) ENHANCED CONTROLS.—

(1) IN GENERAL.—In furtherance of section 103(a) of this title, the President shall, except to the extent authorized by a statute or regulation administered by a Federal department or agency other than the Department of Commerce, require a United States person, wherever located, to apply for and receive a license from the Department of Commerce for—

(A) the export, reexport, or transfer of items described in paragraph (2), including
items that are not subject to control under this title; and

(B) other activities that may support the design, development, production, use, operation, installation, maintenance, repair, overhaul, or refurbishing of, or for the performance of services relating to, any such items.

(2) ITEMS DESCRIBED.—The items described in this paragraph include—

(A) nuclear explosive devices;

(B) missiles;

(C) chemical or biological weapons;

(D) whole plants for chemical weapons precursors; and

(E) foreign maritime nuclear projects that would pose a risk to the national security or foreign policy of the United States.

(c) ADDITIONAL PROHIBITIONS.—The Secretary may inform United States persons, either individually by specific notice or through amendment to any regulation or order issued under this title, that a license from the Bureau of Industry and Security of the Department of Commerce is required to engage in any activity if the activity involves the types of movement, service, or support described in subsection (d). The absence of any such notifi-
(f) LICENSE REVIEW STANDARDS.—The Secretary shall deny an application to engage in any activity described in subsection (d) if the activity would make a material contribution to any of the items described in subsection (d)(2).

SEC. 105. ADMINISTRATION OF EXPORT CONTROLS.

(a) IN GENERAL.—The President shall delegate to the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Secretary of Energy, and, as appropriate, the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, the authority to carry out the purposes set forth in subsection (b).

(b) PURPOSES.—

(1) IN GENERAL.—The purpose of the delegations of authority pursuant to subsection (a) are—

(A) to advise the President with respect to—

(i) identifying specific threats to the national security and foreign policy that the authority of this title may be used to address; and
(ii) exercising the authority under this title to implement policies, regulations, procedures, and actions that are necessary to effectively counteract those threats;

(B) to review and approve—

(i) criteria for including items on, and removing such an item from, a list of controlled items established under this title;

(ii) an interagency procedure for compiling and amending any list described in clause (i);

(iii) criteria for including a person on a list of persons to whom exports, reexports, and transfers of items are prohibited or restricted under this title;

(iv) standards for compliance by persons subject to controls under this title;

and

(v) policies and procedures for the end-use monitoring of exports, reexports, and transfers of items controlled under this title;

(C) to obtain independent evaluations, including from Inspectors General of the relevant departments or agencies, on a periodic basis on
the effectiveness of the implementation of this

(D) to benefit from the inherent equities,

experience, and capabilities of the Federal of­

officials described in subsection (a), including—

(i) the views of the Department of De­

fense with respect to the national security

implications of a particular control or deci­

sion;

(ii) the views of the Department of

State with respect to the foreign policy im­

plications of a particular control or deci­

sion;

(iii) the views of the Department of

Energy with respect to the implications for

nuclear proliferation of a particular control

or decision; and

(iv) the views of the Department of

Commerce with respect to the administra­
tion of an efficient, coherent, reliable, en­
forceable, and predictable export control
system, and the resolution of competing
views or policy objectives described in sec­
tion 102.
(2) Authority to seek information.—The Federal officials described in subsection (a) may, in carrying out the purposes set forth in paragraph (1), seek information and advice from experts who are not officers or employees of the Federal Government.

(3) Transmittal and implementation of evaluations.—The results of the independent evaluations conducted pursuant to paragraph (1)(D) shall be transmitted to the President and the Congress, in classified form if necessary. Subject to the delegation of authority by the President, the Federal officials described in subsection (a) shall determine, direct, and ensure that improvements recommended in the evaluations are implemented.

(c) Sense of Congress.—It is the sense of Congress that the administration of export controls under this title should be consistent with the procedures relating to export license applications described in Executive Order 12981 (1995).

SEC. 106. CONTROL LISTS.

The President shall, pursuant to the delegation of authority in section 105, ensure that—

(1) a process is established for regular interagency review of each list established under section
104(a)(1), that pursuant to such review the Secretary regularly updates such lists to ensure that new items (including emerging critical technologies) are appropriately controlled, and that the level of control of items on the lists are adjusted as conditions change;

(2) information and expertise are obtained from officers and employees from relevant Federal departments, agencies, and offices and persons outside the Federal Government who have technical expertise, with respect to the characteristics of the items considered for each list established under section 104(a)(1) and the effect of controlling the items on addressing the policy set forth in section 102;

(3) each list established under section 104(a)(1) appropriately identifies each entry that has been included by virtue of the participation of the United States in a multilateral regime, organization, or group the purpose of which is consistent with and supports the policy of the United States under this title relating to the control of exports, reexports, and transfers of items; and

(4) each list established under section 104(a)(1) is published by the Secretary in a form that facilitates compliance with it and related requirements,
particular by small- and medium-sized businesses, and academic institutions.

SEC. 107. LICENSING.

(a) IN GENERAL.—The President shall, pursuant to the delegation of authority in section 105, establish a procedure for the Department of Commerce to license or otherwise authorize the export, reexport, and transfer of items controlled under this title in order to carry out the policy set forth in section 102 and the requirements set forth in section 103(b). The procedure shall ensure that—

(1) license applications, other requests for authorization, and related dispute resolution procedures are considered and decisions made with the participation of appropriate departments, agencies, and offices that have delegated functions under this title; and

(2) licensing decisions are made in an expeditious manner, with transparency to applicants on the status of license and other authorization processing and the reason for denying any license or request for authorization.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should make best efforts to ensure that an accurate, consistent, and timely evaluation and processing of licenses or other requests for authoriza-
tion to export, reexport, or transfer items controlled under this title is accomplished within 30 days from the date of such license request.

(c) Fees.—No fee may be charged in connection with the submission, processing, or consideration of any application for a license or other authorization or other request made in connection with any regulation in effect under the authority of this title.

SEC. 108. COMPLIANCE ASSISTANCE.

(a) System for Seeking Assistance.—The President may authorize the Secretary to establish a system to provide United States persons with assistance in complying with this title, which may include a mechanism for providing information, in classified form as appropriate, who are potential customers, suppliers, or business partners with respect to items controlled under this title, in order to further ensure the prevention of the export, reexport, or transfer of items that may pose a threat to the national security or foreign policy of the United States.

(b) Security Clearances.—In order to carry out subsection (a), the President may issue appropriate security clearances to persons described in that subsection who are responsible for complying with this title.

(c) Assistance for Certain Businesses.—
(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall develop and submit to Congress a plan to assist small- and medium-sized United States in export licensing and other processes under this title.

(2) CONTENTS.—The plan shall include, among other things, arrangements for the Department of Commerce to provide counseling to businesses described in paragraph (1) on filing applications and identifying items controlled under this title, as well as proposals for seminars and conferences to educate such businesses on export controls, licensing procedures, and related obligations.

SEC. 109. REQUIREMENTS TO IDENTIFY AND CONTROL EMERGING CRITICAL TECHNOLOGIES IN EXPORT CONTROL REGULATIONS.

(a) IN GENERAL.—The President shall, pursuant to the delegation of authority in section 105, establish and, in coordination with the Department of Commerce, the Department of Defense, the Department of State, the Department of Energy, and other departments determined to be necessary, lead a regular, ongoing interagency process to identify the following:
(1) Emerging critical technologies that are not identified in any list of items controlled for export under United States law or regulations, but that nonetheless could be essential for maintaining or increasing the technological advantage of the United States over countries that pose a significant threat to the national security of the United States with respect to national defense, intelligence, or other areas of national security, or gaining such an advantage over such countries in areas where such an advantage may not currently exist.

(2) Any other technologies that are not identified in any list of items controlled for export under United States law or regulations, but that—

(A) have been identified, publicly or otherwise, by countries posing such significant threat as necessary to acquire from the United States to advance their national defense, intelligence, or other areas of national security; and

(B) would, if so acquired, be to the detriment of the national security of the United States.

(b) REQUIREMENTS.—The interagency process required under subsection (a) shall—
(1) draw upon the expertise, resources, and equities of all relevant United States Government agencies, industries, and academic institutions to identify and describe such emerging critical technologies;

(2) require the relevant export control authority to publish proposed regulations for public comment that would control heretofore unlisted emerging critical technologies identified pursuant to subsection (a) and control the release of each such technology to destinations, end users, or end uses as determined by the President;

(3) require the Secretary of Commerce, the Secretary of State, and the Secretary of Defense to propose to the relevant multilateral export control regimes in the following year that such emerging critical technologies be added to the list of technologies controlled by such regimes;

(4) determine whether national security concerns warrant continued unilateral export controls over technologies identified pursuant to subsection (a) if the relevant multilateral export control regime does not agree to list such technologies on its control list within three years; and
(5) require the agencies responsible for administering the export controls identified in subsection (a) to remove or revise, as appropriate, existing controls determined to warrant removal or revision as a result of insight or information obtained during efforts undertaken to comply with the requirements of this section.

SEC. 110. PENALTIES.

(a) UNLAWFUL ACTS.—

(1) IN GENERAL.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of this title or of any regulation, order, license, or other authorization issued under this title, including any of the unlawful acts described in paragraph (2).

(2) SPECIFIC UNLAWFUL ACTS.—The unlawful acts described in this paragraph are the following:

(A) No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by this title, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(B) No person may cause or aid, abet, counsel, command, induce, procure, permit, or
approve the doing of any act prohibited, or the
omission of any act required by this title, the
Export Administration Regulations, or any
order, license or authorization issued there-
under.

(C) No person may solicit or attempt a vio-
lation of this Act, the Export Administration
Regulations, or any order, license or authoriza-
tion issued thereunder.

(D) No person may conspire or act in con-
cert with one or more other persons in any
manner or for any purpose to bring about or to
do any act that constitutes a violation of this
title, the Export Administration Regulations, or
any order, license or authorization issued there-
under.

(E) No person may order, buy, remove,
conceal, store, use, sell, loan, dispose of, trans-
fer, transport, finance, forward, or otherwise
service, in whole or in part, or conduct negotia-
tions to facilitate such activities for, any item
exported or to be exported from the United
States, or that is otherwise subject to the Ex-
port Administration Regulations, with knowl-
edge that a violation of this title, the Export
Administration Regulations, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item unless valid authorization is obtained therefor.

(F) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to the Department of Commerce, or an official of any other United States agency, or indirectly through any other person—

(i) in the course of an investigation or other action subject to the Export Administration Regulations;

(ii) in connection with the preparation, submission, issuance, use, or maintenance of any export control document or any report filed or required to be filed pursuant to the Export Administration Regulations; or

(iii) for the purpose of or in connection with effecting any export, reexport, or transfer of an item subject to the Export Administration Regulations or a service or
other activity of a United States person described in section 104.

(G) No person may engage in any transaction or take any other action with intent to evade the provisions of this title, the Export Administration Regulations, or any order, license, or authorization issued thereunder.

(H) No person may fail or refuse to comply with any reporting or recordkeeping requirements of the Export Administration Regulations or of any order, license, or authorization issued thereunder.

(I) Except as specifically authorized in the Export Administration Regulations or in writing by the Department of Commerce, no person may alter any license, authorization, export control document, or order issued under the Export Administration Regulations.

(J) No person may take any action that is prohibited by a denial order issued by the Department of Commerce to prevent imminent violations of this title, the Export Administration Regulations, or any order, license or authorization issued thereunder.
(3) ADDITIONAL REQUIREMENTS.—For purposes of subparagraph (G), any representation, statement, or certification made by any person shall be deemed to be continuing in effect. Each person who has made a representation, statement, or certification to the Department of Commerce relating to any order, license, or other authorization issued under this title shall notify the Department of Commerce, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention had occurred or may occur in the future.

(b) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids and abets in the commission of, an unlawful act described in subsection (a)—

(1) shall be fined not more than $1,000,000; and

(2) in the case of the individual, shall be imprisoned for not more than 20 years, or both.

(c) CIVIL PENALTIES.—

(1) AUTHORITY.—The President may impose the following civil penalties on a person for each vio-
lation by that person of this title or any regulation, order, or license issued under this title, for each violation:

(A) A fine of not more than $300,000 or an amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed, whichever is greater.

(B) Revocation of a license issued under this title to the person.

(C) A prohibition on the person’s ability to export, reexport, or transfer any items, whether or not subject to controls under this title.

(2) PROCEDURES.—Any civil penalty under this subsection may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(3) STANDARDS FOR LEVELS OF CIVIL PENALTY.—The Secretary may by regulation provide standards for establishing levels of civil penalty under this subsection based upon factors such as the seriousness of the violation, the culpability of the violator, and such mitigating factors as the violator’s
record of cooperation with the Government in disclosing the violation.

