

For Six Month Period Ending OCT 31 1999
(Insert date)

I - REGISTRANT

1. (a) Name of Registrant
Arianespace, Inc.

(b) Registration No.
3673

(c) Business Address(es) of Registrant
601 13th Street, NW Suite 710 North
Washington, DC 20005

2. Has there been a change in the information previously furnished in connection with the following:

- (a) If an individual:
- | | | |
|-----------------------|------------------------------|-----------------------------|
| (1) Residence address | Yes ☐ | No ☐ |
| (2) Citizenship | Yes ☐ | No ☐ |
| (3) Occupation | Yes ☐ | No ☐ |
- (b) If an organization:
- | | | |
|--------------------------|------------------------------|--|
| (1) Name | Yes ☐ | No ☒ |
| (2) Ownership or control | Yes ☐ | No ☒ |
| (3) Branch offices | Yes ☐ | No ☒ |

(c) Explain fully all changes, if any, indicated in items (a) and (b) above.

IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4, AND 5(a).

3. If you have previously filed Exhibit C¹, state whether any changes therein have occurred during this 6 month reporting period:

Yes ☐ No ☒

If yes, have you filed an amendment to the Exhibit C? Yes ☐ No ☐

If no, please attach the required amendment.

¹ The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, and by laws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, Criminal Division, Internal Security Section, U.S. Department of Justice, Washington, D.C. 20530.)

4. (a) Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? Yes ☐ No ☒

If yes, furnish the following information:

Name	Position	Date Connection Ended
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- (b) Have any persons become partners, officers, directors or similar officials during this 6 month reporting period? Yes ☐ No ☒

If yes, furnish the following information:

Name	Residence Address	Citizenship	Position	Date Assumed
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5. (a) Has any person named in item 4(b) rendered services directly in furtherance of the interests of any foreign principal? Yes ☐ No ☒

If yes, identify each such person and describe his service.

- (b) Have any employee or individuals, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes ☐ No ☒

If yes, furnish the following information:

Name	Position or connection	Date terminated
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- (c) During this six month reporting period, has the registrant hired as employees or in any other capacity, any persons who rendered or will render services to the registrant directly in furtherance of the interests of any foreign principal(s) in other than a clerical or secretarial, or in a related or similar capacity? Yes ☐ No ☒ **

If yes, furnish the following information:

Name	Residence Address	Citizenship	Position	Date Assumed
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** See response to Item 12. Registrant has retained a lobbying firm, whose activity will be reported under the LDA.

6. Have short form registration statements been filed by all of the persons named in Items 5(a) and 5(c) of the supplemental statement? Yes ☐ No ☐

If no, list names of persons who have not filed the required statement.

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NA

II - FOREIGN PRINCIPAL

7. Has your connection with any foreign principal ended during this 6 month reporting period?

Yes ☐ No ☒ **

If yes, furnish the following information:

Name of foreign principal

Date of termination

** The connection with the foreign principal has not changed, however Arianespace is terminating its FARA registration because it is registering under the LDA.

8. Have you acquired any new foreign principal² during this 6 month reporting period?

Yes ☐ No ☒

If yes, furnish following information:

Name and address of foreign principal

Date acquired

9. In addition to those named in Items 7 and 8, if any, list foreign principals² whom you continued to represent during the 6 month reporting period.

Arianespace SA
Boulevard de l'Europe
B.P. 177
91006 Evry France

10. EXHIBITS A AND B

(a) Have you filed for each of the newly acquired foreign principals in Item 8 the following:

Exhibit A ³	Yes ☐	No ☐	
Exhibit B ⁴	Yes ☐	No ☐	NA

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during this six month period? Yes ☐ No ☒

If yes, have you filed an amendment to these exhibits? Yes ☐ No ☐

If no, please attach the required amendment.

² The term "foreign principal" includes, in addition to those defined in section 1(b) of the Act, an individual organization any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual. (See Rule 100(a) (9)). A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those principals for whom he is not entitled to claim exemption under Section 3 of the Act. (See Rule 208.)

³ The Exhibit A, which is filed on form CRM-157 (Formerly OBD-67) sets forth the information required to be disclosed concerning each foreign principal.

⁴ The Exhibit B, which is filed on Form CRM-155 (Formerly OBD-65) sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

III - ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8, and 9 of this statement? Yes ☒ No ☐

If yes, identify each such foreign principal and describe in full detail your activities and services:

During the reporting period, the registrant continued to provide marketing and sales support in the United States market area for the satellite launch services of Arianespace, SA. This activity consists of sales presentations and discussions with potential customers concerning the technical and business aspects of Arianespace services, follow up with current customers to ensure continued satisfaction, and representation of the company at symposia and conferences.

See also answer to Item 12.

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity⁵ as defined below? Yes ☒ No ☐

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates, places, of delivery, names of speakers and subject matter.

During the reporting period, Arianespace, Inc. has been lobbying government agencies on interpretation of export control policies, on behalf of Arianespace SA. We have hired a lobbying firm to assist this effort. We expect to exceed thresholds which require reporting under the LDA for the 6 month period ending December 31, 1999 and will be registering under the LDA.

On June 22, 1999, the enclosed white paper was distributed to the attached list of senators and representatives. A press briefing was held June 23rd to distribute the white paper (participating journalists represented Aviation Week & Space Technology, Satellite Week, Aerospace Daily, Space News, and the German Press Agency). A courtesy copy was also provided to the Defense Threat Reduction Agency.

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? Yes ☐ No ☒

If yes, describe fully.

⁵ The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting or changing the domestic or foreign policies of the United States or with reference to political or public interests, policies, or relations of a government, a foreign country or a foreign political party.

IV - FINANCIAL INFORMATION

14. (a) RECEIPTS-MONIES

During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, and 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes ☒ No ☐

If no, explain why.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies⁶

Date	From Whom	Purpose	Amount
7/2/99	Arianespace SA	Commissions	310,507.50
10/1/99	Arianespace SA	Commissions	830,000.00
5/14/99	Arianespace SA	Reimbursement	12,583.25
7/1/99	Arianespace SA	Reimbursement	86,000.00
7/30/99	Arianespace SA	Reimbursement	17,000.00
10/1/99	Arianespace SA	Reimbursement	86,000.00
			1,342,090.75
		Total	

(b) RECEIPTS - FUND RAISING CAMPAIGN

During this 6 month reporting period, have you received, as part of a fund raising campaign⁷, any money on behalf of any foreign principal named in items 7, 8, and 9 of this statement? Yes ☐ No ☒

If yes, have you filed an Exhibit D to your registration? Yes ☐ No ☐

If yes, indicate the date the Exhibit D was filed. Date _____

(c) RECEIPTS-THINGS OF VALUE

During this 6 month reporting period, have you received any thing of value⁹ other than money from any foreign principal named in Items 7, 8, and 9 of this statement, or from any other source, for or in the interests of any such foreign principal?

Yes ☐ No ☒

If yes, furnish the following information:

Name of foreign principal	Date received	Description of thing of value	Purpose
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6, 7 A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. (See Rule 201(e).)

8 An Exhibit D, for which no printed form is provided, sets forth an account of money collected or received as a result of a fund raising campaign and transmitted for a foreign principal.

