



ASA Resolution 108-101

WHEREAS, U.S. export control policies are an integral component of U.S. national security necessary to prevent weapons proliferation as well as the transfer of critical U.S. technology to rogue nations and terrorist organizations;

WHEREAS, the U.S. Department of State (DOS), the U.S. Department of Commerce (DOC), and the U.S. Treasury administer and implement U.S. export control regulations and policies pertaining to the U.S. aerospace industry with input from the U.S. Department of Defense (DOD);

WHEREAS, many of these policies originated during the Cold War era and have not kept pace with the realities of the 21st century global economy and current geopolitical considerations;

WHEREAS, U.S. export control policies, specifically the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR), have unintended consequences that negatively impact the competitiveness of the United States in terms of jobs and education;

WHEREAS, current U.S. export control policies fail to effectively distinguish between allies and enemies and commercially available technology versus advanced technology;

WHEREAS, the unpredictable and opaque nature of the U.S. export control licensing system impedes the ability of U.S. industry to pursue and conduct global business transactions;

WHEREAS, U.S. export control policies negatively impact the ability to inspire the next generation of scientists, technicians, engineers and mathematicians to study and to pursue careers in the aerospace industry;

WHEREAS, the current U.S. export control system stifles innovation and negatively impacts the U.S. balance of trade and overall U.S. national security;

WHEREAS, the National Academy of Sciences, National Academy of Engineering, and Institute of Medicine report titled, *Rising Above the Gathering Storm*, recommends a reform of the current system of “deemed exports” that would provide international students and researchers engaged in fundamental research in the United States with access to information and research equipment in U.S. industrial, academic

and national laboratories comparable to that provided to U.S. citizens and permanent residents in order to recruit and retain the world's best talent;

WHEREAS, the 2002 Final Report of the Commission on the Future of the United States Aerospace Industry concluded that U.S. national security and procurement policies represent some of the most burdensome restrictions affecting U.S. industry;

WHEREAS, the Commission recommended that U.S. export control regulations be substantially overhauled, evolving from current restrictions on technologies through the review of transactions to controls on key capabilities enforced through process controls;

WHEREAS, the DOD and the DOC find in the *Defense Industrial Base Assessment: U.S. Space Industry Final Report*, dated August 2007, that ITAR has led to increased global competition and is a significant impediment to the U.S. space industry's ability to market to foreign buyers resulting in decreased sales and competitiveness;

WHEREAS, the DOD and DOC study recommends frequent review and adjustment of the ITAR processes, alignment of personnel and funding staffing resources at the DOS and DOD's Defense Technology Security Administration (DTSA) with the number of applications processed, and a re-examination of restrictions regarding sales to U.S. allies to align with current geo-political and economic considerations;

WHEREAS, the U.S. Government Accountability Office (GAO) issued two reports on export controls in 2007 finding that vulnerabilities exist in the current U.S. export control system, inefficiencies compound the export licensing process at the DOS, a lack of assessment by both the DOC and DOS of their respective systems negatively impacts the effectiveness of their controls, and the Directorate of Defense Trade Controls (DDTC) export licensing process is under stress as demonstrated by the number of cases processed, the length of processing times, and the number of open export cases;

WHEREAS, the GAO reports recommends that the export control system clearly define what should be controlled and how, that the system should be both efficient and effective, and that the DOS conduct systematic analyses of the system to help achieve greater efficiencies in the processing of export license applications;

WHEREAS, legislation, H.R. 4246 called the "Defense Trade Controls Performance Improvement Act of 2007," has been introduced in the U.S. House of Representatives and has attracted bi-partisan support;

WHEREAS, the Defense Trade Controls Performance Improvement Act of 2007 finds that the failure of the DOS and DOC to assess the effectiveness of their respective export control program combined with a lack of resources at the DOS raises national and economic security concerns for the United States;

WHEREAS, the Defense Trade Controls Performance Improvement Act of 2007 includes, but is not limited to, recommending a strategic review and assessment of the U.S. export controls system, implementing performance requirements in the processing of applications for licenses to export or import items on the U.S. Munitions List (USML), and implementing a requirement to ensure adequate staff and resources for DOS;

WHEREAS, passage of the Defense Trade Controls Performance Improvement Act of 2007 would provide common benefit to the fifty states of the United States by reducing the negative impacts and unintended consequences on jobs and education brought on by the current export control system;

WHEREAS, the President signed U.S. Export Control Reform Directives affecting DOS and DOC licensing regimes aimed to support U.S. national security strategies and to facilitate the United States' continued global economic and technological leadership;

WHEREAS, the U.S. Export Control Reform Directives instruct the DOS to implement more effective U.S. export licensing procedures, a more efficient dispute resolution mechanism, and enhanced enforcement;

WHEREAS, the U.S. Export Control Reform Directives instruct the DOC to take actions pertaining to foreign end-users, U.S. competitiveness, and transparency;

NOW THEREFORE BE IT RESOLVED, that the Aerospace States Association hereby encourages all members of the United States Congress to take the aforementioned recommendations and conclusions into consideration in order to streamline U.S. Export Control policies to ensure that the U.S. aerospace industry remains vibrant and competitive in the global market by being able to seamlessly engage in international transactions, to inspire, attract and train the next generation of aerospace workers, and to facilitate technological innovation while at the same time supporting the country's national security objectives;

NOW THEREFORE BE IT RESOLVED, that the Aerospace States Association, considers H.R. 4246 to be a positive step in the long term process of U.S. export control reform and hereby calls all members of the United States Congress to urgently support H.R. 4246, the "Defense Trade Controls Performance Improvement Act of 2007;" and

NOW THEREFORE BE IT RESOLVED, that the Aerospace States Association, hereby encourages Congress to consider including provisions in H.R. 4246, the "Defense Trade Controls Performance Improvement Act of 2007," to address the following:

- the US Congress should provide specific direction to the DOC and DOS to clarify the roles of each with respect to the implementation of the ITAR and EAR,
- limit the USML to those items that have only military value,
- allow industry and national labs to work together without the need for Technical Assistance Agreements,

- permit the re-export of foreign-made instruments that must be returned for repair or adjustment,
- give NASA an ITAR exemption similar to that of DOD's for Foreign Military Sales,
- reduce the time frames for Congressional notification which delays export control licensing, and
- improve and streamline statutes and regulations pertaining to deemed exports and the Fundamental Research Exclusion.

Brian Dubie

Brian Dubie
Lieutenant Governor, Vermont
Chairman, Aerospace States Association