(d) CRIMINAL FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under subsection (b) of a violation of a control imposed under section 103 (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States—

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

(B) any of that person’s interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the violation; and

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

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

(e) PRIOR CONVICTIONS.—

(1) LICENSE BAR.—

(A) IN GENERAL.—The Secretary may—

(i) deny the eligibility of any person
convicted of a criminal violation described
in subparagraph (B) to export, reexport, or
transfer outside the United States any
item, whether or not subject to controls
under this title, for a period of up to 10
years beginning on the date of the convic-
tion; and

(ii) revoke any license or other author-
ization to export, reexport, or transfer
items that was issued under this title and
in which such person has an interest at the
time of the conviction.

(B) VIOLATIONS.—The violations referred
to in subparagraph (A) are any criminal viola-
tions of, or criminal attempt or conspiracy to
violate—
(i) this title (or any regulation, license, or order issued under this title);
(ii) any regulation, license, or order issued under the International Emergency Economic Powers Act;
(iii) section 371, 554, 793, 794, or 798 of title 18, United States Code;
(iv) section 1001 of title 18, United States Code;
(v) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or
(vi) section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(2) APPLICATION TO OTHER PARTIES.—The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or business, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in subsection (c)(2).

(f) OTHER AUTHORITIES.—Nothing in subsection (c), (d), or (e) limits—
(1) the availability of other administrative or judicial remedies with respect to violations of this title, or any regulation, order, license or other authorization issued under this title;

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

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

SEC. 111. ENFORCEMENT.

(a) AUTHORITIES.—In order to enforce this title, the President shall delegate to the heads of other appropriate Federal departments and agencies the authority to—

(1) issue regulations, orders, and guidelines;

(2) require, inspect, and obtain books, records, and any other information from any person subject to the provisions of this title;

(3) administer oaths or affirmations and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both;
(4) conduct investigations (including undercover) in the United States and in other countries using all applicable laws of the United States, including intercepting any wire, oral, and electronic communications, conducting electronic surveillance, using pen registers and trap and trace devices, and carrying out acquisitions, to the extent authorized under chapters 119, 121, and 206 of title 18, United States Code;

(5) inspect, search, detain, seize, or issue temporary denial orders with respect to items, in any form, that are subject to controls under this title, or conveyances on which it is believed that there are items that have been, are being, or are about to be exported, reexported, or transferred in violation of this title, or any regulations, order, license, or other authorization issued thereunder;

(6) carry firearms;

(7) conduct prelicense inspections and post-shipment verifications; and

(8) execute warrants and make arrests.

(b) Enforcement of Subpoenas.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person under subsection (a)(3), a district court of the United States, after notice to such person and a hearing,
shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, regardless of format, that are the subject of the subpoena. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) BEST PRACTICE GUIDELINES.—

(1) IN GENERAL.—The Secretary, in consultation with the heads of other appropriate Federal agencies, should publish and update “best practices” guidelines to assist persons in developing and implementing, on a voluntary basis, effective export control programs in compliance with the regulations issued under this title.

(2) EXPORT COMPLIANCE PROGRAM.—The implementation by a person of an effective export compliance program and a high quality overall export compliance effort by a person should ordinarily be given weight as mitigating factors in a civil penalty action against the person under this title.

(d) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of, or a violation of, this title includes a reference to the enforcement or a violation of any regulation, order, license or other authorization issued pursuant to this title.
(e) IMMUNITY.—A person shall not be excused from complying with any requirements under this section because of the person’s privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(f) CONFIDENTIALITY OF INFORMATION.—

(1) EXEMPTIONS FROM DISCLOSURE.—

(A) IN GENERAL.—Information obtained under this title may be withheld from disclosure only to the extent permitted by statute, except that information described in subparagraph (B) shall be withheld from public disclosure and shall not be subject to disclosure under section 552(b)(3) of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(B) INFORMATION DESCRIBED.—Information described in this subparagraph is information submitted or obtained in connection with an application for a license or other authorization to export, reexport, or transfer items, engage in other activities, a recordkeeping or reporting requirement, enforcement activity, or other operations under this title, including—
(i) the license application, license, or other authorization itself;
(ii) classification or advisory opinion requests, and the response thereto;
(iii) license determinations, and information pertaining thereto;
(iv) information or evidence obtained in the course of any investigation; and
(v) information obtained or furnished in connection with any international agreement, treaty, or other obligation.

(2) Information to the Congress and GAO.—

(A) In General.—Nothing in this section shall be construed as authorizing the withholding of information from the Congress or from the Government Accountability Office.

(B) Availability to the Congress.—

(i) In General.—Any information obtained at any time under any provision of the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act), under
the Export Administration Regulations, or under this title, including any report or license application required under any such provision, shall be made available to a committee or subcommittee of Congress of appropriate jurisdiction, upon the request of the chairman or ranking minority member of such committee or subcommittee.

(ii) PROHIBITION ON FURTHER DISCLOSURE.—No such committee or subcommittee, or member thereof, may disclose any information made available under clause (i), that is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest.

(C) AVAILABILITY TO GAO.—

(i) IN GENERAL.—Information described in clause (i) of subparagraph (B) shall be subject to the limitations contained in section 716 of title 31, United States Code.

(ii) PROHIBITION ON FURTHER DISCLOSURE.—An officer or employee of the Government Accountability Office may not
dislose, except to the Congress in accordance with this paragraph, any such information that is submitted on a confidential basis or from which any individual can be identified.

(3) INFORMATION SHARING.—

(A) IN GENERAL.—Any Federal official described in section 105(a) who obtains information that is relevant to the enforcement of this title, including information pertaining to any investigation, shall furnish such information to each appropriate department, agency, or office with enforcement responsibilities under this section to the extent consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities.

(B) EXCEPTIONS.—The provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code, and return information, as defined in subsection (b) of section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103(b)), may be disclosed only as authorized by that section.
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(C) EXCHANGE OF INFORMATION.—The President shall ensure that the heads of departments, agencies, and offices with enforcement authorities under this title, consistent with protection of law enforcement and its sources and methods—

(i) exchange any licensing and enforcement information with one another that is necessary to facilitate enforcement efforts under this section; and

(ii) consult on a regular basis with one another and with the head of other departments, agencies, and offices that obtain information subject to this paragraph, in order to facilitate the exchange of such information.

(D) INFORMATION SHARING WITH FEDERAL AGENCIES.—Licensing or enforcement information obtained under this title may be shared with heads of departments, agencies, and offices that do not have enforcement authorities under this title on a case-by-case basis at the discretion of the President. Such information may be shared only when the President
makes a determination that the sharing of this
information is in the national interest.

(g) REPORTING REQUIREMENTS.—In the administra-
tion of this section, reporting requirements shall be de-
signed to reduce the cost of reporting, recordkeeping, and
documentation to the extent consistent with effective en-
forcement and compilation of useful trade statistics. Re-
porting, recordkeeping, and documentation requirements
shall be periodically reviewed and revised in the light of
developments in the field of information technology.

(h) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any tangible items seized
under subsection (a) by designated officers or em-
ployees shall be subject to forfeiture to the United
States in accordance with applicable law, except that
property seized shall be returned if the property
owner is not found guilty of a civil or criminal viola-
tion under section 109.

(2) PROCEDURES.—Any seizure or forfeiture
under this subsection shall be carried out in accord-
ance with the procedures set forth in section 981 of
title 18, United States Code.
SEC. 112. ADMINISTRATIVE PROCEDURE.

(a) IN GENERAL.—The functions exercised under this title shall not be subject to sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) ADMINISTRATIVE LAW JUDGES.—The Secretary is authorized to appoint an administrative law judge, and may designate administrative law judges from other Federal agencies who are provided pursuant to a legally authorized interagency agreement with the Department of Commerce, and consistent with the provisions of section 3105 of title 5, United States Code.

(c) AMENDMENTS TO REGULATIONS.—The President shall notify in advance the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives of any proposed amendments to the Export Administration Regulations with an explanation of the intent and rationale of such amendments.

SEC. 113. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—The President shall submit to Congress, by December 31 of each year, a report on the implementation of this title during the preceding fiscal year. The report shall include a review of—

(1) the effect of controls imposed under this title on exports, reexports, and transfers of items in addressing threats to the national security or foreign
policy of the United States, including a description of licensing processing times;

(2) the impact of such controls on the scientific and technological leadership of the United States;

(3) the consistency with such controls of export controls imposed by other countries;

(4) efforts to provide exporters with compliance assistance, including specific actions to assist small- and medium-sized businesses;

(5) a summary of regulatory changes from the prior fiscal year;

(6) a summary of export enforcement actions, including of actions taken to implement end-use monitoring of dual-use, military, and other items subject to the Export Administration Regulations;

(7) a summary of approved license applications to proscribed persons;

(8) efforts undertaken within the previous year to comply with the requirements of section 109, including any “critical technologies” identified under such section and how or whether such critical technologies were controlled for export; and

(9) a summary of industrial base assessments conducted during the previous year by the Department of Commerce, including with respect to coun-
terfeit electronics, foundational technologies, and
other research and analysis of critical technologies
and industrial capabilities of key defense-related sec-
tors.
(b) FORM.—The report required under subsection (a)
shall be submitted in unclassified form, but may contain
a classified annex.

SEC. 114. REPEAL.
(a) IN GENERAL.—The Export Administration Act of
1979 (50 U.S.C. App. 2401 et seq.) (as continued in effect
pursuant to the International Emergency Economic Pow-
ers Act) is repealed.
(b) IMPLEMENTATION.—The President shall imple-
ment the amendment made by subsection (a) by exercising
the authorities of the President under the International
seq.).

SEC. 115. EFFECT ON OTHER ACTS.
(a) IN GENERAL.—Except as otherwise provided in
this title, nothing contained in this title shall be construed
to modify, repeal, supersede, or otherwise affect the provi-
sions of any other laws authorizing control over exports,
reexports, or transfers of any item, or activities of United
States persons subject to the Export Administration Reg-
ulations.
(b) COORDINATION OF CONTROLS.—

(1) IN GENERAL.—The authority granted to the President under this title shall be exercised in such manner so as to achieve effective coordination with all export control and sanctions authorities exercised by Federal departments and agencies delegated with authority under this title, particularly the Department of State, the Department of the Treasury, and the Department of Energy.

(2) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve effective coordination described in paragraph (1), such Federal departments and agencies—

(A) should continuously work to create enforceable regulations with respect to the export, reexport, and transfer by United States and foreign persons of commodities, software, technology, and services to various end uses and end users for foreign policy and national security reasons;

(B) should regularly work to reduce complexity in the system, including complexity caused merely by the existence of structural, definitional, and other non-policy based dif-
ferences between and among different export
control and sanctions systems; and

(C) should coordinate controls on items ex-
ported, reexported, or transferred in connection
with a foreign military sale under chapter 2 of
the Arms Export Control Act or a commercial
sale under section 38 of the Arms Export Con-
trol Act to reduce as much unnecessary admin-
istrative burden as possible that is a result of
differences between the exercise of those two
authorities.

(c) NONPROLIFERATION CONTROLS.—Nothing in
this title shall be construed to supersede the procedures
published by the President pursuant to section 309(c) of
the Nuclear Non-Proliferation Act of 1978.

SEC. 116. TRANSITION PROVISIONS.
(a) IN GENERAL.—All delegations, rules, regulations,
orders, determinations, licenses, or other forms of admin-
istrative action that have been made, issued, conducted,
or allowed to become effective under the Export Adminis-
tration Act of 1979 (as in effect on the day before the
date of the enactment of this Act and as continued in ef-
effect pursuant to the International Emergency Economic
Powers Act), or the Export Administration Regulations,
and are in effect as of the date of the enactment of this
Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of this title.

(b) Administrative and Judicial Proceedings.—This title shall not affect any administrative or judicial proceedings commenced, or any applications for licenses made, under the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act), or the Export Administration Regulations.

(c) Certain Determinations and References.—

(1) State Sponsors of Terrorism.—Any determination that was made under section 6(j) of the Export Administration Act of 1979 (as in effect on the day before the date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act) shall continue in effect as if the determination had been made under section 104(c) of this Act.

(2) Reference.—Any reference in any other provision of law to a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as in effect on the day before the
date of the enactment of this Act and as continued in effect pursuant to the International Emergency Economic Powers Act, is a government that has repeatedly provided support for acts of international terrorism shall be deemed to refer to a country the government of which the Secretary of State has determined, for purposes of section 104(c) of this Act, is a government that has repeatedly provided support for acts of international terrorism.

TITLE II—ANTI-BOYCOTT ACT OF 2018

SEC. 201. SHORT TITLE.

This Act may be cited as the “Anti-Boycott Act of 2018”.

SEC. 202. STATEMENT OF POLICY.

Congress declares it is the policy of the United States—

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

(2) to encourage and, in specified cases, require United States persons engaged in the export of goods or technology or other information to refuse to take actions, including furnishing information or en-
entering into or implementing agreements, which have
the effect of furthering or supporting the restrictive
trade practices or boycotts fostered or imposed by
any foreign country against any United States per-
son; and
(3) to foster international cooperation and the
development of international rules and institutions
to assure reasonable access to world supplies.

