



## **Congressional Hearing Report**

House Foreign Affairs Committee held a hearing today entitled “Export Controls, Arms Sales, and Reform: Balancing U.S. Interest, Part II.”

### **Members in attendance:**

- Rep. Ileana Ros-Lehtinen (R-FL), Chair, Full Committee
- Rep. Christopher Smith (R-NJ)
- Rep. Dana Rohrabacher (R-CA)
- Rep. Donald Manzullo (R-IL)
- Rep. Ed Royce (R-CA), Chair, Subcommittee on Terrorism, Nonproliferation, and Trade
- Rep. Steve Chabot (R-OH)
- Rep. Ted Poe (R-TX)
- Rep. Gus Bilirakis (R-FL)
- Rep. David Rivera (R-FL)
- Rep. Mike Kelly (R-PA)
- Rep. Tom Marino (R-PA)
- Rep. Jeff Duncan (R-SC)
- Rep. Robert Turner (R-NY)
- Rep. Howard Berman (D-CA), Ranking Member, Full Committee
- Rep. Eni F.H. Faleomavaega (D-American Samoa)
- Rep. Brad Sherman (D-CA), Ranking Member, Subcommittee on Terrorism, Nonproliferation, and Trade
- Rep. Gerald Connolly (D-VA)
- Rep. Christopher Murphy (D-CT)
- Rep. Karen Bass (D-CA)
- Rep. William Keating (D-MA)
- Rep. David Cicilline (D-RI)

### **Witnesses:**

- Ms. Marion Blakey, Chief Executive Officer, Aerospace Industries Association
- Mr. Mikel Williams, Chief Executive Officer, DDi Corp.
- Ms. Patricia Cooper, President, Satellite Industry Association

### **Rep. Ros-Lehtinen’s opening statement:**

- Many of us on this Committee want to help make common sense improvements in our export control system that will enhance U.S. national security, protect critical technologies, and make our system easier to navigate for our American businesses. In this regard, there are some constructive elements of the current reforms. One of

the most notable is the development of a shared information technology platform across our export control agencies.

- However, these initiatives have been peripheral to the main focus of the Administration's efforts, which has essentially been a complete re-write of the entire United States Munitions List (USML) and the transfer of large numbers of defense articles to the Department of Commerce. There are elements of the USML review that have merit. However, its many complexities also demand close Congressional scrutiny.
- First, a word about process. Under section 38(F) of the Arms Export Control Act, the President is required to give notice to the Congress of any item, or items, that are recommended for removal from the USML and to describe how they would be regulated under any other provision of law. However, because the Administration has focused only on identifying what technologies are to remain on the USML—and not what is to be removed—the Administration has not identified or informed the Congress of the full range of items it seeks to transfer to Commerce.
- The Ranking Member and I have repeatedly stated that we are ready to work with the Executive Branch to reach an agreement. However, we will not accept unilateral actions that substantially infringe on or ignore Congressional oversight over these important national security matters.
- I have proposed that the Executive Branch prioritize removal of the least sensitive parts and components—nuts, bolts, cable and the like—which have been treated as defense articles only because they were modified for military end-use.
- I have also introduced legislation, H.R. 2122, the “Export Administration Renewal Act” that would help accomplish this goal of removing the least sensitive items from the USML and provide immediate relief to some of our companies. Provided that manufacturing for such items will not be outsourced to China for later introduction into the U.S. military supply chain, Congress could reach a quick agreement to approve their removal from the USML.
- The Administration also proposes transferring to Commerce numerous military end-items, as well as thousands of other, more sensitive, parts and components. These items would be regulated on a new “Commerce Munitions List” within the larger Commerce Control List (CCL). This proposed arrangement raises a number of questions including: the lack of a statutory basis for the proposed CML; the relationship of the CML to U.S. security assistance authorities; and the elimination of Congressional notification and reporting requirements for the export or retransfer of such defense articles.
- While CML-controlled items would require a license for export and would be denied to countries subject to a U.S. arms embargo, they would also be eligible for a broad new license exception to 36 countries deemed as friendly. To be effective, however, country exemptions for the export of defense articles must incorporate critical safeguards, including agreement on which foreign parties can have access to controlled items and on foreign cooperation in enforcement. These appear to be missing from the process set out by the Administration.
- China and Iran pose especially grave concerns. Both countries are actively seeking to acquire a wide-range of U.S. technology through a myriad of illegal schemes that span the globe. Iran, in particular, is dependent on the illicit acquisition of a vast range of military spare parts for its inventory of U.S.-origin military equipment. With few exceptions, these spare parts and components will be eligible for the proposed new license exception—with increased risks of diversion.

