

Section of International Law and Practice (Annual Meeting 1983)

BE IT RESOLVED, That the American Bar Association urges that export controls be administered according to generally recognized principles of international law. Specifically, the American Bar Association recommends that the Export Administration Act 50 U.S.C. APP. Section 2401-2420 (SUPP. V 1981) be applied extraterritorially only in ways that are consistent with generally recognized principles of international law and that the Act be amended by adding the following or a substantially similar section:

Extraterritorial Application

A) Foreign policy controls, imposed under section 6 of this Act, may not be extended to the following exports or reexports by foreign corporations, including foreign corporations owned or controlled by U.S. persons:

1) exports from another country of wholly foreign - origin goods that neither contain a principal component of U.S. - origin nor are based on U.S. - origin technology; or,

2) reexports from another country of U.S. - origin goods and technology, or exports from another country of foreign - origin goods that contain a principal component of U.S. - origin or that are based on U.S. - origin technology, unless controls existing at the time of the export of the U.S. - origin goods, components, or technology from the United States controlled such reexports or foreign exports.

B) The extraterritorial enforcement of controls on exports shall in all cases be limited as required by a jurisdictional rule of reason.