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David R. Oliver Jr.

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# Current Export Policies: Trick or Treat?

by *David R. Oliver, Jr.*

## Overview

Any discussion of export controls needs some context. How did the current system evolve? What is it intended to protect? More than two decades ago, during the height of the Cold War, a well-placed spy told us that more than 5,000 Soviet war systems depended on U.S.-made parts. To throw sand in the communist machine, Richard Perle, then in the Reagan administration, conceived of a system of export control licenses, with accompanying stiff financial and jail penalties, to stop American companies from exporting anything that might conceivably be of technological value to the Soviets. A bureaucracy of hundreds of people at Defense, State, Commerce, Justice, and Treasury was put into place to enforce this policy. Most people, and I am one of them, believe Perle's system worked and was precisely the right system for that time.

But times change, and bureaucracies, once in place, do not atrophy for lack of relevance. Outside stimulus is required. The people put in place during the Cold War have since worked diligently to perfect their system. Not only were they determined to prevent gun running and the export of items to construct nuclear weapons but also, with the passage of time, they began to ensure nothing of possible military value crossed our borders. This bureaucracy has become increasingly more complex and stifling. Three years ago, when a U.S. company imported a key component for a satellite control station from France (a traveling wave tube), and, when the tube was found to be broken, the U.S. company was denied permission to send it back to France to get a refund! The bureaucracy knows not what it does. The Berlin Wall has fallen, the Soviet Union has collapsed, Kosovo has come and gone, but nothing has changed in the bureaucracy's warren of regulations, reviews, and delays. Working on a Cold War course, the bureaucrats have succeeded in digging a regulatory pit so deep as to cripple the most powerful arm of U.S. foreign policy--trade--as well as the international relationships and friendships that come from commerce.

As soon as they hear the word *trade*, most Americans lose interest. We have mixed feelings about industry. We worry whether there is sufficient (if any) patriotism in the boardroom of a multinational corporation. In addition, we do not like to think of America as an arms merchant. We are not interested in making some fat-cat American industrialist rich at the expense of a shopkeeper in Brazil. But the real issues for America are much, much larger. With our current export control policy, we limit and hurt friends and weaken the U.S. military and our allies.

## **Export Controls and the National Interest**

Do current export control laws and policies promote American interests? Are they, in fact, hurting our national security? Is our policy a treat, or is it a trick?

Most experts vote trick! Richard Perle, Chairman of the President's Defense Policy Board, who devised and enforced the current policy during President Ronald Reagan's terms, is clear: "Our export control policy is inimical to U.S. interests in the post Cold War world."

While the Departments of State and Defense often view issues from different perspectives, Richard Armitage, Deputy Secretary of State, and John Hamre, former Deputy Secretary of Defense in the Clinton administration, both emphatically agree with Perle. As Lincoln Bloomfield, the new Assistant Secretary of State for Political and Military Affairs, says, "I am committed to changing this export control system and bringing it into the 21<sup>st</sup> century."

If these senior Presidential appointees feel so strongly, what are they concerned about, and how is it affecting our country? Should we care at this time, given the urgency of other issues emanating from the September 11 tragedy?

## **An Unfriendly Policy**

The American export control system is intended to protect technological advantage and preclude military innovations from falling into the wrong hands. The purported goal is to prevent a rogue state from growing into a threat. A supporter of the current system might well ask incredulously, "How can that possibly hurt our friends? Even if it does, doesn't the danger require it?"

I am not going to address whether the system is ineffective. Many think it grossly so. But I believe there is no question that we need some system that does its best to ensure that nuclear triggers and biotech weapons do not leak to irresponsible nations. The question is not whether we need a system but how to change the current system so it does not continue being detrimental to both our friends and us.

Our friends are hurt because the system does not discriminate between a

country that has never even been accused of giving our technology to others and fights alongside us in every conflict (for example, England, Australia, the Netherlands) and those other countries that may not as effectively control to whom their companies sell technology. With the current system, our friends must seek the same licenses as everyone else. In fact, 30 percent of the license requests that DOD receives each year are from companies in England and Australia. For several years, these license requests--from our closest friends--have taken almost half a year to process. Half a year from the time friends ask for help until they get some modicum of grudging approval, which too often only happens after multiple government-to-government cross-ocean telephone calls! Only one percent of all the requests that DOD receives are ultimately turned down. Yet we ensure that all proposals are funneled slowly through the same series of bottlenecks. Approval, when given, comes only after making sure the other countries' officials and businessmen experience the "joy" of dealing with a government agency.

