

to work at large facilities." Adds Wagner, "That would be disastrous."

Still, Wagner says, "the clear impression at CERN and in general in Europe is that the US got a very good deal [with the LHC]. For 500-something million dollars they get access to the front-line facility, and they will make use of it in very large numbers."

"I don't like to change the rules in the middle of the game," he adds. "But one can envisage other ways the US might contribute." For example, by improving the existing injector chain at the LHC, "you have the potential to increase luminosity. That might be an area where, as part of an upgrade, there would be fresh negotiations."

George Trilling, a high-energy physicist at the University of California, Berkeley, says he can see both sides of the LHC operations issue. "It's natural that CERN is looking for ways to alleviate its debt. Looking toward the future, I would like to hope that the US isn't too ungenerous in its approach, and that it has some flexibility."

Toni Feder

Proposed export restrictions withdrawn

Hundreds of letters of protest from scientific, academic, and industrial organizations convinced Department of Commerce officials to reconsider a tightening of the deemed export policy.

After more than a year of controversy surrounding proposed changes to the Department of Commerce's "deemed export" policy, government officials are stepping back from the recommendations and establishing an independent advisory committee made up of researchers and others from the academic and industrial communities to review the policy. The recommendations to alter the deemed export policy were made by DOC's inspector general in 2004 in an effort to tighten up rules that are intended to keep researchers from restricted countries who are working in the US from taking knowledge about controlled technology back to their home countries (see PHYSICS TODAY, October 2005, page 28).

When DOC issued a request for comments on the proposed changes a year later, officials from scientific societies, academic organizations, and industrial groups flooded the department with more than 300 letters saying that the changes would severely limit the ability of foreign researchers and students in the US to use equipment and software that are on federal controlled technology lists. The current regulations have an exemption for foreign researchers who are engaged in fundamental research, but that exemption would have all but vanished under the proposed changes.

Unprecedented response

"We got an unprecedented response," said Matthew Borman, DOC's deputy assistant secretary for export administration. "We decided that rather than burrow down into the rules and make detailed revisions, it was time to step back and look at the entire process."

Commerce officials announced their intention to establish the advisory commission, to be called the deemed export advisory committee, or DEAC, in a notice in the 22 May *Federal Register*. Nine days later, the department published another notice saying that, after a thorough review of the public comments,

the DOC inspector general's recommendations were being withdrawn from consideration.

Association of American Universities (AAU) interim president John Vaughn said his organization was "particularly pleased" with the DOC action. He added in a statement that the original recommendations "would not only have disrupted research but would have been tantamount to hanging a sign in our university laboratories saying, 'Top international talent not welcome.'"

Amy Flatten, director of international affairs for the American Physical Society, said DOC's decision to back away from the inspector general's recommendations was "very, very good news." She described the proposed recommendations as "potentially very harmful to US science."

One of the recommendations was to change an "and" to an "or" in a regulation governing the use of research equipment by foreign nationals. The change, though seemingly trivial, would have had a profound effect on all US research universities. It would have meant that even basic operation of controlled lab equipment by a foreign national would have to be licensed by DOC. The cost, according to AAU and other university officials, would have been hundreds of hours of staff time and millions of dollars. The current "use" policy is written so that foreign researchers can operate most laboratory equipment without having to obtain a license.

The other proposed change, the one that Borman said drew the most reaction, would have classified foreign researchers based on their country of birth, not on their country of citizenship. One of the concerns expressed by DOC officials when the export tightening was first proposed was that tens of thousands of people born in China have become Canadian citizens. As Canadians, they face few restrictions in working in the US. But by reclassifying them as Chinese based on where they were

born, DOC would have made it much more difficult for Chinese Canadian scientists to work in US laboratories.

In the *Federal Register* notice withdrawing the recommendations, DOC officials noted, "Many comments observed that the decrease in the number of foreign nationals in US academic institutions and US industry has already been detrimental to the economy of the United States." A majority of the comments "argued that a change in the . . . policy from country of citizenship to country of birth would further adversely impact the [US]."

Recruitment under way

Recruitment for the 12-member advisory committee from academia, industry, and other fields is under way, Borman said, and anyone interested in serving must respond by 21 July 2006. The committee is expected to meet for about a year and, according to the DOC notice, will "undertake a comprehensive review of the national security, technology, and competitiveness dimensions of the deemed export issue and provide recommendations for potential changes to the current . . . policy." DOC hopes the committee will have expertise in "nuclear, chemical, missile, electronics, computer, telecommunications, and avionic technology."

Borman said that DOC has had hundreds of "outreach events" over the past year to discuss the deemed export issues with university and industry representatives. The result, he said, is a much greater awareness by everyone involved of export security issues and their implications.

He said he expects the committee to come back with significant recommendations, which will be reviewed by DOC, the Department of State, the Department of Defense, and other federal agencies concerned with national security. "It's too early to know what the result will be," he said, "but we expect substantial rule-making."

Jim Dawson