SEC. 203. FOREIGN BOYCOTTS.

(a) Prohibitions and Exceptions.—

(1) Prohibitions.—For the purpose of imple-
menting the policies set forth in section 202, the
President shall issue regulations prohibiting any
United States person, with respect to that person’s
activities in the interstate or foreign commerce of
the United States, from taking or knowingly agree-
ting to take any of the following actions with intent
to comply with, further, or support any boycott fos-
tered or imposed by any foreign country, against a
country which is friendly to the United States and
which is not itself the object of any form of boycott
pursuant to United States law or regulation:

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

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

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

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

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

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

(2) EXCEPTIONS.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements—

(i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

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

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

(D) complying or agreeing to comply with
export requirements of the boycotting country
relating to shipments or transshipments of ex-
ports to the boycotted country, to any business
concern of or organized under the laws of the
boycotted country, or to any national or resi-
dent of the boycotted country;
(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual’s family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

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

(3) SPECIAL RULES.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).
(4) **Rule of Construction.**—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

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

(b) **Foreign Policy Controls.**—

(1) **In general.**—In addition to the regulations issued pursuant to subsection (a), regulations issued under title I of this Act to carry out the policies set forth in section 102(1)(D) shall implement the policies set forth in this section.

(2) **Requirements.**—Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of
any other action referred to in subsection (a) shall
report that fact to the Secretary, together with such
other information concerning such request as the
Secretary may require for such action as the Sec-
retary considers appropriate for carrying out the
policies of that section. Such person shall also report
to the Secretary whether such person intends to
comply and whether such person has complied with
such request. Any report filed pursuant to this para-
graph shall be made available promptly for public in-
spection and copying, except that information re-
garding the quantity, description, and value of any
goods or technology to which such report relates
may be kept confidential if the Secretary determines
that disclosure thereof would place the United States
person involved at a competitive disadvantage. The
Secretary shall periodically transmit summaries of
the information contained in such reports to the Sec-
retary of State for such action as the Secretary of
State, in consultation with the Secretary, considers
appropriate for carrying out the policies set forth in
section 202.

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

SEC. 204. ENFORCEMENT.

(a) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act section 203—

(1) shall, upon conviction, be fined not more than $1,000,000; or

(2) if a natural person, may be imprisoned for not more than 20 years, or both.

(b) CIVIL PENALTIES.—The President may impose the following civil penalties on a person who violates section 203 or any regulation issued under this title:

(1) A fine of not more than $300,000 or an amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed, whichever is greater.

(2) Revocation of a license issued under title I to the person.
A prohibition on the person’s ability to export, reexport, or transfer any items controlled under title I.

(c) PROCEDURES.—Any civil penalty or administrative sanction (including any suspension or revocation of authority to export) under this section may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code, and shall be subject to judicial review in accordance with chapter 7 of such title.

(d) STANDARDS FOR LEVELS OF CIVIL PENALTY.—The President may by regulation provide standards for establishing levels of civil penalty under this section based upon factors such as the seriousness of the violation, the culpability of the violator, and the violator’s record of cooperation with the Government in disclosing the violation.

TITLE III—SANCTIONS REGARDING MISSILE PROLIFERATION AND CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

SEC. 301. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—
Sanctionable Activity.—The President shall impose the applicable sanctions described in subparagraph (B) if the President determines that a United States person knowingly—

(i) exports, reexports, or transfers of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title I of this Act, or any regulations or orders issued under any such provisions; or

(ii) conspires to or attempts to engage in such export, reexport, or transfer.

Sanctions.—The sanctions that apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, reexport, or transfer is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under title I.
(ii) If the item on the MTCR Annex involved in the export, reexport, or transfer is missile equipment or technology within category 1 of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the transfer of which is controlled under title I.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the President may pursue any other appropriate penalties under section 110 of this Act.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.
(b) Transfers of Missile Equipment or Technology by Foreign Persons.—

(1) Sanctions.—

(A) Sanctionable Activity.—Subject to paragraphs (3) through (7), the President shall impose the applicable sanctions under subparagraph (B) on a foreign person if the President—

(i) determines that a foreign person knowingly—

(I) exports, reexports, or transfers any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under title I;

(II) conspires to or attempts to engage in such export, reexport, or transfer; or

(III) facilitates such export, reexport, or transfer by any other person; or
(ii) has made a determination with respect to the foreign person under section 73(a) of the Arms Export Control Act.

(B) SANCTIONS.—The sanctions that apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, reexport, or transfer is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the transfer of which is controlled under title I.

(ii) If the item involved in the export, reexport, or transfer is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the transfer of which is controlled under title I.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, reexport, or transfer that is authorized by the laws of an MTCR adher-
ent, if such authorization is not obtained by
misrepresentation or fraud; or

(B) any export, reexport, or transfer of an
item to an end user in a country that is an
MTCR adherent.

(3) Effect of Enforcement Actions by
MTCR Adherents.—Sanctions set forth in para-
graph (1) may not be imposed under this subsection
on a person with respect to acts described in such
paragraph or, if such sanctions are in effect against
a person on account of such acts, such sanctions
shall be terminated, if an MTCR adherent is taking
judicial or other enforcement action against that
person with respect to such acts, or that person has
been found by the government of an MTCR adher-
ent to be innocent of wrongdoing with respect to
such acts.

(4) Waiver and Report to Congress.—

(A) Waiver Authority.—The President
may waive the application of paragraph (1) to
a foreign person if the President determines
that such waiver is essential to the national se-
curity of the United States.

(B) Notification and Report to Con-
gress.—In the event that the President decides
to apply the waiver described in subparagraph
(A), the President shall so notify the appropriate congressional committees not less than
20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(5) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the appropriate congressional committees that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(6) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—
(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or sub-contracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles or defense services, that the defense articles or defense services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—
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(i) spare parts;

(ii) component parts, but not finished
products, essential to United States prod-
ut or production;

(iii) routine services and maintenance
of products, to the extent that alternative
sources are not readily or reasonably avail-
able; or

(iv) information and technology essen-
tial to United States products or produc-
tion.

(c) Definitions.—In this section:

(1) Appropriate congressional com-
mittees.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Foreign Affairs of
the House of Representatives; and

(B) the Committee on Foreign Relations
and the Committee on Banking, Housing, and
Urban Affairs of the Senate.

(2) Defense articles; defense services.—
The terms “defense articles” and “defense services”
mean those items on the United States Munitions
List as defined in section 47(7) of the Arms Export
(3) MISSILE.—The term “missile” means a category I system as defined in the MTCR Annex.

(4) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term “Missile Technology Control Regime” or “MTCR” means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(5) MTCR ADHERENT.—The term “MTCR adherent” means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(6) MTCR ANNEX.—The term “MTCR Annex” means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(7) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms “missile equipment or technology” and “MTCR
equipment or technology” mean those items listed in
category I or category II of the MTCR Annex.

SEC. 302. CHEMICAL AND BIOLOGICAL WEAPONS PRO-
LIFERATION SANCTIONS.

(a) Imposition of Sanctions.—

(1) Determination by the President.—Except as provided in subsection (b)(2), the President
shall impose the sanction described in subsection (e)
if the President determines that a foreign person has
knowingly and materially contributed—

(A) through the export from the United
States of any item that is subject to the juris-
diction of the United States under this title; or

(B) through the export from any other
country of any item that would be, if they were
United States goods or technology, subject to
the jurisdiction of the United States under this
title,
to the efforts by any foreign country, project, or en-
tity described in paragraph (2) to use, develop,
produce, stockpile, or otherwise acquire chemical or
biological weapons.

(2) Countries, Projects, or Entities Re-
ceiving Assistance.—Paragraph (1) applies in the
case of—
(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 104(e) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) Persons against which sanctions are to be imposed.—A sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;
(B) any successor entity to that foreign person; and

(C) any foreign person that is a parent, subsidiary, or affiliate of that foreign person if that parent, subsidiary, or affiliate knowingly assisted in the activities which were the basis of that determination.

(b) Consultations With and Actions by Foreign Government of Jurisdiction.—

(1) Consultations.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of a sanction pursuant to this section.

(2) Actions by Government of Jurisdiction.—In order to pursue such consultations with that government, the President may delay imposition of a sanction pursuant to this section for a period of up to 90 days. Following such consultations, the President shall impose the sanction unless the President determines and certifies to the appropriate congressional committees that the Government has taken specific and effective actions, including appro-
appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of the sanction for an additional period of up to 90 days if the President determines and certifies to the Congress that the government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to the appropriate congressional committees, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).
(2) EXCEPTIONS.—The President shall not be required to apply or maintain a sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or sub-contracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or defense services, that the defense articles or defense services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;
(C) to—

(i) spare parts;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Termination of Sanctions.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of one sanction and shall cease to apply thereafter only if the President determines and certifies to the appropriate congressional committees that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) Waiver.—
(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the appropriate congressional committees that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the appropriate congressional committees not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs of the House of Representatives; and
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(B) the Committee on Foreign Relations
and the Committee on Banking, Housing, and
Urban Affairs of the Senate.

(2) Defense articles; defense services.—
The terms “defense articles” and “defense services”
mean those items on the United States Munitions
List or are otherwise controlled under the Arms Ex-
port Control Act.

TITLE IV—ADMINISTRATIVE
AUTHORITIES

SEC. 401. UNDER SECRETARY OF COMMERCE FOR INDUS-
TRY AND SECURITY.

(a) Appointment.—

(1) In general.—The President shall appoint,
by and with the advice and consent of the Senate,
an Under Secretary of Commerce for Industry and
Security who shall carry out all the functions of the
Secretary under this Act and such other provisions
of law that relate to the implementation of the dual-
use export system.

(2) Assistant Secretaries of Commerce.—
The President shall appoint, by and with the advice
and consent of the Senate, two Assistant Secretaries
of Commerce to assist the Under Secretary in car-
rying out the functions described in paragraph (1).
(b) **DELEGATION.—**

(1) **TO SECRETARY.—** The President shall continue the delegation of functions to the Secretary to administer and enforce the export control system authorized by this Act that were delegated to the Secretary as of the day before the date of the enactment of this Act.

(2) **TO BUREAU OF INDUSTRY AND SECURITY.—** The Secretary shall further delegate implementation of the authorities set forth in this Act to the Bureau of Industry and Security within the Department of Commerce.
AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5040
OFFERED BY MR. SHERMAN OF CALIFORNIA

Insert after subsection (a) of section 107 the following new subsection:

(b) ADDITIONAL PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedure required
under subsection (a) shall provide for the assessment
of the impact of a proposed export of an item on the
United States defense industrial base and the denial
of an application for a license or a request for an
authorization of any export that would have a sig-
nificant negative impact on such defense industrial
base, as described in paragraph (3).

(2) INFORMATION FROM APPLICANT.—The pro-
cedure required under subsection (a) shall also re-
quire an applicant for a license to provide the infor-
mation necessary to make the assessment provided
under paragraph (1), including whether the purpose
or effect of the export is to allow for the significant
production of items relevant for the defense indus-
trial base outside the United States.
(3) **SIGNIFICANTLY NEGATIVE IMPACT DEFINED.**—A significant negative impact on the United States defense industrial base is the following:

(A) A reduction in the availability of an item produced in the United States that is likely to be acquired by the Department of Defense or other Federal department or agency for the advancement of the national security of the United States, or for the production of an item in the United States for the Department of Defense or other agency for the advancement of the national security of the United States.

(B) A reduction in the production in the United States of an item that is the result of research and development carried out, or funded by, the Department of Defense or other Federal department or agency to advance the national security of the United States, or a federally funded research and development center.

(C) A reduction in the employment of United States persons whose knowledge and skills are necessary for the continued production in the United States of an item that is likely to be acquired by the Department of Defense or other Federal department or agency.
for the advancement of the national security of the United States.
To reauthorize the Global Food Security Act of 2016, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2018

Mr. SMITH of New Jersey (for himself, Ms. McCOLLUM, Mr. ROYCE of California, Mr. ENGEL, Mr. AUSTIN SCOTT of Georgia, Ms. BASS, Mr. FORTEBERRY, Mr. McGovern, Mr. PAULSON, Ms. DELACROIX, Mr. REICHERT, Mr. SMITH of Washington, and Mr. CICILLINE) introduced the following bill, which was referred to the Committee on Foreign Affairs

A BILL

To reauthorize the Global Food Security Act of 2016, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Global Food Security
Reauthorization Act of 2018”.

SEC. 2. AMENDMENTS TO THE GLOBAL FOOD SECURITY
ACT.

(a) STATEMENT OF POLICY OBJECTIVES.—Section 3(a)(6) of the Global Food Security Act of 2016
U.S.C. 9302(a)(6)) is amended by inserting “deworming programs,” after “diet diversification.”.

(b) Relevant Federal Departments and Agencies.—Section 4(7) of such Act (22 U.S.C. 9303(7)) is amended by inserting “the Inter-American Foundation,” after “the United States Africa Development Foundation.”.

