

## HR 2581

Export Administration Act of 2001

**Congress:** 107 (2001–2003, Ended)

**Chamber:** House

**Policy Area:** Foreign Trade and International Finance

**Introduced:** Jul 20, 2001

**Current Status:** Placed on the Union Calendar, Calendar No. 212.

**Latest Action:** Placed on the Union Calendar, Calendar No. 212. (Mar 8, 2002)

**Official Text:** <https://www.congress.gov/bill/107th-congress/house-bill/2581>

### Sponsor

**Name:** Rep. Gilman, Benjamin A. [R-NY-20]

**Party:** Republican • **State:** NY • **Chamber:** House

### Cosponsors

*No cosponsors are listed for this bill.*

### Committee Activity

Committee	Chamber	Activity	Date
Agriculture Committee	House	Discharged From	Mar 8, 2002
Armed Services Committee	House	Reported By	Mar 8, 2002
Energy and Commerce Committee	House	Discharged From	Mar 8, 2002
Foreign Affairs Committee	House	Reported By	Nov 16, 2001
Intelligence (Permanent Select) Committee	House	Discharged From	Mar 8, 2002
Judiciary Committee	House	Discharged From	Mar 8, 2002
Rules Committee	House	Discharged From	Mar 8, 2002
Ways and Means Committee	House	Discharged From	Mar 8, 2002

### Subjects & Policy Tags

#### Policy Area:

Foreign Trade and International Finance

### Related Bills

Bill	Relationship	Last Action
107 S 149	Related bill	<b>Sep 10, 2001:</b> Held at the desk.

Export Administration Act of 2001 - **Title I: General Authority** - (Sec. 101) Directs the Secretary of Commerce to establish a Commerce Control List (Control List) consisting of items (including incidental technology) the export of which is subject to licensing or other authorization or requirement. Specifies the kinds of export licenses the Secretary may require with respect to the export of an item on the Control List or otherwise subject to control under this Act. Provides, under specified circumstances, that a license shall not be required for the export of after-market service or replacement parts.

(Sec. 103) Requires the Secretary to: (1) keep the public informed of changes in export control policy and procedures instituted under this Act; and (2) consult with persons affected by export controls in order to obtain their views on U.S. export control policy and the foreign availability or mass-market status of controlled items.

(Sec. 105) Provides for the appointment of export control advisory committees consisting of representatives of U.S. industry and Government officials (permitting the widest participation by nonproliferation and national security experts, and by the business community) to advise the Secretary and other appropriate Government officials with respect to the control of an item under this Act.

(Sec. 106) Authorizes the President to establish a President's Technology Export Council to advise the President on the implementation, operation, and effectiveness of this Act.

(Sec. 107) Prohibits the charging of a fee for the processing of an application for an export license issued under this Act.

**Title II: National Security Export Controls - Subtitle A: Authority and Procedures** - (Sec. 201) Authorizes the President to prohibit, curtail, or require a license, or other authorization for the export of an item subject to the national security export control regimes under this Act. Sets forth the purposes of such controls, including restriction on the export of items (including weapons of mass destruction) that could contribute to the military potential of countries so as to be detrimental to the national security of the United States or its allies.

(Sec. 202) Requires the Secretary to establish as part of the Control List (while considering specified risk factors) a National Security Control List (NSCL) composed of items controlled to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction, and to deter acts of international terrorism. Requires the President to establish a country tiering system of at least three tiers, with countries representing the lowest risk of diversion of misuse of an NSCL item assigned the lowest tier, and those representing the highest risk for such diversion or misuse assigned the highest tier. Requires the Secretary of Defense to establish as part of the NSCL a Military Critical Technologies List (MCTL) composed of controlled items critical to maintaining or advancing the qualitative advantage and superiority of the U.S. military relative to other countries or potential adversaries.

(Sec. 204) Prohibits the imposition of controls on an item solely because it contains parts or components subject to export controls under this title if such parts or components are essential to the functioning of the item, are customarily included in sales of the item in non-controlled countries, and constitute 25 percent or less of the item's total value; unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to U.S. national security, or unless failure to control the item would be contrary to certain requirements of this Act.