9 Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) DISBURSEMENTS-MONIES

During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign named in Items 7, 8, and 9 of this statement? Yes ☒ No ☐

(2) transmitted monies to any such foreign principal? Yes ☐ No ☒

If no, explain in full detail why there were no disbursements made on behalf of any foreign principal.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

Date	To Whom	Purpose	Amount
May 1999 - October 1999	Office Staff and benefits suppliers	Personnel Expenses	351,745.34
same	Office Service Suppliers	Office Operating Expenses	209,349.06
same	Airlines, Hotels, etc.	Travel Expenses	177,773.09
same	Various Restaurants	Business Entertainment	279,789.78
same	Miscellaneous	Other operating expenses (consulting, legal, accounting, etc.)	661,883.47
same	*Verner, Liipfert, Bernhard, McPherson & Hand	Lobbying	354,716.31

*Arianespace, Inc. has dispersed money to lobbying firm on behalf of Arianespace SA, but has not been reimbursed for these expenses yet.

2,035,257.05

Total

(b) DISBURSEMENTS-THINGS OF VALUE

During this 6 month reporting period, have you disposed of anything of value¹⁰ other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 7, 8, and 9 of this statement?

Yes ☐No ☒

If yes, furnish the following information:

Date disposed	Name of person to whom given	On behalf of what foreign principal	Description of thing of value	Purpose
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(c) DISBURSEMENTS-POLITICAL CONTRIBUTIONS

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value¹¹ in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office?

Yes ☐No ☒

If yes, furnish the following information:

Date	Amount or thing of value	Name of political organization	Name of candidate
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10, 11 Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks" and the like.

V - INFORMATIONAL MATERIALS

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any informational materials¹²?
 Yes ☒ No ☐

IF YES, RESPOND TO THE REMAINING ITEMS IN SECTION V.

17. Identify each such foreign principal.

Arianespace SA

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating informational materials? Yes ☒ No ☐

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

Arianespace SA. see 15(a).

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of informational materials include the use of any of the following:

- | | | | |
|--|---|--|--|
| ☐ Radio or TV broadcasts | ☐ Magazine or newspaper articles | ☐ Motion picture films | ☒ Letters or telegrams |
| ☐ Advertising campaigns | ☐ Press releases | ☐ Pamphlets or other publications | ☐ Lectures or speeches |
| ☒ Other (specify) <u>White Paper</u> | | | |

20. During this 6 month reporting period, did you disseminate or cause to be disseminated informational materials among any of the following groups:

- | | | |
|---|---|---|
| ☒ Public Officials | ☒ Newspapers | ☐ Libraries |
| ☒ Legislators | ☐ Editors | ☐ Educational institutions |
| ☒ Government agencies | ☐ Civic groups or associations | ☐ Nationality groups |
| ☐ Other (specify) _____ | | |

21. What language was used in the informational materials:

☒ English ☐ Other (specify) _____

22. Did you file with the Registration Unit, U.S. Department of Justice a copy of each item of such informational materials disseminated or caused to be disseminated during this 6 month reporting period? Yes ☒ No ☐

23. Did you label each item of such informational materials with the statement required by Section 4(b) of the Act? Yes ☒ No ☐

¹² The term informational materials includes any oral, visual, graphic, written, or pictorial information or matter of any kind, including that published by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or any means or instrumentality of interstate or foreign commerce or otherwise. Informational materials disseminated by an agent of a foreign principal as part of an activity in itself exempt from registration, or an activity which by itself would not require registration, need not be filed pursuant to Section 4(b) of the Act.

**UNITED STATES DEPARTMENT OF JUSTICE
FARA REGISTRATION UNIT
CRIMINAL DIVISION
WASHINGTON, D.C. 20530**

NOTICE

Please answer the following questions and return this sheet in triplicate with your Supplemental Statement:

1. Is your answer to Item 16 of Section V (Informational Materials - page 8 of Form CRM-154, formerly Form OBD-64-Supplemental Statement):

YES XX or NO _____

(If your answer to question 1 is "yes" do not answer question 2 of this form.)

2. Do you disseminate any material in connection with your registration:

YES _____ or NO _____

(If your answer to question 2 is "yes" please forward for our review copies of all material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)

Douglas A. Heydon
Signature

11/24/99

Date

Douglas A. Heydon
Please type or print name of
signatory on the line above

President

Title

European Satellite Launch Services and U.S. Export Controls

June 18, 1999

This material is distributed by Arianespace, Inc. on behalf of Arianespace, S.A.
Additional information is available at the Department of Justice, Washington, D.C.

EUROPEAN SATELLITE LAUNCH SERVICES AND U.S. EXPORT CONTROLS

I. EXECUTIVE SUMMARY

For the past year, considerable attention has been directed at the issue of export controls for U.S. satellites and related items. Although transfers of technical data to China have been the focus of concern, the recent changes to satellite export controls have had sweeping effects. Last year, Congress passed new, more stringent, export controls as part of the Strom Thurmond National Defense Authorization Act of 1999 (NDAA). The NDAA not only transferred the legal authority to regulate the export of commercial satellites from the Commerce Department to the State Department, but also added new, special export controls, such as mandatory monitoring and mandatory notifications of meetings.

In light of the special relationship that the United States enjoys with NATO and other allied countries, Congress wisely provided in the NDAA an exemption from the new, special export controls for NATO and major non-NATO allies. Unfortunately, the regulations issued to implement the NDAA indicate that these new, additional export controls may be imposed on the export of satellites and related items to NATO and major allied countries, notwithstanding the statutory exemption. As a result, there have been serious delays and uncertainties in the regulatory process and severe consequences for the U.S. satellite manufacturers, their customers, and the satellite launch industry, including the potential loss of contracts.

Arianespace is a European consortium that provides satellite launch services to customers worldwide from a base located in French Guiana. During the period, 1994-1998, the company launched forty-five percent of all U.S.-manufactured commercial geostationary satellites. Arianespace also launched eight classified payloads for the British, French and Italian Governments. Thus, the launch services provided by the company have been indispensable to U.S. and European access to space, for the benefit of the economies and the security of NATO countries.

Until the recent retransfer to the State Department of export control jurisdiction over satellites, no significant difficulties have been noted with respect to exports of U.S. satellites for launch by Arianespace. However, since that retransfer, new export controls have been applied and others have been actively considered, thereby causing delays and uncertainties. This has occurred, despite the absence of any observed or suspected risk to U.S. foreign policy and national security from the export of satellites for launch by Arianespace.

This paper demonstrates that Arianespace is a reliable partner with the United States. Arianespace sets a high standard for compliance with export control laws.

Under the current and the previous export control regimes, technical data transfers to Arianespace are subject to Technical Assistance Agreements required by the State Department. None of the data transferred to Arianespace is related to detailed design, development and

manufacturing of satellites, and therefore, should not be subject to the new, special export controls.

