

Under Secretary Tauscher Statement at the House Committee on Foreign Affairs  
Hearing on Export Control Reform  
Rayburn House Office Building, Washington, D.C.  
Thursday, May 12, 2011, 10:00 a.m.

Good morning Madam Chairwoman, Ranking Member Berman, and Members of the Committee. I appreciate the opportunity to be here with you today to speak on the Administration's efforts to reform the U.S. export control system.

These efforts flow from two priorities. Our first priority is to improve the current system so that it enhances U.S. national security and advances our foreign policy interests around the world. Our second priority is to create an efficient system by using modern management, analytical and information-sharing best practices. A timely and predictable system will benefit American companies by making them more competitive in the global marketplace while we solidify our economic recovery.

I will not review in detail what President Obama and Secretary Gates have said so eloquently about the need for reform, but I would like to reiterate Secretary's Gates' succinct statement of the problem from his speech to the Business Executives for National Security last year:

“[It is] critically important ...to have a vigorous, comprehensive export-control system that prevents adversaries from getting access to technology or equipment that could be used against us. The problem we face is that the current system, which has not been significantly altered since the end of the Cold War, originated and evolved in a very different era, with a very different array of concerns in mind. As a result, its rules, organizations, and processes are not set up to deal effectively with those situations that could do us the most harm in the 21<sup>st</sup> Century.”

I would like to briefly note how the Obama Administration devised this new strategy and then provide a brief overview of some of the licensing actions that State is taking as part of the Administration's initiative. Licensing is one of the four pillars of our new system, together with enforcement, our control lists, and our information technology infrastructure.

My colleague Eric Hirschhorn will provide a summary of the Commerce-related licensing actions, as well as the Administration's plans for export enforcement, and my colleague Dr. Jim Miller will then provide the Defense perspective, including a summary of the key technical work he is leading in our list work, and the Administration's IT plans, and will conclude our testimony with our vision for the ultimate end-state of our new export control system.

As President Obama said last August:

“We need fundamental reform in all four areas of our current control system – in what we control, how we control it, how we enforce those controls, and how we manage our controls.”

For decades, the U.S. export control system worked adequately to keep sophisticated U.S. technologies out of the hands of our Cold War adversaries. But the 21<sup>st</sup> century presents us with a new set of challenges, and we need more than incremental change to meet those challenges.

In today's world, as you know, we no longer face a monolithic adversary like the Soviet Union. Terrorist groups seeking a critical component for a weapon of mass destruction, individual states striving to improve their WMD and missile capabilities, destabilizing accumulations of conventional arms in regions of tension, and illicit front companies seeking items to support such activities pose new dangers.

We also must recognize that the power of globalization, including the rapid pace of advances in technology and the technological capability that exists beyond our borders. It is no longer 1960, when the U.S. was largely self-sufficient and almost the sole source of key items and technologies. U.S. companies no longer can “go it alone” in the marketplace. In many cases, they need to collaborate with companies in allied countries to develop, produce and sustain leading edge military hardware and technology for U.S. and allied forces.

In November 2009, the President and his entire national security team agreed that we needed to devise a new approach to export controls that would address today's threats as well as the changing technological and economic landscape.

President Obama also directed that we maintain our multilateral commitments. The best controls are those that are multilateral. We remain firmly committed to our partners in the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group, and the Wassenaar Arrangement.

Finally, he instructed us to maintain appropriate controls on exports to terrorist supporting states, and to states of human rights concern.

To develop the new approach, the White House created a task force that included the primary departments involved in the licensing and enforcement of our strategic trade controls – the Departments of State, Defense, Commerce, Treasury, Justice, Energy, Homeland Security, and the Office of the Director of National Intelligence. I think you will agree that the sheer number of agencies involved in export controls alone is a key indicator of the need for reform.

The task force reviewed numerous studies, including GAO reports that have analyzed the strengths and weaknesses of our export control system during the past 20 years. Task force members consulted policy and technical experts within the government, reached out to our allies, and sought input from the business community to learn what works and what doesn't.

