

AAU Association of American Universities
APLU Association of Public and Land-grant Universities
COGR Council on Governmental Relations

November 8, 2012

The Honorable Carl Levin
Chairman
Senate Committee on Armed Services
269 Senate Russell Office Building
Washington, D.C. 20510

The Honorable John McCain
Ranking Member
Senate Committee on Armed Services
241 Russell Office Building
Washington, D.C. 20510

Dear Chairman Levin and Ranking Member McCain:

On behalf of over 200 leading public and private U.S. research universities that our associations represent, we would like to express our strong support for the Safeguarding United States Satellite Leadership and Security Act of 2012 (S. 3211), a bill which addresses export control policies for satellites and related items. Given our support for S. 3211, we would ask that you consider amending the final FY 2013 National Defense Authorization Act to include language similar to that contained in S. 3211 that would return to the executive branch authority to determine the export control jurisdictional status of satellites and related items.

The action we are requesting is consistent with recommendations made in April 2012 by the Departments of Defense and State in their *Report to Congress on Section 1248 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84)*. This report, which was requested in the National Defense Authorization Act of Fiscal Year 2010 (Public Law 111-84), was delivered to Congress after a two year assessment by the Departments of Defense and State of the “risks associated with removing satellites and related components from the United States Munitions List (USML).” After a thorough review, the two Departments “identified two satellite types, and related items, that are not purely defense-related and thus should not be designated as defense articles on the USML or controlled under the International Traffic in Arms Regulations (ITAR).” The Departments also determined that items such as communications satellites, remote sensing satellites with lower performance parameters, and satellite components with lower performance parameters should be designated as dual-use and controlled under the Department of Commerce’s Export Administration Regulations (EAR). Likewise, the report determined that selected satellites and space-related items with critical components and sensitive technologies should remain on the USML.

The research university community agrees with the need to protect truly sensitive satellites and space-related technologies and other items; these items should remain on the USML in accordance with the Section 1248 report. However, the blanket statutory requirement currently in place which mandates that all satellites and related items be placed on the USML, even those which have legitimate dual-uses and pose minimal national security risks, adversely affects the ability of universities and their faculty to conduct valuable space science research and to train students in related subjects. As the educators of the next generation of scientists, engineers, and innovators, the research university community strongly supports moving less sensitive satellite and space-related technologies from the USML to the Commerce Control List. The current inclusion of space-related hardware on the USML has hindered the participation of leading international scholars and students at

our universities in many space-related research projects and classes. This has led some campuses to decrease their research efforts in these particular areas. The current export controls rules related to satellites have also impeded U.S. space scientists from participating in legitimate and potentially valuable international scientific collaboration.

The specific problems arising from the current application of ITAR to space science research at universities are outlined in the National Research Council in a 2008 summary of a workshop it held on *Space Science and the International Traffic in Arms Regulations* (see: http://www.nap.edu/catalog.php?record_id=12093).

As you move to finalize the FY 2013 Defense Authorization Bill, we would urge that you act upon the recommendations included in the Section 1248 Report. We note that the House did amend its version of the bill (H.R. 4310) to include language in Section 1241 on this matter. We are concerned, however, that by focusing only on “commercial satellites and related components” the House language will not address how current ITAR implementation adversely impacts space science research and education at our universities.

Again, we would like to express our support for the legislation that has been put forward by Senator Bennett and hope that you can find a way to act upon this legislation or otherwise reflect the recommendations made by the 1248 Report in the final Defense Authorization Bill. We would be happy to answer any questions you might have regarding our request or our specific concerns about how current rules are adversely affecting our ability to conduct space-related research and train students in related scientific fields.

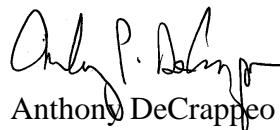
Sincerely,



Hunter R. Rawlings III
President
AAU



Peter McPherson
President
APLU



Anthony DeCrappeo
President
COGR

cc: The Honorable John Kerry, Chairman, Senate Foreign Relations Committee
The Honorable Richard G. Lugar, Ranking Member, Senate Foreign Relations Committee
The Honorable Harry Reid, Senate Majority Leader
The Honorable Mitch McConnell, Senate Minority Leader