There is a very high degree of security at the launch facility utilized by Arianespace. The launch base is located on the territory of France. Security for the base, the launcher, the satellites and the technologies involved in launch operations are under the direct responsibility of the French Government. The entire base is classified by the French Government at the same level as for the French nuclear strategic forces, which is the highest classification for French military facilities. The launch base is protected by the French Foreign Legion, French Gendarmerie, and French Space Agency security personnel. Access to satellites and related equipment is strictly controlled, not only by guards, but also by elaborate electronic observation and access devices. There is no history of any breach of security at the base. Therefore, additional on-site monitoring as envisaged by special export controls is unwarranted.

Arianespace uses a stringently controlled launch failure investigation process. Only launch vehicle technology is involved. The launch vehicle technology is European, not U.S., and is strictly controlled by the French Government. No U.S. (or other) satellite technology is involved. No U.S. nationals or entities participate in the investigations. Due to the location and security of the launch base and to the procedures applied to launch failures, debris recovery does not present a security issue. Thus, it is not appropriate to apply special export controls to these investigations.

Commercial satellite launches must be insured. Technical data must be provided to non-U.S. insurance companies to enable them to determine risk, value, and premiums. This presents an export control issue. Europe provides most of the available insurance coverage for commercial launches worldwide. The most stringent controls are inappropriate for nationals and entities of NATO and major non-NATO allies of the United States.

Arianespace urges the Administration to follow the intent of the NDAA exemption, which clearly provides that the special export controls shall not apply to NATO and major non-NATO allies and their nationals.

II. ARIANESPACE ORGANIZATION AND OPERATION

Organization

Arianespace, S.A., Evry, France, the world's first commercial space transportation company, was established in 1980 by thirty-six leading European aerospace and electronics corporations, thirteen major banks and the French space agency, CNES (*Centre National d'Etudes Spatiales*). Arianespace operates as a French joint stock company, with share capital totaling FF 2,088 million (approximately \$350 million) and a staff of 330. Additional background on the company is given in the Appendix.

The *Centre Spatial Guyanais* (CSG), or Guiana Space Port, was established by the French Government in 1968, at Kourou, French Guiana, a near-equatorial overseas territory of France.

The launch base comprises a technical center, operated by CNES, which includes radar tracking stations, telemetry receiving stations, a meteorology station, a telecommand station, and range safety facilities. Arianespace pays an annual fee for the service of these facilities. The launch base also comprises a launch zone with two pads, including payload preparation facilities, owned by the European Space Agency (ESA) and operated by Arianespace. The company pays an annual fee for the services of these facilities.

Operation

Arianespace is fully responsible for construction and launch of the operational Ariane launch vehicles and for industrial production management, that is, for initiating procurements, placing manufacturing contracts, marketing and providing Ariane launch services, and directing launch operations. Arianespace also finances the construction of Ariane vehicles.

Despite tough competition from the Chinese, Russians, and Ukrainians, Arianespace has successfully maintained a strong partnership with the U.S. satellite industry. The company's commercial order book includes forty-two percent of all U.S.-produced geostationary satellites currently identified for launch during the next few years. Twenty-four percent (forty-seven) of the total contracts signed to date have been with U.S.-based organizations, excluding international entities such as INTELSAT. Over just the five-year period from 1994 through 1998, Arianespace has launched forty-five percent of the U.S.-manufactured commercial geostationary satellites.

Arianespace has conducted a total of 106 launches from Kourou, accounting for the lofting of 158 satellites, principally on Ariane 4 vehicles. The company has also performed the launch operations for the three Ariane 5 qualification flights. The order book stands today at forty-one satellites to be launched, representing slightly more than two years of full-rate activity. Most of the world's commercial satellite operators have contracted to launch at least one spacecraft with Arianespace. The 199 contracts signed to date represent fifty-five operators throughout the world. Of these orders, 100 have been for satellites built by U.S. manufacturers, as shown in the table below:

MANUFACTURER	CONTRACTS
Fairchild Space	1
Hughes Electronics	42
Lockheed Martin	30
Orbital	3
Space Systems/Loral	24

Well over half of the world's operational telecommunications satellites have been launched on Ariane vehicles. Arianespace also has launched eight classified satellites for NATO members France, Italy and Britain, and launches of additional classified payloads are expected. Thus, European launch services are indispensable to western access to space, for the benefit of the U.S. and European economies and the security of NATO.

III. EXPORT CONTROLS

At their foundation, export controls are an exercise of national sovereignty. Their fundamental purpose is to serve foreign policy and national security, appropriately taking into account the relationships with NATO and major non-NATO allies.

U.S. export controls on satellites and related items are calculated to address the following:

- Marketing, contract negotiations and the preparation and conduct of launches;
- Physical security of satellites during launch campaigns;
- Launch failures and related investigations; and
- Insurance-related transactions.

According to the Department of Defense, export controls that apply to U.S. satellites and related items are designed to focus on specific situations that could affect national security interests.

“USG policy is to restrict the transfer of technology to any foreign destination in two sensitive areas: (1) detailed design, development, and manufacturing technology for satellites; and (2) any technology that would improve foreign launch vehicles. This is implemented through conditions and provisos placed on export license applications to all destinations.”

Defense Threat Reduction Agency (DTRA),
Special Export Controls on Satellite and Launch Technology
NATO Countries and non-NATO Major Allies
May 20, 1999

The export of satellites and related items for launch by Arianespace is fully consistent with the policy of the United States. It is important to note precisely the type of limited information that is provided to Arianespace for a launch. Arianespace does not receive from U.S. satellite exporters any “detailed design, development or manufacturing technology for satellites”, nor any “technology that would improve foreign launch vehicles”.

“The USG has observed significant compliance problems by U.S. companies engaged in satellite manufacturing and foreign launch. Many of the problems can be traced to a lack of sufficient internal company controls on the transfer of technology to foreign nationals and entities.”

DTRA,
Special Export Controls on Satellite and Launch Technology
NATO Countries and non-NATO Major Allies
May 20, 1999

This observation is consistent with the views of the Senate Select Committee on Intelligence and the House Select Committee on U.S. National Security and Military/Commercial Concerns with

the People's Republic of China, as reflected in their reports dated May 1999 and May 25, 1999, respectively.

Arianespace has established an excellent track record over the years. Since its formation in 1980, no export control violations have been cited with respect to satellite launches performed by Arianespace. No official concerns have been voiced regarding U.S. foreign policy or national security in relation to those launches.

Arianespace, S.A., is subject to the laws and policies of France. Arianespace, Inc. is subject to the laws and policies of the United States. As noted above, launch operations of Arianespace are conducted on French national territory. France is a member not only of NATO, but also of the Wassenaar Arrangement (successor organization to COCOM) and the Missile Technology Control Regime (MTCR).

Export controls applying to U.S. satellites destined for launch by Arianespace have historically been limited to Technology Assistance Agreements (TAAs). Technology Transfer Control Plans (TTCPs) and Technology Security Agreements (TSAs) have not been required, and there has been no monitoring of any kind by the U.S. Department of Defense. Until the recent retransfer to the State Department of export control jurisdiction over satellites, no significant difficulties have been noted with respect to exports of U.S. satellites for launch by Arianespace. However, since that retransfer, new export controls have been applied and others have been actively considered, thereby causing delays and uncertainties. This situation has developed, despite the absence of any observed or suspected risk to U.S. foreign policy and national security from the export of satellites for launch by Arianespace.