(c) Authorization of Appropriations To Implement Global Food Security Strategy.—Section 6(b) of such Act (22 U.S.C. 9305(b)) is amended by striking “fiscal years 2017 and 2018” and inserting “fiscal years 2017 through 2021”.

(d) Reports.—The matter preceding section 8(a)(1) of such Act (22 U.S.C. 9307(a)(1)) is amended—

(1) by striking “Not later than 1 year and 2 years after the date of the submission of the strategy required under section 5(e),” and inserting “Not later than September 30, 2018, and annually thereafter through 2021,”; and

(2) by striking “for 2017 and 2018” and inserting “for the preceding fiscal year”.


Section 492(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292a(a)) is amended by striking “fiscal years
1 2017 and 2018” and inserting “fiscal years 2017 through 2021”.

○
AMENDMENT TO H.R. 5129
OFFERED BY MR. SMITH OF NEW JERSEY

Page 2, line 12, strike “2021” and insert “2020”.

Page 2, line 19, strike “2021” and insert “2020”.

Page 3, line 2, strike “2021” and insert “2020”.

✓
To promote international exchanges on best election practices, cultivate more secure democratic institutions around the world, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2018

Mr. CASTRO of Texas (for himself, Mr. MEADOWS, Mr. PRICE of North Carolina, and Mr. ROŞKAM) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To promote international exchanges on best election practices, cultivate more secure democratic institutions around the world, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Global Electoral Exchange Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) recent elections globally have illustrated the urgent need for the promotion and exchange of
international best election practices, particularly in the areas of cybersecurity, results transmission, transparency of electoral data, election dispute resolution, and the elimination of discriminatory registration practices and other electoral irregularities;

(2) the advancement of democracy worldwide promotes American interests, as stable democracies provide new market opportunities, improve global health outcomes, and promote economic freedom and regional security;

(3) credible elections are the cornerstone of a healthy democracy and enable all persons to exercise their basic human right to have a say in how they are governed;

(4) inclusive elections strengthen the credibility and stability of democracies more broadly, as democratic institutions flourish when representative of all groups of society;

(5) at the heart of a strong election cycle is the professionalism of the election management body and an empowered civil society; and

(6) the development of local expertise via peer-to-peer learning and exchanges promotes the independence of such bodies from internal and external influence.
SEC. 3. GLOBAL ELECTORAL EXCHANGE.

(a) GLOBAL ELECTORAL EXCHANGE.—The Secretary of State shall establish and administer a Global Electoral Exchange Program to promote the utilization of sound election administration practices in the United States and foreign countries.

(b) PURPOSE.—The purpose of the Global Electoral Exchange Program described in subsection (a) shall include the promotion and exchange of international best election practices, including in the areas of cybersecurity, results transmission, transparency of electoral data, election dispute resolution, the elimination of discriminatory registration practices and electoral irregularities, and other sound election administration practices.

(c) EXCHANGE OF ELECTORAL AUTHORITIES.—

(1) IN GENERAL.—The Secretary of State may, in consultation, as appropriate, with the United States Agency for International Development and regionally focused independent agencies, make grants to any United States-based organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code with experience in comparative election systems or subject matter expertise in the areas of election administration or electoral integrity that
submits an application in such form, and satisfying such requirements, as the Secretary may require.

(2) TYPES OF GRANTS.—An organization described in paragraph (1) may receive a grant for one or more of the following purposes:

(A) To design and implement programs bringing election administrators and officials, including government officials, polling workers, civil society representatives, members of the judiciary, and others who participate in the organization and administration of an election in a foreign country to the United States to study election procedures in the United States for educational purposes.

(B) To design and implement programs taking United States or another country’s election administrators and officials, including government officials, polling workers, civil society representatives, members of the judiciary, and others who participate in the organization and administration of elections for public office in the United States or such other countries to foreign countries to study election procedures in such countries for educational purposes.
5

(3) COORDINATION.—The Secretary of State shall coordinate with State and local governments in the United States, in addition to the governments of United States territories, to conduct exchanges under this section and may enter into memorandums of understanding with such governments to guide participation by such governments in the Global Electoral Exchange Program.

(4) LIMITS ON ACTIVITIES.—Activities administered under the Global Electoral Exchange Program may not—

(A) include election observation for the purposes of discussing the validity or legitimacy of an election; or

(B) facilitate any advocacy for a certain electoral result by a grantee when participating in the Program.

(5) FURTHER LIMITS.—A recipient of a grant under the Global Electoral Exchange Program may use such grant for only the purpose for which such grant was awarded, unless otherwise authorized by the Secretary of State.

(6) NOT DUPLICATIVE.—Grants made under this subsection may not be duplicative of any other
grants made under any other provision of law for similar or related purposes.

SEC. 4. REPORT.

(a) INTERNET.—The Secretary of State shall maintain a publically available Department of State website detailing the Global Electoral Exchange Program, including a list of grants awarded under the Program and the amount awarded in each such grant, each annual report required under subsection (e), and other information at the discretion of the Secretary.

(b) NOTIFICATION OF GRANTS.—Not later than 30 days after each grant award under the Global Electoral Exchange Program under section 3, the Secretary of State shall publish on the website described in subsection (a) a summary of such grant, including criteria for selecting the grantee and any relevant agreements between the Secretary of State and foreign governments, State and local governments in the United States, or the governments of United States territories that are associated with such grant. The Secretary shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such publication.

(e) ANNUAL REPORTS.—
(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act and every year thereafter, the Secretary of State shall publish on the website described in subsection (a) a report on the Global Electoral Exchange Program and notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such report.

(2) **ELEMENTS.**—The reports required by paragraph (1) shall include the following:

   (A) A summary of all exchanges conducted under the Global Electoral Exchange Program, including criteria used to select grantees.

   (B) A summary of all memorandum of understandings with States, local governments, and territories in accordance with section 3(c)(3).

(d) **ANNUAL RECOMMENDATIONS.**—In conjunction with the annual reports required under subsection (c), the Secretary of State may provide recommendations for the improvement of the Global Electoral Exchange Program, based on the purposes under section 3(b), in a written report to the Committee on Foreign Affairs of the House
of Representatives and the Committee on Foreign Relations of the Senate.
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5274
OFFERED BY MR. CASTRO

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Global Electoral Ex-
change Act”.

4 SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) recent elections globally have illustrated the
urgent need for the promotion and exchange of
international best election practices, particularly in
the areas of cybersecurity, results transmission,
transparency of electoral data, election dispute reso-
lution, and the elimination of discriminatory reg-
istration practices and other electoral irregularities;

(2) the advancement of democracy worldwide
promotes American interests, as stable democracies
provide new market opportunities, improve global
health outcomes, and promote economic freedom and
regional security;
credible elections are the cornerstone of a healthy democracy and enable all persons to exercise their basic human right to have a say in how they are governed;

(4) inclusive elections strengthen the credibility and stability of democracies more broadly, as democratic institutions flourish when representative of all groups of society;

(5) at the heart of a strong election cycle is the professionalism of the election management body and an empowered civil society; and

(6) the development of local expertise via peer-to-peer learning and exchanges promotes the independence of such bodies from internal and external influence.

SEC. 3. GLOBAL ELECTORAL EXCHANGE.

(a) GLOBAL ELECTORAL EXCHANGE.—The Secretary of State is authorized to establish and administer a Global Electoral Exchange Program to promote the utilization of sound election administration practices around the world.

(b) PURPOSE.—The purpose of the Global Electoral Exchange Program described in subsection (a) shall include the promotion and exchange of international best election practices, including in the areas of cybersecurity,
results transmission, transparency of electoral data, election dispute resolution, the elimination of discriminatory registration practices and electoral irregularities, and other sound election administration practices.

(c) Exchange of Electoral Authorities.—

(1) In general.—The Secretary of State may, in consultation, as appropriate, with the United States Agency for International Development, make grants to any United States-based organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code with experience in comparative election systems or subject matter expertise in the areas of election administration or electoral integrity that submits an application in such form, and satisfying such requirements, as the Secretary may require.

(2) Types of grants.—An organization described in paragraph (1) may receive a grant for one or more of the following purposes:

(A) To design and implement programs bringing election administrators and officials, including government officials, poll workers, civil society representatives, members of the judiciary, and others who participate in the orga-
nization and administration of public elections in a foreign country to the United States to study election procedures in the United States for educational purposes.

(B) To design and implement programs taking United States or another country’s election administrators and officials, including government officials, poll workers, civil society representatives, members of the judiciary, and others who participate in the organization and administration of public elections to study election procedures for educational purposes.

(3) LIMITS ON ACTIVITIES.—Activities administered under the Global Electoral Exchange Program may not—

(A) include observation of an election for the purposes of assessing the validity or legitimacy of that election; or

(B) facilitate any advocacy for a certain electoral result by a grantee when participating in the Program.

(4) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should establish and maintain a network of Global Electoral Exchange Program alumni, to promote communication
and further exchange of information regarding sound election administration practices among current and former program participants.

(5) **FURTHER LIMITS.**—A recipient of a grant under the Global Electoral Exchange Program may use such grant for only the purpose for which such grant was awarded, unless otherwise authorized by the Secretary of State.

(6) **NOT DUPLICATIVE.**—Grants made under this subsection may not be duplicative of any other grants made under any other provision of law for similar or related purposes.

**SEC. 4. CONGRESSIONAL OVERSIGHT.**

Not later than one year after the date of the enactment of this Act and in each of the following two years thereafter, the Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a briefing on the status of any activities carried out pursuant to this Act during the preceding year, which shall include, among other information, the following:

(1) A summary of all exchanges conducted under the Global Electoral Exchange Program, including information regarding grantees, participants, and the locations where program activities were held.
(2) A description of the criteria used to select grantees under the Global Electoral Exchange Program.

(3) Any recommendations for the improvement of the Global Electoral Exchange Program, based on the purpose specified in section 3(b).
AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5274
OFFERED BY MS. TITUS OF NEVADA

In section 3(b), insert “equitable access to polling places, voter education information, and voting mechanisms (including by persons with disabilities),” after “electoral irregularities,”.
115TH CONGRESS 2d Session  
H. R. 5480

To improve programs and activities relating to women’s entrepreneurship and economic empowerment that are carried out by the United States Agency for International Development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ROYCE of California (for himself and Ms. FRANKEL of Florida) introduced the following bill; which was referred to the Committee on

A BILL

To improve programs and activities relating to women’s entrepreneurship and economic empowerment that are carried out by the United States Agency for International Development, 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 “Women’s Enterpre-
5 neurship and Economic Empowerment Act of 2018”.
SEC. 2. FINDINGS.

Congress finds the following:

(1) Because women make up the majority of the world’s poor and gender inequalities prevail in incomes, wages, access to finance, ownership of assets, and control over the allocation of resources, women’s entrepreneurship and economic empowerment is important to achieve inclusive economic growth at all levels of society. Research shows that when women exert greater influence over household finances, economic outcomes for families improve, and childhood survival rates, food security, and educational attainment increase. Women also tend to place a greater emphasis on household savings which improves families’ financial resiliency.

(2) A 2016 report by the McKinsey Global Institute estimated that achieving global gender parity in economic activity could add as much as $28 trillion to annual global gross domestic product (GDP) by 2025.

(3) Lack of access to financial services that address gender-specific constraints impedes women’s economic inclusion. More than one billion women around the world are currently left out of the formal financial system, which in turn causes many women to rely on informal means of saving and borrowing.
that are riskier and less reliable. Among other consequences, this hampers the success of women entrepreneurs, including those seeking to run or grow small and medium-sized enterprises (SMEs). The International Finance Corporation has estimated that 70 percent of women-owned SMEs in the formal sector are unserved or underserved in terms of access to credit, amounting to a $285 billion credit gap.

(4) Women’s economic empowerment is inextricably linked to a myriad of other women’s human rights that are essential to their ability to thrive as economic actors across the lifecycle. This includes, but is not limited to, living lives free of violence and exploitation, achieving the highest possible standard of health and well-being, enjoying full legal and human rights such as access to registration, identification, and citizenship documents, benefitting from formal and informal education, and equal protection of and access to land and property rights, access to fundamental labor rights, policies to address disproportionate care burdens, and business and management skills and leadership opportunities.

(5) Discriminatory legal and regulatory systems and banking practices are hurdles to women’s access
to capital and assets, including land, machinery, production facilities, technology, and human resources.

Often, these barriers are connected to a woman’s marital status, which can determine whether she is able to inherit land or own property in her name. These constraints contribute to women frequently running smaller businesses, with fewer employees and lower asset values.

(6) Savings groups primarily comprised of women are recognized as a vital entry point, especially for poor and very poor women, to formal financial services and there is a high demand for such groups to protect and grow their savings with formal financial institutions. Evidence shows that, once linked to a bank, the average savings per member increases between 40 to 100 percent and the average profit per member doubles. Key to these outcomes is investing in financial literacy, business leadership training, and mentorship.