Think of the prospect of getting a new driver's license. I know it is the law, but nevertheless I resent the waste of my time. And most times I encounter at least one official who is both unctuous and irritating. In Virginia, where I live, they have changed the old process and now, unless I have an excessive number of tickets, I need to make that trip only once every 5 years. In addition, they have hired extra people, gone electronic, and have ombudsmen walking the floor to deal with confused customers, as well as those who have special needs. At least the process does not appear to intentionally generate ill will.

By contrast, my friends who live in other jurisdictions are livid about their process. Some of these are infamous for taking all day and ensuring that everyone processed has to spend long hours face to face with overworked and tired officials!

The traditional driver licence process is a good analogy for the Nation's export control system. It has not modernized with time. It does not reflect good management. It is not friendly. Everyone, including our "friends," has to go through the most unpleasant process of getting a new driver's license, every day of the year!

By forcing our friends to go through the same process as others, we are violating the first principle of good management. We are offering no incentive for other countries to better control their own technology sales. Why should they make any changes? Why should they follow the rules? Every nation (except Canada--more on that later), whether they receive 0 or 50 export control "traffic tickets" in a year, has to go through the same license process for each of their requests.

It is impossible to underestimate how frustrating this is to allies who wish to buy U.S. products. Let me give an example. Shortly after DASA bought Chrysler, someone brought me a memo in which DASA directed all of its engineers, "because of the unpredictability and shortcomings of the U.S. export control system," to design out American parts from their products wherever possible. I thought this was an obvious "smoking gun" that

demonstrated bad faith. I called and asked the American chief executive officer to drop by my office and explain this memo.

A day later, he walked in and said, "I am more than glad to," dumping a two-inch sheaf of computer printouts on my desk. "Each of these lines," he said, pointing at a page that contained at least 70 such entries, "is a common chemical, such as sulfuric acid, which is essential to producing automobiles. I would like to buy sulfuric acid in the United States. Your companies make it in a purer form, and they do so at lower cost. We could make more money by using American chemicals, and we need tankloads of this daily to keep our factories operating."

"But each time I order it, I have to get a separate export license. Each time we order it takes at least 4 months to get approval. Sometimes it takes 6 months. How can we run a business like that? How can we do just-in-time manufacturing? I would rather pay more and get an inferior product than deal with your export control system."

I was right. It was a smoking gun, but a gun pointed directly at America's industry--not America's defense industry--our *whole* industry.

As this example demonstrates, our export control system currently does not discriminate between items of possible concern and general industrial products. Everything has to go through the same process again and again. And friends have to go through the same process as others about whom we may have legitimate questions.

This is a system that does not encourage good export control behavior. And while we are not providing positive reinforcement for good behavior, we are at the same time failing to build new and better relationships with nations whose help we will need, both now and in the future. Communism is defeated and capitalism has been accepted nearly worldwide, yet we still refuse to use our wonderful economy to help build better international relationships. In fact, our export policy directly impedes making more nations our allies.

How? Nations make friends the same way people make friends. Think about how you make friends. You seek out or meet someone who has common interests--children at the same school, same job, same neighborhood, same concerns, same dreams--and you talk to him. You may socialize together. You introduce him to other friends. The relationship grows. And from good friends you feel your life has been enriched because, beginning with your common interests and conversations, he inevitably introduces you to new people, new foods to try, and new things to do. You care about your friends. You are not an instant friend to the person down the block who does not speak to you until the cold morning his car will not start. You may put on your coat and gloves to help him jumpstart his battery, but you will probably be reluctant to volunteer to loan this virtual stranger your only car so that he can get to work.

Nations are groups of people. People, not textbooks or computers, decide what their countries will or will not do. Different nations have different

worries, based on the concerns of their family members, the neighborhood in which they live, and how they earn their livelihood. When we need the help of other nations, whether it is because of Kosovo, Timor, world trade, or terrorism, our President calls the leaders of the various nations. How and if those nations respond is dependent (just as in our personal relationships) upon all sorts of factors, such as the other pressures they are under, as well as how important the preexisting relationship is to the individual calling for help. Is the caller a family member, a neighbor, someone we work with, or someone we only wave to on the way to work or school?

