



Why America Needs a New Export Control Enforcement Law

Today, many of the tools of our nation's most dangerous and committed enemies are not made-to-order weapons, but legitimate – and, in some cases, life-enhancing – commercial items which can also hurt, maim and kill. Consider, for example, the triggered spark gap. Roughly the size of a thread spool, the triggered spark gap is a type of electrical switch that has two principal uses: it is used in medical devices that help destroy kidney stones and as a detonator in nuclear weapons.

Regulating the export of these thousands of “dual-use” items poses a particularly vexing challenge for our country, and is a core responsibility of the Department of Commerce's Bureau of Industry and Security (BIS). For this reason, President Bush recently announced a number of historic initiatives to make our export licensing process smarter and more efficient – and one better suited to ensure proper levels of visibility and control over dual-use technologies that could one day be used to harm our nation or her friends.

But we can and should do more. To complement these regulatory efforts, Congress should move quickly to provide our law enforcement agents with the full range of statutory authorities they need to more effectively combat illegal trade in these goods.

Since 2001, our nation's bedrock dual-use export control law, the Export Administration Act (EAA), has been in lapse. And since then, this Administration has worked to bring it back into force. Last year, Senator Chris Dodd introduced the Export Enforcement Act (EEA) which reauthorizes the EAA and includes several other important measures that would enhance U.S. national security. We urge Congress to follow Senator Dodd's lead, and to pass this legislation as quickly as possible.

Currently, we must exercise our authorities through temporary, emergency powers granted to us by the President under the International Emergency Economic Powers Act. Without a permanent law in place to support our efforts, preventing these technologies from getting into the wrong hands grows more difficult every day. The EEA would strengthen our efforts to regulate the export of sensitive dual-use items, and to investigate, prosecute and punish those who violate U.S. law and regulations.

The temporary authorities we now have are useful, but they do not eliminate the need for the full set of tools the new EEA would provide. As technology know-how, supply chains, and markets become more global, effectively denying the sale of sensitive U.S. technologies to those who would harm us has become more difficult—and urgent. Foreign locations now increasingly serve as the venue of commercial activities that pose

a threat to U.S. national security, and we need to enhance our law enforcement capabilities to investigate, uncover, and stop these activities wherever they may occur.

While BIS special agents – our nation’s premier enforcement experts on dual-use regulations – have done a tremendous job to date, they need updated tools to combat proliferation in an era of globalization. Currently, our agents are unable to work directly with their foreign law enforcement counterparts. In fact, they do not have the authority to conduct undercover operations—or even make a simple arrest – *in the United States* without undergoing a cumbersome bureaucratic process. While effective cooperation between U.S. law enforcement agencies has enabled our agents to overcome some of these hurdles, the EEA would strengthen the system and enhance our security by enabling domestic and international investigations and enforcement actions to proceed more quickly, efficiently, and effectively.

But the EEA would also have another important benefit: it will bolster our diplomatic efforts around the world to encourage other countries to adopt and improve their own export control laws and regimes. It is more difficult to make a credible and persuasive case to other nations to enact effective export controls when our own country does not have a permanent dual-use export control law on the books.

The Administration applauds Senator Dodd’s efforts to jumpstart the process by introducing the EEA to strengthen our dual-use export control system. We strongly support this legislation, and hope Congress acts quickly to pass it.

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