Marketing, Contract Negotiations and the Preparation and Conduct of Launches

The transfer of technical data in relation to marketing, contract negotiations and the preparation and conduct of launches does not involve "detailed design, development, and manufacturing technology for satellites." Marketing deals with the capabilities of satellites to serve the needs of customers. Contract negotiations are concerned only with the most basic question of payload configuration, the traditional "form, fit and function." Technical data transferred to Arianespace for the purposes of preparation and conduct of launches is only that necessary to verify that the satellite conforms with the requirements for interface with the launch vehicle and to provide for connections between the satellite and the vehicle. The technical data for these two purposes are found in the Application to Use Ariane and the Interface Control Document, respectively. The required technical data is that described in the Ariane Users' Manual. The Application to Use Ariane is prepared by the exporter (the satellite manufacturer); the Interface Control Document and the Ariane Users' Manual are prepared by Arianespace. This discipline, which is based strictly on need to know for both parties, has been in place since the formation of Arianespace. There is no indication that these transfers of technical data have involved any violation of export control regulations.

Physical Security for Satellites During Launch Campaigns

U.S. and all other satellites at Kourou are protected by elaborate security measures. The security available for those payloads is the same as that which has been applied to NATO classified satellites, including the British Ministry of Defence Skynet, and French Government classified payloads, launched by Arianespace. The French Government has classified the launch base at the level of French strategic nuclear forces, the highest classification for French military facilities.

Transportation of satellites to Kourou is the responsibility of the customer. At the launch base, the customer (which may be the satellite manufacturer) determines who is permitted to enter areas where sensitive equipment, including the satellite, is located. These areas are protected around the clock by security guards, optical surveillance, and electronic access systems. Launch operations are under the control of the French Government.

The base itself, including its perimeter, is protected by guards provided by and responsible to the CNES. External protection for the base is provided by the French Army (including the Gendarmerie and the Foreign Legion) and local police authorities. Aerial security is provided by the French Air Force.

An on-site study performed for Arianespace by highly qualified, retired U.S. military officers concluded that the security for satellites at Kourou equals or exceeds security provided at U.S. launch sites. In fact, U.S. security is the model followed at Kourou.

As a result of this high level of vigilance and control, there is no history of any breach of security at Kourou.

Launch Failures and Related Investigations

Arianespace accepts the responsibility for its launch failures. Investigations of launch failures do not involve the transfer of any satellite technology. Furthermore, it is the policy of Arianespace not to involve the satellite manufacturer or customer in launch failure investigations. Launch failure reports are not concerned with, and therefore, do not disclose, any satellite technology. It is not possible for there to be any unauthorized transfer of satellite technology due to investigations of Ariane launch failures.

Investigations are limited to the launch vehicle, the technology of which is European, and is protected by Arianespace, the suppliers, and CNES, and is subject to strict control by the French Government. There are no U.S. nationals or entities engaged in any Arianespace launch failure investigations; thus, there is no transfer of U.S. launch vehicle technology to Arianespace in this process.

Satellites that are lost due to launch failures at Kourou are subject to the security measures for the base and to other security measures for French territory. Only in the case of an extremely

early launch failure can there be satellite debris on the ground. After approximately one minute of flight, any debris from a failure must fall into the Atlantic Ocean, where recovery is impracticable, due to great water depths, even very close to the shoreline. Any accessible debris is subject to recovery with the participation of the satellite manufacturer at its request or at the request of CNES.

Notably, only three failures to date (1980, 1990, 1996) out of the total of eight failures, have resulted in debris on the ground. Also notable is the fact that there have been 109 successful launches, including 44 commercial Ariane 4 launches without failure since December 1994. (There has been one Ariane 5 qualification flight failure, flight 501 in June 1996, out of three launches.) There has been no suspicion of any compromise of sensitive satellite technology due to recovery of debris.

Insurance-Related Transactions

Insurance is essential to the conduct of commercial satellite launches. Insurers require access to technical data for the purpose of determining risk, value, and premiums. Insurance for Arianespace launches covers vehicles and satellites. Insurance for launches of U.S. (and other) satellites is provided from non-U.S., as well as U.S., sources. In fact, European companies provide most of the available coverage for commercial satellite launches.

As noted above, Ariane launch vehicle technical data is not of U.S. origin. Therefore, that data is not subject to U.S. export controls. However, also as noted, the transfer of such data is strictly controlled by the French Government. Of course, satellite technical data required by insurers may, in any given case, be of U.S. origin. This presents a sophisticated challenge to insurers, satellite manufactures, and export control authorities.

Three-quarters of all commercial satellites are of U.S. origin. Not only Arianespace, but also, U.S. and other commercial satellite launch companies, as well as the hundreds of satellite services providers and their millions of customers worldwide, stand to be affected by the manner in which export controls are applied to the transfer of U.S. satellite technical data to insurers. Therefore, subject to the paramount interests in national security and foreign policy, it should be the goal of regulators to design controls that entail a minimum of uncertainty, delay, and cost. The most stringent U.S. export controls should not be applied to NATO or major non-NATO allies and their nationals.

IV. CONCLUSION

Arianespace, a European consortium, provides launch services for international commercial, and NATO classified, satellites. Operations are conducted at the French Space Agency base on the territory of France, a member of NATO, the Wassenaar Arrangement, and the MTCR. Arianespace provides launches for approximately one-half of all U.S.-manufactured geostationary commercial communications satellites. The company provides an indispensable contribution to western access to space, for the benefit of the U.S. and European economies and the security of NATO.

In accordance with U.S. policy, technical data transferred to Arianespace by U.S. satellite providers for launch operations does not include any detailed design, development, or manufacturing technology for satellites, nor any technology that would improve launch vehicles. In the rare instances of launch failures, the resulting investigations involve only launch vehicle technology, which is European, and is subject to strict control by the French Government. Neither U.S. (or other) satellite technology, nor participation by U.S. nationals, is involved in those investigations. Thus, U.S. satellite and launch vehicle technologies are not transferred, and cannot be at risk of proliferation, as a consequence of these launch failure investigations.

Since its formation in 1980, no export control violations have been cited with respect to satellite launches by Arianespace. No official concerns have been voiced regarding U.S. foreign policy or security in relation to those launches. Furthermore, technical data transfers to Arianespace by U.S. satellite providers have been subject to routine TAAs. The more complex and burdensome TTCPs and TSAs have not been required.

Despite these facts, and notwithstanding the NATO exemption provided by the NDAA, new export controls have been applied in connection with launches of U.S. satellites by Arianespace, and additional controls are under active consideration. The resulting delays and uncertainties have been costly to Arianespace, to U.S. satellite providers and to customers of satellite services. In light of all the facts, and consistent with the intent of Congress, the new, special export controls should not be applied in connection with launch services provided by Arianespace.

