September 3, 2010

CONTENTS
CONGRESSIONAL SCHEDULE
EXECUTIVE BRANCH

PRESIDENT ANNOUNCES EXTENSIVE REFORM OF EXPORT CONTROLS

President Obama this week announced that the Administration is taking major steps to reform the nation’s system of export controls. In a videotaped speech to the Department of Commerce Annual Export Controls Update Conference on August 31, the President said that the reforms “will focus our resources on the threats that matter most, and help us work more effectively with our allies in the field. They’ll bring transparency and coherence to a field of regulation which has long been lacking both. And by enhancing the competitiveness of our manufacturing and technology sectors, they’ll help us not just increase exports and create jobs, but strengthen our national security as well.”

The announcement follows a year-long review of export controls which “determined that the current export control system is overly complicated, contains too many redundancies, and, in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities,” according to a press release issued by the White House on August 30.

Among the actions the Administration is taking:

- Agencies will apply new criteria for determining what items need to be controlled and a common set of policies for determining when an export license is required.
Agencies will apply the criteria and revise the lists of munitions and dual use items that are controlled for export so that they have three “tiers,” with varying levels of control based on the product, export destination, who will be using the product, and how they will be using it. The Departments of Commerce and State will establish a “bright line” between the U.S. Munitions List and the Commerce Control List to clarify which has jurisdiction, and they will align the lists structurally so that they potentially can be combined into a single list of controlled items. Both lists will be structured as “positive lists” that describe controlled items using objective criteria rather than “broad, open-ended, subjective, catch-all, or design intent-based criteria.” Doing this, the White House says, “will end most, if not all, jurisdictional disputes and ambiguities that have come to define our current system.”

A preliminary analysis conducted by White House suggests that existing controls could be loosened on as many as three-fourths of the items currently contained on the munitions list, and it is possible that over 30 percent could be decontrolled altogether.

The President also announced that he will issue an Executive Order establishing an Export Enforcement Coordination Center with the purpose of coordinating and strengthening the federal government’s enforcement efforts across all relevant agencies while eliminating gaps and duplication.

---AAU Leaders Applaud Administration’s proposed Export Control Reforms

AAU issued a pair of statements in response to the Administration’s announcement, one by President Robert Berdahl and the other by Stanford University President John Hennessy, who leads AAU’s Export Controls Task Force and served as co-chair of the National Academies’ Committee on Science, Security and Prosperity, which issued the 2009 report, “Beyond ‘Fortress America’: National Security Controls on Science and Technology in a Globalized World.”

“[I]n a world of globalized science and technology,” Hennessy said, citing the National Academies report, “our security will come from our ability to ‘run faster’ than our competitors, not from building walls around our nation. A more agile and responsive system of controls will allow us to focus our energies on serious security risks, make informed decisions, and make them more quickly.”

Berdahl noted the impact on university research.

“We are particularly pleased that the Administration’s proposals look to protect national security without disrupting university research that is critical to our long-term economic and national security, and that the proposals are intended to ensure that the world’s best talent can participate openly in that research,” he said.

DOD ASKS DEFENSE SCIENCE BOARD TO ESTABLISH TASK FORCE ON BASIC RESEARCH

Under Secretary of Defense Ashton Carter has asked the Defense Science Board (DSB) to create a Task Force on Basic Research. In an August 2 memo to DSB Chair Paul G. Kaminski (CK),
Carter said the new task force was needed “to assess matters relating to departmental planning and managing the defense basic research program.”

“The Task Force,” he wrote, “will serve as a mechanism for external validation of the quality of the basic research program and for advice on long term research plans and strategies for the corporate-wide defense basic research portfolio.”

Carter asked the Task Force to assess a number of aspects of defense basic research, including:

- the appropriate scientific goals for a basic research program and whether currently funded 6.1 basic research is actually basic research or applied research;
- the manner in which the quality of the basic research is assessed;
- basic research portfolio management across the Department of Defense, and opportunities for increased cooperation among Defense agencies and with other federal research agencies;
- potential gaps in current Defense 6.1 basic research;
- overall program balance, including the balance between single-principal investigators, Multi-University Research Initiatives (MURIs), and university-based centers, as well as the balance between high-risk high-payoff research vs. lower-risk research; and
- the intellectual competitiveness of intramural and extramural basic research programs.

In May 2009, the JASON group, an independent science and technology advisory group, issued a report on how best to structure DOD’s 6.1 basic research program. That report identified some of the issues outlined in Carter’s memorandum.

**JUSTICE DEPARTMENT APPEALS PRELIMINARY INJUNCTION ON FUNDING OF EMBRYONIC STEM CELL RESEARCH**

The Department of Justice (DOJ) filed an appeal yesterday asking for suspension of last week’s preliminary injunction which halted federal funding of human embryonic stem cell (ESC) research. DOJ took a two-step approach, both asking the appeals court to overturn the injunction and filing an emergency motion with the lower court, which issued the injunction, for a stay, essentially asking for a restoration of the status quo while the appeals court considers the case. If Judge Royce Lamberth of the lower court denies the motion, or if he does not act by September 7, DOJ will ask the appeals court for a similar suspension of the injunction while it considers the case. Judge Lamberth has ordered the plaintiffs to respond to the appeal by the end of the week.

Despite the complicated legal procedure, the government’s appeal is fairly straightforward, arguing against each of the points made in Judge Lambert’s injunction ruling and asserting that the injunction causes “irrevocable harm” by “terminating research projects midstream, invalidating results in process, and impeding or negating years of scientific progress toward finding new treatments for devastating illnesses such as diabetes, Parkinson’s disease, and blindness, as well as crippling spinal cord injuries.”

DOJ notes that the executive branch’s interpretation of the Dickey-Wicker amendment as allowing ESC research, which was cited as the primary reason for the injunction, was originally issued in 1999 and upheld through three Administrations, during which time Congress had ample opportunity to object, or to modify the amendment, if it felt the annual amendment’s intent was not being upheld. The motion also argues against the court’s finding that the adult stem cell
researchers serving as plaintiffs were put at a competitive disadvantage in obtaining funding because of NIH’s funding of ESC research. DOJ points out that non-embryonic stem cell research received substantially more funding than ESC research, and that one of the plaintiffs could not have been disadvantaged, having never actually applied for an NIH grant.

NIH Director Francis Collins filed an affidavit in support of the government’s case. In addition, NIH this week issued an official notice in the NIH Guide for Grants and Contracts, confirming that while ongoing ESC research will continue until it is up for renewal, issuance of new awards, peer review of ESC applications, and consideration of new stem cell lines for the ESC registry have all been suspended. NIH also sent a memo ordering an immediate halt to all intramural research involving ESC.

NIH PLANS SYMPOSIUM ON ANIMAL WELFARE AND SCIENTIFIC RESEARCH

The National Institutes of Health (NIH) will hold a two-day symposium entitled “Animal Welfare and Scientific Research: 1985 to 2010” on October 25-26 in Bethesda, MD.

The symposium will, according to NIH, “celebrate and acknowledge the achievements of two and a half decades of biomedical research conducted under the U.S. Government Principles, the PHS Policy on Humane Care and Use of Laboratory Animals, and the Animal Welfare Act and Regulations.”

NIH will also conduct pre-conference workshops on October 24. All of the events will take place at the Bethesda North Marriott Hotel and Convention Center in Bethesda.

For program, registration, and accommodation information, visit http://www.awsrsymposium.com.

End of document