Our export control policy does not make sense to our friends anymore. The Cold War is over. Potential allies do not view restricting technology that would enable their citizens to have a higher standard of living or more security as the act of an America who wants to have friends.

No longer is the Soviet Union a peer competitor, threatening world domination, against which we have allied with our friends to destroy. Now the world security problems are more diverse and regional, and our friends need our technology and the less expensive products we produce to improve the lives of their citizens and maintain their own security. The Nuclear Club no longer holds ethnic and religious conflicts in check. Our friends resent every time we even require (much less reject!) an export license to them for items they believe they need for their own citizens' well-being and security.

Our current export control policy thus prevents the natural development of new or improved relationships for America. At the moment, our country is forced to rely upon the small number of people in the State Department to manage our friendships abroad. There are also senior military relationships abroad, and some of us may have personal friendships, but in the main, in this modern and shrinking world, the nearly 300 million citizens of the United States are leaving the job of making international friends up to a few thousands of overworked people in the State Department. Knowing about other nations, caring about what they need and believe, is thus effectively limited to a small oligarchy in the United States. Our elected representatives are not even involved. *The New York Times* recently reported that only 35 percent of Congress even have passports.

And America is not supposed to be an oligarchy. This is a democracy. Everyone talks about how the world is shrinking and how our lives are more dependent on the world and the world economy. Why are not more Americans involved? Because our export policy is deliberately excluding American business.

## **Business Makes Relationships**

American business is not currently involved because our export control policy limits even the simplest communication between American business and that of other nations. Not only must the American business person go through a tortuous process to get approval to make even a telephone call to a potential

business partner in another country, many businesses cannot freely sell or buy, no matter how innocuous, essential items (for example, the most common acids used to prepare automobile bodies for painting). To gain approval even to talk about what a potential international partner might need takes so long (an average of over 3 months) that many possibilities of overseas teaming are lost.

Why should we citizens care, given our normally mixed feelings about industry, especially the defense industry? Because we are denying the natural business relationships that cultivate the opportunity for international friendships. Some business relationships are personal, and some are just business, but the impact on our national security is the same. When men and women are in business together, they talk, they have dinner, they go places together, and they understand each other and each other's worries better.

When people from two different countries have a common economic concern, they pay attention to one another and their respective countries. They learn the language, travel, and meet others who have new ideas, and in the process meet the people running the machines on the shop floor. Inevitably, they always learn more about one another's country. And when their partner's country needs help, they have a reason to respond. If they decide to respond, they can. Why? Simply because business people have voices that can be heard.

It is not like when you or I spend 2 weeks carefully composing a letter on an issue and then end up mailing it to someone in our Government, who (unknown to us) has no jurisdiction or interest in the matter and merely gives it to her secretary to file in another one of the innumerable gray cabinets.

We spend 2 weeks because we do not normally speak out on such grand issues, and we mail it to the wrong place because we do not understand our Government or know the people who run it. On the other hand, business people in this country are involved in this process every day to do their work. They know who is the right person or office to call on a given issue. They can get the interest of key individuals, including legislators. Businesses have access to politicians in every country because business makes the jobs that employ the people that elect the legislators, and legislators make the laws and set the policies that govern how businesses can operate. Further, legislators have the power of the purse over those who lead the bureaucracy. Businesses pay attention to legislators.

And the legislators pay attention to businesses because they employ people. The legislators represent those people. To represent them and do their jobs, legislators listen to those same people. And, given the limited time any busy legislator has, businesses can usually get an audience with a legislator more easily than one of the thousands of people whom they may employ. Since our export control regulations effectively encourage U.S. business to concentrate on teaming only with domestic partners, the typical legislator consequently only hears about American internal interests. While representing her constituency, the legislator has little reason to hear new or disturbing information about the world. So she has no reason to apply for a passport! Is this what America needs?