(Sec. 205) Directs the Secretary to establish a process for interested persons to petition the Secretary to change the status of an item on the NSCL.

(Sec. 206) Requires the Secretary to notify the appropriate congressional committees at least 30 days prior to any change to the export status of an item on the NSCL (other than the MCTL) is made. Requires the Secretary of Defense to submit to the Secretary an assessment with respect to any proposed change to an item on the NSCL.

**Subtitle B: Foreign Availability and Mass-Market Status** - (Sec. 211) Requires the Secretary (on a continuing basis, upon a request from the Office of Technology Evaluation, or upon receipt of a petition filed by an interested party) to review the foreign availability and the mass-market status of any item for export control under this Act.

(Sec. 212) Authorizes the President to set-aside the Secretary's foreign availability and mass-market status determinations, provided certain criteria are met. Requires the President to take specified action in cases in which export controls are maintained on an item because of a set-aside determination.

(Sec. 214) Establishes the Office of Technology Evaluation, responsible for gathering, coordinating, and analyzing information for the Secretary to make such determinations. Requires the Secretary to include in a certain annual report to specified congressional committees information on: (1) Office operations; and (2) improvements in the Government's ability to assess foreign availability and mass-market status, including information on the training of personnel and the use of Commercial Service Officers of the U.S. and foreign Commercial Service to assist in making such determinations.

**Subtitle C: High Performance Computers** - (Sec. 221) Directs the Secretary, the Secretary of State, the Secretary of Defense, and the Secretary of Energy to develop and implement jointly a process that would permit the United States to monitor the export of high performance computing technology to countries of proliferation concern.

Amends subtitle B of title XII of division A of the National Defense Authorization Act for Fiscal Year 1998 to repeal current authority for export controls on high performance computers.

Requires a U.S. person that exports a computer with a dollar value of over \$250,000 (or any equivalent metric) to notify the Secretary not less than ten days before the item is exported. Requires the Secretary to refer such notification to the Director of the Central Intelligence Agency and the Secretary of Defense for review to determine whether the end user or any end use of the item could threaten U.S. national security, contribute to the proliferation of weapons of mass destruction, or assist foreign terrorist organizations in performing acts of international terrorism.

**Title III: Foreign Policy Export Controls** - (Sec. 301) Authorizes the President, subject to specified exceptions, to prohibit, curtail, or require a license, other authorization, recordkeeping, or reporting for the export of an item subject to the foreign policy export control regimes under this Act. Requires the President to report to specified congressional committees before imposing a foreign policy export control. Provides for review, renewal, and termination of such controls.

(Sec. 309) Requires the President to impose controls on exports to countries: (1) of items listed on the control list of a multilateral export control regime; or (2) in order to fulfill U.S. obligations or commitments under United Nations resolutions and under treaties, or other international agreements, to which the United States is a party.

(Sec. 310) Requires a license for the export to a terrorist-supporting country of any item that could make a significant contribution to the country's military potential, or could enhance its ability to support acts of international terrorism. Requires the Secretary and the Secretary of State to notify specified congressional committees at least 30 days before issuing such a license.

(Sec. 311) Authorizes the export of crime control and detection instruments and equipment through an export license

approved by the Secretary, except when they are susceptible of abuse as instruments of torture by a country's government.

(Sec. 312) Authorizes the export of test articles intended for clinical investigations through an export license approved by the President, in order to protect the public health. Defines "test article" as any drug or biological product or medical device for human use, or human food additive, color additive, electronic product, or any other article subject to regulation under the Federal Food, Drug, and Cosmetic Act.

(Sec. 313) Authorizes the President to prohibit the export of pesticides or chemicals that the President deems to be a risk to the public health, safety, or environment of the United States or any other country. Requires the President to report to specified congressional committees on the export of such products.

**Title IV: Procedures for Export Licenses and Interagency Dispute Resolution** - (Sec. 401) Sets forth procedures for the processing of export license applications, including their screening, referral, approval or denial, and review. Establishes an interagency dispute resolution process to review all export license applications with respect to which the Secretary and any referral agencies are not in agreement. Requires the President to establish additional levels for review or appeal of any matter that cannot be resolved by such process.