APPENDIX

ARIANE & ARIANESPACE BACKGROUND

The shareholder partners in Arianespace, now numbering forty-two aerospace companies, eleven banks and CNES, represent the scientific, technical, and financial assets of twelve countries: Belgium, Denmark, France, Germany, Ireland, Italy, Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom. The percentage of share holdings is distributed among entities in the participating nations as follows:

COUNTRY	SHARE PERCENTAGE
Belgium	4.20
Denmark	0.58
France	57.06
Germany	18.58
Ireland	0.17
Italy	7.17
Netherlands	1.97
Norway	0.30
Spain	2.49
Sweden	2.29
Switzerland	2.58
United Kingdom	2.61

Development of the Ariane launch vehicle was undertaken in 1973. ESA assumed overall direction of the Ariane 1 development program, delegating the technical direction and financial management to CNES. At the end of the development phase, which included four launches, ESA authorized the production of five additional Ariane 1 launch vehicles. This program, known as the "promotional series", was carried out with a management arrangement similar to that for Ariane 1 development.

In January 1980, ESA decided to entrust the commercialization, production and launching of operational vehicles to a private industrial company. This led to the formation of Arianespace, with ESA placing at the company's disposal the facilities and equipment necessary for producing and launching the Ariane launch vehicles. Ariane 1 was declared qualified and became operational in 1982.

ESA, with CNES as the prime contractor, has undertaken the Ariane follow-on development programs, including:

- development of upgraded versions of the launch vehicle: Ariane 2 and Ariane 3 (qualified in August 1984) and Ariane 4 (qualified in June 1988);
- establishment of a second Ariane launch site (ELA 2, validated in August 1985);
- development of the Ariane 5 launcher (qualified in October 1998) and establishment of its new launch facilities (ELA 3, validated in early 1997).

INDEX TO ATTACHMENTS

- Attachment A** **Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, P.L. 105-261 and related Conference Report, H. Rpt. 105-736, Satellite Export Controls Subtitle**
- Attachment B** **State Department Regulations: "Amendment to the International Traffic in Arms Regulations (ITAR): Control of Commercial Satellites on the United States Munitions List"**
- Attachment C** **Demarche by European Governments to the Administration Regarding the Change of Export Control Regime of U.S. Satellites and Components, March 11, 1999**

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Public Law 105-261
105th Congress

An Act

To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. <<NOTE: Oct. 17, 1998 - [H.R. 3616]>>

Be it enacted by the Senate <<NOTE: Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.>> and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) Short Title.--This Act may be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

(b) Findings.--Congress makes the following findings:

(1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. Senator Thurmond's continuous service on that committee covers more than 75 percent of the period of the existence of the committee, which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committees of Congress, the original bodies of which were formed in 1816.

(2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.

(3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

(4) Having reverted to Reserve status at the end of World War II, Senator Thurmond was promoted to brigadier general in the United States Army Reserve in 1954. He served as President of the Reserve Officers Association beginning that same year and ending in 1955. Senator Thurmond was promoted to major general in the United States Army Reserve in 1959. He transferred to the Retired Reserve on January 1, 1965, after 36 years of commissioned service.

(5) The distinguished character of Senator Thurmond's military service has been recognized by awards of numerous decorations that include the Legion of Merit, the Bronze Star

nuclear systems and the potential of Russian superiority in tactical nuclear weapons to destabilize the overall nuclear balance as strategic nuclear weapons are sharply reduced under the START accords;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of the warheads of those weapons, including an analysis of Russian command and control as it concerns the use of tactical nuclear weapons;

(4) a summary of past, current, and planned efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear weapons and associated fissile material;

(5) a summary of how the United States would prevent, or plans to cope militarily with, scenarios in which a deterioration in relations with Moscow causes Russia to redeploy tactical nuclear weapons or in which Russia threatens to employ, or actually employs, tactical nuclear weapons in a local or regional conflict involving the United States or allies of the United States; and

(6) an assessment of the steps that could be taken by the United States to enhance military preparedness in order (A) to deter any potential attempt by Russia to possibly exploit its advantage in tactical nuclear weapons through coercive "nuclear diplomacy" or on the battlefield, or (B) to counter Russia if Russia should make such an attempt to exploit its advantage in tactical nuclear weapons.

(d) Views.--The Secretary of Defense shall include in the report under subsection (c) the views of the Director of Central Intelligence and of the commander of the United States Strategic Command.

Subtitle B--Satellite Export Controls

SEC. 1511. <<NOTE: 22 USC 2778 note.>> SENSE OF CONGRESS.

It is the sense of Congress that--

(1) United States business interests must not be placed above United States national security interests;

(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of observing and adhering to the Missile Technology Control Regime (MTCR);

(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), regarding the export of satellites of United

[[Page 112 STAT. 2174]]

States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

SEC. 1512. <<NOTE: 22 USC 2778 note.>> CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.

The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that--

(1) such export is not detrimental to the United States space launch industry; and

(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

SEC. 1513. <<NOTE: 22 USC 2778 note.>> SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

(a) Control of Satellites on the United States Munitions List.--Notwithstanding any other provision of law, all satellites and related items that are on the Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part 730 et seq.) on the date of the enactment of this Act shall be transferred to the United States Munitions List and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) Defense Trade Controls Registration Fees.--Section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717) is amended--

(1) in subsection (a)--

(A) by striking out ``\$700,000'' and inserting in lieu thereof ``100 percent''; and

(B) by striking out ``(a) Defense Trade Controls Registration Fees.--''; and

(2) by striking out subsection (b).

(c) Effective Date.--(1) Subsection (a) shall take effect on March 15, 1999, and shall not apply to any export license issued before such effective date or to any export license application made under the Export Administration Regulations before such effective date.

(2) The amendments made by subsection (b) shall be effective as of October 1, 1998.

(d) Report.--Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing--

(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

(2) an identification and explanation of any steps that should be taken to improve the license review process for

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exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act for the satellites and related items described in subsection (a).

SEC. 1514. <<NOTE: 22 USC 2778 note.>> NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

(a) Actions by the President.--Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

(1) Mandatory technology control plans.--All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

(2) Mandatory monitors and reimbursement.--

(A) Monitoring of proposed foreign launch of satellites.--In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

(B) Contents of monitoring.--The monitoring under subparagraph (A) shall cover, but not be limited to--

(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

(iv) all other aspects of the launch.

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(3) Mandatory licenses for crash-investigations.--In the event of the failure of a launch from a foreign country of a satellite of United States origin--

(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation;

(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

(4) Mandatory notification and certification.--All technology transfer control plans for satellites or related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

(5) Mandatory intelligence community review.--The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

(6) Mandatory sharing of approved licenses and agreements.--The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

(7) Mandatory notification to congress on licenses.--Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

(8) Mandatory reporting on monitoring activities.--The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

(9) Establishing safeguards program.--The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

(b) Exception.--This section shall not apply to the export of a satellite or related items for launch in, or by nationals of,

[[Page 112 STAT. 2177]]

a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

(c) Effective <<NOTE: President.>> Date.--The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act.