At the same time, in nearly all foreign countries, legislators hear lots of information and concerns about the countries with which they do business, but they hear nothing from businesses that have friends in the United States. Why? Because foreign business leaders only look at the United States as a competitor. They do not team with Americans. Our export control policy discourages international dialogue and friendship. Concurrently, our export policy keeps a foreign country from using the world's best technology--our technology in many cases--in developing, prospering, and solving their own national needs while at the same time improving security. Our export control policy makes other nations weaker and economically poorer. They naturally resent America's policy and America. Is it any wonder that President George Bush, Secretary of State Colin Powell, and Defense Secretary Donald Rumsfeld have to work so hard in times of crisis to get nations to help us? Our day-to-day export policies are actively impeding the natural growth of common interests and national friendships.

## **Technology Key to America's Future**

Our export control policy makes us militarily weaker and is counterproductive to our own best interests. Andy Marshall, one of Rumsfeld's key advisors in the Pentagon, has spent a decade studying the significance of technological surprise in the rise and fall of great nations. The military innovations that have changed the world are technological ones--such as the Blitzkrieg (marriage of the tank and tactical communications), the aircraft carrier, and the submarine, which were developed by one country and concurrently ignored by the nations that history has later recorded as the losers. Marshall has concluded that one key to continued American world leadership is the prevention of technological surprise. America needs to be aware of, and participate in, the technological innovations that are continually developing around the world. We cannot afford to be isolationists.

Marshall's concept seems reasonable. Yet we are not acting as if we understand the danger. Just as with tariffs against bananas, when we raise barriers against technological trade, we encourage others to do the same. Why should another country permit its best technologies to be exported to the United States if we refuse them access to ours? Our current export control laws establish a de facto security moat isolating the United States technologically.

Do we believe that all of the future technological breakthroughs are going to come from within the borders of the United States? Why should we? Do we have all of the doctoral candidates in the world? Do we have all the best schools? Do we have all the geniuses? Do we have a monopoly on cleverness? Do we win the majority of the gold medals at any Olympics?

Last year an American company wanted to import the technology to build Russian space launch engines in Florida. The Russians have always built better and bigger first-stage space launch engines than anyone else in the world. In this area, they have superior metallurgy and welding knowledge and



techniques. Why not import their technology, lower the cost of our space program, and employ more American workers at the same time? While this seems like a no-brainer, the American company could not get permission to bring superior technology into our country! Instead, the system spent 5 years trying to think of reasons not to have to trade with Russia. Our export control system stymied the necessary license, even though the President, Congress, State Department, and Defense Department wanted to make America stronger with this import. Why couldn't we make the American space program better and less expensive? The system.

About the same time, Australia wanted to buy several air combat control aircraft from the United States (commonly known as airborne warning and control systems that survey the air for hundreds of miles and guide and control fighters whose radars only work at comparatively short ranges and need to be guided into contact), so this also should have been an easy decision. The United States never has as many of these platforms as the Pentagon would like. (Remember when England sent several of their radar aircraft and Germany sent fighters to help control U.S. airspace in October, when our forces were deployed to Afghanistan?)

Australia even offered to pay the United States to develop some improvements in radar, which could be then backfitted into the radar aircraft that the United States already owned and will buy. Pretty simple. Australia has never betrayed the United States by trading with nations that America considers its enemies or in any other way. In every conflict, there are always Australians alongside Americans. In fact, when it became politically difficult for us to stop the massacres in Timor, Australia did so, even at the risk of some deterioration in their important relationship with Indonesia. In addition, the purchase would also employ more Americans. Of course, they would be effectively teamed with some Australian industry because this project involved billions of dollars, and the Australians wanted some Australian jobs for their tax dollars.

Pretty straightforward, you might think. No threat to the United States--in fact, DOD wanted Australia to buy the airplanes. The purchase would improve the security of both Australia and the United States. Australia is certainly not a rogue nation. So why did so many people in the White House and Pentagon have to work this for months and months (and still are)? The system.

Another clear example in which the current export control system frustrates allied industrial cooperation was when England wanted to purchase some Boeing 747s to use as tankers for their military. If you understand military needs, you know there is a chronic shortfall of tankers (to give you an example recently in the news, the *Washington Post* reported that to make a strike on Afghanistan from the United States, a B-2 has to be tanked six times each way on every trip). Having tankers owned by and based in England is obviously helpful to interoperability and the security of all allies. And England had thought of a brilliant way in which to reduce the cost of maintaining this fleet. They were going to use the 747s, piloted by Royal Air Force reserve officers, as commercial cargo planes normally, and then recall

the officers, and the airplanes they were flying, to active duty whenever they were needed!