(7) United States support for microenterprise and microfinance development programs, which seek to reduce poverty in low-income countries by giving small loans to small-scale entrepreneurs without collateral, have been a useful mechanism to help families weather economic shocks, but many microcredit
borrowers largely remain in poverty. The vast majority of microcredit borrowers are women who would like to move up the economic ladder but are held back by binding constraints that create a "missing middle"—large numbers of microenterprises, a handful of large firms or conglomerates, and very few SMEs in between, which are critical to driving economic growth in developing countries.

(8) According to the World Bank, SMEs create 4 out of 5 new positions in emerging markets but about half of formal SMEs don’t have access to formal credit. The financing gap is even larger when micro and informal enterprises are taken into account. Overall, approximately 70 percent of all micro, small and medium-sized enterprises (MSMEs) in emerging markets lack access to credit.

SEC. 3. ACTIONS TO IMPROVE GENDER POLICIES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) Development Cooperation Policy.—It shall be the development cooperation policy of the United States—

(1) to reduce gender disparities in access to, control over, and benefit from economic, social, polit-
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(2) to strive to eliminate gender-based violence and mitigate its harmful effects on individuals and communities through efforts to develop standards and capacity to reduce gender-based violence in the workplace and other places where women conduct work;

(3) to support activities that secure private property rights and land tenure for women in developing countries, including legal frameworks to give women equal rights to own, register, use, profit from, and inherit land and property, legal literacy to exercise these rights, and capacity of law enforcement and community leaders to enforce such rights; and

(4) to increase the capability of women and girls to realize their rights, determine their life outcomes, assume leadership roles, and influence decision-making in households, communities, and societies.

(b) ACTIONS.—In order to advance the policy described in subsection (a), the Administrator of the United States Agency for International Development shall ensure that—
(1) strategies, projects, and activities of the Agency are shaped by a gender analysis and, when applicable, use standard indicators to provide one measure of success of such strategies, projects, and activities; and

(2) gender equality and female empowerment is integrated throughout the Agency’s Program Cycle and related processes for purposes of strategic planning, project design and implementation, and monitoring and evaluation.

(c) GENDER ANALYSIS DEFINED.—In this section, the term “gender analysis”—

(1) means a socio-economic analysis of available or gathered quantitative and qualitative information to identify, understand, and explain gaps between men and women which typically involves examining—

(A) differences in the status of women and men and their differential access to and control over assets, resources, opportunities, and services;

(B) the influence of gender roles, structural barriers, and norms on the division of time between paid employment, unpaid work
(including subsistence production and care for
family members), and volunteer activities;

(C) the influence of gender roles, struc-
tural barriers, and norms on leadership roles
and decision making; constraints, opportunities,
and entry points for narrowing gender gaps and
empowering women; and

(D) potential differential impacts of devel-
opment policies and programs on men and
women, including unintended or negative con-
sequences; and

(2) includes conclusions and recommendations
to enable development policies and programs to nar-
row gender gaps and improve the lives of women and
girls.

SEC. 4. DEVELOPMENT ASSISTANCE FOR MICRO, SMALL
AND MEDIUM-SIZED ENTERPRISES.

(a) FINDINGS AND POLICY.—Section 251 of the For-
eign Assistance Act of 1961 (22 U.S.C. 2211) is amend-
ed—

(1) in paragraph (1)—

(A) by striking “microenterprise” and in-
serting “micro, small and medium-sized enter-
prise”;
(B) by striking “and in the development” and inserting “in the development”; and

(C) by adding at the end before the period the following: “, and in the economic empowerment of the poor, especially women”;

(2) in paragraph (2)—

(A) by striking “microenterprise” and inserting “micro, small and medium-sized enterprise”; and

(B) by adding at the end before the period the following: “, particularly those enterprises owned, managed, and controlled by women”;

(3) in paragraph (3), by striking “microenterprises” and inserting “micro, small and medium-sized enterprises”;

(4) in paragraph (4), by striking “microenterprise” and inserting “micro, small and medium-sized enterprise”;

(5) in paragraph (5)—

(A) by striking “should continue” and inserting “should continue and be expanded”; and

(B) by striking “microenterprise and microfinance development assistance” and inserting “development assistance for micro, small and medium-sized enterprises”; and
(6) in paragraph (6)—

(A) by striking “have been successful” and inserting “have had some success”;

(B) by striking “microenterprise programs” and inserting “development assistance for micro, small and medium-sized enterprises”; and

(C) by striking “, such as countries in Latin America”.

(b) Authorization; Implementation; Targeted Assistance.—Section 252 of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a) is amended as follows:

(1) In subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “credit, savings, and other services” and inserting “credit, including the use of innovative credit scoring models, savings, financial technology, financial literacy, insurance, property rights, and other services”; and

(ii) by striking “microfinance and microenterprise clients” and inserting “micro, small and medium-sized enterprise clients”;
(B) in paragraph (1), by striking “microfinance and microenterprise clients” and inserting “micro, small and medium-sized enterprise clients, particularly those clients owned, managed, and controlled by women”;

(C) in paragraph (2)—

(i) by striking “microenterprises” and inserting “micro, small and medium-sized enterprises”; and

(ii) by inserting “acquire United States goods and services,” after “United States markets,”;

(D) in paragraph (3)—

(i) by striking “microfinance and microenterprise institutions” and inserting “financial intermediaries”;

(ii) by striking “microfinance and microenterprise clients” and inserting “micro, small and medium-sized enterprises”; and

(iii) by striking “and” at the end;

(E) in paragraph (4)—

(i) by striking “microfinance and microenterprise clients and institutions” and inserting “micro, small and medium-sized
enterprises, financial intermediaries, and capital markets”; and

(ii) by striking “the poor and very poor.” and inserting “the poor and very poor, especially women;” and

(F) by adding at the end the following:

“(5) assistance for the purpose of promoting the economic empowerment of women, including through increased access to financial resources and improving property rights, inheritance rights, and other legal protections; and

“(6) assistance for the purpose of scaling up evidence-based graduation approaches, which include targeting the very poor and households in ultra-poverty, consumption support, promotion of savings, skills training, and asset transfers.”.

(2) In subsection (b)—

(A) in paragraph (1) to read as follows:

“(1) IN GENERAL.—There is authorized to be established within the Agency an office to support the Agency’s efforts to broaden and deepen local financial markets, expand access to appropriate financial products and services, and support the development of micro, small and medium-sized enterprises. The Office shall be headed by a Director who shall
possess technical expertise and ability to offer leadership in the field of financial sector development.”;

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) by striking “USE OF CENTRAL FUNDING MECHANISMS.—” and all that follows through “In order to ensure” and inserting “USE OF CENTRAL FUNDING MECHANISMS.—In order to ensure”;

(II) by striking “the office shall” and all that follows through “and other practitioners” and inserting “the office shall provide coordination and support for field-implemented programs, including through targeted core support for micro, small and medium-sized enterprises and local financial markets”; and

(III) by striking clause (ii);

(ii) in subparagraph (C)—

(I) by inserting “, particularly by protecting the use and funding of local organizations in countries in
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which the Agency invests,” after “and
sustainability”; and
(II) by inserting “, especially
women” after “the poor and very
poor”; and
(C) by striking paragraph (3).

(3) In subsection (c)—
(A) by striking “all microenterprise re-
sources” and inserting “all micro, small and
medium-sized enterprise resources”; and
(B) by striking “clients who are” and all
that follows and inserting “activities that reach
the very poor, and 50 percent of all small and
medium-sized enterprise resources shall be tar-
geted to activities that reach enterprises owned,
managed, and controlled by women.”.
(c) MONITORING SYSTEM.—Section 253(b) of the
Foreign Assistance Act of 1961 (22 U.S.C. 2211b(b)) is
amended—
(1) in paragraph (1), by inserting “, including
goals on a gender disaggregated basis, such as im-
provements in employment, access to financial serv-
ices, enterprise development, earnings and control
over income, and property and land rights,” after
“performance goals”;
(2) in paragraph (2), by striking “include performance indicators” and all that follows through “the achievement” and inserting “incorporate Agency planning and reporting processes and indicators to measure or assess the achievement”; and
(3) by striking paragraph (4).

(d) **POVERTY MEASUREMENT METHODS.**—Section 254 of the Foreign Assistance Act of 1961 (22 U.S.C. 2211c) is amended to read as follows:

“SEC. 254. POVERTY MEASUREMENT METHODS.

“The Administrator of the Agency, in consultation with financial intermediaries and other appropriate organizations, should have in place at least one method for implementing partners to use to assess poverty levels of their current incoming or prospective clients.”.

(c) **ADDITIONAL AUTHORITIES.**—Section 255 of the Foreign Assistance Act of 1961 (22 U.S.C. 2211d) is amended—

(1) by striking “assistance for microenterprise development assistance” and inserting “development assistance for micro, small and medium-sized enterprises”; and
(2) by striking “and, to the extent applicable” and all that follows and inserting a period.
(f) MICROENTERPRISE DEVELOPMENT CREDITS.—
Section 25G of the Foreign Assistance Act of 1961 (22 U.S.C. 2212) is amended—

(1) in the section heading, by striking “MICRO-
ENTERPRISE DEVELOPMENT CREDITS” and in-
serting “DEVELOPMENT CREDITS FOR MICRO,
SMALL AND MEDIUM-SIZED ENTERPRISES”;

(2) in subsection (a)—

(A) in paragraph (1), by striking “micro-
and small enterprises” and inserting “micro,
small and medium-sized enterprises”; and

(B) in paragraph (2), by striking “micro-
enterprises” and inserting “micro, small and
medium-sized enterprises”;

(3) in subsection (b), in the matter preceding
paragraph (1), by inserting “and other financial
services” after “credit”;

(4) by striking “microenterprise households”
each place it appears and inserting “micro, small
and medium-sized enterprises and households”; and

(5) by striking “microfinance institutions” each
place it appears and inserting “financial inter-
mediaries”.


(g) **UNITED STATES MICROFINANCE LOAN FACILITY.**—Section 257 of the Foreign Assistance Act of 1961 (22 U.S.C. 2213) is amended—

(1) in the section heading, by striking “UNITED STATES MICROFINANCE LOAN FACILITY” and inserting “UNITED STATES MICRO, SMALL AND MEDIUM-SIZED ENTERPRISE LOAN FACILITY”;

(2) in subsection (a)—

(A) by striking “United States Microfinance Loan Facility” and inserting “United States Micro, Small and Medium-Sized Enterprise Loan Facility”; and

(B) by striking “United States-supported microfinance institutions” and inserting “United States-supported financial intermediaries”;

(3) in subsection (b), by striking “United States-supported microfinance institutions” each place it appears and inserting “United States-supported financial intermediaries”;

(4) by striking “microfinance institutions” each place it appears and inserting “financial intermediaries”.

(h) CONTENTS OF REPORT.—Subsection (b) of section 258 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214) is amended to read as follows:

"(b) CONTENTS.—To the extent practicable, the report should contain the following:

"(1) Information about assistance provided under section 252, including—

"(A) the amount of each grant or other form of assistance;
"(B) the name of each intermediary and implementing institution receiving assistance;
"(C) the name of each country receiving assistance; and

"(D) the methodology used to ensure compliance with the targeted assistance requirements in subsection (c) of such section.

"(2) The percentage of assistance provided under section 252 disaggregated by income level, including for the very poor, and gender.

"(3) The estimated number of individuals that received assistance provided under section 252 disaggregated by income level, including for the very poor, and gender, and by type of assistance, including loans, training, and business development services."
“(4) The results of the monitoring system required under section 253.

“(5) Information about any method in place to assess poverty levels under section 254.”.

(i) DEFINITIONS.—Section 259 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214a) is amended—

(1) in paragraph (3), by striking “Committee on International Relations” and inserting “Committee on Foreign Affairs”;

(2) in paragraph (4), by striking “microenterprises” and inserting “micro, small and medium-sized enterprises”; 

(3) in paragraph (6)—

(A) in subparagraph (E), by striking “microenterprise institution” and inserting “micro, small and medium-sized enterprise institution”; and

(B) in subparagraph (F), by striking “microenterprise institution” and inserting “financial intermediary”;

(4) in paragraph (7) to read as follows:

“(7) MICRO, SMALL AND MEDIUM-SIZED ENTERPRISE INSTITUTION.—The term ‘micro, small and medium-sized enterprise institution’ means an entity that provides services, including finance,
training, or business development services, for micro, small and medium-sized enterprises in foreign countries.”;

(5) in paragraph (8) to read as follows:

“(8) Financial intermediary.—The term ‘financial intermediary’ means the entity that acts as the intermediary between parties in a financial transaction, such as a bank, credit union, investment fund, a village savings and loan group, or an institution that provides financial services to a micro, small or medium-sized enterprise.”;

(6) by striking paragraph (9);

(7) by redesignating paragraphs (10) through (14) as paragraphs (9) through (13), respectively;

(8) in paragraph (9) (as redesignated), by striking “of microenterprise development”;

(9) in paragraph (10) to read as follows:

“(10) Practitioner institution.—The term ‘practitioner institution’ means a not-for-profit entity, financial intermediary, telecommunications firm with a mobile money platform, a village and savings loan group, or any other entity that provides services authorized under section 252 that benefits micro, small and medium-sized enterprise clients.”;

(10) in paragraph (12) (as redesignated)—
(A) in the heading, by striking “UNITED STATES-SUPPORTED MICROFINANCE INSTITUTION” and inserting “UNITED STATES-SUPPORTED FINANCIAL INTERMEDIARY”; and

(B) by striking “United States-supported microfinance institution” and inserting “United States-supported financial intermediary”; and

(1) in subparagraph (B) of paragraph (13) (as redesignated) to read as follows:

“(B) living below the International Poverty Line, as defined by the International Bank for Reconstruction and Development and the International Development Association (collectively referred to as the ‘World Bank’).”.

