

Appendix, amending section 1732 of Title 7, Agriculture, sections 2778 and 3108 of Title 22, Foreign Relations and Intercourse, section 993 of Title 26, Internal Revenue Code, and sections 6212 and 6274 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 2406 and 2409 of this Appendix and section 3108 of Title 22] may be cited as the 'Export Administration Act of 1979'."

EXECUTIVE ORDER No. 11753

Ex. Ord. No. 11753, Dec. 20, 1973, 38 F.R. 34983, which established the President's Export Council, was revoked by section 1-402 of Ex. Ord. No. 12131, May 4, 1979, 44 F.R. 26842, set out below.

EX. ORD. No. 12131. PRESIDENT'S EXPORT COUNCIL

Ex. Ord. No. 12131, May 4, 1979, 44 F.R. 26841, as amended by Ex. Ord. No. 12551, Feb. 21, 1986, 21 F.R. 6509; Ex. Ord. No. 12991, Mar. 6, 1996, 61 F.R. 9587; Ex. Ord. No. 13138, § 5, Sept. 30, 1999, 64 F.R. 53880, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to expand the membership of the President's Export Council, in accord with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

1-1. ESTABLISHMENT AND MEMBERSHIP

1-101. There is established the President's Export Council.

1-102. The membership of the Council shall be as follows:

(a) The heads of the following Executive agencies or their representatives:

- (1) Department of State.
- (2) Department of the Treasury.
- (3) Department of Agriculture.
- (4) Department of Commerce.
- (5) Department of Labor.
- (6) Office of the Special Representative for Trade Negotiations.
- (7) Export-Import Bank of the United States.
- (8) Small Business Administration.
- (9) Department of Energy.

(b) Five members of the United States Senate, designated by the President of the Senate, and five members of the United States House of Representatives, designated by the Speaker of the House, to serve for a two-year term.

(c) Not to exceed 28 citizens appointed by the President. These individuals shall be selected from those who are not full-time Federal officers or employees. They shall include representatives of business and industry, agriculture, and labor.

1-103. The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

1-104. The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

1-2. FUNCTIONS

1-201. The Council shall serve as a national advisory body on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy, which was announced on September 26, 1978. It shall, through the Secretary of Commerce, report to the President on its activities and on its recommendations for expanding United States exports.

1-202. The Council should survey and evaluate the export expansion activities of the communities represented by the membership. It should identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade, and examine the needs of business, industry, and agriculture to expand their efforts. The Council should recommend specific solutions to these problems and needs.

1-203. The Council may act as liaison among the communities represented by the membership; and, may pro-

vide a forum for those communities on current and emerging problems and issues in the field of export expansion. The Council should encourage the business, industrial, and agricultural communities to enter new foreign markets and to expand existing export programs.

1-204. The Council shall provide advice on Federal plans and actions that affect export expansion policies which have an impact on those communities represented by the membership.

1-205. The Council may establish, with the concurrence of the Secretary of Commerce, an executive committee and such other subordinate committees it considers necessary for the performance of its functions. The Chairman of a subordinate committee shall be designated, with the concurrence of the Secretary of Commerce, by the Chairman of the Council from among the membership of the Council. Members of subordinate committees shall be appointed by the Secretary of Commerce.

1-3. ADMINISTRATIVE PROVISIONS

1-301. The Secretary of Commerce shall, to the extent permitted by law, provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

1-302. Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

1-4. GENERAL PROVISIONS

1-401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Council, shall be performed by the Secretary of Commerce in accordance with guidelines and procedures established by the Administrator of General Services.

1-402. Executive Order No. 11753 is revoked; however, nothing in this Order shall be deemed to require new charters for the Council, including its executive and subordinate committees, which were current immediately prior to the issuance of this Order.

1-403. The Council shall terminate on December 31, 1980, unless sooner extended.

EXTENSION OF TERM OF PRESIDENT'S EXPORT COUNCIL

Term of the President's Export Council extended until Dec. 31, 1982, see section 1-101(f) of Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the President's Export Council extended until Sept. 30, 1984, see Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1985, see Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1987, see Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1989, see Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1991, see Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1993, see Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1995, see Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1997, see Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1999, see Ex. Ord. No. 13062, §1(m), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2001, see Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2003, see Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

§ 2402. Congressional declaration of policy

The Congress makes the following declarations:

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

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

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

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

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

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

ty commitments or common strategic objectives.