Our export control system does not like innovation. Our system initially rejected this idea out of hand. The system would have continued to reject this idea (and forced the British to buy non-interoperable, less-effective, and non-American Airbus airplanes), without intervention at the highest levels of our Government. Moreover, since the bureaucratic export control system operates every day--while senior Government officials tend to focus on one issue, make a decision, think it is resolved, and move on to the next crisis--the system has put roadblocks in the way of this imaginative British technology innovation for years, requiring repeated senior Government intercession. This cycle is still going on. The current export control system ensures that every conceivable roadblock will be put in the way of this international industrial cooperation. Why? Is England a rogue nation? Is a 747 a military platform that threatens our survival?

Is a closed technological border in our best long-term security interests? I do not believe so. Will other countries permit us to use their breakthrough technologies while we imperiously deny them every one of ours? Every day we see mounting evidence of growing isolationism in Europe--the fountain of our academic knowledge, our historical birthplace, and the native countries of our essential North Atlantic Treaty Organization partners. Yet our export control system, like the Titanic iceberg, floats inexorably toward promoting another disaster.

## **Allies Weakened Militarily**

While the future, like the iceberg, is often clouded in fog, there is no question our current export control system makes both our allies and us militarily weaker! The pattern is obvious, if only we look. If one examines the foreign defense industry, no national community, including Europe, has a sufficiently capable and varied defense industry to supply all the forces and weapons our traditional allies need for their self-defense (even assuming that all their industries could somehow operate together across their national borders with perfect capitalistic effectiveness). As a result, our allies simply cannot indigenously produce all they need, especially if they wish to do so efficiently. As a result, nations that we turn to for help in times of trouble face the choice of either not building and maintaining sufficient forces to solve their regional problems or selectively buying from the United States, *if they are permitted to do so*.

Given the inability of a friendly government to produce all its own weapons, what impact does this inability have on that government's leadership? To understand this, consider the relationship between Congress and taxpayers, and our own defense forces. If military products were not going to be built in California, Texas, Colorado, Massachusetts, Virginia, Mississippi, or some other state with Congress and voters, would we buy as many? Would our political leadership buy enough? No. It is merely a reality of a democracy.

Even Trident submarines, no matter how essential to our survival, were built using subcontractors in nearly every state of the union. Was this the most cost-effective way to build these systems? Perhaps not. But many citizens in the United States, and in every country in the world, resent each and every dollar spent on swords. There are always other deserving social projects that are necessarily underfunded in every budget cycle. Deciding between competing priorities is a constant balancing act for political leaders. Jobs at home help make defense purchases easier to politically support. Would you expect the situation to be different abroad?

Each nation's leader has to balance where tax dollars must go on a daily basis. In the balancing scale foreign leaders use, our export control system eliminates one of the important balancing weights. If you were a foreign leader, would you use your tax money to buy American-produced items? Or, if you bought military items, would they be those built by your own taxpayers--built, if necessary, without access to the most advanced defense industry in the world? Would they possibly be inferior products as a result?

Then, as this foreign leader, would you not consequently be under great pressure to permit your defense budget to decay? You always have other things to buy that employ your citizens. Unless there is some sort of international teaming with American industry, you cannot buy items the United States considers essential to protect its own soldiers, sailors, marines, and airmen without increasing unemployment in your own country. Are you going to do that? Are you going to put your soldiers in danger without modern protection and weapons? If you cannot buy the best, and at the same time employ your citizens, why buy defense weapons at all?

And if the United States continues to insist on such a policy, should it not be expected to fight your wars, too?

Think about what you would do if you were a foreign leader. Would not the natural result of your yearly budget evaluation process be a general decrease in your defense budget?

As we look around the world, we see a general trend downward in the defense budget of our allies. Not our enemies, our allies. Why? Our Presidents and our secretaries of state and defense keep asking them to spend more. But our allies' security capability continues to spiral lower. One key reason they do not spend more and reverse this trend is our export control system. With some exceptions (Britain and Australia, where American administrations have broken their necks to work around, under, and over the export control system), each year our democratic allies' defense budgets grow smaller, and our combined, interoperable, military capabilities weaken.

