PRESS ARTICLES ON 2013 NDAA SATELLITE EXPORT CONTROL REFORM  
(updated 1/7/2013)  
(full-articles are included in Annex)

WALL STREET JOURNAL – 12/21/2013  
U.S. Likely to Ease Satellite-Export Restrictions, by Jon Ostrower  
Excerpt and SIA quote:

...“Final passage of the $633 billion defense authorization bill—expected as soon as the end of the week—could relax export provisions for U.S. satellite makers, re-opening overseas markets once heavily restricted by U.S. arms-control policies...
...
“The global satellite industry generated $177.3 billion in revenue in 2011, according to the Satellite Industry Association, with the U.S. holding around a 52% share of the manufacturing market. Patricia Cooper, president of the Satellite Industry Association, says that share was at 75% in 1999 and has declined as a direct result of the prohibitive regulations.”

"These reforms will give our businesses a chance to compete globally while still protecting our national security interests," said Sen. Michael Bennet (D., Colo.), who introduced in May legislation on satellite export reforms and pushed for the language for the authorization bill.

NY TIMES – 1/3/2013  
Communications Satellites Made Legal for Export, by Bill Broad  
SIA quote:

“This is a tremendous assist for an industry that is inherently international,” said Patricia A. Cooper, president of the Satellite Industry Association, a business group in Washington. “It will ensure our place at the forefront of space.”

TR DAILY – 12/20/2012  
Bennet Pushes For Satellite Export Control Language In Final NDAA; Expects Floor Action Next Week, by Tom Leithauser - Reprinted with permission of TRDaily  
Excerpt and SIA quote:

...“This provision will restore the President’s ability to move satellites and related items from the U.S. Munitions List to the dual-use Commerce Control List, while prohibiting the export of such items to China, North Korea and States Sponsors of Terrorism, including Syria and Iran,” Rep. Berman said.

The satellite industry today praised the lawmakers for retaining the export control language.
"The Satellite Industry Association applauds Congress for moving to update the rules for exports of commercial satellites. The satellite provisions contained in the NDAA that the House and Senate plan to vote on this week mark the end of more than a decade of over-regulation and a boost for the $177 billion global satellite industry," said Patricia Cooper, president of the Satellite Industry Association. “This will aid the competitiveness of the manufacturing industry that not only builds commercial satellites that deliver the world’s video, internet and data, but also the military, civil and intelligence spacecraft that ensure our national security. The satellite community is heartened at the signal of a new framework for sensible regulation of this inherently international business and thank the leaders in both houses of Congress and the Administration for their determination in seeking this reform. We at SIA look forward to helping to implement the new rules in the new year, after the NDAA is approved by both Houses and signed by the President.”

INSIDE U.S. TRADE - 12/21/2012
Final NDAA Satellite Provision Yields To Administration Demands In Two Ways, by Adam Behsudi – Reprinted with permission of Inside U.S. Trade

Excerpt and SIA quote:

...The legislation essentially repeals a provision in the NDAA for fiscal year 1999 that took the authority over satellite export control away from the president in the wake of a diversion scandal and returned all satellites and related items that had been transferred to the CCL back to the strict controls of the USML.

"Going back to the source and repealing [the 1999 NDAA] is a very clean way of doing it," said Patricia Cooper, president of the Satellite Industry Association.

REUTERS News Article – 12/19/2012
Defense bill lifts barrier on satellite exports, by Irene Klotz

Excerpt and SIA quote:

...The bill, which this week passed a conference committee of lawmakers from the Senate and the House of Representatives, is slated for final vote by both chambers before it passes to President Barack Obama for signing.

"My expectation is that this legislation will return us to a pre-1999 state of affairs," said Gold, who oversees business operations for Bigelow Aerospace. "This is a critical step."
Bigelow, which is developing inflatable space stations for lease by companies, research institutes and international agencies, has been at the forefront of spacecraft export reform for more than a decade...

...The restrictions, intended to protect defense technology, also have had the unintended consequence of driving some U.S. satellite component suppliers, unable to supplement domestic contracts with foreign sales, out of business.
"It's had the effect of weakening the supply chain," said Patricia Cooper, president of the Satellite Industry Association (SIA), a Washington D.C.-based trade organization. Since the 1999 restriction went into effect, the U.S. share of the worldwide satellite manufacturing industry, now valued at about $12 billion, has been eroding from a peak of about 75 percent of the market to as low as about 30 percent in recent years, an SIA study shows.

POLITICO PRO 12/19/2012
Defense bill would help ease satellite exports, by Hadas Gold
Excerpt and SIA quote:

..Patricia Cooper, president of the Satellite Industry Association, said this was the change the industry has been seeking for more than a decade.

“It would right-size the way that the administration can regulate exports of satellites parts and components and other related items,” Cooper said. “Our industry is inherently international, just as space is inherently international. Being able to trade with sensible export control is critical to this nation’s space leadership.”

SATELLITE TODAY - 12/26/2012
U.S. Congress Relaxes Satellite ITAR Regulations, by Jeffrey Hill
SIA quote:

...“Satellite industry organizations such as the Aerospace Industries Association (AIA) and the Satellite Industry Association (SIA) have long pushed to reform the government’s ITAR laws, seeking an elected representative as a vocal advocate. Sen. Michael Bennet (D-Colo.) wrote the export control changes in the Senate version of the National Defense Authorization Act, predicting the changes would provide a boost to national and local contractors to sell military-cleared satellite components to international customers.”...

NATIONAL DEFENSE MAGAZINE – 1/4/2013
Satellite Industry Wins Long-Fought Battle to Change Export Regime, by Stew Magnusson
Excerpt and SIA quote:

...“It may take until the end of the year before the new regulations are put in place, and authorities sort out what space-based technologies will be considered “commodities,” and which will remain too sensitive to export, Patricia Cooper, president of the association, told National Defense.

More immediately, the message that “the U.S. is not interested in being part of the international space world, that we are not able to cooperate, that we don’t trust you — that signal has been undone,” she said.

For the military, intelligence and civil space communities, which have been concerned about the strength of the space industrial base, this is welcome news.

“The space industrial base that feeds them, also feeds the commercial satellite sector,” Cooper said.”
...“Implementing export control reform

Despite the lack of action on sequestration or launch indemnification, the commercial space industry got a long-awaited victory this month in the defense authorization bill. The conference report that reconciled the House and Senate versions of bill—and subsequently passed by both houses—including satellite export control reform language that the industry had been seeking for more than a decade and which appeared to be a “do or die” situation this year (see “A space policy to-do list for after the election”, The Space Review, October 15, 2012).

“By repealing an outmoded law from more than a dozen years ago, Congress has significantly aided the competitiveness of the US satellite industry, a crucial driver for the success of the US space and technology sectors,” said Cooper on export control reform.

The bill strikes a provision from a fiscal year 1999 defense bill that moved satellites and related components to the US Munitions List (USML), thus putting them under the more restrictive purview of the International Traffic in Arms Regulations (ITAR). That made it more difficult for US companies to export satellites and satellite components, even to NATO allies and other friendly nations, a major obstacle for smaller companies without dedicated staff with experience in this area.

“By repealing an outmoded law from more than a dozen years ago, Congress has significantly aided the competitiveness of the US satellite industry, a crucial driver for the success of the US space and technology sectors,” said Patricia Cooper, president of the Satellite Industry Association (SIA), an industry organization that had been advocating for export control reform for years. “

DENVER BUSINESS JOURNAL – 12/21/2012
U.S. satellite industry gets boost from congressional vote, by Greg Avery

SIA cited:

“...Denver economic developers praised the vote to ease restrictions on Friday, as did the Satellite Industry Association, a Washington, D.C.-based trade group.”

