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ABSTRACT

Computer & Communications Industry Association

EXPORT CONTROLS

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- *While fully recognizing national security needs, CCIA opposes export controls that place an excessive burden on U.S. businesses and their legitimate export operations.*
- *Unilateral export controls on dual-use technologies with foreign availability only result in ceding markets to companies from countries with less stringent controls.*

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 technology that could endanger our national security.

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 considered in fashioning any of these controls. The ideal export control regime would be narrowly targeted at exports that truly threaten our national security 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, unilateral U.S. export controls would only result in ceding markets to foreign companies whose countries have less rigorous controls.

Current Issues:

Export Control Reform: In January, 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. 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. CCIA has long favored a more targeted and efficient export control regime, so we support the report's conclusions that national security concerns must be balanced against U.S. competitiveness, and that openness and engagement should be allowed to prevail in the absence of a compelling case for restrictions. We look forward to reforms based on the recommendations in this report.

Deemed Exports: While the focus of export control issues is often on the control of products, proposed rules governing the transfer of technological knowledge and expertise can have a large impact on exporters. In 2005, the Department of Commerce's Bureau of Industry and Security (BIS) proposed changes in the rules on technology transfers to foreign national employees (deemed exports) that would base the determination of the need for an export license on the foreign national's country of birth rather than their most recent citizenship or permanent residency. CCIA saw no basis for making "country-of-birth" the criterion for export licenses, and submitted comments opposing this change.

In February, 2008, the Deemed Export Advisory Committee (DEAC) issued a report detailing its recommendations for the deemed export regime. On the issue of technologies requiring deemed export licenses, the report suggested that the scope of deemed export controls be circumscribed; however, it provides no specific guidance on how to limit that scope. Meanwhile, on the issue of which foreign nationals would require licenses, the report suggests a loyalty test-like process that would likely expand the number of people subject to deemed export controls. Along with other trade associations, CCIA expressed concern that the DEAC recommendations would result in an expansion of "Who Is Covered," without a decrease in "What Is Covered." CCIA calls on the new administration to take an approach that would not significantly increase the compliance burden on industry.