- More broadly, as the Congress assesses U.S. controls on commercial satellites, it is crucial to recall that the European Union and China have launched an expansive space technology partnership—one that appears to include the illegal transfer of U.S.-controlled parts and components.
- We must also heed the lessons of the Loral-China case to avoid another situation where we've armed our enemies. Indeed, the reports this morning of the launch of an Iranian satellite using a missile launcher reminds us of the sophistication of their illegal procurement networks and the perils of loose controls on sensitive dual-use and military technologies.
- Lastly, we also await further details on a number of critical licensing issues, including the preparedness of the Executive Branch to implement and enforce such regulations and plans for outreach to industry. The Committee shares concerns with industry regarding the length and complexity of the process.

**Rep. Berman's opening statement:**

- The reform of U.S. export controls on defense and defense-related items is long overdue. Our current system of export controls was born amid the tensions of the Cold War, when the United States was the dominant provider of defense-related technology. The Cold War is now a subject for the history books, yet the U.S. maintains the same fundamental export control system, one that inefficiently responds—if it responds at all—to changes in the international environment and the breakneck pace of technological innovation and diversification.
- Our out-of-date export controls are more unilateral—and therefore less effective—than they were in the past and are fast becoming a burden on our defense industrial base, our scientific leadership, and our national security.
- The Obama Administration's Export Control Reform Initiative has taken on the herculean task of beginning the reform of the U.S. export control system. After three years of work, the Administration is now beginning to publish the draft changes it seeks to make in the U.S. Munitions List. These changes, once enacted, would mean that literally tens, if not hundreds, of thousands of defense items that the Administration deems to be less military-sensitive would be moved to a new sub-list of the Department of Commerce's Commerce Control List.
- There is much that Congress can do to help this effort. The first would be to pass a new Export Administration Act (EAA), to replace the lapsed EAA of 1979. Because Congress has failed over the course of two decades to enact a new statute, the EAA exists only as a result of the President's invocation of the International Emergency Economic Powers Act (IEEPA). It is a Cold War relic, and on potentially shaky legal grounds for enforcement since it doesn't really exist.
- Last May, I introduced H.R. 2004, the "Technology Security and Antiboycott Act", to succeed the EAA. In contrast to the old EAA's focus on economic warfare against long-gone adversaries, my bill focuses on the current threats to U.S. security. It provides the President with the authority to regulate the transfer from the U.S. of goods, services, software and technological information that could pose a threat to U.S. national security if obtained by hostile governments, terrorist groups or threatening persons. Unlike the old EAA, my bill defines U.S. national security to include strengthening scientific and technological leadership, high-technology manufacturing and the U.S. defense industrial base. In today's world, sustaining our cutting-edge universities, research establishments, high-tech companies and skilled workforce is as essential to our security as is military superiority. Export controls

must be calibrated to serve academic and technological excellence and support U.S. high-tech jobs.

- The second thing the Congress can do is to restore the President's authority to move less-sensitive satellites, related components and technology from the U.S. Munitions List.
- In 1998, in response to unlicensed technical assistance to China's space launch program by two U.S. companies, Congress mandated that all U.S. satellites and components were to be moved from the Commerce Control List and become subject to licensing as weapons under the State Department's United States Munitions List, regardless of whether the proposed export was to China or a NATO ally.
- This well-intended restriction is now causing unintended consequences. European satellite manufacturers believe that U.S. Munitions List restrictions are too onerous to include U.S. components; consequently, U.S. manufacturers are currently in danger of having their products "designed-out" of foreign satellite systems. That has serious implications for the health of our space and defense industrial base. If smaller satellite component manufacturers lose market share, and perhaps go out of business, then the Department of Defense will not be able to buy their products to meet our national security needs.
- Along with my colleague Rep. Don Manzullo and Rep. Gerry Connolly, I introduced H.R. 3288, the "Safeguarding United States Satellite Leadership and Security Act" last November. This bipartisan legislation would help restore America's global competitiveness in high-tech satellite technology and protect vital U.S. national security interests. It would also prohibit outright any such exports to China—the original concern that caused Congress to legislatively transfer all satellites to the U.S. Munitions List—and to Iran, North Korea, Syria, Sudan, or Cuba, the countries that pose the biggest risks to our national security.
- The bill would also prohibit any foreign satellite with a U.S. component from being launched on a Chinese rocket. This latter provision is actually tougher than current law, including the Tiananmen Square sanctions, which allows such exports.
- In closing, let me say that I think the Administration's Export Control Reform efforts are moving in the right direction. My only concern is that there may not be enough time to complete the review of all 21 categories on the USML, publish the draft changes for comment, receive and reflect upon those comments, publish final changes, AND insure that our Committee and the Senate Foreign Relations Committee—the committees of jurisdiction—are able to conduct the necessary oversight of these changes.
- My preference would be for the Administration to set priorities, to make sure that two of the most important categories—aerospace and space systems, which now compromise Categories 8 and 15 of the USML—could be completed in this Congress.

