CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 3, 1999

S. 1712
Export Administration Act of 1999

As reported by the Senate Committee on Banking, Housing, and Urban Affairs on October 8, 1999

SUMMARY

The bill would replace the expired Export Administration Act (EAA), thereby updating the system for applying export controls on American business for national security or foreign policy purposes. Since the expiration of the EAA in 1994, the President has extended export controls pursuant to his authority under the International Emergency Economic Powers Act. The Bureau of Export Administration (BXA) in the Department of Commerce administers export controls. The bill also would prohibit participation in boycotts imposed by a foreign country against a country that is friendly to the United States, and would preempt state laws pertaining to participation in such a boycott.

CBO estimates that funding the Department of Commerce to carry out the bill would cost $255 million over the 2000-2004 period if funding is maintained at the 1999 level or $280 million if funding is increased each year for anticipated inflation. Because the bill would increase penalties for violations of export controls, CBO estimates governmental receipts would increase by $18 million over the 2000-2004 period. CBO estimates that half that amount would be spent from the Crime Victims Fund, and BXA would pay informants about $500,000 a year. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the national security. CBO has determined that several provisions of S.1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA, but CBO estimates that the costs of this mandate would not be significant and would not exceed the threshold established in that act ($50 million in 1996, adjusted

annually for inflation). Provisions of the bill that are not excluded from the application of UMRA also contain private-sector mandates. CBO estimates that the direct costs of those mandates would be below the threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars					
	1999	2000	2001	2002	2003	2004
CHANGE IN REVENUES AND DIRECT SPENDING						
Estimated Revenues	0	0	0	6	6	6
Estimated Budget Authority	0	0	0	1	4	4
Estimated Outlays	0	0	0	1	4	4
SPENDING SUBJECT TO APPROPRIATION						
EAA Spending Under Current Law by the Bureau of Export Administration						
Budget Authority [a]	44	0	0	0	0	0
Estimated Outlays	43	6	2	0	0	0
Proposed Changes						
Estimated Authorization Level [b]	0	59	56	57	59	61
Estimated Outlays	0	50	53	57	59	61
EAA Spending H.R. 973 by the Bureau of Export Administration						
Estimated Authorization Level [a]	44	59	56	57	59	61
Estimated Outlays	43	56	55	57	59	61

a. The 1999 level is the amount appropriated for that year. BXA has not yet received a full-year appropriation for 2000.

b. The estimated authorization levels include annual adjustments to cover anticipated inflation, resulting in an estimated cost of $280 million over the next five years. Alternatively, if funding is not increased to cover anticipated inflation, the cost would be $255 million over the 2000-2004 period.

BASIS OF ESTIMATE

S. 1712 would authorize the BXA to control the export of certain items from the United States for national security or foreign policy purposes. Generally, export controls would not apply to products that are mass-market items or available from foreign sources at a comparable price and quality. Under the bill, exporters who are executing existing contracts that involve items which are prohibited from being exported for foreign policy reasons would be allowed to fulfill such contracts. CBO estimates that provisions of the Export Administration Act of 1999 would increase revenues by about $6 million a year beginning in fiscal year 2002 and direct spending by about $1 million in 2002 and $4 million a year thereafter. In addition, we estimate that implementing the bill would cost $280 million over the 2000-2004 period, assuming appropriation of the necessary amounts.

Revenues

Since the expiration of the EAA in 1994, criminal and civil penalties for violating export control laws have been collected under the Economic Emergency Powers Act. The bill would transfer the authority to levy fines back to the EAA and would significantly raise the maximum criminal fines that could be imposed—up to $10 million for corporations or $1 million for individuals—for violation of export controls. Under the bill, civil penalties of up to $1 million could also be imposed for violations of the law. On average, about two years elapse between the initial investigation of violations of export control law and the collection of a penalty. Fines are based on the law in force at the start of an investigation. CBO does not expect penalties under the new law to be collected until fiscal year 2002. Based on information from the Department of Commerce, CBO estimates that enacting the bill would increase receipts from penalties by $6 million a year beginning in 2002.

Direct Spending

Collections of criminal fines are recorded in the budget as governmental receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. We estimate half of the increase in governmental receipts attributable to this bill ($3 million a year), would be for criminal fines. Thus, the additional direct spending for this provision of the bill also would be about $3 million a year beginning in 2003, because spending from the Crime Victims Fund lags behind collections by about a year.

Under current law, BXA pays informants negligible amounts each year for leads on possible violations of export control law. The bill would allow BXA to pay informants the lesser of $250,000 or 25 percent of the value of fines recovered under the act as a result of the information provided. This provision would greatly expand the authority to pay informants. Based on information from BXA, CBO estimates that the bureau would pay informants about $500,000 a year, starting in 2002.

Spending Subject to Appropriation

BXA is responsible for implementing the EAA. Based on information from the Department of Commerce, CBO estimates that BXA's budget for this work was about $44 million in 1999, and about $45 million would be needed in 2000 to continue this work. S. 1712 would authorize the appropriation of such sums as may be necessary to continue this work, to hire 20 employees to establish a best practices program for exporters, to hire 10 overseas investigators, and to procure a computer system for export licensing and enforcement. Based on information from BXA, CBO estimates that implementing a best practices program for exporters would cost about $4 million a year, stationing overseas investigators would cost about $5 million a year, and procuring the computer system would cost about $5 million in 2000. Any such spending would be subject to appropriation of the necessary amounts. Assuming historical spending patterns and allowing for cost increases to cover anticipated inflation, CBO estimates that implementing the bill would cost $280 million over the 2000-2004 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	0	1	4	4	4	4	4	4	4
Changes in receipts	0	0	6	6	6	6	6	6	6	6

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA. That section would preempt a state or local government's ability to participate in, comply with, implement, or furnish information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries. Because state and local governments would not be required to take any action, however, CBO estimates that the cost of this preemption would be insignificant.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

Section 4 of UMRA excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. Provisions of the bill that do not fall within that exclusion contain private-sector mandates as defined in UMRA.

By replacing the expired Export Administration Act, the bill would impose private-sector mandates on exporters of items controlled for foreign policy purposes. (At the same time the bill would put into place certain new procedural disciplines on the President in the implementation of such controls.) In addition, S. 1712 would impose a mandate by prohibiting anyone, with respect to that person's activities in the interstate or foreign commerce of the United States, from participating in boycotts imposed by a foreign country against a country that is on good terms with the United States.

The bill also would make changes in the system of foreign policy export controls that would lower costs to the private sector of complying with requirements under that system. In particular, S. 1712 would restrict the use of foreign policy export controls on agricultural commodities, medicine, or medical supplies. According to information provided by several government and industry sources, the nonexcluded provisions of the bill would largely either codify current policies with respect to export controls or make reforms that could reduce requirements on exporters of controlled (and de-controlled) items. Thus, CBO expects that the direct costs of complying with private-sector mandates in the bill would fall well below the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

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