SEC. 1515. <<NOTE: 22 USC 2778 note.>> REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

(a) Requirement for Report.--Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101-246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

- (1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.
- (2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.
- (3) (A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and
 - (B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.
- (4) The reasons why the proposed satellite launch is in the national security interest of the United States.
- (5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export.
- (6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.
- (7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.
- (8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.
- (9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not directly related to the proposed export.
- (10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

**STROM THURMOND NATIONAL DEFENSE
AUTHORIZATION ACT FOR
FISCAL YEAR 1999**

CONFERENCE REPORT

TO ACCOMPANY

H.R. 3616



SEPTEMBER 22, 1998.—Ordered to be printed

Russian nonstrategic nuclear weapons (sec. 1504)

The Senate amendment contained a provision (sec. 1070) that would express concerns of the Senate that the Russian nonstrategic nuclear arsenal, estimated to include around 7,000 to 12,000 tactical nuclear weapons, may pose a great threat in the world if they are sold or are stolen, and could become strategically destabilizing. Since the end of the Cold War, the United States has unilaterally reduced its tactical nuclear stockpile by almost ninety percent, and the Senate calls on the Russian Federation to live up to its pledges in 1991 and 1992 to implement steep reductions in its tactical nuclear stockpile. The provision would require the Secretary of Defense to submit a report to the Congress by March 15, 1999 on the current Russian Federation tactical nuclear stockpile, including an assessment of the strategic implications of using tactical nuclear weapons in a strategic role, as well as an assessment of the Russian command and control of its tactical nuclear stockpile and the threat posed by the possible sale, or theft of tactical nuclear weapons, and past, current and planned efforts of the United States to work cooperatively with the Russian Federation to reduce its tactical nuclear stockpile and related fissile material.

The House bill contained no similar provision.

The House recedes with an amendment that would express the concerns of the Congress that the vast Russian Federation tactical nuclear stockpile poses a grave threat to the world, and that the Russian Federation should live up to its pledges in 1991 and 1992 to significantly reduce its tactical nuclear stockpile.

In addition, the conferees direct the Secretary of Defense to submit a report to the Congress by March 15, 1999, including the views of the Director of Central Intelligence and the commander of the United States Strategic Command, on the current Russian Federation tactical nuclear stockpile, assessing the strategic and destabilizing implications of the use of tactical nuclear weapons used in a strategic role. In addition, the report should include an analysis of Russia's command and control of its tactical nuclear stockpile, and the threat posed by the theft, sale or unauthorized use of the warheads of these weapons. Lastly, the report should include a summary of past, current, and planned U.S. efforts to assist Russia in reducing its stockpile, as well as a summary of how the United States would cope militarily if Russia threatens to employ or actually use its tactical nuclear weapons in a regional conflict involving the United States or its allies.

Subtitle B—Satellite Export Controls

Satellite export controls (secs. 1511-1516)

The House bill contained provisions (secs. 1206-1209 and 1212) regarding the export of satellites of U.S. origin and their launch on space launch vehicles owned by the People's Republic of China (PRC). The provisions would prohibit the participation of U.S. persons in the investigations of satellite launch failures; prohibit the export of missile equipment and technology to the PRC; prohibit the export or reexport of satellites, information, equipment and technology to the PRC; and transfer the jurisdiction for licens-

ing the export of satellites and satellite components to the Department of State.

The Senate amendment contained no similar provisions.

The conferees agree to transfer the jurisdiction for the export of satellites to the U.S. Munitions List, administered by the Department of State, effective March 15, 1999, and direct the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, to report to the Congress by January 1, 1999 on steps necessary to implement the transfer in a manner that will permit timely and orderly processing of applications for export licenses, consistent with current law. The conferees understand that the transfer of these advanced technologies to the jurisdiction of the Department of State may result in the need for additional personnel to assist in the evaluation of license applications. To provide additional resources for this purpose, the conferees agree to a provision that would amend section 45 of the State Department Basic Authorities Act of 1956 to allow the Office of Defense Trade Controls of the Department of State to retain all registration fees, which are to be used for the payment of expenses incurred in acquiring additional personnel to evaluate and process license applications, as well as to improve the monitoring of compliance with the terms of the licenses.

The conferees also agree to a provision that would require the President to certify to Congress in advance of any export to the PRC of missile technology or equipment, as defined in section 74 of the Arms Export Control Act, that the export will not be detrimental to the U.S. space launch industry and that the export will not measurably improve the missile or space launch capabilities of the PRC. The conferees note that this certification is not, and is not intended to be, a prohibition on the export of U.S. satellites to be launched by the PRC, but is intended to ensure that U.S. national security would not be jeopardized by any such export.

In addition to the transfer of jurisdiction to the U.S. Munitions List, the conferees direct the President to implement a series of actions to improve the national security controls on the export licensing of satellites and their related items not later than 45 days after enactment of this Act. These actions include, among other requirements, ensuring the full reimbursement to the Department of Defense for the costs of providing launch monitoring services, to ensure that no unauthorized transfer of technology occurs, by the person or entity receiving such services with respect to a satellite launch in a foreign country. The provision also requires the Secretary of Defense to establish a program to recruit, train and maintain a staff of personnel dedicated to monitoring foreign launches of U.S. satellites. The conferees agree to provide an exception to these increased national security controls to countries that are members of NATO or are major non-NATO allies of the United States.

The President is authorized by section 902 of the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991 to waive certain restrictions regarding the export of satellites to China, but must report to the Congress on the waiver of these restrictions. In addition to the report required by section 902(b), the conferees agree that a detailed justification shall accompany this report set-

ting forth information related to the militarily-sensitive characteristics integrated within or associated with the satellite, an estimate of the number of U.S. personnel necessary in-country to monitor the proposed launch, a description of the U.S. Government's plan to monitor the proposed launch, the estimated cost to the Department of Defense to provide monitors for the launch and the amount to be reimbursed to the Department, and the national security interests for launching the satellite in a foreign country. The conferees direct the President to include information in the report regarding the impact of the export of satellites to the PRC on U.S. employment, including the creation of jobs in the United States or, in the event of a denial of an export license, the loss of jobs in the United States. Additionally, the report is to include information related to the balance of trade between the United States and the PRC and the transition of the PRC from a nonmarket economy to a market economy.

Lastly, the conferees understand that, with transfer of satellites and related items to the U.S. Munitions List, and the enhanced role of the Department of Defense in export control activities, there may be a requirement for additional personnel in the Defense Technology Security Administration (DTSA) (or any successor organization), to assist in the evaluation of license applications, as well as to monitor the foreign launches of U.S. satellites. The conferees expect the Department to include in its report to the congressional defense committees any requirements for additional personnel. Additionally, the conferees believe that the Department may have available through the On-Site Inspection Agency (OSIA) personnel who would be suitable to perform such monitoring tasks, as required by this Act, and direct the Department to report on the possibility of using OSIA personnel in the monitoring of foreign launches, as well as in the evaluation of, and compliance with, license applications.

The conferees emphasize that the agreement to transfer commercial communication satellites and their related items from the Commerce Control List to the Munitions List is not done with the intention of penalizing or harming an important U.S. industry or the competitive posture of the U.S. satellite industry. Rather, it is the intention of the conferees to affirm the importance of U.S. national security interests in considering the export of advanced technology to foreign countries, which might enhance or contribute to their military capabilities.

Subtitle C—Other Export Control Matters

Authority for export control activities of the Department of Defense (sec. 1521)

The House bill contained a provision (sec. 904) that would invest in the Under Secretary of Defense for Policy responsibility for the overall supervision of activities of the Department of Defense relating to export controls and require a report on the plans of the Secretary of Defense to implement this provision.

The Senate amendment contained no similar provision.