(j) TECHNICAL AND CONFORMING AMENDMENTS.—Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In the title heading, by striking “MICROENTERPRISE DEVELOPMENT ASSISTANCE” and inserting “DEVELOPMENT ASSISTANCE FOR MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES”.

(2) In the heading for subtitle C, by striking “UNITED STATES MICROFINANCE LOAN FACILITY”
and inserting “UNITED STATES MICRO, SMALL AND MEDIUM-SIZED MICROFINANCE LOAN FACILITY”.

SEC. 5. REPORT AND BRIEFING BY UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall provide a briefing and submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of this Act and the amendments made by this Act, including actions to improve the gender policies of the United States Agency for International Development pursuant to section 3.

(b) PUBLIC AVAILABILITY.—The report required under paragraph (1) shall be posted and made available on a text-based, searchable, and publicly-available internet website.

SEC. 6. REPORT BY COMPTROLLER GENERAL OF THE UNITED STATES.

(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report
on development assistance for micro, small and medium-sized enterprises administered by the United States Agency for International Development.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include an assessment of the following:

(1) What is known about the impact of such development assistance on the economies of developing countries.

(2) The extent to which such development assistance is targeting women and the very poor, including what is known about how such development assistance benefits women.

(3) The extent to which the United States Agency for International Development has developed a methodology used to ensure compliance with the targeted assistance requirement in section 252(e) of the Foreign Assistance Act of 1961, as amended by section 4 of this Act.

(4) The monitoring system requirements in section 253(b) of the Foreign Assistance Act of 1961, as amended by section 4 of this Act, including the quality of such monitoring system.
Chairman ROYCE. And I now recognize myself to speak on today's business.

So, first, we have the Export Control Reform Act of 2018. This is a bipartisan bill that would replace the outdated Export Administration Act of 1979, which has been in lapse for the last quarter century. And it would replace it with a permanent modern export control authority. So, obviously, this step is long overdue.

Crucially, the bill closes gaps in our export controls that could permit transfers of cutting-edge technology like artificial intelligence and advanced semiconductors to potential adversaries such as Beijing. It also ensures that transfers of sensitive manufacturing knowhow, including through joint ventures, are subject to more rigorous export controls. This act mandates an urgent effort to iden-
tify and appropriately control critical emerging technologies, technologies that are not currently subject to export controls, but which could be essential to our U.S. national security. Together with SIFIs reforms, this bill will enable the U.S. to remain a leader in innovation, strengthen our industrial base, and protect technologies essential to national security.

Next, we consider the bipartisan H.R. 5480. This is the Women's Entrepreneurship and Economic Empowerment Act. Women in developing countries around the world face binding constraints to entrepreneurship and economic participation. So, we have today over 1 billion women that are left out of the formal financial system, and that leaves them without access to savings or credit or insurance or basic property rights.

What this legislation does is expands USAID's microenterprise assistance authority to include support for small and medium-sized enterprises which create four out of every five jobs in emerging markets. When women exert greater influence over household finances, economic outcomes for families improve and, obviously, childhood survival rates go up. Food security and educational attainment are increased.

This isn't just good for local communities in these developing countries. Achieving global gender parity in economic activity could add tens of trillions of dollars to annual GDP growth around the planet by 2025. This helps us.

Next, we have Chairman Smith's H.R. 5129. This is the Global Food Security Reauthorization Act of 2018. Last Congress, we came together in a bipartisan way to enact the Global Food Security Act. Since enactment in 2016, the Global Food Security Strategy has helped 11 million small farmers gain access to new technologies. It has unlocked $2.7 billion in loans, $830 million in direct private sector investment, and it has reduced poverty by an average of 19 percent in the focus areas. These programs have also allowed us to reach 27 million children under the age of 5 with vital nutrition assistance. And we did this without increase spending. H.R. 5129 continues this good work by extending the existing authorization for an additional 2 years.

Finally, I want to thank Representatives Castro and Meadows for introducing H.R. 5274. This is the Global Electoral Exchange Act. Healthy societies depend on elections that accurately reflect the decision of voters. The world has a shared stake in the integrity of election mechanisms. The nuts and bolts of how people cast their votes and how these votes are counted free from manipulation is the subject here, and this bill would strengthen this work by authorizing the Secretary of State to run exchanges to better equip those who organize and administer elections in their home countries.

And I now recognize the ranking member for his remarks.

Mr. ENGEL. Thank you, Mr. Chairman. Thank you very much for calling this markup. We have four good measures before us today, and I am happy to support them all. As always, I want to thank all of our members on both sides of the aisle for their hard work.

Mr. Chairman, I want to thank you for putting forward the Export Control Reform Act. As you mentioned, it has been almost four decades since the law on export controls was revised. The old law
is filled with out-of-date provisions that simply don’t reflect our current national security priorities. It also expired in 2001.

So, for the last 17 years, the legal authority for regulating sensitive exports has been based on emergency authority contained in Executive orders. That is why this bill is so essential. It updates the export control system to reflect today’s reality of the way these technologies are developed and transferred in global trade. It provides a new approach to help mitigate the risks of sensitive technologies falling into the hands of our adversaries, and it reasserts the role of Congress in addressing the important national security priority. I am proud to be the lead Democratic cosponsor of this legislation and I urge all members to support it.

Next, I want to turn to the Global Food Safety Reauthorization Act. This is another great example of bipartisan common-sense cooperation on vital foreign policy issues. I am an original cosponsor, and I am pleased to see this bill on the agenda.

Nearly 800 million people around the world live without the certainty that their families will have enough to eat. Underfed populations are less productive and more vulnerable to disease. Without reliable access to food, it is much harder for a country to achieve stability and prosperity. So, we have an interest and a moral obligation in tackling this problem as part of our foreign policy.

This bill reauthorizes the successful Global Food Security Act which codified the Feed the Future Program. We are already seeing some excellent results from this program, a 26 percent drop in child stunting. Nine million more people are above the poverty line; 1.7 million more families are living without hunger, and $2.6 billion earned by Feed the Future farmers in new agricultural sales. This is a great bill, and I thank the drafters, Representative Chris Smith and Betty McCollum, for their hard work, and encourage all my colleagues to support it.

Fighting global poverty is a critical issue that our committee faces, and one of the most effective ways we can improve global prosperity is to empower women throughout the world. That brings me to the next measure for today’s markup, the Women’s Entrepreneurship and Economic Empowerment Act. This is important. It is a very important piece of legislation, introduced by Chairman Royce and Congresswoman Frankel. It expands U.S. development policy to empower women entrepreneurs in developing countries.

Women and girls are powerful, and we know what happens when that power and potentials are unleashed. Communities thrive. Local and global economies grow. Societies prosper and become more inclusive and equitable. If women were full participants in the global economy, we would see an additional $28 trillion in growth in global GDP by the year 2025.

Women in developing countries face a series of gender-specific constraints to moving up the economic ladder, including lack of access to financial services. Women-owned small- and medium-sized enterprises face almost a $300 billion credit gap. The Women’s Entrepreneurship and Economic Empowerment Act works to address that disparity by expanding U.S. development assistance to reach those small- and medium-sized enterprises.

This bill is a welcomed step toward improving women’s economic prospects, but there remain other barriers to women’s economic
empowerment, including issues related to maternal and reproductive health. There is a well-documented link between improved access to contraception and women's economic empowerment. Women who are able to plan their families are more likely to receive an education, raise their standards of living, and climb out of poverty. These benefits aren't limited to a woman herself. In homes where parents have the ability to decide the number of children they have, their children tend to be healthier, do better in school, and grow up to earn higher incomes.

I am pleased to be an original cosponsor of this, and I urge all of our members to join me in supporting it. And I hope that we can build upon the good work and address all the barriers that women and girls face, so that they can achieve full economic empowerment.

And lastly, I turn to the Global Electoral Exchange Act, introduced by Representatives Castro and Meadows, which would establish exchange programs at the State Department that focus on strengthening the electoral mechanisms around the world. It is in America's interest that we promote credible elections, and having exchange programs to share best election practices is an excellent idea. We should be doing all that we can be doing to promote democracy.

I support this bill, along with the other measures we are considering today, and I again thank all our members on both sides.

And I yield back, Mr. Chairman. Thank you.

Chairman ROYCE. Thank you.

We go now to Mr. Chris Smith, the author of the Global Food Security Reauthorization Act.

Mr. SMITH. Thank you very much, Mr. Chairman. Thank you, Mr. Engel, for your strong support for this as well. Both of you are cosponsors, as is Betty McCollum, who is the principal Democrat cosponsor, and my good friend and colleague, Karen Bass, who is also one of the leading original sponsors as well. Thank you.

This is bipartisan legislation that has worked and this is the reauthorization to continue, and, hopefully, to bring additional emphasis to some of the areas that we have missed in the original enactment of this landmark legislation.

I would remind my colleagues that there are 800 million hungry people in the world today. Not only do children still die from malnutrition, we know that, because of malnutrition, those children are subjected to other sicknesses, opportunistic infections. Malaria takes an even more devastating toll on them because of their malnutrition.

Feed the Future, this legislation, and the underlying program which began in the Bush administration, was strengthened and expanded in the Obama administration, and has now been continued and strengthened under the leadership of President Trump, and continues to reach out to the most vulnerable. As you pointed out, Mr. Chairman, we have seen a significant drop in poverty, some 19 percent, and the drop in child stunting. And as I travel throughout the world, particularly in Africa and places like Guatemala, which has had a huge stunting problem, they have joined the effort to provide nutrition to young people, especially mothers and mothers carrying children. Stunting has dropped significantly.
And why is stunting so bad? Obviously, the impact it has on the individual, their diminished capabilities intellectually, and the like. If the food and nutrition is there, especially in the first 1,000 days from conception to the second birthday, and then, hopefully, God willing, it continues, we have stronger, more resilient children and, then, young adults and, then, adults to live out a life that is far more fruitful than when they are carrying a number of sicknesses.

This authorization bill emphasizes the importance of de-worming initiatives. Among the neglected tropical diseases, intestinal worms account for nearly 80 percent of neglected tropical disease prevalence, affecting close to 1 billion people all over the world. These worms undercut our nutrition interventions and can lead to death by malnutrition or lifelong stunting as well. We need to combine our nutrition interventions not only with coordinated de-worming campaigns, but also with water sanitation and health interventions that change people’s behavior. WASH training helps ensure people limited exposure to worms such as by washing and peeling vegetables or something as simple as giving children shoes to wear if they walk on worm-infected soil, so that they don’t get sick again.

Again, I will ask unanimous consent that my full statement be made a part of the record. But this legislation I think will save many lives. And I thank you again for bringing it to the committee today.

Chairman ROYCE. We go now to Mr. David Cicilline of Rhode Island.

Mr. CICILLINE. Thank you, Mr. Chairman. Thank you to you and to the ranking member for holding this markup today of these bipartisan measures. As always, I appreciate the way our committee works together across the aisle in moving important reforms and authorizations.

I am pleased to support H.R. 5129, the Global Food Security Reauthorization Act, which will extend Feed the Future until 2021, ensuring that the United States Government remains at the forefront of fighting global hunger by providing assistance to millions of hungry and vulnerable people around the world in order to build sustainable food systems, improve resilience, expand agricultural markets, and improve nutrition for local communities. The Feed the Future Program has had a remarkable success, as outlined in its 2016 progress report showing statistically-significant declines in poverty in 11 out of 17 focus countries.

I am also pleased to join with my colleagues, Congressman Smith and Congresswoman McCollum, as well as the chair and ranking member, as a cosponsor of this important legislation, and I urge my colleagues to support it.

I am also pleased to support H.R. 5480, the Women’s Entrepreneurship and Economic Empowerment Act, introduced by Chairman Royce and Congresswoman Frankel. Though the United States already does a lot of incredible work to support the empowerment of women and girls around the world, this legislation would expand programs to ensure that all USAID projects and activities are shaped by a gender analysis and gender equality, and female empowerment is integrated throughout the agency’s program cycle.
This bill will expand USAID’s microenterprise development assistance to include small and medium enterprises, particularly those owned, controlled, and managed by women, and will institute requirements, so that we can track the implementation of this bill. I strongly support these efforts and thank my colleagues for their work on behalf of women and girls.