**Title V: International Arrangements; Foreign Boycotts; Sanctions; and Enforcement** - (Sec. 501) Declares it is U.S. policy to seek multilateral arrangements, and to continue to participate in existing and additional multilateral export control regimes, that: (1) support U.S. national security interests; and (2) establish fairer and more predictable competitive opportunities for U.S. exporters. Requires the President to report annually to specified congressional committees on the effectiveness of each multilateral export control regime, including an assessment of certain standards for such regimes and for national export control systems.

Requires the President to achieve specified objectives with respect to multilateral export control regimes, including: (1) strengthening existing regimes; (2) review and update of multilateral regime export control lists; and (3) compliance by nonmembers to such regimes.

(Sec. 502) Directs the President to issue regulations that, with specified exceptions, prohibit U.S. persons from supporting any boycott imposed by a foreign country against a country friendly to the United States that is not itself the object of a U.S. boycott. Sets forth both civil and criminal penalties for violations of this Act.

(Sec. 504) Provides, with specified exceptions, for the imposition of certain sanctions against U.S. and foreign persons who violate a missile proliferation control regime, or contribute to the efforts of a country to develop or acquire chemical and biological weapons. Authorizes the President to waive the imposition of such sanctions upon certifying specified facts to Congress.

(Sec. 506) Provides for enforcement and administration of this Act. Authorizes appropriations for the Department of Commerce to: (1) hire 20 additional employees to assist U.S. freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a "best practices" program to ensure that controlled exports are in compliance with this Act; (2) hire ten additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology (including items controlled under this Act); (3) plan, design, and procure a computer system to replace the Department's primary export licensing and computer enforcement system; (4) hire and train additional license review officers, as well as train auditors and investigators conducting post-shipment verification checks; and (5) use for compliance and

enforcement activities for FY 2002 through 2005, plus additional amounts for increases in salary, pay, retirement, other employee benefits, and other nondiscretionary costs.

**Title VI: Export Control Authority and Regulations** - (Sec. 601) Declares that all export control authority conferred by this Act (unless otherwise reserved to the President or another U.S. department or agency) shall be exercised by the Secretary. Authorizes the President and the Secretary to issue regulations necessary to carry out this Act. Directs the Secretary, with the concurrence of the Secretary of State and the Secretary of Defense, to issue regulations governing the release of technology to a foreign national within the United States.

(Sec. 602) Exempts specified confidential information from disclosure requirements. Prescribes civil and criminal penalties for unauthorized disclosure of such information.

**Title VII: Miscellaneous Provisions** - (Sec. 701) Requires the Secretary to report annually to Congress on the administration of this Act.

(Sec. 703) Amends the North Korea Threat Reduction Act of 1999 to prohibit any agreement for cooperation between the United States and North Korea, or issuance of a license for the export, or approval for the transfer or retransfer, to North Korea of any nuclear material, facilities, goods, services, or technology that would be subject to such agreement, unless Congress approves by enactment of a joint resolution the President's report regarding North Korea's compliance with certain nonproliferation conditions.

(Sec. 705) Directs the Office of Foreign Assets Control of the Department of the Treasury to implement certain recommendations of the Judicial Review Commission on Foreign Asset Control.

(Sec. 706) Directs the Secretary to publish regulations in the Federal Register to require mandatory filing through the Automated Export System of the remainder of exports that were not covered by regulations issued pursuant to section 1252(b) of the Security Assistance Act of 1999 (as enacted into law by section 1000(a)(7) of P.L.106-113).

Amends Federal law to increase the bond required to be filed with the Secretary of the Treasury in cases where certain required export information may be filed by a carrier in connection with the exportation or transportation of cargo after the departure of such carrier from the port or place of exportation or transportation. Authorizes the Secretary to impose a civil penalty of not more than \$1,000 for each day's delinquency in filing such information, not to exceed \$10,000 per violation, against such carrier and any other person required by law to file such information.

Sets forth additional civil and criminal penalties for any person who knowingly: (1) fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) or the Automated Export System (AES); or (2) reports any information on or uses the SED or the AES to further any illegal activity.

(Sec. 707) Repeals specified Federal laws to make technical and conforming amendments.

