

United States Senate

WASHINGTON, DC 20510-4704

July 15, 2004

Senator John Warner, Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Senator Carl Levin, Ranking Member
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Warner and Senator Levin,

I am writing to share with you my thoughts on one key issue in the upcoming conference of S. 2400, the National Defense Authorization Act for Fiscal Year 2005.

I recognize the conference with the House is likely to be time consuming and difficult. The issues relating to defense industrial policy, including Section 841 (S. 2400) recommending a Commission on the Future of the National Technology and Industrial Base and related provisions in the House bill are likely to challenge conferees. As you know, this is an issue debated for many years by the Congress and the House and Senate Armed Services Committees in particular.

My own view is the Congress needs to address the issues from a perspective of good governance and responsibility to our taxpayers while we consider the important national security implications. This is not just a debate between free traders and members who prefer to restrict access to the U.S. defense market. I have a consistent record in support of free trade initiatives. I am not opposed to greater liberalization to open the U.S. defense market. I believe in the competence and competitiveness of the U.S. defense industry and our workers and their ability to win in fair and open competitions.

However, I am concerned the current debate risks a resolution that either hurts U.S. companies in international competitions or grants unfair access to U.S. defense contracting by our allies and trade partners. With this in mind, I have come up with my own recommendation to open our defense markets where appropriate and to create a level playing field for competition between U.S. industry and our allies.

I recommend the following for your consideration and potential use in the upcoming defense authorization conference with the House of Representatives.

- Make no changes to current law in Fiscal Year 2005.
- Convene a reputable governmental or non-governmental organization to conduct a thorough overview of current trade in defense goods and services. The objective should be to provide the Congress with a fuller picture of key issues involved in liberalizing access to U.S. defense market. The Congress must understand issues related to competition and trade distorting practices,

technology transfer, terrorism and weapons proliferation, the global use of offsets, and the impacts on domestic industries.

- Task the study group to establish new criteria to level the playing field among all defense contractors regardless of nationality.

I believe the Congress must insist on a thorough review and evaluation of opening the U.S. defense market to our allies and trading partners. We owe it to the taxpayers to insist on some very basic conditions for accessing U.S. defense contracts worth billions of dollars annually. We have to assure taxpayers that in awarding defense contracts, we are evaluating competitors on similar criteria adopted to protect taxpayers and our national security interests. For example, I believe we should insist on full and complete adherence to the following good governance laws and regulations that U.S. companies currently abide by:

- Sarbanes-Oxley. Sarbanes-Oxley requires numerous financial reporting requirements from public companies to ensure we don't have an Enron repeat in this country. These are tough accountability standards that will protect taxpayers, shareholders, and workers.
- Foreign Corrupt Practices Act. Despite international agreements to outlaw bribery, commissions and bribes are still common in the global defense trade. We should use U.S. law to demand greater adherence and support for U.S. and international efforts to counter bribery and corruption.
- Cost Accounting Standards. These standards, currently in use at the Department of Defense, must apply consistently to all competitors for defense contracting to ensure fair competition, regardless of where the company is located. The standards ultimately protect the taxpayers from hidden cost overruns and other deceptive practices and enable a fair comparison of offers.
- Truth in Negotiations Act. This public law requires full and fair disclosure by contractors in the conduct of negotiations with the Government. Contractors -- regardless of nationality -- must submit certified cost and pricing data for negotiated procurements above a defined threshold.

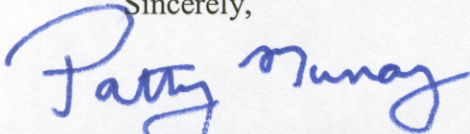
Despite the good work of the Armed Services Committee and others on this important set of issues, the Congress needs additional help to understand the many complexities of the defense marketplace and greater liberalization of the U.S. market in particular. I believe a reputable study, a one year examination of this market and the consequences of the changes now advocated by the Administration and others will give the Congress the necessary information to adopt a new policy that is neither blind free trade nor blatant protectionism.

The goal of my recommendation is to emphasize transparency and fairness among all competitors regardless of geographic location. My own belief is the Congress should use increased access to the U.S. defense market as an incentive to put in place and enforce good governance practices to get the best value, promote technological innovation, and combat unfair trade practices.

In closing, I am not opposed to Section 841 of the Senate bill. Establishing a Commission to study these important issues will enhance Congressional understanding of this complex market. I do however believe the mandate of the Commission must be broadened to incorporate a number of issues raised in my letter. The Commission must not be set up to review the Defense industry as a stand alone sector in our economy. To do so, would fail to acknowledge the many linkages between commercial technologies and markets and the defense trade.

Thank you for considering my recommendation to conduct a study over the next year to fully examine the defense marketplace and the importance of establishing a level playing field for all competitors in any future liberalization of the U.S. marketplace.

Sincerely,

A handwritten signature in blue ink that reads "Patty Murray". The signature is written in a cursive, flowing style.

Senator Patty Murray