

**AdvaMed  
Aerospace Industries Association  
Airlines For America  
American Association of Exporters and Importers  
American Farm Bureau Federation  
Canadian Manufacturers and Exporters  
Cargo Airline Association  
Emergency Committee for American Trade (ECAT)  
General Aviation Manufacturers Association  
Information Technology Industry Council  
National Association of Manufacturers (NAM)  
National Defense Industrial Association  
National Electrical Manufacturers Association (NEMA)  
National Foreign Trade Council  
Organization for International Investment  
Telecommunications Industry Association  
U.S. Chamber of Commerce  
USA\*ENGAGE**

September 11, 2012

The Honorable Richard C. Shelby  
United States Senate  
304 Russell Senate Office Building  
Washington, DC 20510-0103

Dear Senator Shelby,

The undersigned associations urge you to oppose inclusion of Section 803 in H.R. 4310, the House-passed version of the National Defense Authorization Act FY13, in any final legislative product. We share the House Armed Services Committee's commitment to national security, and the business community is committed to complying with all existing U.S. economic sanctions statutes and regulations. Were Section 803 to become law, however, the provision would play havoc with U.S. defense supply chains, jeopardize relations with strategic defense allies, and discourage investment in the U.S. economy.

As passed by the House, Section 803 would prohibit the Department of Defense (DOD) from contracting for the procurement of any goods or services with any person that has business operations with a state sponsor of terrorism. While U.S. companies work diligently to comply with the extensive sanctions already in place on the four U.S.-designated state sponsors of terrorism — Cuba, Iran, Sudan, and Syria — Section 803 could inadvertently penalize commercial activities that are far removed from these countries and punish firms engaging in legitimate, job-creating commerce.

Of note, Section 803's definition of "business operations" is extremely broad, and its definition of "person" is far-reaching. Its debarment provision is triggered by activities – including

humanitarian relief and a broad range of other activities fully in keeping with American values – related to any and all of the four countries and should be dropped from any final defense authorization legislation. The provision in H.R. 4310, would prohibit DOD from contracting with any person that has “business operations” — or has foreign parents or affiliates with “business operations” — in or with Cuba or any of the three other countries. “Persons” include governmental entities and multilateral development institutions, as well as an individual, society, or non-governmental organization in clear contravention of long established rules of engagement between the U.S., our allies, and trading partners. “Business operations” also include “maintaining, owning, leasing or operating equipment, facilities, personnel, products, services, personal property, [or] real property.” Activities caught by the broad sweep of Section 803 thus could include providing humanitarian relief or democracy-enhancing information technology services.

Section 803 not only far exceeds any existing sanctions measures, it contravenes the letter and spirit of U.S. defense cooperation agreements, with no articulated justification or finding of need. It undermines overarching U.S. foreign and security interests in preserving existing multilateral coalitions of countries united in their support of measures to inhibit global terrorism and nuclear non-proliferation.

Section 803 therefore carries global security implications for DOD. DOD contracts with many U.S. entities that are affiliates of parent companies in foreign countries, including strategic economic and security allies of the U.S. Many of these countries choose to trade with Cuba, and other nations within the confines of national and international sanctions measures. Section 803 would significantly restrict DOD supply sources, limit its acquisition flexibility, and seriously jeopardize U.S. foreign relations. Moreover, if Section 803 were enacted, it could severely affect the willingness of foreign companies to invest in the U.S., as well as put U.S. companies at risk from a range of retaliatory measures, from reciprocal procurement bans to “blocking statutes.”

Given Section 803’s lack of demonstrable policy objectives, negative consequences for acquisition and trade, and likely complications for U.S. international relations with longstanding allies, we respectfully urge that Section 803 should be dropped from any final defense authorization legislation.

Yours truly,

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