

CONGRESSIONAL EXPORT COMPLIANCE UPDATE

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Legislative Process: Step by Step

- **Introduction and Referral to Committee**

- Any Member may introduce a bill at any time while the House is in session.
- The bill is referred to the appropriate committee(s) by the Speaker.

- **Public Hearings and Markup Sessions**

- The first step in the committee process is usually a public hearing, where the committee hear witnesses representing various viewpoints.
- The bill is then considered in a "mark-up" session. Amendments may be offered to the bill, and members vote to accept or reject these changes.
- This process can take place at the subcommittee and/or full committee level.

- **Committee Action (House Foreign Affairs/Senate Foreign Relations)**

- A bill can be reported (with or without amendment) or tabled (no further action).
- If the committee has approved extensive amendments, they may decide to report a new bill incorporating all the amendments.
- If the committee votes to report a bill, the Committee Report is written. This report describes the purpose and scope of the measure and the reasons for recommended approval.



Legislative Process: Step by Step

- **Floor Consideration**

- A measure can be considered by the full House after it is reported by a committee. Under certain circumstances, it may be brought to the Floor directly.

- Debate time is divided between proponents and opponents, each side yielding time to its Members. When amendments are offered, these are debated and voted upon.

- **Resolving Differences**

- After a measure passes in the House, it goes to the Senate. It must pass both bodies in the same form before it can be presented to the President. If the Senate changes the language of the measure, it will return to the House for concurrence or changes.

- Often, a conference committee will be appointed to resolve any differences and report the identical measure back to both bodies for a vote.

- **Final Step**

- Votes taken by the electronic voting system are referred to as Yea/Nay votes or recorded votes. Votes in the House may also be by voice vote.

- After a measure has been passed in identical form by both the House and Senate, it is considered "enrolled" and sent to the President.



Congressional Export Control Working Group

- Founded in January 2007 by Rep. Donald Manzullo (R-IL) with Reps. Joe Crowley (D-NY) and Earl Blumenauer (D-OR) to educate Members and staff on export control issues.
 - February 2007: “Understanding the Dynamics of U.S. Export Control Policy”
 - March 2007: “Can Export Control Modernization Lead to Greater Security and Competitiveness?”
- Purpose: Raise congressional awareness of current U.S. export control policy.
 - The government must establish an export controls policy that is targeted and focused upon clearly defined national security priorities.
 - The business community should embrace the Administration's national security goals of prohibiting items to countries of concern that would make contributions to those countries military capabilities. Government–Industry cooperation is a key component to a successful export control system.
 - Export controls must be globally effective. Export controls cannot be a misguided attempt at establishing "world leadership" when no one else will follow them and will simply use them to gain competitive advantage for commodity technologies.

Clarifying Section 17(c)

- Wanted to provide clear direction to the civil aerospace industry regarding which agency regulates parts and components that were certified by the FAA.
 - Sec. 17(c) of the Export Administration Act clearly states that the Department of Commerce has jurisdiction over all previously FAA-certified parts and components.
- TNT Subcommittee Hearing July 2007: *Export Controls: Are we Protecting Security and Facilitating Exports?*
 - Mr. Manzullo questioned then-Commerce Undersecretary for Industry and Security Chris Padilla about the need to clarify 17 (c) regulations.
 - September 2007: Manzullo authored a bipartisan letter signed by 33 Congressmen to the President requesting that he provide clear guidance to the aerospace industry on the 17 (c) issue.
 - In October 2007, Manzullo met with Deputy Secretary of State John Negroponte and received his pledge to clarify 17 (c) and provide guidance to civil aircraft manufacturers.
- Several legislative/amendment attempts prompted Administration reaction.
 - State Department proposed rule published April 11.
 - Comment deadline May 12 – AIA, Boeing, Airbus, Goodrich, IFI, Lockheed Martin

Defense Trade Controls Performance Improvement Act (H.R. 4246)

- Introduced November 2007 with Rep. Brad Sherman (D-CA)

Became Subtitle A of Title I of the *Security Assistance and Arms Export Control Reform Act of 2008* (H.R. 5916), a broader international security assistance bill approved by the House Foreign Affairs Committee April 30.

- Directs the Secretary of State to review the U.S. export control system within 18 months and offer recommendations to strengthen controls, improve efficiency, and reduce redundancies across federal agencies;
 - Requires the DDTTC to have 1 licensing officer for every 1,250 applications by FY2010;
 - Creates a performance goal of 60 days to process a defense trade license, 30 days to process a defense trade license for close allies, and a 7 days to process defense trade licenses from our close allies in support of combat or humanitarian operations;
 - Increases the transparency of commodity jurisdiction determinations
 - Creates a special licensing authorization for U.S. manufactured spare/replacement parts or components for defense items previously lawfully exported to close allies; and
 - Increases the representation and augments the input of the Defense Trade Advisory Group (DTAG) into the State Department's defense trade agenda
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Securing Exports Through Coordination and Technology Act (H.R. 5828)

- Introduced April 2008 with Rep. Adam Smith (D-OR).
 - Provides an initial screening system for filers.
 - Would coordinate export control and tariff classifications to provide warnings that certain items may require a license. This pop-up warning should dramatically reduce avoidable errors and the associated fines, especially for small exporters.
 - The system will not accept a filing if the name or destination would violate any prohibitions, restrictions or trade sanction.
 - Strengthens prosecution of exporters who try to circumvent electronic blocks.
 - Adds a declaration that the information is correct.
 - Mandatory filing prior to shipment, with the exception of extenuating circumstances like humanitarian disasters.
 - Addresses how and when information is shared with foreign governments.
 - The bill requires the Department of Commerce, in conjunction with other relevant agencies, to adequately train exporters through public conferences.
 - Authorizes the creation of a licensing program to provide an accountability mechanism for intermediaries.
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Export Administration Act (EAA) Renewal

- The Export Administration Act of 1979 (EAA) has been the basis of the existing U.S. dual-use export control system.
 - Lapsed in 2001 but kept in force through an Executive Order authorized under the International Economic Emergency Powers Act. Has lapsed intermittently because the government has struggled with the appropriate level of control on high technology products that are widely available globally (especially in regards to trade with China).
 - Authorizes the Bureau of Industry and Security (BIS) of the Department of Commerce to control the transfer (export) of sensitive “dual-use” items that could enhance the military capability of United States’ adversaries.
- **Senate:** *Export Enforcement Act of 2007* (S. 2000) introduced August 2007 by Sen. Chris Dodd (D-CT) by request. Now in Senate Banking Committee.
- **House:** HFAC Ranking Member Ileana Ros-Lehtinen (R-FL) will soon introduce the same EAA with modifications to address several of Mr. Manzullo’s concerns.
 - Three year reauthorization instead of five.
 - Enforcement authorities that expire in five years rather than existing in perpetuity.
 - Creates a public/private commission that will thoroughly analyze U.S. export control laws in the context of a more globalized society.



Upcoming Agenda

- H.R. 5916 referred to Senate Foreign Relations Committee
- H.R. 5828 mark-up in full House Foreign Affairs Committee – mid-June?
 - In discussions with HFAC committee and TNT subcommittee staff
 - Receiving red-line comments from BIS, CBP, ICE and Census
 - Companion Senate version?
- *Export Enforcement Act of 2007*: Senate vs. House version
- U.S.-UK and U.S.-Australia defense trade treaties
- Upcoming Export Control Working Group events
 - June: Commercial satellite briefing with CSIS (co-sponsored with Rep. Ellen Tauscher)
 - July: Export Controls 101
 - September/October?