## **American Defense Weakened**

Not only has our export control policy driven our allies' defense budgets disproportionately and dramatically down since the end of the Cold War, our

current export control policy reduces our military capability even in the middle of a military action! Let me offer two examples.

During the Kosovo operation, we were dependent upon allies to provide bases and airplanes to fly the attack strikes. We were flying out of Italy, alongside Italian airplanes, manned with Italian pilots, in joint strikes. The danger to all of the pilots was surface-to-air missiles, which were fired daily. As any reader of war novels knows, one of the basic protective measures pilots need are special flares, which they eject to distract heat-seeking missiles away from their airplanes. America produces the best flares. Italy asked for a license to buy flares for their airplanes. The U.S. export control system refused! In the middle of the war! While we were flying from Italian bases!

During one period of the Kosovo operation, we were reluctant to fly our helicopters in the region for fear of heavy losses. The Netherlands, to its everlasting credit, volunteered to fly those dangerous missions. The Dutch merely asked for a cockpit computer-mapping program that we had developed to install in their helicopters to make each flight both more effective and less dangerous. Our export control system disapproved the request! Do you wonder how many more people were massacred--how much more genocide in Kosovo went unchecked--because of this decision?

If America is not to be the world's policeman, our political and military leaders are insistent that interoperability with our allies is essential. Our leaders also say that joint and combined operations are necessary to prevent the unnecessary loss of American lives. How is either possible? Neither our allies nor we can buy the very best equipment our total industries have to offer in peacetime. In fact, we have proven that our current export control system does not work even under the pressures of wartime!

## **What Should We Do?**

Our current export control system has to be changed, but not because our defense industry has excess capacity and needs foreign markets. Our defense industry leaders recognize that they must become more efficient in America and also that the great majority of items built for foreign markets need to result in foreign jobs. Our export control system needs to be reformed because it introduces great inefficiencies to our allies developing and procuring adequate defense forces so they can solve by themselves, or help the United States resolve, regional problems. Our export control system impedes effective interoperability. The system induces our allies to buy inferior forces and to reduce simultaneously their support of a common defense.

At the same time, our export control policy is inconsistent with our national objectives. It does not encourage allied leaders to take the internal political risks to maintain an effective defense. It does not function to protect the technologies that encourage world instability. Instead, it works to lower the probability that we will have capable friends in the region where the next world crisis will develop. It does not facilitate world peace. The chauvinism of

our export control policy speaks louder than any Presidential speech of friendship. Our export policy rings more insistently than any U.S. secretary of state's call for increased allied defense spending.

So what should we do? The current export control system was built over a two-decade period. It is hard to imagine senior leaders in the Bush administration and Congress devoting the time to revamp it in the next few months. But at the same time, we need to immediately send a signal, both to our potential friends and allies around the world, as well as to those hundreds of bureaucrats in our Government, that we are changing. We need an unmistakable signal, not just another speech. The Bush administration has the right signal flag on the halyard.

There is a Defense Technology Security Initiative, spelling out 17 changes, which should be immediately implemented. All of the initiatives are good, none of them require new legislation, and the State and Defense Departments and the White House have endorsed each. Every item in the initiative was conceived as a change that could be made immediately to make the export control system less needlessly onerous for our allies and our industry. Taken as a whole, the initiatives are an effort to bandage the current hemorrhaging. But the key to real reform is hidden in the middle of the document. It has to do with something called *ITAR waivers*. Why is this initiative so important? Because it alone can and will ring out a clear message that our friends will hear.

We need to backtrack a minute. What is the ITAR? It is the guiding light of our current export control restrictions, the International Trafficking in Arms Regulations. Canada was granted an exemption 50 years ago to some of these restrictions (essentially the ones that permit business teaming in carefully controlled, unclassified areas between companies in the two countries, and accompanying related unfettered unclassified business communications). That was the first and last exemption to our export control system.

The administration has proposed that we extend the same exemption to Australia and England and that we then review to what extent this exemption can be extended (perhaps to the Dutch, allies for decades, from whence the Pilgrims sailed; perhaps the loyal Italians, who stand by us daily). As part of the deal, our allies would conform their export control policies and procedures more closely with ours. It is possible to envision, if administrations continue on such a course, a future in which we and our close allies all operate within a new, common, strengthened export control system, without the need for minute bureaucratic meddling in transactions that take place inside that system.