POLITICO – 1/3/2013
Obama signs NDAA, cliff deal - Deadline dread returns - Army reins in presidential invites - Gen. Allen submits post-2014 Afghanistan options - Navy reiterates its stance on (legal) pot, by Austin Wright

THE DENVER POST – 12/27/2012
National Defense Authorization Act includes new aerospace provision, by Kristen Painter

RT – 1/3/2013
Obama signs NDAA 2013 without objecting to indefinite detention of Americans
Defense & National Security, 12/21/2012
House OKs $633B Defense Bill, Satellite Export Controls Eased, by Ross Wilkers

SPACE NEWS – 12/21/2012
U.S. House, Senate Pass Satellite Export Reform Legislation, by Warren Ferster

CONGRESSIONAL QUARTERLY – 12/19/2012
Satellite Export Controls Eased Under Final Defense Bill, by Megan Scully

SPACEPOLICYONLINE.COM – 12/18/2012
House and Senate Agree on FY2013 Defense Authorization Bill-UPDATE 2

COMMUNICATIONS DAILY – 12/19/2012
Under the “Capitol Hill” Header – page 16

ADVANCED TELEVISION – 12/21/2012
USA to abandon ITAR rules for satellites, by Chris Forrester

AIA PRESS RELEASE – 12/19/2012
AIA Urges Passage of National Defense Authorization Act

PRESS RELEASE FROM SENATOR BENNET – 12/19/2012
Bennet Provisions to Reform Satellite Exports Included in Final Defense Authorization Bill

U.S. Chamber of Commerce – 12/19/2012
Urges Members of the U.S. Congress to adopt Satellite Export Control

CHINA DAILY – 1/7/2013
Final passage of the $633 billion defense authorization bill—expected as soon as the end of the week—could relax export provisions for U.S. satellite makers, re-opening overseas markets once heavily restricted by U.S. arms-control policies.

The expected move comes as aerospace giants including Boeing Co. and Lockheed Martin Corp. are looking to expand their civilian space businesses abroad, amid a shrinking U.S. defense budget and promises of a more-level playing field for foreign manufacturers in the U.S. market.

The defense authorization bill has passed out of conference committee and is heading to votes in the House and Senate in coming days.

The tight restrictions were born out of a 1996 crash of a Chinese Long March rocket carrying a satellite built by Loral Space Communications Ltd. and Hughes Space & Communications Co., which was acquired by Boeing in 2000.

The search of the wreckage of the crash revealed a missing secret encoded circuit board allegedly stolen by China authorities, disclosed during a 1998 joint hearing on satellite technology by the House International Relations and National Security Committees.

Lawmakers who pushed for more stringent control alleged China had improperly obtained technology that could improve the reliability and guidance systems of its military missiles. Loral, which divested its satellite manufacturing unit in November, had been accused of transferring technology to China, and later settled civil allegations filed by the Justice Department but was never criminally charged.

The situation inspired a 1998 provision that shifted all satellites and their components from the discretion of the president and the Commerce Department to the tightly controlled U.S. munitions list, regulated under the International Traffic in Arms Regulations by the State Department.

That move effectively created a strict regulatory regime requiring State Department approval for any component that goes on satellites, from commercially available sensors and transmitters to brackets and screws.

U.S. aerospace companies have consistently argued that the current system puts them at a disadvantage for competing for global satellite orders against their European rivals, who are able to offer a lower cost satellite and launch alternative that don’t have to comply with U.S. export control regulations.

The new provisions would return authority to the president, who can decide which items will continue to require State Department approval and which will be regulated by Commerce. Additionally, the provisions explicitly prohibit any satellite technology sale or indirect transfer to the Peoples Republic of China, North Korea or any country identified as a state sponsor of terrorism.
The global satellite industry generated $177.3 billion in revenue in 2011, according to the Satellite Industry Association, with the U.S. holding around a 52% share of the manufacturing market. Patricia Cooper, president of the Satellite Industry Association, says that share was at 75% in 1999 and has declined as a direct result of the prohibitive regulations.

"These reforms will give our businesses a chance to compete globally while still protecting our national security interests," said Sen. Michael Bennet (D., Colo.), who introduced in May legislation on satellite export reforms and pushed for the language for the authorization bill.

—Andy Pasztor contributed to this article.

A version of this article appeared December 21, 2012, on page B4 in the U.S. edition of The Wall Street Journal, with the headline: Satellite-Export Rule to Ease.

NY Times – 1/3/2013

Communications Satellites Made Legal for Export, by William J. Broad

To the delight of American satellite makers, communications satellites — which orbit Earth to relay phone calls, link ships to shore and broadcast television programs — will become legal for civilian export under legislation that President Obama signed into law on Thursday.

Although the United States founded the industry, manufacturers were forced to pull back from international markets after a 1999 law categorized the satellites as weapons and restricted their export. At the time, Congress was fearful that selling satellites abroad could allow technology secrets to fall into the wrong hands.

The defense bill that President Obama signed will undo that step and let American companies sell communications satellites as civilian technology rather than as deadly arms. Among the beneficiaries will be companies like Boeing, Hughes and Space Systems/Loral.

“This is a tremendous assist for an industry that is inherently international,” said Patricia A. Cooper, president of the Satellite Industry Association, a business group in Washington. “It will ensure our place at the forefront of space.”

As a practical matter, communications satellites made their debut in 1964 and quickly became stars of the space age. The first craft, orbiting at 22,300 miles, relayed signals to the United States from Japan that let American television viewers watch live coverage of the 1964 Olympic Games in Tokyo.

But the industry stumbled 13 years ago after Republicans in Congress pressed for a law that restricted communications satellite exports. The lawmakers praised it as a security precaution that would prevent China
and other perceived foes from stealing technology secrets. Detractors saw it as a cynical ploy meant to discredit the Clinton administration and its policy of Chinese engagement.

That law put communications satellites on Washington’s list of export-controlled munitions: tools of war like tanks, bombs, missiles and equipment for making nuclear arms. Foreign companies took the opportunity to increase their satellite sales.

The new law gives Mr. Obama the authority to return communications satellites to their previous status as civilian technology. It retains provisions that restrict the export of satellites to nations like China and North Korea, and to sponsors of state terrorism like Iran.

Senator Michael Bennet, Democrat of Colorado, who introduced a bill to change the policy on satellite exports and whose state is a space industry hub, said the measure offered satellite manufacturers a crucial lift.

“Companies across the country have been operating at a disadvantage due to these policies,” he said in a statement. “These reforms will give our businesses a chance to compete globally while still protecting our national security interests.”

The strict export controls arose from a political fight over satellite launchings by China, which in the 1980s began offering cheap rides into orbit on low-cost rockets. Presidents Ronald Reagan and George H. W. Bush, both Republicans, approved transfers of American spacecraft to Chinese rockets, as did President Bill Clinton, a Democrat.

Starting in early 1998, a series of upsets brought the expanding trade to a halt. Two American satellite makers involved in the Chinese launchings, Hughes and Loral, were accused of giving China advice about making not only commercial rockets, but also military missiles.

Republicans, who controlled Congress at the time, argued that satellite exports could lead to a hemorrhage of secret materials and information, and said that China might already have stolen encryption secrets.

After the strict export rules took effect in 1999, the legal complications involved in selling communications satellites and components abroad contributed to a sharp decline in the American share of the market, from a dominating position to about 50 percent today.

During the 2008 presidential campaign, Mr. Obama said the rules had “unduly hampered the competitiveness of the domestic aerospace industry” and vowed to push for change.
Representative Howard L. Berman, Democrat of California, who for a decade helped lead the movement for change, said its culmination as law would help restore the nation’s competitiveness in the global satellite market.

“Treating commercial satellites and components as if they were lethal weapons, regardless of whether they’re going to friend or foe, has gravely harmed U.S. space manufacturers,” he said.

Mr. Berman added that the benefits extended beyond the manufacturers. The national security establishment relies on the companies and their technological skills to fulfill the government’s satellite needs and to develop spacecraft involved in a wide range of military missions.

