

**MANAGER'S AMENDMENT TO H.R. 2581, AS RE-
PORTED BY THE COMMITTEE ON INTER-
NATIONAL RELATIONS
OFFERED BY MR. STUMP**

Page 5, strike lines 7 and 8 and insert the following:

1 (iii) the release of an item to a foreign
2 national within or outside of the United
3 States;

Page 6, strike line 22 and all that follows through
page 7, line 2, and insert the following:

4 (ii) TECHNOLOGY.—The term “tech-
5 nology” means specific information, com-
6 municated by any means tangible or intan-
7 gible, that is necessary for the design, de-
8 velopment, production, or use of an item,
9 including taking the form of technical data
10 or technical assistance.

Page 13, lines 4 and 5, strike “by the business com-
munity on the export control advisory committees” and
insert “ on the export control advisory committees by
nonproliferation and national security experts, and by the
business community”.

Page 16, lines 10 and 11, strike “in consultation
with the Secretary of Defense, Secretary of State,” and



insert “with the concurrence of the Secretary of Defense and in consultation with the Secretary of State,”.

Page 16, line 16, strike “would” and insert “could”.

Page 17, strike line 17 and insert the following:

1 (3) To restrict the export of items that could
 2 contribute to acts of international terrorism so as to
 3 prove detrimental to the national security of the
 4 United States, its allies, or countries sharing com-
 5 mon strategic objectives with the United States.

6 Page 21, lines 13, 17, and 23, strike “would” and
 7 insert “could”.

8 Page 22, line 1, strike “would” and insert “could”.

9 Page 24, insert the following after line 2:

10 (4) MILITARILY CRITICAL TECHNOLOGIES
 11 LIST.—

12 (A) ESTABLISHMENT.—The Secretary of
 13 Defense shall establish and maintain a Mili-
 14 tarily Critical Technologies List, which shall be
 15 part of the National Security Control List.

16 (B) CONTENTS.—The Militarily Critical
 17 Technologies List shall be composed of a list of
 18 items that are, or could be, critical to the
 19 United States military maintaining or advanc-
 20 ing its qualitative advantage and superiority



1 relative to other countries or potential adver-
2 saries.

3 (C) AUTHORITY OF THE SECRETARY OF
4 DEFENSE.—Notwithstanding any other provi-
5 sion of this Act, other than section 201(d)(2),
6 the Secretary of Defense shall have sole author-
7 ity for adding any item to or removing any item
8 from the Militarily Critical Technologies List,
9 regardless of whether that item is otherwise on
10 the Control List or otherwise controlled for ex-
11 port under this Act.

12 (D) LICENSING OF MILITARILY CRITICAL
13 TECHNOLOGIES LIST ITEMS.—Items listed on
14 the Militarily Critical Technologies List shall
15 not be approved for export without the express
16 consent of the Secretary of Defense, unless the
17 President determines otherwise pursuant to sec-
18 tion 402(b).

19 (E) ANNUAL REPORT.—The Secretary of
20 Defense shall report annually to the Committee
21 on Armed Services of the House of Representa-
22 tives and the Committee on Armed Services of
23 the Senate on actions taken to carry out this
24 paragraph.



Page 24, line 5, insert “as set forth in paragraphs (1), (2), and (3) of subsection (a)” after “Control List”.

Page 27, insert the following after line 11:

1 (4) NONDELEGATION.—The President may not
2 delegate the authorities he has under subsection (a)
3 and this subsection.

Page 31, insert the following after line 10:

4 **SEC. 206. CONGRESSIONAL REVIEW AND REPORT.**

5 (a) NOTIFICATION.—The Secretary shall inform the
6 appropriate committees of Congress at least 30 days be-
7 fore any change to the export status of an item on the
8 National Security Control List (other than the Military
9 Critical Technologies List) is made.

