



900 17th Street, N.W.  
Suite 1100  
Washington, DC 20006  
Phone: 202.783.0070  
Fax: 202.783.0534  
Web: www.ccianet.org

## ABSTRACT

Computer & Communications Industry Association

### EXPORT CONTROLS

April 2012

- *While fully recognizing national security needs, CCIA opposes export controls that place an excessive burden on U.S. businesses and their legitimate export operations without a measurable security benefit.*
- *Unilateral export controls on dual-use technologies with foreign availability only result*

**Background:** CCIA has long worked to ease or remove excessive export controls on high-tech products. Export controls were created during the Cold War to limit the ability of communist or rogue states to come into possession of state-of-the-art computing or other technology that could endanger our national security.

In 2009, the National Research Council of the National Academies published the report “Beyond Fortress America: National Security Controls on Science and Technology in a Globalized World.” It stated that the export control system was established to deal with Cold War security challenges, but that world conditions have changed significantly. The report pointed out that, rather than a U.S.-centric system, technological progress is now more likely to occur through collaboration with allies, and the current export control system obstructs the sharing of information. In addition, new technologies are increasingly being developed in the commercial sector, rather than the military sector.

Building on this report, in August 2009, the Obama Administration announced it would undertake a comprehensive review of the export control system to update it “to address the threats we face today and the changing economic and technological landscape.”

**CCIA’s Position:** While CCIA strongly agrees with the need to protect our national security, we believe it is important to guard against measures that would unreasonably limit or burden the legitimate export business of technology companies. CCIA has long taken the position that practical considerations must be weighed in fashioning any of these controls. The ideal export control regime would be narrowly targeted at such exports that truly threaten our national security if obtained by adversaries, without impeding legitimate export operations. CCIA opposes broadly drawn export controls that fail to make this distinction and would unnecessarily include many technology products. In addition, many dual use technologies are available from countries other than the U.S. In such cases, the only result of unilateral U.S. export controls would be to cede markets to foreign companies whose countries have less rigorous controls. Furthermore, in a world in which the U.S. is not the sole source of technology, a system that fails to distinguish between allies and adversaries would fatally undermine the kind of technological collaboration critical to future innovation.

The Export Control Practitioners Group, of which CCIA is a member, submitted a list of principles and recommendations for export control review to the Administration in January 2010.

The guiding principles include:

- Pursue reform with a government/private sector partnership at the center.
- Ensure accountability in the decision-making process.
- Control lists, thresholds, and parameters must keep pace with advances in critical technologies.
- Controls must take into account the globalization of research and development of new technologies.
- Export controls must be multilateral to be effective in denying controlled technology to adversaries.
- A strong technology industrial base is critical to maintaining a strong national defense.

***Current Issues:*** In August 2010, the Administration announced the results of its yearlong review, and its intention to proceed with the following reforms:

- Revising and streamlining the U.S. Munitions List and the Commerce Control List and split them into three tiers to distinguish the required level of control;
- Clarify jurisdictional control issues by creating a “bright line” between the two lists;
- Structurally align the two lists so they can potentially be combined into a single list;
- Harmonize licensing policies across agencies based on the control tier;
- Establish an Export Enforcement Coordination Center to coordinate efforts across agencies;
- Transition to a single IT system to administer the export control system.

As part of its reform process, the administration has been going through the USML to identify genuinely critical items in order to move the rest to the CCL, and in July 2011, published a Proposed Rule creating a framework for doing so. Even at this phase of the process, members of the House Foreign Affairs Committee, including Chairwoman Ileana Ros-Lehtinen (R-FL) and Ranking Member Howard Berman (D-CA) are asserting their oversight role on such issues as the notification process, signifying that progress may be difficult even before the final step of consolidating the lists under a single agency, which would require formal congressional action. On improving interagency coordination, the administration opened its Export Enforcement Coordination Center (E2C2) administered by the Department of Homeland Security, and the Information Triage Unit (ITU) within the Bureau of Industry and Security last month.

CCIA has long favored a more targeted and efficient export control regime that sacrifices neither our national security nor innovation and competitiveness. CCIA looks forward to the success of these reforms resulting in regularly updated and justifiable “higher walls around fewer items.”