And finally, I am pleased to support H.R. 5274, the Global Electoral Exchange Act, introduced by my friend and colleague, Congressman Castro. This smart legislation will create an exchange program for election officials in order to exchange best practices between the United States and other countries. At a time when democratic systems are under attack across the globe, this legislation will help educate election officials on best practices for administering an election. I am also a proud cosponsor of this legislation and urge my colleagues to support it as well.

I thank you, again, to all of my colleagues for working on these important pieces of legislation, and thank you again to you, Mr. Chairman and the ranking member, for holding this markup today.

And with that, I yield back.

Chairman ROYCE. We go now to Ileana Ros-Lehtinen of Florida.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman.

It has been a long time since Congress has been able to reform some of our outdated laws. The chairman and ranking member’s Export Control Reform Act is a much-needed update to the old Export Administration Act of 1979. And while I do applaud this measure, as well as your efforts to reestablish strong congressional oversight of export controls, I do wish that we had moved away from the current rescission process. The bill allows for a rescission of a country’s designation as a state sponsor of terror (SST) to continue to operate under the current mechanism. This allows for the administration, any administration, to remove a country from the SST list and only by passing a joint resolution of disapproval can Congress block this decision, meaning we need a veto-proof majority, very difficult to do.

And I look back at the most recent decisions that removed SST countries, Cuba and North Korea, and think that Congress was really powerless to prevent these moves. We are missing an opportunity here and are, again, allowing the administration too much leeway. We have seen that some administrations will bargain an SST designation for next to nothing, and we will have little to prevent that. I am dismayed that we aren’t giving ourselves the proper oversight over SST designations, and I hope, Mr. Chairman and Ranking Member, that we can find a way to modify this mechanism going forward.

I would also like to express my strong support for my colleague Chris Smith’s bill, the Global Food Security Reauthorization Act. With nearly 800 million hungry people worldwide, addressing the challenge of food insecurity is both a moral and national security imperative. Hunger is a leading factor driving so much of the instability and violence that we see in the world today. And by investing in stronger food systems, we can help develop more resilient communities that are able to withstand these pressures.

We need proper oversight and a strategy that makes sure USAID and its partners are fully integrated in achieving U.S. interests.
This bill ensures that strategy remains in place, and I offer the bill my strong support. Congrats, Mr. Smith.

I also want to speak in support of my friend Joaquin Castro's Global Electoral Exchange Act. At a time when bad actors such as Russia have been proven to meddle in other nations' elections, including our own, it is more important now than ever that we do what we can to ensure the validity and security of our electoral process. This bill is a tool that we can use to not only advance and protect our interests by ensuring that outside actors cannot work to manipulate election results, but it also serves to advance our democratic ideals.

I do want to note that elections alone do not make a democracy. We saw that last month in my native homeland of Cuba with the sham selections. Really, there were no elections set up by the Castro regime, and we are set to see the same fraud taking place in Venezuela next month with Maduro's sham snap elections. And with this farce of a transition of power set to happen tomorrow in Cuba, this bill serves to remind us that the people of Cuba are still denied their God-given rights. Until there are free, fair, and transparent elections in Cuba, in Venezuela, or anywhere in the world, we need to continue to support the people whose rights are being denied, which is why initiatives such as this one are so important in promoting sound election practices around the world.

And finally, Mr. Speaker—Mr. Chairman, I elevated you or demoted you, I am not sure—I also support your bill with Ranking Member Engel, the Women's Entrepreneurship and Economic Empowerment Act. Sadly, women continue to face insurmountable barriers that deter their availability to becoming full and equal members of society. This bill seeks to update USAID policy to chip away at those barriers, improve women's working environments, support their property rights, and aid them in providing access to greater economic opportunity. It is our responsibility to empower women, and this bill does so through our USAID programs.

Congratulations, Mr. Chairman and Ranking Member, for a fine set of initiatives that we can all support.

Chairman ROYCE. Well, I thank the chairman emeritus, and I recognize her for her longstanding support for strengthening congressional oversight over U.S. foreign policy and for combating terrorism.

I would make a few points on the Export Controls Reform Act, where it does move in the direction that you want to see, maybe not as robustly as you wanted to see it. But what it does do is it strengthens the congressional oversight over the delisting of a state sponsor of terrorism. And it does that really by quadrupling the time by fourfold that a designated country has got to refrain from sponsoring terrorism before being delisted. So, it is no longer 6 months; it is 24 months. I think this gives us a chance for much better evidence that a country has truly abandoned terrorism, but it also doubles the time that Congress has to review the proposed removal of the country from the list. So, it goes from 45 days to 90 days, and that improves our oversight. And it, I think, gives us much more time to reject a removal if we find that objectionable. So, it helps in that way as well.
But one of the changes that I think will work best for us and the committee is that it requires that the administration notify and brief Congress at the front end, when they initiate a review of a designated country’s potential removal from the list. So, I think all of that puts us in a better position than we are now, and I did want to share that with you. And I understand your plight.

Ms. ROS-LEHTINEN. Well, thank you very much. Thank you, Mr. Chairman.

Chairman ROYCE. We go now to Lois Frankel from Florida, the cosponsor of our Women’s Entrepreneurship and Economic Empowerment Act.

Ms. FRANKEL. Thank you, Mr. Royce and Mr. Engel, for your extraordinary bipartisan leadership. And I want to thank my colleagues for their good work on all these bills, which I support.

I want to specifically focus my remarks on the Women’s Entrepreneurship and Economic Empowerment Act, which I am honored to be one of the original cosponsors. The bill recognizes that, when women around the world are educated and have access to the tools for economic success, their communities are safer, stronger, and more peaceful, and so is the world.

Living in the United States where there is so much opportunity, it is hard to comprehend the hardships and obstacles that girls and women face in so many parts of the world. I think of Fatime, a young girl born in Mali. At just 8 months she may be cut, subjected to general mutilation. By age 12, her father may sell her for marriage to a man she has never met. Or Nasha, a young woman in Nigeria, desperate for an education, who has to walk miles fearful of sexual violence or kidnapping just to get to school. Or Camilia, a grown woman in Pakistan who dreams of starting her own business and being able to care for her family, but discriminatory laws prohibit her from owning property or being able to access credit. She is among the 1 billion women excluded from the formal financial system.

And millions of young girls face child marriage, sexual assault, human trafficking, genital mutilation, femicide. I could go on. One in three suffer gender-based violence. Access to health care and education is limited. Laws in their countries restrict their employment, property rights, access to credit and other financial resources.

So, it is not surprising that women and girls are the majority of the world’s poor. Now here’s the thing: Because of so many, too many cruel and unfair practices against girls and women, the world is poorer, too. According to McKinsey Global Institute, a leading international private sector think tank, if we change this equation and advance women’s equality, we could add $28 trillion to the global GDP in just 7 years.

And there is an undeniable link between women’s economic success and global prosperity, and this excellent bill makes it a U.S. development policy to reduce gender disparities related to economic opportunity; to strive to eliminate gender-based violence; to support women’s property rights, and increase the capability of women and girls to determine their own future. The bill requires that 50 percent of USAID’s resources for small and medium-sized enterprises be targeted to reach enterprises owned and managed and con-
trolled by women. It codifies USAID’s practice of shaping policy and activities through a gender analysis which should examine gender differences in access to resources and opportunities, different impacts of policy and programs on men and women, and provide recommendations to narrow the gender gaps and improve the lives of women and girls.

And to ensure that our development assistance is reaching women, this legislation mandates that USAID track and measure improvements in women’s economic empowerment, including employment, access to financial services, enterprise development, earnings and control over income, and property and land rights. In addition, this legislation expands the scope of development assistance for microenterprises to micro-, small-, and medium-sized enterprises to reflect the change in the field.

Investing in women’s empowerment is not only humane, it is good common sense, because when women exert greater influence over household finances, economic outcomes for families improve, childhood survival rates increase, food security and educational attainment also increase. Women also tend to place a greater emphasis on household savings, which improves families’ financial resiliency. When girls and women do better, their nations do better. Women are potent forces for peace and prosperity. When they succeed, the world will succeed.

And I thank my colleagues for joining me in support of this important bill.

And I yield back.

Chairman ROYCE. Thank you.

We now go to Joe Wilson of South Carolina.

Mr. WILSON. Thank you, Mr. Chairman.

I appreciate Chairman Ed Royce and Ranking Member Eliot Engel for their bipartisan efforts to bring the Export Control Reform Act before the committee. This bill helps protect industry and commerce in the United States by preventing technological theft while reducing the risks of other countries misusing controlled items and technologies for nefarious purposes.

Importantly, this bill would replace the Export Administration Act, which lapsed in 2001. While export controls have been maintained through emergency powers granted to the President, this legislation would update and strengthen our export controls to maintain the pace for modern international and digital trade without harming trade.

Foreign investment in the United States creates economic opportunity, but it also has created gaps in our technological security. Currently, foreign-owned companies in the United States often do not need a license to receive dual-use technology normally subject to such controls when exported abroad. This bill corrects and updates this flaw for the modern era.

This legislation also would adapt to the advances in technology by mandating an interagency process to identify emerging technologies that need to be protected by export controls, which will allow export controls to stay up-to-date. This bill protects American technology from theft and abuse and ensures that our export control system remains robust and effective.
I am grateful to support and cosponsor H.R. 5040, the Export Control Reform Act of 2018, and urge its passage.

Additionally, as a former election observer for the International Republican Institute to Bulgaria, and as a host for election observation by Ambassador Peter Burian of Slovakia during the Republican primary for President, I especially appreciate the Global Electoral Exchange Act, by Congressman Joaquin Castro, and urge its passage.

I yield back.

Chairman ROYCE. We go now to the author of the Global Electoral Exchange Act, Joaquin Castro of Texas.

Mr. CASTRO. Thank you, Chairman Royce and Ranking Member Engel, for bringing these measures before us today, and for your leadership on this committee. I want to say thank you to all the members whose bills are before us today for your hard work.

The bills considered today, including the Export Control Reform Act, Global Food Security Reauthorization Act, and Women's Entrepreneurship and Economic Empowerment Act, address important issues in the world, and I am pleased to support all of them.

Included in this package is a bill I authored with Representative Mark Meadows of North Carolina, before the committee today, the Global Electoral Exchange Act, or H.R. 5274. In the last decade, we have seen democracies around the world in retreat, including some in our own backyard. This is in contrast to prior years. In countries around the world, democracy activists and well-intentioned leaders strive to create more inclusive societies, but face significant challenges, including lack of institutional knowledge of electoral processes.

An election is a complex endeavor and an exercise a society undertakes together. It requires an engaged public, robust institutions, and a transparent, technically-sound electoral mechanism. Such an electoral mechanism must include a secret ballot, inclusive voting systems, chain of custody, neutral instructions to voters, and so much more of what may be considered good electoral practices.

When these electoral mechanisms are inadequately transparent or technically unsound, the legitimacy of an election and its results are in question. We saw this firsthand in Kenya and Honduras over the last year, where electoral failure led to election violence and a questionable outcome.

The State Department and USAID already engage in excellent work, in partnership with groups like the National Endowment for Democracy, the National Democratic Institute, International Republican Institute, and International Foundation for Electoral Systems, supporting democracy worldwide.

This bill would establish exchange programs with other countries, administered by the State Department, for individuals involved in the conduct of elections. When we bring folks over here to show them how we do things and send Americans to other countries to see how elections are conducted overseas, we can have candid conversations on how all of us can improve these processes. These educational programs would benefit both societies abroad keyed on democratizing and our own States and cities right here in the United States.
I would like to thank again my coauthor, Mark Meadows. I believe he is at an OGR hearing and can't be here right now. But he and his staff put in a lot of work also, and I would like to say thank you and ask for my colleagues' support on this.

Chairman ROYCE. Thank you.

We go now to Mike McCaul of Texas.

Mr. McCaul. Thank you, Mr. Chairman, Ranking Member Engel. I want to thank you for holding today's markup, and especially thank you and the other members of this committee for your work to advance H.R. 5480, the Women's Entrepreneurship and Economic Empowerment Act. And I say that as a father of four daughters.

Women make up approximately 40 percent of the world's workforce; yet, are restricted from contributing to their economies due to economic barriers such as access to credit and other financial services. Due to this, less women are able to start or grow their own businesses. Research suggests that leveling the financial playing field for women could result in $28 trillion to the annual GDP by 2025, and that is why I would like to offer my strong support for this bill.

This legislation will empower women's entrepreneurship by expanding U.S. assistance to women-owned and -managed small- and medium-sized enterprises. I believe that a world in which women have access to the same economic opportunities as men is a world that will be more prosperous and more stable. So, I encourage my colleagues to support the passage of this measure.

And I yield back.

Chairman ROYCE. Thank you.

We go to Dina Titus of Nevada.

Ms. Titus. Well, thank you, Mr. Chairman and Ranking Member.