But first we have to take the first step. The step the administration has proposed is one that will significantly enhance our security for three reasons. The initiative is with allies (England and Australia) with whom America's past and foreseeable future are irrevocably linked; it will result in clearing a significant number of unimportant license requests out of the queue and give the reviewers time to focus on requests that we may need closer review; and the waivers only apply to the types of technology that have already been

waived for 50 years to Canada.

Then why is the ITAR waiver initiative so important, and why must it be done now?

The ITAR waiver speaks more clearly than a memorandum or instruction to our own people in our own Government. Our export control system involves hundreds of bureaucrats. They need to see some clear intent to change course. They need to think about change. They need to be part of change. And, in the meantime, the exemption would effectively override entrenched bureaucratic judgment, so it cannot be nullified by well meant deliberation. The ITAR exemption will force a consideration of change.

The ITAR waiver speaks clearly to our allies. U.S. officials have talked about doing something in this critical area for years. Other nations are accustomed to hearing these promises unfilled. The ITAR exemption is precisely the signal that our own bureaucrats, as well as our potential friends and allies, need to see now.

## **Putting Our House in Order**

In addition, we need to do some housekeeping within the system. Currently, all export licenses are handled by physically carting bundled piles of paper between the State and Defense Departments. Those departments (along with Commerce, who also has equities) have started a \$30 million project to computerize the system so that paper is handled only once and a license speeds to the departments electronically. Congress needs to continue to support this effort, and the departments should work to complete this on-line development as soon as possible to bring the necessary review process forward to the 21<sup>st</sup> century. This essential and basic business-like reform is not proceeding nearly as fast as it could if it were supported by all the senior administration leadership.

The Departments of Defense, State, and Commerce have commenced a review of the Munitions List, which specifies those items for which licenses must be obtained. This list is more than a decade out of date and does not include newer technologies, while including some so old and unimportant that they are fully covered on the Internet. The current review process is going to take more than 4 years. Our relations with nations cannot wait.

Two years ago, DOD called in an outside consulting firm to look at its license review process and has followed its recommendations for improvement. DOD has reduced many aspects of its license processing time by a factor of four. DOD can easily halve this new time and needs to complete the license processing revitalization it has embarked upon. The Department of State needs to complete a similar review. Both agencies will need to be aggressive in their internal follow-up and monitoring of progress.

When a license is reviewed, low-level employees frequently add restrictions

called provisos. This is a reflection of a "fail in the safe direction" philosophy that would be more correctly called an "anti-business/anti-friend" philosophy. Such provisos frequently make the license worthless. State, Commerce, and Defense need to develop a system in which technical and policy provisos are limited and are reviewed by the appropriate senior officials (Secretary Aldridge in DOD has established an Export Control Review Office that might serve just this function).

Carefully controlled teaming of U.S. companies with foreign firms, such as the recent Raytheon/Thales industrial relationship and the Northrop Grumman/EADS endeavor, needs to be encouraged and then monitored carefully by Defense, State, and Justice. The administration needs to send the message that the ground is fertile for possibilities.

## Conclusion

With our current export control system, we are no longer balancing the factors of technological security, trade, and the needs of our allies as we did during the Cold War. We are ignoring our friends or worse. We are not laying the foundation to make new allies. We are leaving business and capitalism, two of America's most powerful engines, out of the race. The current system works against our military effectiveness. The current system works against world stability.

President Bush's administration says the export control system has to be changed. We all must help them. As the events of September 11 so terribly remind us, the dangers of the world did not diminish when the Berlin Wall fell. They changed. Our export control system must be changed. This year America needs a treat, not a trick.

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David R. Oliver, Jr. is currently an independent consultant. Previously, he served as Principal Deputy Under Secretary of Defense for Acquisition and Technology. Mr. Oliver may be contacted by phone at (703) 536-2856 or by e-mail at [DandLOliver@MSN.COM](mailto:DandLOliver@MSN.COM)

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**Center for Technology and National Security Policy**

**Hans Binnendijk**  
Director