“If they can’t compete in the international marketplace,” he said of the companies, “they can't innovate and cannot survive.”

A version of this article appeared in print on January 4, 2013, on page B6 of the New York edition with the headline: Communications Satellites Made Legal for Export.

TR DAILY – 12/20/2012
Bennet Pushes For Satellite Export Control Language In Final NDAA; Expects Floor Action Next Week, by Tom Leithauser - Reprinted with permission of TRDaily

A data-breach reporting requirement for defense contractors remains in the version of the National Defense Authorization Act (NDAA) for fiscal year 2013 that was approved by a House-Senate conference committee.

The committee late yesterday finished reconciling the differences in the House and Senate versions of the legislation (S 3254 and HR 4310), and the data-breach reporting provision survived largely intact despite opposition from TechAmerica and other business groups.

The provision was added to the Senate bill by Carl Levin (D., Mich.), chairman of the Senate Armed Services Committee, who argued that defense contractors with classified Defense Department information on their networks should have to report any potential leaks of that data. John McCain (R., Ariz.), the committee’s ranking member, also supported the provision (TRDaily, Dec. 6).

TechAmerica had argued that the requirement would disrupt existing efforts by defense contractors and the federal government to improve network security and asked for it to be removed during the House-Senate conference. But House leaders, who had not added a similar provision to their bill, accepted nearly all of the language in the Senate’s data-breach amendment.

House negotiators also accepted Senate language that would require DoD to consult with lawmakers on any planned changes to the status of U.S. Cyber Command as a “sub-unified” command -- including whether to separate the duties of the cyber commander and the National Security Agency director -- and on a section that would express a “sense of Congress” that DoD should be wary of using information technology equipment and software from foreign sources. That section singled out Huawei Technologies Co. Ltd. and ZTE Corp.
Another provision that survived the conference committee would empower the administration to loosen some satellite export controls. Sen. Michael Bennet (D., Colo.), who introduced export control legislation (S 3211) earlier this year (TRDaily, May 22), said it would give U.S. businesses “a chance to compete globally while still protecting our national security interests.”

Rep. Howard L. Berman (D., Calif.), ranking member of the House Foreign Affairs Committee who introduced export control legislation (HR 3288) in 2011 (TRDaily, Nov. 2, 2011), said he was pleased by the language in the conference report.

“This provision will restore the President’s ability to move satellites and related items from the U.S. Munitions List to the dual-use Commerce Control List, while prohibiting the export of such items to China, North Korea and States Sponsors of Terrorism, including Syria and Iran,” Rep. Berman said.

The satellite industry today praised the lawmakers for retaining the export control language.

“The Satellite Industry Association applauds Congress for moving to update the rules for exports of commercial satellites. The satellite provisions contained in the NDAA that the House and Senate plan to vote on this week mark the end of more than a decade of over-regulation and a boost for the $177 billion global satellite industry,” said Patricia Cooper, president of the Satellite Industry Association. “This will aid the competitiveness of the manufacturing industry that not only builds commercial satellites that deliver the world’s video, internet and data, but also the military, civil and intelligence spacecraft that ensure our national security. The satellite community is heartened at the signal of a new framework for sensible regulation of this inherently international business and thank the leaders in both houses of Congress and the Administration for their determination in seeking this reform. We at SIA look forward to helping to implement the new rules in the new year, after the NDAA is approved by both Houses and signed by the President.”

The conference report is likely to be approved quickly by the House and Senate, but sections of both the House and Senate versions of the legislation had spurred a veto threat from the White House. It wasn’t immediately clear whether changes made by the conference committee would alter the administration’s outlook.

At least one change, however, addressed White House concerns about proposed restrictions on DoD’s use of an NSA-developed cloud computing database known as Accumulo. Those restrictions were included in the Senate bill because lawmakers wanted to prod DoD to seek out commercial data-analysis tools. But the restriction was significantly loosened in the conference report. -- Tom Leithauser, tom.leithauser@wolterskluwer.com
The Obama administration's export control reform initiative will gain a boost with respect to satellite controls and the notification requirements for the removal of items from the U.S. Munitions List (USML) from the final version of the National Defense Authorization Act (NDAA) that emerged from conference on Dec. 18 and that Congress is expected to pass by the end of this week.

On satellites, the NDAA gives back to the president the authority to move all satellites and related items from the USML to the Commerce Control List (CCL), provided they are not exported, re-exported or transferred directly or indirectly to China, North Korea or any country listed as a state-sponsor of terrorism.

It also precludes any satellite or related item to be launched from any of these countries or as part of a launch vehicle owned by the governments of one of these countries. The president, however, can waive this prohibition on a case-by-case basis if he determines it is in the national interests of the U.S. to make the export and notifies the appropriate congressional committees about his determination.

Regarding the notification requirements, the final NDAA drops the language in the House version of the NDAA that would have required the administration to enumerate "to the extent practicable" the items it wants to move off the USML. The administration has long criticized this language as making it impossible to implement its overall export control reform initiative, and demanded that it be removed from the final NDAA bill.

The U.S. satellite industry supports the satellite language in the conference report, which was the result of negotiations that occurred among the administration and congressional staff in the House Foreign Affairs and Senate Foreign Relations Committees.

The legislation essentially repeals a provision in the NDAA for fiscal year 1999 that took the authority over satellite export control away from the president in the wake of a diversion scandal and returned all satellites and related items that had been transferred to the CCL back to the strict controls of the USML.

"Going back to the source and repealing [the 1999 NDAA] is a very clean way of doing it," said Patricia Cooper, president of the Satellite Industry Association.

Industry sources said this was a more desirable outcome than the House NDAA language, which tried to establish a new definition of which satellites and components the president could control. The House language referred to "commercial satellites and related components and technology" and defined them as communications satellites that do not contain classified components, including remote sensing satellites with performance parameters below thresholds identified on the USML. This language could have been interpreted to exclude authority over scientific, research and other types of satellites.

The language in the conference report gives the president nearly unrestricted authority over all satellites and related items, which are found in Category XV of the USML.

During the negotiations on the final NDAA language, there may have been a realization that the 1999 NDAA did not, in the first place, prevent the president from moving satellites off the USML other than "advanced communication satellites and related technologies." Sources said this language did not technically preclude the
administration from transferring USML satellites that are outside this description, such as observation satellites, but no subsequent administration has dared to test this apparent loophole.

The final NDAA language on China, North Korea and state-sponsors of terrorism prevents a U.S. satellite parts maker from selling its products to foreign satellite makers without knowing for sure that the end product is not going to those destinations. But an industry source argued that this creates a disincentive for foreign manufacturers to include U.S. parts because it limits who can buy their products, even though U.S. satellite products can be exported in some cases license free once they are transferred to the less-stringent CCL.

The China restriction creates a de facto "see through rule" that prevents any foreign manufacturer from selling a satellite to China or any other restricted country if it includes U.S. parts, this source said. This will effectively keep U.S. components off European satellites and payloads if they are sold to China, this source said.

The provision also puts in place a presumption of denial for any license application to export a satellite or related item that has moved to the CCL to a country with which the U.S. maintains a comprehensive arms embargo.

The director of national intelligence in consultation with the secretary of State is required to submit to the relevant congressional committees within a year of the law's enactment a report on the efforts of state sponsors of terrorism, other foreign countries, or entities to illicitly acquire satellites and related items.

The final language includes a number of reporting requirements. Every year until 2020, the president is required to submit to the relevant congressional committees a report summarizing all the licenses and other authorizations to export satellites and related items that are transferred to the CCL.

The relevant committees listed in the legislation include the Senate committees on Foreign Relations, which has jurisdiction over the USML; Banking, Housing and Urban Affairs, which has jurisdiction over dual-use items; and Intelligence. In the House, the committees include Foreign Affairs, which has jurisdiction over dual-use and munitions items, and Intelligence.