**Ms. Blakey's opening statement:**

- Our industry consistently generates America's largest manufacturing trade surplus—projected to be more than \$57.4 billion in 2011—but continuing this track record of success cannot be taken for granted.
- More than a third of the \$218 billion in U.S. aerospace sales of civil, space, and defense products last year went to overseas customers. As other U.S. manufacturing sectors have declined, it is important to point out that aerospace and defense exports continue to create and sustain high-skill, high-wage manufacturing jobs.

- These exports also preserve and increase the capacity for cutting-edge innovation which enables critical U.S. military capability on the battlefield.
- With uncertainty surrounding the U.S. federal budget, exports can be an important part of how we maintain our nation's critical defense and aerospace industrial base. We must continue to compete effectively in the international marketplace to expedite our economic recovery and set a trajectory for even greater future economic growth.
- I would like to particularly emphasize the reauthorization of the U.S. Export Import Bank is critical to the ability of many exporters to compete on a level playing field in a commercial market where current and future competitors continue to enjoy support from their countries export credit agencies. The U.S. government must provide the coordinated, cross-agency government advocacy and assured availability of export financing provided to our foreign competitors by their governments.
- Given the attention paid to this issue by both the Bush Administration and the Obama Administration, as well as by Democrats and Republicans in Congress, it is clear export control reform is a bipartisan issue. A perfect example of that bipartisanship is H.R. 3288, a bill signed by members such as Ranking Member Berman, Congressman Ruppertsberger, Congressman Manzullo, and Congressman Connolly. H.R. 3288 aims to initiate practical, common sense legislative reforms to address the issues outlined in AIA's new report: *Competing for Space: Satellite Export Policy and U.S. National Security*. The report surveys U.S. satellite systems and component manufacturers about the challenges the space industrial base faces as a result of U.S. export policies, in particular the legislative mandate to treat commercial satellites and related components as military technology even though the rest of the world does not. A summary of the key findings:
  - First 100 percent of respondents said that current export control restrictions have at least some adverse impact on their businesses. Respondents noted that current policies have created the unintended consequences of fueling foreign competition for U.S.-dominated market share. The result has been dampening of sales opportunities to boost U.S. space technology innovation.
  - More than 90 percent of respondents indicated a connection between export controls and eroding space industrial base capabilities. Respondents reported that U.S. export controls stand as barriers to domestic companies and create an advantage for foreign competitors.
  - More than 70 percent of respondents blamed the International Traffic in Arms Regulations (ITAR) for lost sales, with many small businesses characterizing losses as "significant." Commercial space system suppliers—who also often build critical components essential to our national security—face some of the most daunting challenges. To firms that specialize in satellite components reported to AIA combined annual losses of up to \$7 million because of these impediments.
- We urge the completion over the next month of the U.S. Munitions/Commerce Control List Reviews. This effort is a clear and dramatic signal of the U.S. Government's intent to reduce regulatory burden for U.S. exporters.
- It is also critical to bring clarity to proposed regulations and to harmonize definitions across regulatory agencies. This goal is particularly important for small and medium size enterprises within the aerospace and defense industry. The weight

of the interpretive burden of often confusing and overlapping regulations has long been recognized.

