

103^D CONGRESS
1ST SESSION

S. 1496

To amend the Export Administration Act of 1979 to provide for updated indexing standards for emerging technologies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 27), 1993

Mrs. FEINSTEIN (for herself, Mr. KERRY, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Export Administration Act of 1979 to provide for updated indexing standards for emerging technologies, 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 “High Technology
5 Indexation Act of 1993”.

6 **SEC. 2. INDEXING STANDARDS.**

7 Section 5(g) of the Export Administration Act of
8 1979 (50 U.S.C. App. 2404(g)) is amended to read as
9 follows:

1 “(g) INDEXING.—

2 “(1) REMOVAL OF OBSOLETE REQUIRE-
3 MENTS.—

4 “(A) IN GENERAL.—In order to ensure
5 that requirements for validated licenses and
6 other licenses authorizing multiple exports are
7 periodically removed as goods or technology
8 subject to such requirements become obsolete
9 with respect to the national security or the poli-
10 cies of the United States, not later than 6
11 months after the date of enactment of the High
12 Technology Indexation Act of 1993, the Sec-
13 retary shall establish, in response to rec-
14 ommendations of technical advisory committees
15 under paragraph (2), indexing standards which
16 provide for increases in the performance levels
17 of goods or technology described in paragraph
18 (2)(A) that are subject to any such licensing re-
19 quirements.

20 “(B) EMPHASIS.—The indexing standards
21 required under subparagraph (A) shall empha-
22 size the technical specifications of goods or
23 technology below which no authority or permis-
24 sion to export is required.

1 “(C) REMOVAL OF CONTROLS.—With re-
2 spect to goods or technology referred to in sub-
3 paragraph (B) which no longer require licensing
4 under the increased performance level stand-
5 ards established in accordance with subpara-
6 graph (A)—

7 “(i) the removal of controls on exports
8 of such goods or technology to controlled
9 countries shall be incorporated into United
10 States proposals to all multilateral re-
11 gimes; and

12 “(ii) controls under this section on ex-
13 ports of such goods or technology to coun-
14 tries other than controlled countries shall
15 be removed, after consultations with the
16 multilateral regimes, as appropriate, un-
17 less—

18 “(I) the Secretary, after con-
19 sultation with the Secretary of De-
20 fense, the Secretary of State, and the
21 heads of other appropriate executive
22 departments (as defined in section
23 101 of title 5, United States Code),
24 makes a determination that removal
25 of controls on the goods or technology

1 will permit exports that will be det-
2 rimental to the national security or
3 the policies of the United States; and

4 “(II) the Secretary reports that
5 determination in writing, together
6 with a description of the specific an-
7 ticipated impact on the national secu-
8 rity or the policies of the United
9 States, to the Committee on Foreign
10 Affairs of the House of Representa-
11 tives and the Committee on Banking,
12 Housing, and Urban Affairs of the
13 Senate.

14 “(D) OTHER CONSIDERATIONS.—The Sec-
15 retary shall also consider, where appropriate,
16 eliminating site visitation requirements for
17 goods and technology from which export con-
18 trols have been removed under this paragraph.

19 “(2) RECOMMENDATIONS.—

20 “(A) IN GENERAL.—In carrying out this
21 subsection, the Secretary shall direct the tech-
22 nical advisory committees appointed under sub-
23 section (h) to recommend indexing standards
24 for goods or technology—

1 “(i) which are eligible for export
2 under a distribution license;

3 “(ii) which are eligible for favorable
4 consideration under the rules of the Co-
5 ordinating Committee;

6 “(iii) below which exports require only
7 notification of the governments participat-
8 ing in the Coordinating Committee; and

9 “(iv) below which no authority or per-
10 mission to export may be required under
11 this section.