Another report requires the secretary of commerce in consultation with the attorney general, the secretary of homeland security and the heads of other relevant agencies to submit to congressional committees an assessment of the safeguards that exist for export licensing exemptions available to foreign countries for satellites and related items that are transferred to the CCL.

The administration is also required to submit to Congress a report describing how it has implemented a program for monitoring the end-use of satellites and related items that are exported upon transfer to the CCL.

Finally, any further changes to Category XV of the USML undergo an interagency review process that includes the secretaries of State, Defense, Commerce, and the director of national intelligence when appropriate.
CAPE CANAVERAL, Florida (Reuters) - Tucked into the annual U.S. defense budget bill making its way through Congress this week is a long-fought and potentially lucrative reprieve for U.S. satellite manufactures and suppliers to export their products, officials said on Wednesday.

Since 1999, spacecraft and their components have been grouped with ammunitions, fighter jets and other defense technologies and subject to the nation's most stringent export controls. The restriction followed a 1996 Chinese rocket launch accident that claimed a U.S.-manufactured satellite. In the course of the investigation, the company was accused of inadvertently transferring restricted technology to China.

Before 1999, the State Department had the option of processing satellite and spacecraft component export requests under more lenient commerce control guidelines. "We are going to give the president back that power," space attorney Michael Gold, who headed a Federal Aviation Administration export control advisory group, told Reuters.

Under the bill, satellite sales to China will remain sanctioned, a key compromise that paved the way for the provision easing export controls to be included in the National Defense Authorization Act of 2012, a $633.3 billion spending plan for the fiscal year that began October 1.

The bill, which this week passed a conference committee of lawmakers from the Senate and the House of Representatives, is slated for final vote by both chambers before it passes to President Barack Obama for signing.

"My expectation is that this legislation will return us to a pre-1999 state of affairs," said Gold, who oversees business operations for Bigelow Aerospace. "This is a critical step." Bigelow, which is developing inflatable space stations for lease by companies, research institutes and international agencies, has been at the forefront of spacecraft export reform for more than a decade.

Gold tells a story about how the one-size-fits-all export regulations required Bigelow Aerospace to post guards and pay for government observers to keep tabs on a metal stand for its prototype space habitat sent to Russia for launch in 2007.

"The stand was simply intended to prevent our spacecraft from sitting on the ground," he said. "If you turned it upside-down, put a tablecloth on it and some nice cutlery, it's indistinguishable from a metal coffee table."

"Due to the overbreadth of the regulations, we had to have two guards watching this coffee table on a 24/7 basis in Russia and then pay two government monitors to watch our guards watching the coffee table," Gold said.

"I can only imagine the national security repercussions of this table technology leaking out from the Russians to the Iranians, where they can learn to serve coffee, or in a worst-case scenario, even tea," he quipped.
The restrictions, intended to protect defense technology, also have had the unintended consequence of driving some U.S. satellite component suppliers, unable to supplement domestic contracts with foreign sales, out of business.

"It's had the effect of weakening the supply chain," said Patricia Cooper, president of the Satellite Industry Association (SIA), a Washington D.C.-based trade organization. Since the 1999 restriction went into effect, the U.S. share of the worldwide satellite manufacturing industry, now valued at about $12 billion, has been eroding from a peak of about 75 percent of the market to as low as about 30 percent in recent years, an SIA study shows.

The bill also is expected to loosen restrictions on other products currently on the U.S. munitions control list.

Implementation will take at least several months to a year as specific technologies are reviewed for possible re-designation.

"The administration will have an opportunity to actually conduct export control with a scalpel rather than a chain saw," Gold said.

(Reporting by Irene Klotz; Editing by Kevin Gray and Tim Dobbyn)
Defense bill would help ease satellite exports, by Hadas Gold

The final version of the National Defense Authorization Act brought good news for the aerospace industry: It would make it easier for U.S. companies to sell satellites abroad.

House and Senate negotiators agreed to repeal a 1999 provision requiring congressional approval to move satellites from the strict “U.S. Munitions List” to the less restrictive “Commerce Control List.”

The bill would allow the president to move satellites from one list to the other without legislative action.

The Obama administration is pushing an overhaul of current export control rules to ease restrictions on “dual-use” items, products created for military use that can also be used in commercial settings.

Prior to this congressional action, the administration had no discretion over satellite exports, said Remy Nathan, vice president of international affairs for the Aerospace Industries Association, which issued a statement praising the bill language. Should the measure be signed by the president, Nathan said, it would open the door for the administration to ease the restrictions.

Patricia Cooper, president of the Satellite Industry Association, said this was the change the industry has been seeking for more than a decade.

“It would right-size the way that the administration can regulate exports of satellites parts and components and other related items,” Cooper said. “Our industry is inherently international, just as space is inherently international. Being able to trade with sensible export control is critical to this nation’s space leadership.”

An AIA report says the military-level export controls have had a devastating effect on the industry since they were imposed by Congress in 1999, estimating that U.S. manufacturers lost $21 billion in satellite revenue from 1999 to 2009, costing about 9,000 direct jobs annually.

“Even if you don’t factor in the threat of sequestration, our space industrial base faces an immediate 22 percent reduction in the national security space budget next year,” said AIA President Marion Blakey in a statement.
SATellite Today- 12/26/2012
U.S. Congress Relaxes Satellite ITAR Regulations, by Jeffrey Hill

The United States’ domestic satellite industry received an early Christmas gift late last week when the Senate voted to remove certain International Trade in Arms Regulations (ITAR) that were placed on domestic satellite industry exports in 1998 to classify all forms of satellite hardware as munitions and issue responsibility to the Pentagon to control their exportation. The vote on the measure passed Dec. 21, ending nearly 14 years of a domestic aerospace industry drain on international partnerships for national security purposes.

Satellite industry organizations such as the Aerospace Industries Association (AIA) and the Satellite Industry Association (SIA) have long pushed to reform the government’s ITAR laws, seeking an elected representative as a vocal advocate. Sen. Michael Bennet (D-Colo.) wrote the export control changes in the Senate version of the National Defense Authorization Act, predicting the changes would provide a boost to national and local contractors to sell military-cleared satellite components to international customers.

“Colorado is a national hub for the space industry, and these reforms to our satellite export controls will allow businesses to expand their operations and invest in new technologies that will help grow our state’s economy,” Sen. Bennet said in a statement.

The vote on the legislation drew bipartisan support and U.S. President Barack Obama is expected to sign the bill into law soon.

Seakr Engineering President and COO Eric Anderson cited research from the Center for Strategic International Studies (CSIS), which showed that prior to the restrictions, U.S. company sales made up more than 73 percent of the global military and commercial satellite market – a statistic that fell to 25 percent of the world market by 2005.

“Reforming the ITAR process and allowing U.S. satellite and satellite component manufacturers to compete on a level field with foreign sources is vital for the growth and maintenance of the U.S. industrial base,” Anderson said in a statement. “Seakr Engineering has lost market share to foreign competition due to the previous restrictions, and reform is long overdue and welcome.”
THE SPACE REVIEW – 12/31/2012
Key Space Issues for 2013, by Jeff Foust

SIA cited and quote:

...“Implementing export control reform

Despite the lack of action on sequestration or launch indemnification, the commercial space industry got a long-awaited victory this month in the defense authorization bill. The conference report that reconciled the House and Senate versions of bill—and subsequently passed by both houses—included satellite export control reform language that the industry had been seeking for more than a decade and which appeared to be a “do or die” situation this year (see “A space policy to-do list for after the election”, The Space Review, October 15, 2012).

“By repealing an outmoded law from more than a dozen years ago, Congress has significantly aided the competitiveness of the US satellite industry, a crucial driver for the success of the US space and technology sectors,” said Cooper on export control reform.