- Our industry has been a staunch supporter of the Administration’s efforts to make the U.S. export control system more predictable, efficient, and transparent. Let me be clear about four things our industry is not looking for out of the reform process:
  - The aerospace and defense industry is not seeking reforms that would compromise in any way the oversight of high technology exports. As we understand it, the end result of the Export Control Reform will be that the same government and intelligence agencies currently administering high-technology exports will continue to weigh in and concur on export licenses with a more effective and efficient risk management process that frees up resources for better oversight and enforcement.
  - The aerospace and defense industry is not seeking reforms that would diminish the aggressive enforcement of the export control system. There are always going to be bad actors as well as mistakes made by good actors in the export arena. These facts should not be mistaken as arguments to maintain the status quo system, which places excessive burdens on all exporters. In any new system, bad actors should continue to be punished and good actors who make mistakes should receive appropriate treatment by enforcement agencies. Efforts to reform enforcement of U.S. export controls should target illicit activities and not unnecessarily burden U.S. companies that are committed to protecting U.S. national security interests and doing the right thing. Reforms that add new burdensome reporting, registration, and compliance requirements will not result in a more streamlined export control system that focuses on the bad actors and achieves our mutual objectives.
  - The aerospace and defense industry is not seeking changes in restrictions on the export of sensitive technology to countries of concern to the United States. Export control reform will not change “denied” export licenses to “approved” licenses. Industry is instead seeking reforms that would make export transactions approved as consistent with U.S. national security and foreign policy interests faster—by deciding in advance that less sensitive items do not require ITAR-level scrutiny and can be controlled by the Commerce Department for export to our close allies and partners—and cheaper—by lowering the costs of “interpreting” compliance requirements and moving appropriate technologies off the U.S. Munitions List and its \$2250 a year registration fee plus \$250 charge per export license requirement.
  - On the latter point, 68% of companies that have to register with the State Department because they make a product that is captured on the USML never export. I suspect many of them make the kinds of parts and components we can all agree should be moved to Commerce control. Those parts and components manufacturers that do export have to incorporate the \$250 per export license charge into their pricing. For small and medium sized companies, there would be significant benefits in help them minimize these regulatory burdens of the existing system.
  - Our entire industry would benefit by the removal of these time and cost “frictions” between transactions throughout the industrial base. Moreover, a system that is more transparent and predictable will help U.S. companies compete and win business abroad. The United States should not have an



export control system that is used by our foreign competitors as a tool to win business.

- Finally, the aerospace and defense industry is not advocating a single reform to relieve the burden on U.S. exporters. Our industry, particularly small and medium sized parts and components manufacturers, are very supportive of the much needed scrubbing of the U.S. Munitions List of low/no risk technologies. But this should be the first of many critical steps for reform, not the last. We need to move beyond rationalizing the lists of controlled technologies, and put in place new management models for licensing—in particular, workable frameworks for managing licensing and for sharing controlled technologies more effectively in the context of the U.S. Government's own programs.

**Mr. Williams's opening statement:**

- On behalf of the Association Connecting Electronics Industries' (IPC) members, I would like to express our support for modernizing and streamlining export control regulations. The current export control system neither adequately protects our national security, nor facilitates the export opportunities we need to grow our economy. Reform is long overdue.
- Most importantly, IPC believes that the Administration must use the opportunity provided by the reform of our nation's export control laws to clarify the frequently misunderstood regulatory treatment of printed circuit boards that underpin our critical defense technology. In addition to clarifying the rules, IPC seeks to ensure that the proper controls are put in place to ensure that U.S. national security is not compromised through the export of technical information related to printed boards and the military equipment for which they are designed. This is also an issue of strengthening our U.S. manufacturing base generally. Outsourcing printed boards used for sensitive defense applications threatens not only our national defense, but the industries that support our national security capability today and for the future.
- Printed boards are essential to many defense systems. Specifically and uniquely designed for each and every one of those systems, printed boards are used to mechanically support and electrically connect electronic components. Printed board designs reveal critical information about the board as well as about the devices for which they are designed. Accordingly, clear and appropriate protection of printed board designs for USML items is needed to safeguard from U.S. adversaries inherently sensitive information about U.S. weaponry and military equipment.

**Ms. Cooper's opening statement:**

- SIA and its members ask Congress to remove its long-standing mandate requiring that all satellites and related items be regulated uniformly as munitions, without regard to their technological sensitivity. While the current one-size-fits-all satellite export control laws were originally intended to enhance national security, a decade of experience shows that this requirement to over-regulate has undermined the nation's security and the satellite industry's international competitiveness. SIA asks that Congress restore the Executive Branch's authority to regulate satellites, as they do every other U.S. technology—by making careful and expert differentiations between commonly-available items and the most sensitive technologies, the latter of which are then safeguarded with our strictest export controls.
- Both Congress and the Administration have sought to reduce regulatory excesses that unduly hinder economic growth and impair our national security. Satellite

export control policy is an area ripe for reform. Right-sizing satellite export control policy would allow the U.S. satellite industry to compete internationally, continue to invest and innovate, and support critical government and industry communications.

