



**Electronic Industries Alliance**

June 22, 2005

The Honorable John Warner  
Chairman  
Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20515

The Honorable Carl Levin  
Ranking Member  
Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20515

Dear Chairman Warner and Ranking Member Levin,

As the Senate Armed Services Committee prepares to take the FY2006 National Defense Authorization Act to the Senate floor, I urge you to resist any legislative amendments that would create barriers to competitive procurement by the Department of Defense (DoD). Creating hurdles to competitive procurement will hinder military capabilities and advances in next-generation warfare, and such provisions will not serve the best interests of our nation or its industries. Furthermore, protectionist measures run entirely contrary to the U.S.'s longtime efforts to promote open borders and open procurement markets with our trading partners around the world.

EIA, which represents nearly 1,300 companies across the full spectrum of the electronics, high-tech and defense industries, is concerned by several provisions passed as part of the House version of the authorization bill, H.R. 1815, and we hope that we can rely on the Senate Armed Services Committee to oppose any similar measures.

Specifically, we are opposed to protectionist "Buy America" language (Section 818 of H.R. 1815) that would impose a 50% U.S. content rule on manufactured end products purchased by DoD and supercede all the mutually negotiated related provisions in Memoranda of Understanding between DoD and our allied coalition partners. While the stated intent of "Buy America" legislation is to protect the U.S. industrial base, this provision will negatively impact the high-tech and electronics industries, as well as undermine the ability of DoD to provide the best possible systems for our nation. Like other sectors of the economy, the U.S. technology industry operates in an increasingly global marketplace. Many products built and assembled in the U.S. include components that have been sourced internationally, and the success of such systems has long been evident. Provisions such as those included in a "Buy America" amendment would almost certainly disrupt the DoD procurement system and increase costs significantly.

We also oppose Section 1212 of H.R. 1815, which imposes a five-year ban on DoD procurements from a foreign entity that transfers to China any items on the U.S. munitions list, even if the transfer is allowed under the laws of the relevant foreign government. Prohibiting such foreign companies – many of which are longtime industry partners – from participating in joint programs or providing DoD with desired systems and components is shortsighted and will weaken U.S. efforts to influence governments contemplating arms transfers to China. Again, we believe there is a risk of retaliatory

policies from our foreign allies, limiting sales of U.S. companies' products overseas and threatening our own nation's economic health.

Finally, EIA opposes Section 817 of H.R. 1815, as written, which requires DoD to prohibit procurements from foreign persons – and related joint ventures, partnerships or contracting teams – who are the subject of WTO consultations or an unresolved dispute with the U.S. over subsidies. Such disputes should be resolved under the rules and regulations of the WTO agreement, and we should not create additional barriers for our allies. In addition, the notion of punishment before wrongdoing has been determined is a worrying one that would set a poor precedent. This provision would adversely affect our national defense by reducing competition for DoD acquisitions and would negatively impact U.S. firms that team, partner, subcontract or form joint ventures with foreign entities, thereby discouraging the formation of such arrangements.

At this time, the U.S. is striving to build stronger trade partners and resolve trade-related disputes. It is critical to industry that we maintain cooperative international initiatives. Protectionist provisions will only harm our relationships with allies. Tightening criterion on DoD's procurement process would restrict U.S. defense capabilities, reduce contract competition among our member companies, make interoperability and coalition warfare more difficult, and lessen the quality of technology to which the Department has become accustomed. In addition, such measures will work against U.S. interests in opening acquisition policies in other countries.

We respectfully request that you not sponsor or support any harmful amendments offered to the FY2006 National Defense Authorization Act. If EIA and its members can be of any assistance as you work to pass an effective bill, please don't hesitate to call me directly or Storme Street of my staff at 703-907-7759.

Sincerely,

A handwritten signature in black ink that reads "Dave McCurdy". The signature is written in a cursive, flowing style.

Dave McCurdy  
President

CC: Members of Senate Armed Services Committee  
Senate Majority Leader Bill Frist  
House Majority Whip Mitch McConnell  
Republican Policy Committee Chair Jon Kyl