The bill strikes a provision from a fiscal year 1999 defense bill that moved satellites and related components to the US Munitions List (USML), thus putting them under the more restrictive purview of the International Traffic in Arms Regulations (ITAR). That made it more difficult for US companies to export satellites and satellite components, even to NATO allies and other friendly nations, a major obstacle for smaller companies without dedicated staff with experience in this area.

“By repealing an outmoded law from more than a dozen years ago, Congress has significantly aided the competitiveness of the US satellite industry, a crucial driver for the success of the US space and technology sectors,” said Patricia Cooper, president of the Satellite Industry Association (SIA), an industry organization that had been advocating for export control reform for years. “

DENVER BUSINESS JOURNAL – 12/21/2012

U.S. satellite industry gets boost from congressional vote, by Greg Avery

Congress voted to relax limits on U.S. satellite industry exports Friday, a move meant to help the domestic aerospace industry win back international business it lost during 14 years of restrictions enacted for national security purposes.

Sen. Michael Bennet, D-Colorado, who wrote the export control changes in the Senate version of the National Defense Authorization Act, predicted it will help companies such Lockheed Martin Space Systems Co., based in Jefferson County; Ball Aerospace, in Boulder; Seakr Engineering, in Arapahoe County, and other local contractors to sell components and other satellite gear that the military clears as being safe to sell.

“Colorado is a national hub for the space industry, and these reforms to our satellite export controls will allow businesses to expand their operations and invest in new technologies that will help grow our state’s economy,”
Bennet said in a news release.
The legislation, which drew bipartisan support, is expected to be signed into law by President Barack Obama.

Congress’ vote of approval caps years of work to reform the federal government’s International Trade in Arms Regulations by the aerospace industry and elected representatives.

The export reform aims to remove restrictions written in 1998 that classified virtually any piece of a satellite as munitions, with the U.S. military tightly controlling their export. Aerospace companies cited the delays and unpredictability of exporting aerospace products — even mundane hardware such as bolts and fasteners with no national security implications — as the prime obstacle to doing business overseas.

Prior to the restrictions, U.S. company sales accounted for more than 73 percent of the global satellite market, both in military and commercial satellite production. That fell to 25 percent of the world market by 2005, according an analysis done for Congress by the Center for Strategic International Studies (CSIS).

“Reforming the ITAR process and allowing U.S. satellite and satellite component manufacturers to compete on a level field with foreign sources is vital for the growth and maintenance of the U.S. industrial base,” said Eric Anderson, Seakr president and COO, said in a news release. “Seakr Engineering has lost market share to foreign competition due to the previous restrictions, and reform is long overdue and welcome.”

Denver economic developers praised the vote to ease restrictions on Friday, as did the Satellite Industry Association, a Washington, D.C.-based trade group.
OBAMA SIGNS NDAA, CLIFF DEAL — The president yesterday approved both the FY13 NDAA and the fiscal-cliff agreement, authorizing $633 billion in defense spending and enacting a two-month sequester delay. Obama’s NDAA signature, though, came with major reservations that echoed earlier veto threats. “Restrictions on the Defense Department’s ability to retire unneeded ships and aircraft will divert scarce resources needed for readiness and result in future unfunded liabilities,” he said in a statement (http://politico.pro/130t8ZB).

In addition, the president blasted Congress for blocking his ability to transfer Gitmo detainees to the United States, vowing to implement the measure in a way that avoids any constitutional conflicts. “Congress designed these sections, and has here renewed them once more, in order to foreclose my ability to shut down the Guantanamo Bay detention facility,” Obama said. “I continue to believe that operating the facility weakens our national security by wasting resources, damaging our relationships with key allies and strengthening our enemies.”

NATIONAL DEFENSE MAGAZINE – 1/4/2013
Satellite Industry Wins Long-Fought Battle to Change Export Regime, by Stew Magnuson

While the 112th Congress at year’s end failed to permanently remove the giant ax known as sequestration, at least one sector of the defense industry is applauding lawmakers.

The National Defense Authorization Act President Barack Obama signed into law Jan. 2 included language that will move satellite components out of the most restrictive export control regime. That ended a nearly 14-year effort on the part of the U.S. space industry to reverse a law that it said hurt its competitiveness.

The law that went into effect in 1998 required that under International Traffic in Arms Regulations (ITAR), satellite products had to be uniformly regulated as munitions. This harmed the U.S. satellite industry’s international standing, dampened investment and innovation in the nation’s space manufacturing sector, and deterred training and advanced research in space technologies to the detriment of national security, according to one trade group, the Satellite Industry Association.

The bill restored the authority of the president to move satellites and related items from the United States Munitions List to the Commerce Control List. This included commercial satellites intended for the private sector. Opponents for more than a decade complained that categorizing such spacecraft as weapons made them harder to export, damaged U.S. manufacturers and sent potential customers to overseas competitors.

The stricter law was passed in 1998 in the wake of U.S. satellite manufacturer Space Systems/Loral.
being caught giving a Chinese launch provider technical data. It received a $20 million fine.

It may take until the end of the year before the new regulations are put in place, and authorities sort out what space-based technologies will be considered “commodities,” and which will remain too sensitive to export, Patricia Cooper, president of the association, told National Defense.

More immediately, the message that “the U.S. is not interested in being part of the international space world, that we are not able to cooperate, that we don’t trust you — that signal has been undone,” she said.

For the military, intelligence and civil space communities, which have been concerned about the strength of the space industrial base, this is welcome news.

“The space industrial base that feeds them, also feeds the commercial satellite sector,” Cooper said.

Rep. Adam Smith, D-Wash., ranking member of the House Armed Services Committee, said, “The language strikes the right balance between economics and security. It allows our satellite industry to keeps its competitive edge, while protecting information and technology vital to our national security.”

Jay Gullish, director of the space & telecommunication division at Futron, an industry consultant and market research group based in Bethesda, Md., said it is hard to quantify the damage the law did over the past decade. Most of the evidence is anecdotal. Many second- and third-tier component suppliers went out of business or discontinued product lines. Most of them won’t be coming back.

Overseas competitors, particularly in France, grabbed some of this business, and began marketing “ITAR-free satellites.” The new law will undermine this pitch, he said.

Cooper said the last decade saw many nations entering the space realm for the first time. More will come. “This is a really powerful signal to those new entrants into the satellite and space world that the U.S. wants to supply them and do research with them,” she added.

ITAR is not going away. Cutting edge space technologies and payloads that the nation is known for will still be restricted. Many of the components on the munitions list, however, were decades old.

Despite the outcry during the past 14 years, the prime contractors such as The Boeing Co. and Lockheed Martin Corp. made adjustments and weathered the storm quite well, Gullish added.

“We are never going to really know what the true impact of this was,” he said. Even if it was just a perception that U.S. manufacturers were harder to buy from, “perceptions matter,” Gullish said.

“What we can say is that U.S. [satellite manufacturers] are strong. They develop really good products,” he said.

THE DENVER POST – 12/27/2012
National Defense Authorization Act includes new aerospace provision, by Kristen Painter

The United States Congress gave final approval of the 2013 National Defense Authorization Act on Friday, including a provision that delights many Colorado’s aerospace leaders.

The NDAA is a yearly bill, passed by Congress and signed by the President, which lays out national defense policy for the approaching fiscal year. The new provision was fashioned after legislation introduced by Colorado U.S. Senator Michael Bennet.

In sum, it updates the space-related language within the International Traffic in Arms Regulations (ITAR) law, easing U.S. export restrictions on less sensitive satellites and components.

“Colorado is a national hub for the space industry, and these reforms to our satellite export controls will allow businesses to expand their operations and invest in new technologies that will help grow our state’s economy,” said Bennet, in a news release. “Businesses in Colorado and across the country will be better positioned to compete globally while still protecting our national security interests.”

The provision, receiving support on both sides of the aisle, removes certain satellites from the United States Munitions List — which required that the government protect technologies readily available in the global commercial market — and places them on less restrictive Commerce Control List.