- Satellites are the only category of products mandated by Congress for blanket treatment as munitions under the USML. SIA asks that Congress remove this blanket requirement and restore Executive Branch authority over the regulation of satellite export controls. The satellite industry will not reap the benefits of export control reform unless Congress passes satellite-specific legislation. In fact, without specific legislative action to normalize satellite export control policy, the United States would need to retain a satellite-specific export control system and another for all other items and technologies, the very redundancy and confusion that reform seeks to avoid.
- Vigilance against the transfer of sensitive technology to countries of concern should remain a top priority. The satellite industry is committed to U.S. export policies that ensure that the nation's most advanced technologies do not fall into the hands of our adversaries. We also support the vigorous enforcement of existing rules. SIA supports satellite export control reform legislation that provides for appropriate restrictions on exports of satellites and satellite technology to countries of concern, including China. Further, SIA and its members do not seek any legislative erosion of the safeguards already in place that have effectively prohibited satellite technology exports to China. We strongly believe that achieving satellite export control reform is consistent with our goal protecting advanced technologies.
- SIA can point to several indicators to help demonstrate the unintended harmful consequences of the current export control policy for satellites:
  - First, we can look at the U.S. share of the international marketplace for satellite manufacturing. Generally, U.S. share of the global market for purchases of completed satellites has dropped from around three quarters before the establishment of the 1998 ITAR rules to below one half of the global market. According to data SIA has collected annually for the past 15 years, in 1995, U.S. satellite manufacturers enjoyed a 75 percent share of the global market; ten years later, this had dropped to 41 percent, and has hovered between 35 and 50 percent since then.
  - Second, we can look at the effect that blanket ITAR regulation has had on different types of U.S. satellite companies. The international customers of U.S. prime manufacturers of spacecraft see ITAR regulations and the processes they require as adding time, cost and risk to U.S.-made products—regardless of whether these effects are real or significant. It is clear that ITAR has become a market differentiator for our competitors. Since 2009, the number of European “ITAR-Free” satellites launched has jumped from six to thirteen, and another seven have been sold or are under construction. Whether or not the claims that these satellites are ITAR-free prove to be correct or not, the commercial success of twenty “ITAR-free” spacecraft sold—and often at prices higher than their U.S. equivalents—underscores the competitive impact of the ITAR designation. For U.S. satellite parts and component manufacturers, the lack of de minimis rules under ITAR regulations act as a deterrent for foreign satellite builders to buy American. If even the smallest U.S. component is incorporated into a foreign-made satellite, the entire spacecraft must be treated as an ITAR item. This over-regulation acts as a powerful dis-incentive for foreign satellite manufacturers to include U.S. content in their spacecraft because they can



freely buy parts and components off-the-shelf from other non-U.S. suppliers. For satellite operators, the current rules limit their ability to meet the customer service expectations of their international telecom and television customers. If there is a spacecraft malfunction while on orbit, the U.S. operator is constrained from discussing with its international customers what went wrong or how to restore functionality without an ITAR license.

- Third, we can look at the impact of over-regulation on the overall health of the U.S. space industrial base, a well-documented security concern. A January 2012 Aerospace Industries Association study provides a fresh depiction of the adverse impact of ITAR on our sector's competitiveness and investment decisions. The AIA conclusion reinforces conclusions of numerous studies by government agencies and private entities dating back to 2005 that link satellite export control policies to erosion of the U.S. industrial base, and particularly the third, fourth and fifth tiers of the industry. These suppliers of input materials, parts, and components are relied upon by manufacturers of commercial, military, civil space, and intelligence spacecraft alike, and their health has been increasing concern to the U.S. national security community.
- Fourth, SIA can point to the chilling effect that the over-regulation of satellites and related items has had on our universities' willingness to teach space-related subjects and on our research labs' ability to conduct cutting-edge space research. Because of the expansiveness of the current ITAR regulations, space-related research projects, university courses on satellite technology, and agreements involving international students or faculty all require an ITAR license. According to Professor Bob Twiggs of Stanford University's Space Systems Development Lab, "ITAR is driving research out of the United States, isolating the United States, and causing markets to be developed outside of the United States." According to the Universities Space Research Association (USRA), if ITAR forces the next generation of space engineers to learn, research and experiment abroad, the U.S. edge in space technology will eventually erode.
- For the satellite sector specifically, we urge this Committee to prioritize the reform of satellite export controls as soon as the Administration delivers its Final Section 1248 Report and move to act on H.R. 3288. The 1998 Congressional requirement to treat all satellite items uniformly as munitions regulated too broadly and eliminated discretion. We believe that the Congressional requirement that satellites be treated as munitions has harmed the industry's international competitiveness, fueled the growth of international satellite manufacturing companies, dampened investment and innovation in the sector, and deterred training and advanced research in satellite and space technologies.