10 (b) REPORT.—Upon the request of either the chair-
11 man or ranking member of any of the committees of Con-
12 gress notified of a proposed change under subsection (a),
13 the Secretary shall promptly provide to that committee a
14 report that contains a clearly stated description of the pro-
15 posed change, and the reasons why the change is justified
16 and necessary. The report shall include in its entirety the
17 assessment of the Secretary of Defense under subsection
18 (c). The report may be provided on a classified basis if
19 the Secretary considers it necessary.

20 (c) ASSESSMENT.—The Secretary of Defense, in con-
21 sultation with the Secretary of State and the Director of



1 Central Intelligence, shall submit to the Secretary an as-
2 sessment of the following with respect to a proposed
3 change on which a report is requested under subsection
4 (b):

5 (1) The impact that the proposed change will
6 have on the national security of the United States
7 with respect to the purposes of export controls set
8 forth in section 201(b).

9 (2) The impact the proposed change will have
10 on the United States Armed Forces and the intel-
11 ligence community.

12 (3) The cumulative effects that the proposed
13 change could have on the national security of the
14 United States, as well as the military potential, pro-
15 liferation activities, and support for international
16 terrorism by countries that may receive the exported
17 items with respect to which the proposed change
18 would apply.

19 (d) APPROPRIATE COMMITTEES.—For purposes of
20 this section, the appropriate committees of Congress are
21 the Committee on Armed Services and the Committee on
22 International Relations of the House of Representatives,
23 and the Committee on Foreign Relations, the Committee
24 on Armed Services, and the Committee on Banking, Hous-
25 ing, and Urban Affairs of the Senate.



Page 31, line 21, strike “and determine”.

Page 32, lines 2 and 3, strike “and making a determination with respect to”.

Page 32, line 9, insert “, with the concurrence of the Secretary of Defense and the Secretary of State,” after “Secretary”.

Page 32, line 10, insert “in accordance with subsection (c)” after “determine”.

Page 32, lines 14 and 15, strike

1 (c) RESULT OF DETERMINATION.—In any case in
2 which the Secretary determines,

and insert

3 (c) DETERMINATION.—In any case in which the Sec-
4 retary, with the concurrence of the Secretary of Defense
5 and the Secretary of State, determines,

Page 33, strike lines 7 through 23 and insert the following:

6 (1) FOREIGN AVAILABILITY STATUS.—An item
7 has foreign availability status under this subtitle
8 only if the item—

9 (A) is available to controlled countries
10 without restriction from sources outside the
11 United States, more than one of which are



1 countries that participate with the United
 2 States in multilateral export control regimes as
 3 members; and

4 (B) is available in significant quantity and
 5 comparable quality to the item produced in the
 6 United States so that the requirement of a li-
 7 cense or other authorization with respect to the
 8 export of the item is or would be ineffective.

Page 33, strike line 24 and all that follows through
 page 34, line 25, and insert the following:

9 (2) MASS-MARKET STATUS.—An item has mass-
 10 market status under this subtitle only if the fol-
 11 lowing criteria are met:

12 (A) The item is produced in a large volume
 13 and is available for sale to multiple potential
 14 purchasers.

15 (B) The item is widely distributed through
 16 normal commercial channels, such as retail
 17 stores, direct marketing catalogues, electronic
 18 commerce, and other channels.

19 (C) The item is conducive to shipment and
 20 delivery by generally accepted commercial
 21 means of transport.

22 (D) The item can be used for its normal
 23 intended purpose without substantial and spe-



1 cialized service provided by the manufacturer,
2 distributor, or other third party.

Page 35, strike lines 1 through 21.

Page 44, insert the following after line 14:

3 **Subtitle C—High Performance**
4 **Computers**

5 **SEC. 221. EXPORTS OF HIGH PERFORMANCE COMPUTING**
6 **TECHNOLOGY.**

7 (a) JOINT PROCESS.—The Secretary, the Secretary
8 of State, the Secretary of Defense, and the Secretary of
9 Energy shall jointly develop and implement a process that
10 would permit the United States to monitor effectively the
11 export of high performance computing technology to coun-
12 tries of proliferation concern. Such a process shall include,
13 at a minimum, the following:

14 (1) A definition of high performance computing
15 technology and any associated performance metrics.