The conferees agree to a provision that would establish a Deputy Under Secretary of Defense for Technology Security Policy,

(B) * * *
(3) * * * Zero-day withdrawal for those products sponsored by No. 053389.

(C) * * *
(3) * * * Zero-day withdrawal for those products sponsored by No. 053389.

* * *
Dated: February 26, 1999.

Margaret Ann Miller,
Acting Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.
[FR Doc. 99-6807 Filed 3-19-99; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs for Use in Animal Feeds; Tilmicosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health, A Division of Eli Lilly & Co. The supplemental NADA for veterinary prescription use of tilmicosin Type C medicated swine feeds under a veterinary feed directive (VFD) provides a revised limitation to prevent accidental access by horses. Also, FDA amends the regulation to provide a swine muscle tolerance and an acceptable daily intake (ADI).

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT:

William T. Flynn, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7570.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, is sponsor of NADA 141-064 that provides for the use of Pulmotil® (tilmicosin) Type A medicated article to make Type B and Type C medicated swine feeds for control of swine respiratory disease. The drug is limited to use by or on the order of a licensed veterinarian under an approved VFD. The firm filed a supplemental NADA that provided for a revised limitation to prevent accidental access by horses. Also, FDA reviewed the information in the application and revised the regulation to provide an ADI

and a swine muscle tolerance. The supplemental NADA is approved as of February 2, 1999, and the regulations in 21 CFR 556.735 and 558.618 are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 556

Animal drugs, Food.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.735 is revised to read as follows:

§ 556.735 Tilmicosin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of tilmicosin is 25 micrograms per kilogram of body weight per day.

(b) *Tolerances—(1) Cattle.* A tolerance is established for residues of parent tilmicosin (marker residue) in liver (target tissue) at 1.2 parts per million (ppm).

(2) *Swine.* A tolerance is established for residues of parent tilmicosin (marker residue) in liver (target tissue) at 7.5 ppm and in muscle at 0.1 ppm.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

4. Section 558.618 is amended in paragraph (d)(3) by adding a new sentence after the second sentence to read as follows:

§ 558.618 Tilmicosin

(d) * * *
(3) * * * Do not allow horses or other equine access to feeds containing tilmicosin. * * *

Dated: February 26, 1999.

Margaret Ann Miller,
Acting Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.
[FR Doc. 99-6669 Filed 3-19-99; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF STATE

22 CFR Parts 121 and 124

[Public Notice 3011]

Amendments to the International Traffic in Arms Regulations (ITAR): Control of Commercial Communications Satellites on the United States Munitions List

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by re-designating on the U.S. Munitions List (USML) commercial communications satellites.

EFFECTIVE DATE: March 15, 1999.

FOR FURTHER INFORMATION CONTACT:

William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State, Telephone (703) 812-2564 or FAX (703) 875-6647 ATTN: Regulatory Change, Commercial Communications Satellites.

SUPPLEMENTARY INFORMATION: On October 17, 1998, the President signed Public Law 105-261, The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. This Act requires that, inter alia, effective March 15, 1999, communications satellites and related items (as defined in the Act) be controlled on the U.S. Munitions List, except with respect to export licenses for such satellites issued by the Department of Commerce before March 15, 1999 and export license applications

made under the Export Administration Regulations before March 15, 1999.

This coverage by the U.S. Munitions List does not extend to NASA's International Space Station, which remains subject to the Commerce Control List as set forth in 59 Fed. Regis. 47799 (1994).

Importantly, however, this rule change does provide for U.S. Munitions List coverage for all other spacecraft, including all satellites, and all spacecraft technical data, as well as all components, accessories, attachments, and related technical assistance, including, without exception, all launch support activities (e.g., technical data provided to the launch provider on form, fit, function, mass, electrical, mechanical, dynamic, environmental, telemetry, safety, facility, launch pad access, and launch parameters, as well as interfaces for mating and parameters for launch). The Office of Defense Trade Controls will be contacting U.S. persons individually who have received commodity jurisdiction determinations in the past that are affected by this rule change.

Consistent with Public Law 105-261, special export controls are detailed for the launch of U.S.-origin satellites and components from or by nationals of countries other than NATO (i.e., Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom and the United States) or major non-NATO allies (i.e. Australia, Egypt, Israel, Japan, Republic of Korea, New Zealand, Jordan, and Argentina). The mandatory munitions licensing requirement of Public Law 105-261 for launch failure investigations and analyses is also elaborated, though such requirement has long existed in the ITAR. The Office of Defense Trade Controls generally will require a technical assistance agreement for the launch of U.S.-origin satellites and components from or by nationals of countries other than NATO or major non-NATO allies. Similarly, the Office of Defense Trade Controls generally will not authorize use of exemptions (e.g., § 124.3 and § 125.4(b)(2)) for shipments of unclassified technical data in furtherance of a technical assistance agreement in these circumstances unless the applicant has established a computerized document control and archive system for all such technical data and made provision for remote on-line access to the system by the Departments of State and Defense.

In carrying out this directive, Part 121 of Categories XIII and XV of the U.S. Munitions List (Part 121), and Part 124

concerning agreements and other defense services are amended.

This amendment involves a foreign affairs function of the United States, and therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is also exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This amendment has been found to be a minor rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996, P.L. 104-121. It does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Communications Satellites and Related Items, Room 200, SA-6, Washington, D.C. 2052-0602.

List of Subjects

22 CFR Part 121

Arms and Munitions, Exports.

22 CFR Part 124

Arms and Munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter 1, subchapter M, is amended, as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 is revised to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261.

2. In section 121.1, Category XIII is amended by revising paragraph (b)(1) and by removing (b)(1)(i), and Category XV is amended by revising paragraphs (a) and (b); removing paragraph (c); redesignating paragraph (d) as paragraph (c); redesignating paragraph (b)(5) as (d) and paragraphs (f)(5) (i) through (v) as (d)(1) through (5); revising newly designated paragraph (d) introductory text; revising paragraph (e) and (f); and removing paragraph (g), to read as follows:

§ 121.1 General—The United States Munitions List.

* * * * *

Category XIII—Auxiliary Military Equipment

* * * * *

(b) * * *

(1) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components or software with the capability of maintaining secrecy or confidentiality of information or information systems, including equipment and software for tracking, telemetry and control (TT&C) encryption and decryption.

Category XV—Space Systems and Associated Equipment

* (a) Spacecraft, including communications satellites, remote sensing satellites, scientific satellites, research satellites, navigation satellites, experimental and multi-mission satellites.

* **Note to paragraph (a):** Commercial communications satellites, scientific satellites, research satellites and experimental satellites are designated as SME only when the equipment is intended for use by the armed forces of any foreign country.

(b) Ground control stations for telemetry, tracking and control of spacecraft or satellites, or employing any of the cryptographic items controlled under category XIII of this subchapter.

* * * * *

(d) Radiation-hardened microelectronic circuits that meet or exceed all five of the following characteristics:

* * * * *

(e) All specifically designed or modified systems, components, parts, accessories, attachments, and associated equipment for the articles in this category, including the articles identified in § 1516 of Public Law 105-261: satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines (see also categories IV and V).