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

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

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

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods 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 any foreign country against a country friendly to the United States or against any United States person; and

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

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

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

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

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments or common strategic objectives in restricting the export of goods and technology

which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments or common strategic objectives, and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are necessary to further fundamental national security, foreign policy, or short supply objectives, (B) will clearly further such objectives, and (C) are administered consistent with basic standards of due process.

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

(12) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange.

(13) It is the policy of the United States to control the export of goods and substances banned or severely restricted for use in the United States in order to foster public health and safety and to prevent injury to the foreign policy of the United States as well as to the credibility of the United States as a responsible trading partner.

(14) It is the policy of the United States to cooperate with countries which are allies of the United States and countries which share common strategic objectives with the United States in minimizing dependence on imports of energy and other critical resources from potential adversaries and in developing alternative supplies of such resources in order to minimize strategic threats posed by excessive hard currency earnings derived from such resource exports by countries with policies adverse to the security interests of the United States.

(Pub. L. 96-72, § 3, Sept. 29, 1979, 93 Stat. 504; Pub. L. 99-64, title I, § 103, July 12, 1985, 99 Stat. 121; Pub. L. 103-199, title II, § 201(b)(2), Dec. 17, 1993, 107 Stat. 2321.)

PRIOR PROVISIONS

A prior section 2402, Pub. L. 91-184, § 3, Dec. 30, 1969, 83 Stat. 841; Pub. L. 92-412, title I, § 103, Aug. 29, 1972, 86 Stat. 644; Pub. L. 93-500, § 2, 4(b), (c), 11, Oct. 29, 1974, 88 Stat. 1552, 1553, 1556; Pub. L. 95-52, title I, § 115, title II, § 202, June 22, 1977, 91 Stat. 241, 247, setting forth declaration of policy of Congress with respect to the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1993—Par. (15). Pub. L. 103-199 struck out par. (15) which read as follows: “It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard Korean Air

Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.”

1985—Par. (3). Pub. L. 99-64, § 103(1), inserted “or common strategic objectives” after “defense treaty commitments”.

Par. (7). Pub. L. 99-64, § 103(2), substituted “the President shall make reasonable and prompt efforts” for “the President shall make every reasonable effort”, and “imposing export controls” for “resorting to the imposition of controls on exports from the United States”.

Par. (8). Pub. L. 99-64, § 103(3), substituted “the President shall make reasonable and prompt efforts” for “the President shall make every reasonable effort”, and “imposing export controls” for “resorting to the imposition of export controls”.

Par. (9). Pub. L. 99-64, § 103(4), inserted “or common strategic objectives” after “commitments” in two places, and inserted “, and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States”.

Pars. (12) to (15). Pub. L. 99-64, § 103(5), added pars. (12) to (15).

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

POLICY REGARDING KAL

Section 201(b)(1) of Pub. L. 103-199 provided that: “The Congress finds that—

“(A) President Yeltsin should be commended for meeting personally with representatives of the families of the victims of the shootdown of Korean Airlines (KAL) Flight 7;

“(B) President Yeltsin’s Government has met on two separate occasions with United States Government and family members to answer questions associated with the shootdown and has arranged for the families to interview Russians involved in the incident or the search and rescue operations that followed;

“(C) President Yeltsin’s Government has also cooperated fully with the International Civil Aviation Organization (ICAO) to allow it to complete its investigation of the incident and has provided numerous materials requested by the ICAO, including radar data and so-called ‘black boxes’, the digital flight data and cockpit voice recorders from the flight;

“(D) the Export Administration Act of 1979 [sections 2401 to 2420 of this Appendix] continues to state that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the ‘no exceptions’ policy was rescinded by President Bush in 1990;

“(E) the Government of the United States is seeking compensation from the Russian Government on behalf of the families of the KAL victims, and the Congress expects the Administration to continue to pursue issues related to the shootdown, including that of compensation, with officials at the highest level of the Russian Government; and

“(F) in view of the cooperation provided by President Yeltsin and his government regarding the KAL incident and these other developments, it is appropriate to remove such language from the Export Administration Act of 1979.”

POLICY ON MISSILE TECHNOLOGY CONTROL

Pub. L. 101-510, div. A, title XVII, § 1701, Nov. 5, 1990, 104 Stat. 1738, provided that: “It should be the policy of the United States to take all appropriate measures—

“(1) to discourage the proliferation, development, and production of the weapons, material, and tech-