### Sample of Q&A

Rep. Ros-Lehtinen:

- I'm concerned about the wisdom and enforceability of a proposed exemption for the export of U.S. defense articles to our European allies and other friends abroad, because we must take into consideration the refusal of the government of France and a French company to cooperate with the U.S. in investigating illegal retransfer of U.S. controlled space parts and components to the People's Republic of China. Also there are several other facts: our European friends have been the most important source of high technology needed for China's military modernization program;

Europeans have been providing technology to China that it cannot obtain from the U.S. or Japan; and the unclassified findings of the 2011 report on the defense security service which states that Europe and Eurasia are moving increasingly toward the pursuit of illegal or unauthorized access to U.S. defense technologies; and finally, to the extent that the region is a major arms exporter, third party transfer of U.S. technology will likely be a concern. I'd like your views on these issues. And related to that, the intersection of military and civilian interest and China's space program is well known. What is also well known is the extensive space relationship between the European Union and what they share with China, including the sharing of considerable European technical expertise. So, I ask, how can commercial satellites and the related parts and components be transferred to the Commerce Control List without the risk that such technology would be retransferred from our friends to Beijing?

Ms. Cooper:

- The Satellite Association Industry does not seek any change in the considerable prohibitions that already exist to govern trade of satellites with China, both sale to Chinese customers or transfer to China for launch on their launch vehicles. Although not a prohibition, the collective effect of these rules since 1998 has been an effective prohibition. No U.S. satellite has been launched from China since those days. We don't ask for any changes in those rules, and we expect that any change in the export control structure, as well as satellite specific legislation, would uphold those rules for China specifically. The question you raise of European manufacturers as third party transfers, from my perspective, is an enforcement and prosecution question. If there are violations of laws they should be vigorously enforced. It is our expectation that such third party transfers of satellite items to China would remain illegal under a revised export control system and following and satellite specific legislation.

Ms. Blakey:

- I would echo Ms. Cooper's comments that if something is illegal then it is illegal. And it should not be changed under the guise of reform. And we don't see evidence that that would be the case at all. What we are looking for is system that is more efficient and more transparent, and will ultimately enable us to put more resources into scrutiny and enforcement of illegal activities and bad actors. The kind of concern you are voicing can happen under the current regime, and I think we need more focus on the real risk that export control reform will give us.

Rep. Ros-Lehtinen:

- The success of the proposed export control initiative is dependent on the close coordination, or lack thereof, between Department of State and Commerce. Some of us are concerned without this coordination the anticipated benefits of the export control reform initiative may not outweigh the risk of unintended consequences and business disruption.

Rep. Berman:

- The AIA report, it appears satellite vendors have an insufficiently diverse business and that this limited supplier base may compromise long term availability of some critical components for national security needs. It goes on to say, since many second and third tier vendors are responsible for highly specialized components low volume government satellites do not provide sufficient market stability, especially when government acquisition plans fluctuate from year to year. From that I gather that if our commercial satellites industry is not viable, then the critical components

we need for our military satellites become less and less available. Does the current process make this situation worse?

Ms. Blakey:

- We surveyed our members and we found they represent 70% of the industry, and approximately 70% of our members said they were losing significant sales opportunities because of the current requirements and USML controls. The fact is, with the defense budgets going down and national security funds diminishing, this situation is going to get worse. Small companies that have one possible customer, and that customer being able to buy less and less, will not be able to stay in business unless we give them some relief. And I tell you, our technology is such that it can compete if we allow for it.

Rep. Berman:

- Isn't the logical conclusion, if the National Reconnaissance Office report is right, that we're going to have to end up importing raw materials and components for our military satellites if we lose our commercial satellite manufacturing markets?

Ms. Blakey:

- That is certainly is a possibility, and one we should guard against.

Rep. Berman:

- Ms. Blakey, part of your testimony says we shouldn't stop reforming at just USML and CCL list, but that there should be new management models for licensing. What does that mean? What specific types of changes would you like to see? Should the management licensing reforms be done first?