Several space-related organizations applauded the provision, saying that U.S. businesses have competitively suffered due to the antiquated regulations.

The Space Foundation, an independent non-profit space advocacy organization, supported the provision and gave a specific nod to Sen. Bennet and Colorado U.S. Senator Mark Udall for pushing Congress on this topic.

“For years, we have watched the U.S. lose ground against global competitors because of the largely unintentional consequences of onerous regulations on space technology for export,” said Elliot Pulham, chief executive officer of Space Foundation.

The bill has been sent to President Barack Obama and is awaiting his signature to become law.

RT– 1/3/2013
Obama signs NDAA 2013 without objecting to indefinite detention of Americans

President Barack Obama signed the National Defense Authorization Act of 2013 on Wednesday, giving his stamp of approval to a Pentagon spending bill that will keep Guantanamo Bay open and make indefinite detention for US citizens as likely as ever.
The president inked his name to the 2013 NDAA on Wednesday evening to little fanfare, and accompanied his signature with a statement condemning a fair number of provisions contained in a bill that he nevertheless endorsed.

The NDAA, an otherwise mundane annual bill that lays out the use of funds for the Department of Defense, has come under attack during the Obama administration for the introduction of a provision last year that allows the military to detain United States citizens indefinitely without charge or trial for mere suspicions of ties to terrorism. Under the 2012 NDAA’s Sec. 1021, Pres. Obama agreed to give the military the power to arrest and hold Americans without the writ of habeas corpus, although he promised with that year’s signing statement that his administration would not abuse that privilege.

In response to the controversial indefinite detention provision from last year, Sen. Dianne Feinstein (D-California) introduced an amendment in December 2012 that would have forbid the government from using military force to indefinitely detain Americans without trial under the 2013 NDAA. Although that provision, dubbed the “Feinstein Amendment,” passed the Senate unanimously, a select panel of lawmakers led by Senate Armed Services Committee Chairman Carl Levin (D-Michigan) stripped it from the final version of the NDAA two week later before it could clear Congress. In exchange, Congress added a provision, Sec. 1029, that claims to ensure that “any person inside the United States” is allowed their constitutional rights, including habeas corpus, but supporters of the Feinstein Amendment say that the swapped wording does nothing to erase the indefinite detention provision from the previous year.

“Saying that new language somehow ensures the right to habeas corpus – the right to be presented before a judge – is both questionable and not enough. Citizens must not only be formally charged but also receive jury trials and the other protections our Constitution guarantees. Habeas corpus is simply the beginning of due process. It is by no means the whole,” Sen. Rand Paul (R-Kentucky) said after the Feinstein Amendment was removed.

“Our Bill of Rights is not something that can be cherry-picked at legislators’ convenience. When I entered the United States Senate, I took an oath to uphold and defend the Constitution. It is for this reason that I will strongly oppose passage of the McCain conference report that strips the guarantee to a trial by jury,” Sen. Paul added.

Although the Pres. Obama rejected the indefinite detention clause when signing the 2012 NDAA, a statement issued late Wednesday from the White House failed to touch on the military’s detainment abilities. On the other hand, Pres. Obama did voice his opposition to a number of provisions included in the latest bill, particularly ones that will essentially render his promise of closing the Guantanamo Bay military prison impossible.

Despite repeated pleas that Gitmo will be closed on his watch, Pres. Obama failed to do as much during his first term in the White House. Thanks to a provision in the 2013 NDAA, the Pentagon will be unable to use funds to transfer detainees out of that facility and to other sights, ensuring they will remain at the top-secret military prison for the time being.
“Even though I support the vast majority of the provisions contained in this Act, which is comprised of hundreds of sections spanning more than 680 pages of text, I do not agree with them all. Our Constitution does not afford the president the opportunity to approve or reject statutory sections one by one,” Pres. Obama writes.

Congress, claims the president, designed sections of the new defense bill “in order to foreclose my ability to shut down the Guantanamo Bay detention facility.”

“I continue to believe that operating the facility weakens our national security by wasting resources, damaging our relationships with key allies and strengthening our enemies,” he says.

Elsewhere, the president claims that certain provisions in the act threaten to interview with his “constitutional duty to supervise the executive branch” of the United States.

Before the 2013 NDAA was finalized, it was reported by the White House that Pres. Obama would veto the legislation over the provisions involving Guantanamo Bay. Similarly, the White House originally said the president would veto the 2012 NDAA over the indefinite detention provisions, although he signed it regardless “with reservations” on December 31 of that year.

Since authorizing the 2012 NDAA, the president has been challenged in federal court by a team of plaintiffs who say that the indefinite detention clause is unconstitutional. US District Judge Katherine Forrest agreed that Sec. 1021 of the 2012 NDAA violated the US Constitution and granted a permanent injunction on the Obama administration from using that provision, but the White House successfully fought to appeal that decision.

Commenting on the latest signing, American Civil Liberties Union Executive Director Anthony Romero says, “President Obama has utterly failed the first test of his second term, even before inauguration day.”

“His signature means indefinite detention without charge or trial, as well as the illegal military commissions, will be extended,” adds Romero. "He also has jeopardized his ability to close Guantanamo during his presidency. Scores of men who have already been held for nearly 11 years without being charged with a crime--including more than 80 who have been cleared for transfer--may very well be imprisoned unfairly for yet another year. The president should use whatever discretion he has in the law to order many of the detainees transferred home, and finally step up next year to close Guantanamo and bring a definite end to indefinite detention."
The House approved a compromise version of the $633 billion defense spending bill Thursday that includes lifting of some restrictions on satellite exports, Reuters reports.

David Alexander writes the chamber approved the bill by a 315-107 vote, sending it to the Senate for approval before heading to the White House for final signature.

Rep. Adam Smith (D-Wash.), ranking member on the House Armed Services Committee, said U.S. manufacturers have lost nearly 40 percent of their global satellite market share shrink over the last 15 years, according to Reuters.

Alexander writes base funding for the Pentagon in fiscal year 2013 will total $527.5 billion, the overseas operations account will receive $88.5 billion for overseas operations and $17.4 billion was allocated for the Energy Department’s nuclear programs.

House and Senate negotiators worked this week to reconcile both chambers’ versions of the National Defense Authorization Act and reached a deal Tuesday.

The final version of the National Defense Authorization Act (NDAA) for Fiscal Year 2013 repeals a 1998 law that transferred export jurisdiction for all U.S. space technology, regardless of sophistication or international availability, to the Department of State, a move that effectively reclassified satellites as weapons. Up until that law was passed, exports of all but the most sophisticated commercial satellite technologies were licensed by the Commerce Department, whose review process is considered less rigorous than State’s.

Congressional export reform proponents hailed the NDAA, expected to be signed into law in the coming days by President Barack Obama, as a victory that will boost the competitiveness of the U.S. satellite industry.

“This provision will restore the President’s ability to move satellites and related items from the U.S. Munitions List to the dual-use Commerce Control List, while prohibiting the export of such items to
China, North Korea and States Sponsors of Terrorism, including Syria and Iran,” Rep. Howard Berman (D-Calif.) said in a statement issued Dec. 18.

Berman, the ranking member of the House Foreign Affairs Committee, drafted a bill on which the reform measure is based and played a key role in getting that language attached to the House version of the NDAA.

“Treating commercial satellites and components as if they were lethal weapons, regardless of whether they’re going to friend or foe, has gravely harmed U.S. space manufacturers,” Berman said. “U.S. national security depends upon these manufacturers for our own defense needs; if they can’t compete in the international marketplace due to onerous restrictions, they can’t innovate and cannot survive.”

Rep. C.A. Dutch Ruppersberger (D-Md.) said the reform legislation is long overdue. “By treating satellites and even the nuts and bolts that hold them together as lethal weapons, we are turning our backs on American innovation,” Ruppersberger said in a Dec. 19 statement. “For too long, the makers of American satellites and their parts have gotten weaker as their foreign competitors get stronger.”

