

APPENDIX A: FOREIGN ELIGIBILITY STATUTES

1. The ATP Eligibility Language

15 U.S.C. § 278n, P.L. 102-245—“American Technology Preeminence Act”

“(9) A company shall be eligible to receive financial assistance under this section only if—

“(A) the Secretary finds that the company’s participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

“(B) either—

“(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies”.

2. The EPAct Eligibility Language

42 U.S.C. § 13525—“Energy Policy Act of 1992”

Sec. 2306. Limits on Participation By Companies.

A company shall be eligible to receive financial assistance under this section only if—

(1) the Secretary finds that the company’s participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

3. *The TRP Eligibility Language*

10 U.S.C. § 2491, P.L. 102-484—“Defense Authorization Legislation”

“(9) The term ‘eligible’ firm means a company or other business entity that, as determined by the Secretary of Commerce—

“(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

“(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

“(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or

agreements; and

“(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Amended by P.L. 103-160, the Defense Authorization Legislation for FY 1994, which added the following

Sec. 1317. Conditions on Funding of Defense Technology Reinvestment Projects.

(a) **BENEFITS TO UNITED STATES ECONOMY**—In providing for the establishment or financial support of partnerships or other cooperative arrangements under chapter 148 of title 10, United States Code, using funds made available under section 131(a), the Secretary of Defense shall ensure that the principal economic benefits of such partnerships and other arrangements accrue to the economy of the United States.