I, too, support all of these bills and think they are excellent pieces of legislation, and appreciate the work that their sponsors have done to bring them to this point.

I would like to speak specifically, though, about the Global Electoral Exchange Act, and salute Congressmen Castro and Meadows for introducing this bill. I am a cosponsor of it, and I appreciate, also, the chairman including my amendment en bloc today.

The Global Electoral Exchange Act will help promote best election practices through a global electoral exchange program to foster the growth of democracy around the world. As a member of the House Democracy Partnership, which works with developing democracies to strengthen their institutions, I can attest to the importance of strong electoral processes in bolstering democracy and promoting economic development.

According to the World Health Organization, roughly 15 percent of the earth's population has a disability and 80 percent of those persons live in developing countries. Inclusion of persons with disabilities is a fundamental part of democracy, and this must extend to the electoral process as well. Unfortunately, barriers continue to exist around the world that limit these folks to their full and effective participation in elections. So, therefore, they aren't able to enjoy aspects of life and fulfill their potential.
My amendment would ensure that the best practices shared through this program would also include those related to equitable access to polling place, voter education information, and voting mechanisms for persons with disabilities. By recognizing this need, the U.S. is continuing its role as a leader in disability accommodation in all aspects of life here at home and around the world.

And I thank you and yield back.

Chairman Royce. Thank you.

We go to Mr. Ted Yoho of Florida.

Mr. Yoho. Thank you, Mr. Chairman, and I appreciate you bringing up these important pieces of legislation, and I support them all.

I want to give a strong support for the Export Control Reform Act. I support this legislation completely, and I would like to see it in the future expand to cover other forms of research, including biotech, including plant, animal, and medicine. These are also vital to national security, and I look forward to offering amendments in the Rules Committee and also on the House Floor when this bill comes up for a vote on its way to becoming a law.

And also, to give a shoutout for H.R. 4030, the State Sponsors of Terrorism Review and Enhancement Act, that a lot of the portions of that are in the Export Control Reform Act, and I look forward to that piece of legislation coming up also.

And I yield back.

Chairman Royce. We will look forward to working with the gentleman on biotech and some of these other considerations that should be included.

Mr. Brad Schneider of Illinois.

Mr. Schneider. Thank you. I just want to say I am glad we have these bills here today. I am glad to support all of them.

Chairman Royce. Thank you, Mr. Schneider.

Any further members seeking recognition?

Mr. Garrett.

Mr. Garrett. Thank you, Mr. Chair.

Again, I would echo the sentiments of our colleagues on each side of the aisle. Proud of each of these four pieces of legislation.

Very briefly and specifically, on H.R. 5480, I would commend yourself, Ranking Member Engel, and Member Frankel. Member Engel said—and I will adopt fully his comments—that these actions to empower women economically will “help communities thrive, help economies grow, help opportunity expand.” I wholeheartedly agree, and I would add it will also help reduce radicalization, expand hope, which stymies extremist recruitment, and will foster a more tolerant and open society across the globe. Such a good bill. In other words, this act helps not only women across the globe, but people everywhere. And, Mr. Chairman, I would argue it will save many uncountable lives.

Also, on H.R. 5040, the Export Control Reform Act, I commend the chair and ranking member on their ability to determine sort of a glaring problem that had been delayed in being addressed for decades. This is a good, bipartisan, and overdue reform. Just as Mr. Yoho referenced hopes that we talk more about biotech, et cetera, I understand this might not be the committee of purview, but I hope that this legislation will embolden us to address the
glaring EB-5 visa situation, which essentially were sold and allow four out of five of these to go to Chinese, which, once they are here, allows them nearly unlimited access to sensitive technology.

Again, I commend the ranking member, the chair, and the committee as a whole for advancing these common-sense and good, bipartisan initiatives.

Thank you, Mr. Chair.

Chairman ROYCE. Thank you, Mr. Garrett. And I think you raise a point there, and we should confer with Judiciary, with Mr. Goodlatte, on that issue.

Mr. Brad Sherman of California.

Mr. SHERMAN. Thank you, Mr. Chairman. I want to thank you for working with me on an amendment to H.R. 5040, which is the Export Control Reform Act. I think the bill is excellent. I think the amendment makes it better.

This amendment will ensure that the Department of Commerce, which licenses the exports of dual-use items, explicitly gathers information and takes into consideration whether a major export of controlled equipment or technology will have a negative impact on the production of items that are needed for our own national security here in the United States.

So much of export control is that we look at a particular weapon system and say, should that country be trusted with that weapon system? But what is just as important is that we control the export of manufacturing equipment and technology. We export far less than any other major country as a percentage of our GDP. When an American firm sends technology and the ability to produce critical items outside the United States, we could call that as one small export, but it has a negative impact on our national security, industrial base, and our high-tech workforce.

Even when we are exporting this material to an ally, what we are doing is making that ally the country that will do the manufacturing using our technology. Well, that may not be good for jobs and our economy, but this is not a pair of shoes. This is not a television set. When we export jobs and industrial base in the military sector, in the dual-use sector, we undermine our ability to produce what our military needs, should the case arise. Having a robust toy-making industry might be good for the United States. Having a robust industry in the area of weapon systems is critical for our national security.

Not only that, but by transferring this technology and industrial capacity, we create a circumstance where some other country will determine whether the produce of that industry, whether the weapon systems that are manufactured or the dual-use items that are manufactured, will be exported to this or that additional country. Right now, when weapon systems and dual-use items are exported, it comes to not only the administration of this country, but often comes to this committee. But, if we export the manufacturing capacity, the government of Italy or the government of Japan is not going to be submitting reports to the United States Congress giving us 60 or 90 days to approve or disapprove of arms or dual-capacity material export. So, I think that it is important, that we look at the industrial base as part of our national security infrastructure.
I want to take this moment, also, to voice my support for the other bills that are before us. I particularly want to associate myself with the comments of Ms. Frankel from Florida and her excellent work on the Women’s Entrepreneurship and Economic Empowerment Act, and associate myself with Mr. Castro’s comments on the importance of the Global Electoral Exchange Act and commend him for his work on that.

Again, Mr. Chairman, thank you for working with me on this amendment and including it in the en bloc package, and I urge support of the motion.

Chairman ROYCE. Thank you.

I think Mr. Sherman puts his finger on the heart of the matter here, because the question is no longer can it be the export of individual systems on dual use; it has to be the export of the knowhow. And your point about making certain we have re-export controls, so that if we transfer it to an ally, they cannot transfer it, is equally applicable to the question of making certain that the knowhow itself is not transferred, in all the ways that we try to do that in this measure.

And as we move forward, I just wanted to thank Mr. Sherman for his contributions to this overhaul. It has been a long time coming, and I think our efforts here are to identify every one of these examples from past mistakes and figure out how we close those loopholes, especially given the new technologies that are coming.

Do any other members seek recognition?

[No response.]

Hearing no further requests for recognition, the question occurs on the items considered en bloc. All those in favor say aye.

[Chorus of ayes.]

All those opposed, no.

In the opinion of the Chair, the ayes have it, and the measures considered en bloc are agreed to.

And without objection, the measures considered en bloc are ordered favorably reported as amended, and staff is directed to make any technical and conforming changes. And the Chair is authorized to seek House consideration under suspension of the rules.

That concludes our business for today. And I want to thank Ranking Member Engel and all of our committee members for their contributions and their assistance with this markup today.

The committee stands adjourned.

[Whereupon, at 10:56 a.m., the committee was adjourned.]
APPENDIX

Material Submitted for the Record

(233)
FULL COMMITTEE MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Edward R. Royce (R-CA), Chairman

April 17, 2018

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN meeting of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at http://www.ForeignAffairs.house.gov).

DATE: Tuesday, April 17, 2018

TIME: 10:00 a.m.

MARKUP OF:
H.R. 5040, Export Control Reform Act of 2018;
H.R. 5129, Global Food Security Reauthorization Act of 2018;
H.R. 5274, Global Electoral Exchange Act; and

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-3003 at least four business days in advance of the event, whenever practical. Questions with regard to special accommodations in general, including availability of Committee materials in alternative formats and assistive listening devices may be directed to the Committee.
COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF FULL COMMITTEE MARKUP

Day: Tuesday Date: 04/17/2018 Room: 2172

Starting Time: 10:05 AM Ending Time: 10:56 AM

Recesses:____ (____ to____ ) (____ to ____ ) (____ to ____ ) (____ to____ ) (____ to____ )

Presiding Member(s)
Chairman Edward Royce

Check all of the following that apply:
Open Session [X]
Executive (closed) Session
Televised [X]
Electronically Recorded (taped) [X]

Stenographic Record [X]

BILLS FOR MARKUP: (Include bill number(s) and title(s) of legislation)
See attached.

COMMITTEE MEMBERS PRESENT:
See attached.

NON-COMMITTEE MEMBERS PRESENT:
N/A

STATEMENTS FOR THE RECORD: (List any statements submitted for the record)
SFR - Mr. Christopher H. Smith

ACTIONS TAKEN DURING THE MARKUP: (Attach copies of legislation and amendments)
See markup summary.

RECORDED VOTES TAKEN (FOR MARKUP): (Attach final vote tally sheet listing each member)
Subject: 

Yes 

Nay 

Present 

Not Voting

TIME SCHEDULED TO RECONVENE 
or
TIME ADJOURNED 10:56 AM

Pull Committee Hearing Coordinator
### HOUSE COMMITTEE ON FOREIGN AFFAIRS

**FULL COMMITTEE MARKUP**

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By unanimous consent, the Chair called up the following measures and amendments, previously provided to Members, to be considered en bloc:

1) H.R. 5040 (Royce), Export Control Reform Act of 2018;
   a. Royce 101, an amendment in the nature of a substitute to H.R. 5040;
      i. Sherman 45, an amendment to Royce 101.

2) H.R. 5129 (Smith), Global Food Security Reauthorization Act of 2018;
   a. Smith 85.

3) H.R. 5274 (Castro), Global Electoral Exchange Act;
   a. Castro amendment in the nature of a substitute to H.R. 5274;
      i. Titus 38, an amendment to the Castro ANS.

4) H.R. 5480 (Royce), Women’s Entrepreneurship and Economic Empowerment Act;
   a. Royce 103.

The measures considered en bloc were agreed to by voice vote.

By unanimous consent, the measures were ordered favorably reported, as amended, to the House, and the Chairman was authorized to seek House consideration under suspension of the rules.

The Committee adjourned.
Statement for the Record
Submitted by Mr. Christopher H. Smith

Thank you Chairman Royce, for your leadership on global food security, including in particular for your original cosponsorship of this reauthorization as well as the original Global Food Security Act, and your agreeing to move this bill to markup so rapidly.

The original Global Food Security Act promoted food security, resilience and nutrition in developing countries in keeping with U.S. national security interests. Through agriculture-led economic development, GFSA has strengthened partner countries’ capacity and lessened their dependence on emergency food assistance. It has also improved efficiency among federal departments and agencies and leveraged the participation of other non-U.S. governmental partners.

It should be restated that GFSA’s legacy as a bipartisan success story – legislation which solidified in law a policy that had its roots in the Bush Administration, was amplified by President Obama and is now being implemented by President Trump.

Now is the time to reauthorize this landmark legislation. H.R. 5129 builds upon the Global Food Security Act of 2016, which formally codified the Feed the Future Initiative and was signed into law with overwhelming bipartisan support in July 2016, by reauthorizing the program for two years – per the Amendment you have before you – through 2020.

Crucially, this reauthorization bill emphasizes the importance of deworming initiatives. Among the neglected tropical diseases, intestinal worms account for nearly eighty percent of NTD prevalence, affecting close to one billion people the world over. These worms undercut our nutrition interventions, and can lead to death by malnutrition or lifelong stunting. We need to combine our nutrition interventions not only with a coordinated deworming campaign, but also with Water Sanitation Health interventions that change people’s behavior. WaSH training helps ensure people limit exposure to worms, such as by washing and peeling vegetables or something as simple as giving children shoes to wear so if they trod on worm-infected soil they don’t get sick again. We are trying to feed the future, not feed the worms.

We will also rectify an oversight by including the Inter-American Foundation in the interagency initiative on Food Security. IAF does development
right, in particular working with small holder farmers while keeping bureaucratic overhead low.

That we are here reauthorizing the Global Food Security Act is a testament to the dedication of numerous committed groups outside Congress that have made food security and nutrition their priority, from advocates to implementers—especially and including faith-based organizations who perhaps work the closest to the small-holder farmers and women who benefit in particular from our food security efforts. I thank them for their support and look forward to working with them more in this process.

I’d also like to complement our federal agencies tasked with implementing the GFSA—in particular USAID under the leadership of Beth Dunford. The professionalism and dedication of Beth and many others is critical to the overall success of the program.

Finally, I would like to thank Rep. Betty McCollum for again being the lead cosponsor on this critical, bipartisan legislation, as well as to thank original cosponsor Ranking Member Engel and the Ranking member of our subcommittee, Karen Bass and others.

Thank you.