While supportive of the satellite export reform measure, the White House earlier this year expressed opposition to language in the House version of the bill that it said would saddle it with onerous congressional reporting requirements. According to industry and congressional sources, those reporting requirements are eased somewhat in the conference version of the bill.

Nevertheless, congressional notification will be required when the president makes a determination that a certain type of satellite or component should be moved from State’s U.S. Munitions List to the Commerce Department’s Commerce Control List. The president also must submit to Congress a determination that the removal of any satellite-related item from the Munitions List is in the national security interests of the United States.

The new law keeps in place an effective ban on exports of satellites and related components to China, North Korea and countries that are considered sponsors of terrorism. The 1998 law that transferred all satellite technology to State was driven in large part by allegations of unauthorized technology transfers that were taking place in the course of launching U.S.-built commercial satellites on low-cost Chinese rockets.

Under the new law, the president will still be able to waive the ban on satellite exports to China and others on a case-by-case basis if the export in question is in the U.S. national security interest and if Congress is notified. However, any proposed export satellites or related items to countries subject to a U.S. arms embargo would be met with a presumption of denial.

No president has sought such a waiver since the passage of the 1998 law.

CONGRESSIONAL QUARTERLY – 12/19/2012
Satellite Export Controls Eased Under Final Defense Bill, by Megan Scully

The final version of the fiscal 2013 defense authorization bill would relax long-standing restrictions on the export of satellites, a move that industry officials hope will open new markets, encourage innovation and boost profits for companies that want to sell their commercial products abroad.

The compromise bill (HR 4310 — H Rept 112-705), which both chambers are expected to pass by the end of the week, essentially restores the president’s authority to move satellites and related technologies from the United States Munitions List to the less-stringent Commerce Control List by repealing a provision of the fiscal 1999 defense authorization bill (PL 105-261).

“If you manufactured a bolt that happened to go into a satellite, it was subject to the munitions list export controls for exporting that bolt for anything,” House Armed Services ranking member Adam Smith, D-Wash., explained Wednesday. There were “many examples of how anything that went into satellites [was] under the strictest export control,” he added.

Smith led the effort during the House floor debate on the bill in May to relax the restrictions, which are unique to satellites and their associated technologies. For all other items that warrant export controls, the president has the authority to determine whether the technologies could be moved to the Commerce list.

In a nod to concerned Republicans in the House, Smith’s amendment included extensive reporting and other requirements that ultimately drew concerns from State Department officials. Smith and other conferees worked to address the administration’s concerns during conference negotiations, which concluded Tuesday.

The authorization bill still contains some reporting requirements, including a report to Congress on the efforts of certain countries to illicitly obtain satellites and related equipment. But conferees agreed to nix the most onerous language, which administration officials feared was overly broad and would have forced them to notify Congress of thousands of pieces of equipment.

The final bill would restrict the export of the items to China, North Korea and state sponsors of terrorism, such as Syria and Iran.

The satellite industry and their boosters on Capitol Hill have been pushing for years to relax the restrictions, arguing that they unnecessarily put U.S. companies at a disadvantage in the global market. Smith tried and failed last year to attach similar language to the annual Pentagon policy measure.

But advocates of relaxing the restriction received a boost in March, when the departments of Defense and State released a joint report that concluded that commercial satellites and other related equipment do not necessarily contain technologies that are unique to the United States military and are not critical to national security.

Certain communications and remote sensing satellites and their subsystems and parts, the departments wrote in the report, are “more appropriately designated as dual-use items on the Commerce Control List.” Transferring items from the munitions list, according to the March report, would not hurt regional or international security and stability as long as the Commerce Control List contained adequate protections.
“This agreement will help restore America’s global competitiveness in high-tech satellite technology, while also protecting vital U.S. national security interests,” House Foreign Affairs ranking member Howard L. Berman, D-Calif., said in a Tuesday statement. “Treating commercial satellites and components as if they were lethal weapons, regardless of whether they’re going to friend or foe, has gravely harmed U.S. space manufacturers.”

On Wednesday, Democratic Sen. Michael Bennet of Colorado, who sponsored a stand-alone bill (S 3211) in May that was similar to the language in the final conference report, hailed the agreement as a boon to businesses in his space-heavy home state.

“These reforms will give our businesses a chance to compete globally while still protecting our national security interests,” he said in a written statement.

SPACEPOLICYONLINE.COM – 12/18/2012
House and Senate Agree on FY2013 Defense Authorization Bill-UPDATE 2

A fact sheet released by the House Armed Services Committee’s (HASC's) Republican leadership summarizing the compromise version said that the bill authorizes $552.2 billion for the base national defense budget plus $88.5 billion for "overseas contingency operations," a total of $640.7 billion. The conference agreement is $1.7 billion more than the President requested according to the fact sheet.

Several provisions in the House- and/or Senate-passed bills are of interest in the context of space policy, but only one was mentioned in the Republican fact sheet -- funding for national security space programs is increased by $50 million above the President’s request. That fact sheet does not specify what the differences are between the request and what Congress decided. One area of sharp disagreement was the President's proposal to eliminate the Operationally Responsive Space (ORS) program and the Space Test Program (STP), which both HASC and the Senate Armed Services Committee (SASC) want to continue.

Another key issue is export control reform and the HASC Democratic Caucus's fact sheet reveals what happened with that issue, even though it is not mentioned by the Republicans. The House-passed version of H.R. 4310 would restore to the President authority to decide what satellite-related items are governed by the State Department's Munitions List and its International Traffic in Arms Regulations (ITAR) and which are on the dual-use Commerce Control List overseen by the Department of Commerce, although satellite exports to China remain prohibited. The Senate-passed version did not include that language. The final version repeals section 1513(a) of the FY1999 defense authorization act and therefore "essentially restores" to the President ability to decide whether satellites and related items are on the Munitions List or the Commerce Control List.

The Senate-passed version would add $125 million for the National Geospatial-Intelligence Agency (NGA) to purchase commercial satellite imagery to enable both GeoEye and DigitalGlobe to stay in business instead of providing sufficient funding for only one of those companies to survive. NGA already notified GeoEye that it would not be receiving anticipated funding and the two companies announced plans to merge last summer. The Department of Justice’s antitrust division is reviewing that plan. Neither fact sheet addressed that issue.

The House is expected to vote on the conference report later this week. The full text should be publicly available soon. Editor’s Note: H/T to Jeff Foust at SpacePolitics.com for pointing out the link to the Democratic fact sheet.
Congress could reauthorize the president's authority to relax export rules on non-critical U.S. satellites this week. Lawmakers are widely expected to consider the final FY13 National Defense Authorization bill which contains a provision to authorize the administration to tailor export restrictions on less-sensitive satellites. The provision is based on recommendations from the Defense and State departments that suggested a transfer of some satellites and equipment from the U.S. Munitions List to the Commerce Control List (CD April 19 p7). The language of the provision reflects bicameral legislation (S-3211, HR-3288) offered by Sen. Michael Bennet, D-Colo., and outgoing Rep. Howard Berman, D-Calif. Aerospace Industries Association President Marion Blakey commended the development in a news release Wednesday: "Ending this self-imposed burden on U.S. competitiveness in the global commercial satellite marketplace is critical to our national security and to ensuring the U.S. space industrial base stays second to none."

USA to abandon ITAR rules for satellites, by Chris Forrester

The USA’s tough ITAR (International Traffic in Arms Regulations) rules currently applies to every nut and bolt on a broadcasting satellite, and has meant that US manufacturers cannot sell satellites or components that would be used on foreign, non-US, launchers or in some cases operated by certain foreign nations. Satellites, under the 1998 regulations, were simply treated as weapons. The regulations are now to be repealed, thereby giving the president extra discretion in what is, and what is not, dangerous as far as an export licence is concerned.