Ms. Blakey:

- I think both are important. Certainly the review of these lists has been very labor intensive and will produce a good end product. But the kind of changes that are also possible, that could really make a major difference for some of our programs and weapon systems were attempted as far back as the Clinton Administration. Known as program licensing, it would have allowed for a license approval to hold for repeated transactions. Somehow the paper work aspects of that program got ahead of the good intentions. So, unfortunately, this has not been effective yet, but we do need to look at a single license approval for repeated transactions on a single program—like the F-35. And that's a sensible reform.

Rep. Berman:

- Why didn't it take hold?

Ms. Blakey:

- Sometimes the bureaucracy stands in front of itself and what was the intent of this program did not translate. I think it was one of those things where implementation can be hard. Where people lay out a lot of paper work requirements, where instead, you could make it very simple.

Rep. Faleomavaega:

- Ms. Cooper, how many spy satellites do we have in space?

Ms. Cooper:

- I'm probably not the best person to answer that question, and probably wouldn't be permitted to answer that question if I knew. I will say about one third of satellites on orbit are commercial. And our point here is that the value of the commercial sector is it has a direct relationship on the health of the U.S. space industry, and also has a linkage with our military, civil, and intelligence space community. When a

commercial satellite is purchased for manufacture it engages many of the same companies to build parts, components, and sub-assemblies.

Rep. Rohrabacher:

- I live in southern California where we have so much to be grateful for to the aerospace industry. All of us know the standard of living that ordinary people have in California can be tied directly to that industry. Without it people wouldn't be able to have the value of homes or lifestyles they have. Building high technology builds the economy, but it really helps people. That's what we need to understand.
- Also, the satellite part of the aerospace industry is a vital component of that industry. And one of the major parts of the industry where we are competitive overseas. We've got to make sure we don't lose that industry. Let me just note, I believe we should be more open with sales of U.S. satellites to democratic countries. That is not true with countries like China, which is a potential enemy and adversary of the United States.
- People are dumbfounded when they see the growth rate and progress China is making economically and technologically. I'm not astounded by that at all. They've gotten all their fundamentals from us. We've educated their children as Ph.Ds, and then they go home and create economic entities that put us out of work. We are giving them all of our secrets. Second, we are giving them all our research & development (R&D). Our R&D corporations are going over to China—and some of them have received U.S. government grants to create technology—and then they start manufacturing plants in China. Well of course China's going to be able to progress if it's going to get a subsidy for its entire R&D. We've got to make sure that our satellite industry is first, the best in the world and not laying the foundation for our competitors 10 to 20 years down the road. I am appalled that some aerospace companies are making their way towards China.
- We have a very perplex issue here. We have to make sure these companies are not weighted down, allowing them to compete in the 2/3s of the world where people are free. But in the other 1/3 we've got to make sure the American taxpayers are not funding something that will come back and put them out of work or threaten our national security. Please comment on that.

Ms. Blakey:

- The AIA believes we have a vital national security asset and economic asset in the aerospace companies in your district and around the country. We do have to have opportunities to innovate, to advance technology, and to sell that technology. That's what our export control reform initiative is all about. It's not about changing the rules of the road for countries that are not those that we should be providing high technology resources to. So we are certainly not advocating a change with our posture towards China, but what we do need is a more streamlined and efficient process for working with our allies and friends.

Rep. Sherman:

- A lot of companies come before Congress and wrap their agenda in jobs or the national interest. And sometimes you find their agenda is carefully tailored to maximize profits, even if they don't create jobs. I'm hoping this panel is very different from that.
- When we transfer manufacturing technology, we transfer our most valuable secrets. We lose the jobs, we hollow out our defense plants, and we build up defense plants in other countries. And even if that country is a close ally, a few years down the road

when we think Iran shouldn't get a particular weapon system; one of our close allies might disagree or think they need the jobs.

- Would you support or oppose a licensing agency where it has two different standards? First, an expedited standard for American made equipment, and second, a more stringent standard for off-shoring manufacturing.

Ms. Blakey:

- If it is a military sensitive item we support the increased scrutiny of that. If these are commercial items that are widely available, then that becomes a much more commercial consideration.

Mr. Williams:

- I would echo that. For the commercial market those are already gone. For the military we would certainly recommend protecting our capability as well as the product itself.

Rep. Sherman:

- So you would support a tougher standard for exporting manufacturing know how, as opposed to the manufactured product?

Mr. Williams:

- We're actually asking—with regards to printed circuit boards—to be specifically handled in that regard.

Ms. Cooper:

- I don't know. I haven't checked with my members on whether they expect to have any right to do that.