Subjects certain civil aircraft equipment to export control under this Act.

## Actions Timeline

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- **Mar 8, 2002:** Reported (Amended) by the Committee on Armed Services. H. Rept. 107-297, Part II.
- **Mar 8, 2002:** Reported (Amended) by the Committee on Armed Services. H. Rept. 107-297, Part II.
- **Mar 8, 2002:** Committee on Agriculture discharged.
- **Mar 8, 2002:** Committee on Agriculture discharged.
- **Mar 8, 2002:** Committee on Energy and Commerce discharged.
- **Mar 8, 2002:** Committee on Energy and Commerce discharged.
- **Mar 8, 2002:** Committee on Judiciary discharged.
- **Mar 8, 2002:** Committee on Judiciary discharged.
- **Mar 8, 2002:** Committee on Rules discharged.
- **Mar 8, 2002:** Committee on Rules discharged.
- **Mar 8, 2002:** Committee on Ways and Means discharged.
- **Mar 8, 2002:** Committee on Ways and Means discharged.
- **Mar 8, 2002:** Committee on Intelligence (Permanent) discharged.
- **Mar 8, 2002:** Committee on Intelligence (Permanent) discharged.
- **Mar 8, 2002:** Placed on the Union Calendar, Calendar No. 212.
- **Mar 6, 2002:** Committee Hearings Held.
- **Mar 6, 2002:** Committee Consideration and Mark-up Session Held.
- **Mar 6, 2002:** Ordered to be Reported (Amended) by the Yeas and Nays: 44 - 6.
- **Feb 28, 2002:** Committee Hearings Held.
- **Feb 28, 2002:** House Committee on Agriculture Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Armed Services Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Energy and Commerce Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Judiciary Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Rules Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Ways and Means Granted an extension for further consideration ending not later than March 8, 2002.
- **Feb 28, 2002:** House Committee on Intelligence (Permanent) Granted an extension for further consideration ending not later than March 8, 2002.
- **Dec 14, 2001:** House Committee on Agriculture Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Armed Services Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Energy and Commerce Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Judiciary Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Rules Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Ways and Means Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 14, 2001:** House Committee on Intelligence (Permanent) Granted an extension for further consideration ending not later than Feb. 28, 2002.
- **Dec 7, 2001:** House Committee on Agriculture Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Dec 7, 2001:** House Committee on Armed Services Granted an extension for further consideration ending not later than Dec. 15, 2001.

- **Dec 7, 2001:** House Committee on Energy and Commerce Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Dec 7, 2001:** House Committee on Judiciary Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Dec 7, 2001:** House Committee on Rules Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Dec 7, 2001:** House Committee on Ways and Means Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Dec 7, 2001:** House Committee on Intelligence (Permanent) Granted an extension for further consideration ending not later than Dec. 15, 2001.
- **Nov 16, 2001:** Reported (Amended) by the Committee on International Relations. H. Rept. 107-297, Part I.
- **Nov 16, 2001:** Reported (Amended) by the Committee on International Relations. H. Rept. 107-297, Part I.
- **Nov 16, 2001:** House Committee on Rules Granted an extension for further consideration ending not later than Dec. 7, 2001.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on Agriculture for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on Armed Services for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on Energy and Commerce for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on the Judiciary for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on Ways and Means for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Nov 16, 2001:** Referred jointly and sequentially to the House Committee on Intelligence (Permanent Select) for a period ending not later than Dec. 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X.
- **Aug 1, 2001:** Committee Consideration and Mark-up Session Held.
- **Aug 1, 2001:** Ordered to be Reported (Amended) by the Yeas and Nays: 26 - 7.
- **Jul 20, 2001:** Introduced in House
- **Jul 20, 2001:** Introduced in House
- **Jul 20, 2001:** Sponsor introductory remarks on measure. (CR E1388-1389)
- **Jul 20, 2001:** Referred to the Committee on International Relations, and in addition to the Committee on Rules, 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.
- **Jul 20, 2001:** Referred to the Committee on International Relations, and in addition to the Committee on Rules, 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.
- **Jul 20, 2001:** Referred to the Committee on International Relations, and in addition to the Committee on Rules, 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.