

**Franklin Vargo**

*Vice President*

*International Economic Affairs*

January 20, 2011

The Honorable Ellen Tauscher  
Under Secretary of U.S. Department of State  
Arms Control and International Security  
Washington, DC 20230

Re: ITAR Amendments - Category XIX, Gas Turbine Engines (RIN 1400-AC98)

*Via email: DDTCTeam@state.gov*

Dear Ms. Tauscher:

The National Association of Manufacturers (NAM) welcomes the opportunity to comment on amendments to the International Traffic in Arms Regulations (ITAR) and the proposed establishment of Category XIX to describe gas turbine engines and associated equipment that warrant control on the United States Munitions List (USML).

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Our members play a critical role in protecting the security of the United States. Some are directly engaged in providing the technology and equipment that keep the U.S. military the best in the world. Others play a key support role, developing the advanced industrial technology, machinery and information systems necessary for our manufacturing, high tech and services industries.

We commend the State Department and the Administration for undertaking this significant exercise. We hope such changes will better focus limited government resources on protecting those items that are truly sensitive, end jurisdictional confusion, bolster interoperability with our allies, and provide greater clarity both for the exporters who comply with the regulations and for the government officials who administer and enforce them. The NAM has long been a staunch advocate of rational export control policies that address evolving national security concerns and modern business practices.

The new USML Category XIX would cover gas turbine engines and associated equipment currently covered in USML Categories VI (missiles), VII (vehicles) and VIII (aircraft). The NAM is concerned that this substantial change would cause confusion for manufacturers and customers as well as for government officials. In aircraft engines, for example, it can often be difficult to determine where an airframe ends and an engine begins. By removing aircraft engines from Category VIII, exporters will be required to identify which parts and components belong to the aircraft and which belong to the engine. This technical task will be, at best, difficult. At worst, the confusion could result in unintended export violations. The NAM suggests the State Department reexamine the impact of moving gas turbine engines and related equipment from Categories VI, VII and VIII to Category XIX.

Broadly, the NAM strongly recommends that the Administration establish a forum for sharing proprietary information to regulators. This type of forum would enable government officials to gain a deeper understanding of commercial engine and airframe capabilities. The new Category XIX, as proposed, carries the risk of controlling commercial aircraft engines under the ITAR. The text of the

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proposed rule does not limit the scope of the new Category XIX to military engines. Instead, it captures capabilities that are shared with commercial engines. This would have significant negative consequences for U.S. commercial aviation.

The harmonization of definitions has been a key tenet of the current Export Control Reform initiative and is particularly important as the Administration establishes the framework for transferring items from the USML to the CCL. As an example, the definition for “military gas turbine engines” should be consistent on both lists. “Military gas turbine engines” as defined in the BIS proposed rule (RIN 0694-AF21) should be adopted in the USML.

Although the NAM applauds the State Department’s attempt to create objective parameters for ITAR controls, as opposed to the “specially designed” standard currently in use, there are significant problems with the objective parameters outlined in this proposed rule.

Most aircraft engine platforms, for example, are developed using technologies that are essentially common to both military and commercial applications. Only those engines with “specially designed” features or capabilities specific to USML aircraft should be controlled by the ITAR. The NAM recommends the State Department add language to XIX(a), XIX(b) and XIX(e) to limit the applicability of ITAR to engines that are “specially designed” for “end items” enumerated in Categories VI, VII or VIII. Commercial helicopter engines, for example, tend to be very similar to military helicopter engines. Tilt-rotor aircraft technology is not inherently military, and the commercial market for such technology is developing. The NAM also recommends limiting ITAR controls to those parts and components that create or significantly contribute to the capabilities or features that are outlined in XIX.

Of note, engines are often capable of actions far outside their intended use. An engine could be significantly over-driven to produce extra thrust, or it could be “capable of” inverted flight under certain conditions. The NAM suggests that the State Department address this issue by clarifying that ITAR controls only apply to engines that are designed for military functions. For example, an engine that is designed for sustained inverted flight for a certain time period or an engine that is rated for high power extraction at certain altitudes would be appropriately controlled under the ITAR.

The 17(c) note to Category VIII(h) implemented in 2008 helped manufacturers of commercial aviation technology to more effectively compete in the competitive global marketplace. To avoid the regulatory uncertainty that preceded that 17(c) note, the NAM also suggests a final rule on Category XIX reiterate that 17(c) is still applicable by retaining the note.

The NAM also recommends revising XIX(g) to clarify that ITAR only applies to technical data and services that are directly related to the military functionality of the defense articles as enumerated. As proposed, Category XIX would capture activities and data that are not related to defense activities, such as maintenance manuals that are common to commercial engines.

Additionally, the proposed rule would substantially change the definition of “hot section” adopted in 2008. By including an illustrative list in XIX(f)(2) instead of providing a definition. The section of the proposed rule related to “hot section,” therefore, is overly expansive and would require manufacturers to reclassify thousands of items that were previously not considered Significant Military Equipment (SME). The NAM recommends utilizing the existing Category VIII(b) wording established in 2008.

In conclusion, the NAM strongly supports the State Department’s efforts to move forward with an ambitious export control reform initiative. As the interagency task force continues its work on identifying appropriate levels of control for goods and technologies, we encourage the Administration

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to move forward simultaneously on reforming and streamlining the mechanisms used to manage licensing. Specifically, the NAM strongly recommends the Administration adopt a program licensing regime that dramatically reduces the number of licenses required to support U.S. government defense and security programs. Program licensing and other licensing management improvements would provide greater predictability for U.S. industry and thereby enhance our ability to support U.S. security cooperation priorities.

The NAM appreciates this opportunity to provide comments on the proposed rule establishing USML Category XIX for gas turbine engines. We look forward to continuing to work with the State Department and its partners on this important initiative.

Thank you,

A handwritten signature in black ink, appearing to read "Frank Vargo", with a long horizontal flourish extending to the right.

Frank Vargo

FV/la