(f) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the articles enumerated in paragraphs (a) through (e) of this category, as well as detailed design, development, manufacturing or production data for all spacecraft and specifically designed or modified components for all spacecraft systems. This paragraph includes all technical data, without exception, for all launch support activities (e.g., technical data provided to the launch provider on form, fit, function, mass, electrical, mechanical, dynamic, environmental, telemetry, safety, facility, launch pad access, and launch parameters, as well as interfaces for mating and parameters

for launch.) (See § 124.1 for the requirements for technical assistance agreements before defense services may be furnished even when all the information relied upon by the U.S. person in performing the defense service is in the public domain or is otherwise exempt from the licensing requirements of this subchapter.) Technical data directly related to the manufacture or production of any article enumerated elsewhere in this category that is designated as Significant Military Equipment (SME) shall itself be designated SME. Further, technical data directly related to the manufacture or production of all spacecraft, notwithstanding the nature of the intended end use (e.g., even where the hardware is not SME), is designated SME.

Note to paragraph (f): The special export controls contained in § 124.15 of this subchapter are always required before a U.S. person may participate in a launch failure investigation or analysis and before the export of any article or defense service in this category for launch in, or by nationals of, a country that is not a member of the North Atlantic Treaty Organization or a major non-NATO ally of the United States. Such special export controls also may be imposed with respect to any destination as deemed appropriate in furtherance of the security and foreign policy of the United States.

PART 124—AGREEMENTS, OFFSHORE PROCUREMENT AND OTHER DEFENSE SERVICES

3. The authority citation for Part 124 is revised to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261.

4. Section 124.15 is revised to read as follows:

§ 124.15 Special Export Controls for Defense Articles and Defense Services Controlled under Category XV: Space Systems and Space Launches.

(a) The export of any satellite or related item (see § 121.1, Category XV(a) and (e)) or any defense service controlled by this subchapter associated with the launch in, or by nationals of, a country that is not a member of the North Atlantic Treaty Organization or a major non-NATO ally of the United States always requires special exports controls, in addition to other export controls required by this subchapter, as follows:

(1) All licenses and other requests for approval require a technology transfer control plan (TTCP) approved by the Department of Defense and an

encryption technology control plan approved by the National Security Agency. Drafts reflecting advance discussions with both agencies must accompany submission of the license application or proposed technical assistance agreement, and the letter of transmittal required in § 124.12 must identify the U.S. Government officials familiar with the preparation of the draft TTCPs. The TTCP must require any U.S. person or entity involved in the export to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity that is a party to the export and require such U.S. person or entity to certify that it has complied with this notification requirement within 30 days after launch.

(2) The U.S. person must make arrangements with the Department of Defense for monitoring. The costs of such monitoring services must be fully reimbursed to the Department of Defense by the U.S. person receiving such services. The letter of transmittal required under § 124.12 must also state that such reimbursement arrangements have been made with the Department of Defense and identify the specific Department of Defense official with whom these arrangements have been made. As required by Public Law 105-261, such monitoring will cover, but not be limited to—

(i) Technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) Satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) Activities relating to launch failure, delay, or cancellation, including post-launch failure investigations or analyses with regard to either the launcher or the satellite; and

(iv) All other aspects of the launch.

(b) Mandatory licenses for launch failure (crash) investigations or analyses: In the event of a failure of a launch from a foreign country (including a post liftoff failure to reach proper orbit)—

(1) The activities of U.S. persons or entities in connection with any subsequent investigation or analysis of the failure continue to be subject to the controls established under section 38 of the Arms Export Control Act, including the requirements under this subchapter

for express approval prior to participation in such investigations or analyses, regardless of whether a license was issued under this subchapter for the initial export of the satellite or satellite component;

(2) Officials of the Department of Defense must monitor all activities associated with the investigation or analyses to insure against unauthorized transfer of technical data or services and U.S. persons must follow the procedures set forth in paragraphs (a)(1) and (a)(2) of this Category.

(c) Although Public Law 105-261 does not require the application of special export controls for the launch of U.S.-origin satellites and components from or by nationals of countries that are members of NATO or major non-NATO allies, such export controls may nonetheless be applied, in addition to any other export controls required under this subchapter, as appropriate in furtherance of the security and foreign policy of the United States. Further, the export of any article or defense service controlled under this subchapter to any destination may also require that the special export controls identified in paragraphs (a)(1) and (a)(2) of this category be applied in furtherance of the security and foreign policy of the United States.

(d) Mandatory licenses for exports to insurance providers and underwriters: None of the exemptions or sub-licensing provisions available in this subchapter may be used for the export of technical data in order to obtain or satisfy insurance requirements. Such exports are always subject to the prior approval and re-transfer requirements of sections 3 and 38 of the Arms Export Control Act, as applied by relevant provisions of this subchapter.

Dated: March 11, 1999.

John D. Holm,

Acting Under Secretary of State for Arms Control and International Security Affairs and Director, U.S. Arms Control and Disarmament Agency, Department of State.

[FR Doc. 99-6797 Filed 3-19-99; 8:45 am]

BILLING CODE 4710-25-P

Washington, March 11, 1999

**Talking points related to the change of export control regime
of US satellites and components.**

In connection with the implementation of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, the US administration intends to amend the regulation governing export control of satellites and components. We recognize USG's legitimate authority to take measures it judges necessary to protect its National Security, and we have understood that the transfer of jurisdiction from DoC to DoS for export control of US manufactured telecommunications satellites is intended to achieve this goal.

Recently, we have been informed of a change of practice in the monitoring of the export of US manufactured satellite and components and more specifically in the case of Arianespace's launch activity from Kourou. The strict monitoring of technical exchanges between US manufacturers and Arianespace, according to the launch service company, is adding inertia and delays in their activities. US Congress asked administration to change its procedures starting on March 15, 1999. We are concerned by the consequences of the new regulations on Arianespace ability to fairly serve US market.

We would like to understand the justification of this change in practice and the future of US policy on this matter. In determining this new regulation and implementing its procedures, we would like to know how USG will take into account the following:

- The European countries participating in Arianespace share with the US the relevant international nonproliferation regime demonstrating common concerns and goals in the area of export control practices. Europe does not exercise any reciprocal restrictions on European satellite exports to the US.
- European launch activities from French Guiana have never been and are not a threat to US National Security. A change of procedures of control in the case of Arianespace is therefore difficult to understand.
- Arianespace is a company controlled by NATO European countries. These countries have already Industrial Security Agreements with the US. Furthermore the US Government's treatment of its NATO partners runs counter to the spirit of the forthcoming NATO summit, which is supposed to send a signal of the strengthening of the transatlantic alliance through equal partnership. In addition, the Strom Thurmond National Defense Authorization Act clearly identifies an exception -- in section 1514b- for NATO countries or US allies for the most stringent monitoring measures defined in section 1514. It would be incomprehensible if these provisions were not taken into consideration.
- French laws already foresee Arianespace's activity monitoring under the control of a French Security Officer. Kourou Space Center is listed as a high priority French Defense Facility and is therefore under a strict monitoring of relevant authorities.

Arianespace has contributed to the development of commercial use of space and to US satellite industry growth in the last 15 years. We look forward to maintaining with our US partners a fair framework for the development of a space industry, which is international by its own nature.

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