16 (2) The ability to assess the proposed export of
17 high performance computing technology prior to its
18 export and possibly require a license for such export
19 to end users or end uses of concern.

20 (3) The use of post-shipment verifications and
21 other procedures to monitor end uses and end users
22 in order to ensure that exports of high performance
23 computing technology are not being used by coun-



1 tries of proliferation concern in a manner detri-
2 mental to the national security of the United States.

3 (b) REPORT TO CONGRESS.—The President shall
4 submit to the Congress, not later than 180 days after the
5 date of the enactment of this Act, a report describing the
6 process developed under subsection (a).

7 (c) IMPLEMENTATION.—The process developed under
8 subsection (a) shall first become effective 60 days after
9 the end of the 180-day period described in subsection (b).

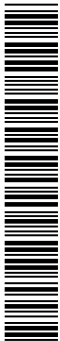
10 (d) REPEAL OF CERTAIN EXPORT CONTROLS.—Sub-
11 title B of title XII of division A of the National Defense
12 Authorization Act for Fiscal Year 1998 (50 U.S.C. App.
13 2404 note) is repealed, effective 60 days after the end of
14 the 180-day period described in subsection (b).

15 (e) INCLUSION OF ITEMS IN DEFINITION.—The defi-
16 nition of “high performance computing technology” under
17 subsection (a)(1) shall include computer hardware, soft-
18 ware, technical data, and source codes.

Page 57, lines 15 and 16, strike “and except as pro-
vided in section 304, the President may” and insert “,
the President shall”.

Page 58, line 7, strike “that”.

Page 58, line 8, insert “that” after “(1)”.



Page 58, line 11, insert “in consultation with the Secretary of Defense, that” after “(2)”.

Page 84, line 22, strike “chairperson” and insert “committee”.

Page 85, line 2, strike the period and insert the following: “, except that any decision of the committee is not valid unless it is unanimous. If such a unanimous decision is not reached, the license at issue shall be denied, unless the matter is appealed under paragraph (3).”.

Page 85, strike lines 7 through 13 and insert the following:

1 (3) FURTHER RESOLUTION.—The President
2 shall establish additional levels for review or appeal
3 of any matter that cannot be resolved pursuant to
4 the process described in paragraph (1). Each such
5 review shall—

6 (A) provide for decision-making based on
7 the concurrence of the participating depart-
8 ments and agencies;

9 (B) provide that a department or agency
10 that fails to take a timely position, citing the
11 specific statutory and regulatory bases for a po-
12 sition, shall be deemed to have no objection to
13 the pending decision;



1 (C) provide that any decision of an inter-
 2 agency committee established under paragraph
 3 (1) or interagency dispute resolution process es-
 4 tablished under this paragraph may be esca-
 5 lated to the next higher level of review at the
 6 request of an official appointed by the Presi-
 7 dent, by and with the advice of the Senate, or
 8 an officer properly acting in such capacity, of a
 9 department or agency that participated in the
 10 interagency committee or dispute resolution
 11 process that made the decision; and

12 (D) ensure that matters are resolved or re-
 13 ferred to the President not later than 90 days
 14 after the date the completed license application
 15 is referred by the Secretary.

16 If concurrence of the participating departments and
 17 agencies is not reached at a level of review estab-
 18 lished under this paragraph, the license at issue
 19 shall be denied unless the matter is escalated to the
 20 next higher level of review or the President deter-
 21 mines otherwise.

Page 145, line 4, strike “repeatedly”.

Strike title VII.

Strike section 807(k).



Redesignate title VIII as title VII.

Amend the table of contents accordingly.