12 “(B) SUBMISSION AND DETERMINATION
13 OF ACCEPTANCE.—The technical advisory com-
14 mittees shall submit their recommendations for
15 indexing standards as they are made to the Sec-
16 retary, who shall determine, not later than 30
17 days after each submission, or not later than 45
18 days after a submission in the event of an ob-
19 jection by the head of any other executive de-
20 partment, whether to accept the standards or to
21 refer them back to the appropriate technical ad-
22 visory committee for further consideration.

23 “(C) TIMING OF PROPOSALS.—The propos-
24 als referred to in paragraph (1)(C)(i) shall be
25 made at the next meeting of the Coordinating

1 Committee, or any other multilateral regime, at
2 which list review is conducted, that is held after
3 the indexing standards established under this
4 subsection are applied to the goods or tech-
5 nology involved.

6 “(3) POLICIES.—For purposes of this sub-
7 section, the term ‘policies of the United States’
8 means foreign policy and the non-proliferation poli-
9 cies referred to in section 6.”.

10 **SEC. 3. SUPERCOMPUTER EXPORTS.**

11 (a) SUPERCOMPUTER EXPORTS AND REEXPORTS.—
12 Section 5(a) of the Export Administration Act of 1979
13 (50 U.S.C. 2404(a)) is amended by adding at the end the
14 following new paragraph:

15 “(7) SUPERCOMPUTER DEFINITION.—

16 “(A) PERFORMANCE-BASED INDEXING
17 SYSTEM.—The Secretary shall, not later than 6
18 months after the date of the enactment of this
19 paragraph, publish in the Federal Register a
20 performance-based indexing system in order to
21 ensure that the definition of ‘supercomputer’
22 under paragraph (6)(A) and all controls and se-
23 curity safeguard procedures applicable to
24 supercomputer exports and reexports are com-

1 mensurate with technological advances in the
2 supercomputer industry.

3 “(B) SECURITY SAFEGUARD PROCE-
4 DURES.—Under the indexing system published
5 in accordance with subparagraph (A), for des-
6 tinations in any country (other than a con-
7 trolled country) that is a party to and, as deter-
8 mined by the President, is adhering to the
9 Treaty on the Non-Proliferation of Nuclear
10 Weapons (done at Washington, London, and
11 Moscow on July 1, 1968) or the Treaty for the
12 Prohibition of Nuclear Weapons in Latin Amer-
13 ica (done at Mexico on February 14, 1967), no
14 security safeguard procedures may be required
15 in connection with any export or reexport of a
16 supercomputer with a composite theoretical per-
17 formance at or below approximately 15 percent
18 of the composite theoretical performance of the
19 average of the 2 most powerful supercomputers
20 currently available commercially in the United
21 States or elsewhere.

22 “(C) ADVISORY COMMITTEE INPUT.—Be-
23 fore publishing the performance-based indexing
24 system under subparagraph (A), the Secretary
25 shall seek the views of the appropriate technical

1 advisory committees appointed under subsection
2 (h), and other interested parties.

3 “(D) REPORTS TO CONGRESS.—Not later
4 than 2 weeks after publication of such system
5 in the Federal Register, the Secretary shall sub-
6 mit a written report to the Committee on For-
7 eign Affairs of the House of Representatives
8 and the Committee on Banking, Housing, and
9 Urban Affairs of the Senate, that includes—

10 “(i) the text of the Federal Register
11 notice;

12 “(ii) a summary of the views ex-
13 pressed by the technical advisory commit-
14 tees and other interested parties with re-
15 spect to the performance-based indexing
16 system; and

17 “(iii) a description of how the per-
18 formance-based indexing system addresses
19 the views of the technical advisory commit-
20 tees appointed under subsection (h) and
21 other interested parties.

22 “(E) DEFINITION.—For purposes of this
23 paragraph, the term ‘security safeguard proce-
24 dures’ means procedures that are required by
25 the Department of Commerce, as a condition of

1 an authorization to export or reexport a
2 supercomputer, primarily to restrict access to
3 and resale of such supercomputer.”.

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