

## **The Path Forward on Export Control Reform**

Center for Strategic and International Studies

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Remarks

Thanks, Jim, for that introduction. It is good to be here today to talk about one of the President's key initiatives, Export Control Reform, or ECR.

Export controls are not a topic at the forefront of everyone's mind, as they tend to be viewed as some technical area that impact only a small part of our industry, which isn't at all true. Export controls have a far-reaching impact on U.S. businesses, large and small, and it is imperative that we modernize our export control system to ensure that it is both comprehensive and comprehensible. That is the only way that we can ensure that we engage in secure trade that protects both our men and women in uniform overseas and the people back home who strive to make the best tools possible for them when they may face adversaries in the field.

The challenge has been to ensure that export controls are properly calibrated to meet our national defense and non-proliferation objectives without at the same time unintentionally undermining them. Threats change. Technology changes. We need an export control system that is nimble enough to adjust to those changes. That's why back in 2009, the President directed the National Security Council and the National Economic Council to stand up a comprehensive review of our export control system and put forward a set of recommendations on how to transform our export control system to ensure it is designed to meet our national security and non-proliferation objectives.

Why both the National Security Council and the National Economic Council? Because our national security requirements in the 21<sup>st</sup> century include a much broader array of

factors than in the past – unlike during much of the 20<sup>th</sup> century, it is our commercial sector and no longer our military that is fueling the development of the next generation of technologies. This was a key finding in the National Intelligence Estimate conducted at the outstart of the export control reform process, the first NIE ever on export controls and one that has guided us in our efforts to modernize our export control system.

You may have heard our mantra on the rationale for ECR, but it bears repeating. ECR enhances our national security in three ways:

First, it helps us focus our resources on the threats that matter most. The work we're doing on rewriting our export control lists provides us the needed flexibility to prioritize our controls. All items, all end-users, and all end-uses do not pose the same risks. We need flexibility to calibrate our controls to their risk – that means adjusting the controls, not a wholesale de-control.

Second, it increases interoperability with our Allies. As exemplified in Afghanistan and Iraq, our military operates in a coalition with our allies. We need to be interoperable with those allies to improve their effectiveness and ensure our troops' collective security, and we need to be able to work more easily together on programs that we are developing jointly.

And third, it strengthens the U.S. defense industrial base by reducing incentives for foreign manufacturers to replace U.S.-origin content with foreign-origin content to avoid our onerous export control system. This last point has two key elements to it. First, we need people back home making these items so that we sustain our industrial base to meet our own future needs. And yes, an element of this is maintaining and expanding jobs in the United States to sustain our economic security. And second, the trend of replacing U.S. content with foreign-made items means our controls are diminished as is our visibility in the movement of items, including the less sensitive ones. That is a serious

unintended consequence of our export control system and one that is critical to correct so that our system doesn't actually harm our national security interests.

We have made great strides in the past year in moving from the planning to the implementation phase – for those of you who have been closely following ECR since the outset, that means we are the second phase our three phase implementation work plan. We need to finish the second phase before we can consider the third and final phase in which we will seek legislation to do some consolidation of our licensing and enforcement agencies. We have made adjustments to this 2010 work plan, primarily to add new items to the matrix that we've determined need to also be done, while fulfilling our plan of making the most needed changes first.

We are now approaching completion of rewriting the Munitions List, which has been the cornerstone of the effort to date. Our first final categories went into effect in October (for aircraft, gas turbine engines, classified articles, and miscellaneous articles), and four more went into effect in early January – for vessels, military vehicles, auxiliary military equipment, and submersibles. These first eight categories account for over \$75 billion in exports under license. We published another five categories in January that will go into effect in the summer. These included launch vehicles and missiles, explosives, military training and protective equipment that account for another \$5 billion in exports. The panel today will be able to tell you more about how it has been going since we began operating under the new system with the first rules going into effect in October.

These changes mean that well over half the Munitions List categories – 13 of the 21 – have published in final. These 13 categories together account for almost 90 percent of our export licensing and over \$80 billion in actual exports a year. Those exports equate to almost 450,000 jobs in the United States.

One priority for 2014 is finishing our work on the Munitions List. As you will hear from the panel that follows, our priority category rules in the queue for publication are satellites, electronics, and chemicals. Our goal is to have all the remaining proposed and final rules published in 2014.

Other priorities are to continue work that has been on-going more behind-the-scenes. We continue our capacity building for the multiagency Export Enforcement Coordination Center that has already made significant inroads into better utilizing our export enforcement assets and building better cases. At the same time we continue the transition to a single licensing database which will enhance our ability to provide more timely decisions and, importantly, more informed ones. I'm pleased to report that the Commerce Department will be on the system by the spring of this year, resulting in the three largest departments – Defense, State, and Commerce – all being on the single platform.

There is still much more work to be done. We have an ambitious work plan for 2014 for topics to turn to as we complete the Munitions List work. Key priorities include more technical work on the definitional and scope of control issues, such as the “see through” rule notes in specific categories that will better define what is subject to control and definitions of terms like “public domain,” “publicly available,” “technical data,” “technology,” and “fundamental research” that are also used to define what is and what is not within the scope of our controls.

We also plan to turn to some other harder issues, most notably encryption, cloud-computing, and cybersecurity. In addition, we hope to begin other planned changes in both the State and Commerce regulations, including a comprehensive review of Commerce's Export Administration Regulations of which the Commerce control list is a part.

From the beginning of ECR, we have done all of our work in an intensely transparent way, and that will continue. All of the work we have done to date could not have been done without input from you in industry, NGOs, think tanks, and our international partners. We will need your continued support and input to help us work through these challenging priorities.

Thank you for inviting me to join you today. ECR remains a priority for the President, and I look forward to working with all of you to bring this reform effort to a successful conclusion by bolstering America's national and economic security.