The new regulations (now known as the National Defense Authorisation Act) are expected to be signed into law in the next few days and come into force in 2013. “This provision will restore the President’s ability to move satellites and related items from the US Munitions List to the dual-use Commerce Control List, while prohibiting the export of such items to China, North Korea and States Sponsors of Terrorism, including Syria and Iran,” Rep. Howard Berman (D-Calif.) said in a statement.

“Treating commercial satellites and components as if they were lethal weapons, regardless of whether they’re going to friend or foe, has gravely harmed US space manufacturers,” Berman added. “US national security depends upon these manufacturers for our own defense needs; if they can’t compete in the international marketplace due to onerous restrictions, they can’t innovate and cannot survive.”
AIA Press Release – 12/19/2012
AIA Urges Passage of National Defense Authorization Act

AIA congratulates conferees on the fiscal year 2013 National Defense Authorization Act (H. R. 4310) for completing their work and producing a final conference agreement that supports our warfighters and helps sustain our defense industrial base in a time of uncertainty. We urge the House and Senate to pass the agreement and President Obama to sign it into law. The bill resolves several issues in conference in ways that continue to uphold the capabilities of the U. S. aerospace and defense industry, including:

- Substantial changes to depot provisions enacted last year, which would have presented a number of challenges to the private sector and could have resulted in lost workload with American taxpayers paying billions of dollars in increased costs;
- An agreement related to the procurement of commercial items that ensures increased access to commercial products, which will drive down costs and increase competition;
- Flexibility for the Pentagon to continue its investment in the development of alternative fuels, a critical step towards reducing American dependence on foreign oil sources and producing commercially viable alternatives; and
- The return of authority to the President to determine appropriate export control requirements for commercial satellites and related technologies, after more than a decade of a law requiring inflexible, military-level controls which undermined U. S. global competitiveness in this critical field. AIA has long advocated for this change.

While these are all positive developments for our economy and national security, it is critical that Congress and President Obama now come to a bipartisan compromise that removes the mindless threat of sequestration budget cuts, which would undermine implementation of our strategic initiatives, curtail investment and cost 2.14 million jobs across the whole economy in 2013.
PRESS RELEASE FROM SENATOR BENNET – 12/19/2012
Bennet Provisions to Reform Satellite Exports Included in Final Defense Authorization Bill

The Senate and House Armed Services Committees unveiled the final version of the Defense Authorization bill, called a conference report, which includes provisions based upon a bill introduced by Colorado U.S. Senator Michael Bennet to give the Administration the ability to tailor export restrictions on certain satellites and components not deemed highly sensitive.

“Colorado businesses and other companies across the country have been operating at a disadvantage due to these policies,” Bennet said. “These reforms will give our businesses a chance to compete globally while still protecting our national security interests. Colorado is a national hub for the space industry, and this will help satellite companies grow their businesses and the state’s economy.”

“Reforming the ITAR process and allowing U.S. satellite and satellite component manufacturers to compete on a level field with foreign sources is vital for the growth and maintenance of the U.S. industrial base,” said Eric Anderson, president & COO of SEAKR Engineering based in Centennial. “SEAKR Engineering has lost market share to foreign competition due to the previous restrictions and reform is long overdue and welcome.”

“Colorado is a national hub for the satellite industry. Our companies are at the forefront of developing next generation satellite systems, and have a deep technical expertise and an inherent global competitive edge,” stated Vicky Lea with the Colorado Space Coalition. “Satellite export control reform is a critical issue to the nation’s space industrial base. The proposed changes in the NDAA will enable our companies to capitalize on their expertise, increasing high-skilled jobs and economic impact in Colorado.”

Under current law, the Administration does not have authority to determine the appropriate export controls for satellites and space-related items. They are controlled as defense articles under International Trafficking in Arms Regulations (ITAR), even if they have civilian applications and are available commercially abroad. This puts U.S. manufacturers at a competitive disadvantage in the global market while foreign competitors continue to make technological advancements.

Bennet introduced a bill in May to give the Administration the discretion to transfer certain less sensitive satellites and satellite components from the more restrictive United States Munitions List to the Commerce Control List. The bill is based on recommendations from a joint Department of Defense and Department of State report on United States export controls in the satellite industry released in March.

Bennet has been working with the leadership of the Senate Armed Services Committee on his legislation and filed an amendment to the Defense Authorization bill that contained such export control reforms. In a letter to Senators Carl Levin (D-MI) and John McCain (R-AZ), chairman and ranking member of the committee, Bennet requested that his amendment be included in the final conference report.
December 19, 2012

TO THE MEMBERS OF THE UNITED STATES CONGRESS:

The U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, commends the conferees on H.R. 4310, the “National Defense Authorization Act for Fiscal Year 2013,” for their efforts to negotiate a balanced and sound conference report.

The Chamber believes the conference report would serve to enhance the ability of the defense industry to support U.S. national security interests while remaining competitive at home and abroad. Specifically, the Chamber is pleased the conferees declined to adopt a Senate provision which would amend the Truth in Negotiations Act and would effectively undermine longstanding policy with respect to procurement of commercial items by the Department of Defense. In addition, the Chamber applauds the conference committee decision to reject the Senate proposal to impose arbitrary caps on contractor compensation which would directly impede the flexibility of the defense sector to recruit and retain highly skilled personnel.

The Chamber also acknowledges the conferees’ efforts to mitigate the negative impact upon the defense industry of Senate provisions regarding government-specific software standards and reporting requirements for cyber intrusions of DOD contractor networks. Additionally, the Chamber is pleased with the omission from the conference report of a House proposal which would establish a new domestic preference for government procurement of specialty metals and its rejection of a House floor amendment that would jeopardize export markets for U.S. defense and security companies.

Lastly, the Chamber strongly endorses the conference committee adoption of the House provision to authorize the transfer of commercial satellites and related components to the Commerce Control List from the U.S. Munitions List subject to congressional oversight. Such a move would bolster the global competitiveness of the U.S. commercial satellite industry.

The Chamber regards this authorization measure as necessary for industry and the Department of Defense alike and, accordingly, urges you to support the expeditious passage of the conference report to accompany H.R. 4310. The Chamber may include votes on, or in relation to, this bill in our annual How They Voted scorecard.

Sincerely,

R. Bruce Josten
China was justified in expressing its disappointment and dissatisfaction on Saturday after the United States retained restrictions on the exporting of satellites and related items to China.

The US decision does a disservice to the cultivation of more balanced trade between the two countries, which in turn will have negative impact on the healthy development of bilateral trade ties.

On Jan 3, US President Barack Obama signed the National Defense Authorization Act for Fiscal Year 2013, which, although it loosens restrictions on US satellite exports, bans the exporting, re-exporting or transferring of satellites to China, as well as the launching of US satellites in Chinese territory.

The move will continue to bottleneck cooperation between the countries on satellites for civil use, and it does not conform with US promises to ease its export control system and boost exports of high-tech equipment to China.

China has been a victim of the biased US export control regime for a long time, as the US has restricted exports to China of high-tech products including spacecraft and their components, military technologies and products, military-civilian dual-use goods, and software.

In recent years, there have been growing calls within both countries for the US to relax its export controls and promote exports of high-tech products to China, as the move would contribute to a more balanced trade between the two countries and bring benefits to both.

High-ranking US officials, Obama included, have promised on many occasions that the US would move to ease its export control regime and that China would benefit from the changes. However, the new US defense authorization bill is a ready proof that the US is merely paying lip service to such promises.

The US should honor its promises and match words with deeds. It should respect its trade partners and treat them as equals.

China is the US' third largest export market now, and its imports from the US are expected to continue to grow this year. China has a trade surplus with the US, and it has long proposed that the two sides should address the issue through removing trade barriers and promoting trade liberalization and trade facilitation.

The US should do more to promote better trade and business ties with China, rather than putting obstacles in their way.