Rep. Poe:

- I'm from Houston, and we still consider it to be the space capital of the world. I'm a little irritated that for manned spacecraft we have to get a taxi from the Russians for \$60 million. It seems to me we've yielded the human exploration over to the Chinese and the Russians, but that's a different issue.
- I want to talk about Iran. Back in the day when the Shah of Iran was overthrown, Iran had about 79 F-14s. The good Americans that were smart decided to take the spare parts with them to the U.S. Since those days those F-14s continued to be used. My question is, do you believe Iran could use items that end up on the Commerce Munitions List to get spare parts to repair the F-14s, F-5s, C-130s, and other military equipment? Or not?

Ms. Blakey:

- What you're talking about is patently illegal. At this time the Commerce Control List would not be the place for the kind of equipment you are talking about. Most of this is military controlled and is on the USML.

Rep. Poe:

- Is it a concern or not?

Ms. Blakey:

- Iran is an incredibly bad actor. And with that said we should be concerned about all sorts of problematic and dangerous activity they may try to engage in. That's why I put a very big emphasis on effective enforcement and scrutiny in all of this because that is critical.

Ms. Cooper:

- I will say that spare parts are not as big of an issue for repair of on-orbit satellites. I would echo the importance of enforcement for violations of rules, particularly any country where we have examples of their bad faith action.

Rep. Poe:

- Down the road, where do you see the Chinese going with space technology unless we do something?

Ms. Cooper:

- I would start by saying the Chinese space program has been starved of U.S. satellite technology by regulations since 1998. That having been said, the government of China has voiced strong interest in space exploration, commercial satellite manufacturing, and they have a robust satellite launch program. So we would expect them to continue to be an aggressive play on the international marketplace. Our interest is in returning U.S. satellite technology that is not national security sensitive to the international market, and compete head to head with the Chinese companies.

Rep. Kelly:

- Ms. Blakey, the Rob Smith company in my district wrote to me “the rules and regulations of the U.S. government has made it far easier to import from China than to export to anywhere from the U.S. Even exporting to Canada is a mountain of paperwork. The only companies that can succeed at exporting in the aerospace industry are those large enough to have the staff to deal with the paperwork, and then you can imagine the extra cost they incur. Our export controls are based on the assumption that we are still manufacturing technology in the framework of the 1950s.”
- With small businesses, I think this is where the difficulty comes in. Because when we enact these rules and place this legislation into effect we really don’t understand the unintended consequences for those who actually do this. Mr. Smith’s company makes shims, and he told me he has to be so careful where he sends these shims because the legal ramifications come back to him. If you could just expand on the cost involved with this, please.

Ms. Blakey:

- You can multiply Mr. Smith’s experience thousands and thousands, and thousands of times because the cost is enormous. The fact is most small businesses do not attempt to export at all because they are so afraid of the paperwork and inadvertently making a mistake, which has real consequences. People say all the time, why is our government putting up barriers to having U.S. products compete with the same products that are available worldwide.
- It’s the cost of the licensing, the cost of the registration fee, and the cost of the lawyers. Because remember, smaller companies simply don’t have people on staff who can make all these determinations. It’s interesting that when you go to the State Department and ask is my item controlled or not, they won’t give you a straight forward interpretation. They refer you to the regulations that have catch all clauses to them, and then those require you to go out on a limb and make your own interpretation or force you to submit a request to them to give you a determination on the item. And the paperwork on that submission can be 4 or 5 inches high. Tell me what’s right about that system.

Rep. Kelly:

- I think that’s where the disconnect is. As we continue to bring forward legislation and continue to regulate business at every level, it is the overall cost of where we are able to compete that is now taking us out of the game. We’ve raised the cover charge so much that no one wants to come in to where we do business.



Ms. Cooper:

- I would like to make two points:
  - First, the satellite industry customers for completed spacecraft are incredibly international; it is not just about China. There are customers all over the world, and our ability to sell them U.S. made spacecraft is certainly affected by our ITAR designation.
  - Second, I would point to a DoD report that identified 5 new satellite technology areas at high risk that have one or no U.S. suppliers. And an additional 9 areas with the potential to create bottlenecks or cost increases for government space programs. Companies are leaving the marketplace and that leaves our military, civil, and intelligence space programs at a disadvantage when they try to source domestically.

Rep. Kelly:

- So would it be fair to say we are going to start relying on people outside our own borders to supply us with technology we need?

Ms. Cooper:

- It's already happening.

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