The review found numerous deficiencies in our current system. For example, agencies have no unified computer system that will permit them to communicate with each other, let alone with U.S. exporters, or easily leverage the information available across the government to help make informed decisions.

The current system presents exporters with a myriad of paperwork requirements, which in the case of the State Department alone, could be any one of 13 different forms. Licensing requirements in the current system are confusing and duplicative, which causes delays for U.S. exporters, and helps those who would evade our controls. The current system has no regular and timely process to review all of what we control, and as a result, we have lists that have not been comprehensively updated since the early 1990s.

The current system also has no standard set of data, including intelligence reporting, available to all agencies to use in evaluating proposed exports. Our enforcement agencies with jurisdiction over export control violations do not always communicate well or de-conflict investigations. As a result, we've seen

instances of competing enforcement actions that are ineffective and waste resources.

The task force recommended steps to address these problems by creating standardized policies and processes and consolidating resources in four key areas. This is what we refer to as the “Four singularities,” which include a single control list, a single information technology system, a single enforcement coordination capability, and a single licensing agency.

The Administration is approaching implementation of these recommendations in a common sense, three-phase plan. All concerned agencies are working well together, which is a significant departure from previous reform efforts, and is a tribute to the strong leadership provided by the President and the relevant Cabinet Members.

Phase I involved making core decisions on how to rebuild our lists, recalibrate and harmonize our definitions, regulations, and licensing policies to start to create the Export Enforcement Coordination Center, and decide on a consolidated licensing database. We have done that.

At this time, we are implementing Phase II.

This includes working to revise the U.S. Munitions List and the Commerce Control List so that they use common terminologies and structures. Dr. Miller will discuss this topic in more detail.

State, Commerce, and Treasury are also in the process of adopting the Department of Defense’s export licensing computer system, which will be part of a unified, cross-government computer system for export control purposes. As part of this effort, exporters eventually will use a single form for applications to State, Commerce and Treasury. Exporters also will be able to submit those applications through a single electronic portal. This isn’t rocket science; we are simply adopting modern business practices.

In addition, the President announced the creation of an Export Enforcement Coordination Center, which is the first step toward a partially consolidated and fully coordinated enforcement capability. And the Administration hopes to work with Congress to pass legislation to create a single primary U.S. export

enforcement agency, which we view as the logical final step in our phased implementation plan.

We have heard numerous complaints from U.S. businesses about the lack of clarity and predictability as to just what a munitions or dual-use item is.

Let me just say that interagency “commodity jurisdiction” discussions over the years have bordered on epic.

To address this problem, the State Department is working with the Departments of Defense and Commerce to create a “bright line” between munitions and dual-use items, which will finally provide clear guidance to exporters on commodity jurisdiction issues. This is necessary to update our system that is still designed with the assumption that technologies are developed for the military and only later find their way into the commercial sector, whereas, today, that is often the exception rather than the rule.

As I noted, the Department of Defense is leading a comprehensive review of the U.S. Munitions List. We have briefed the committee’s staff on the initial proposal to revise the category that controls military vehicles.

As part of the list review, agencies are developing a process for transferring items from the U.S. Munitions List to the Commerce Control List which includes deciding on the appropriate licensing requirements on items that are moved to the Commerce Controlled List. We will continue to consult our oversight Committees as we move forward on these new processes.

I want to be clear. Our goal with the list review exercise is not to permit the free export of munitions items or sensitive dual-use technologies to any country in the world. First, we have multilateral control obligations to abide by. Second, we control sensitive technologies, many of which have lethal applications. This is why the experts in the Department of Defense are leading the list review exercise. Our goal is to focus controls on sensitive goods and technologies.

At the same time, we want to apply a consistent and realistic licensing policy to other controlled items that balances risk and legitimate secure trade. Not only will this ensure that we are fully interoperable with our Allies alongside us in the field, but it will provide a more predictable and level playing field for American companies.

The Administration also wants to improve the process for notifying Congress about arms sales and the transfer of items from the United States Munitions List. This reform is of special interest to me as a former Member of Congress. I understand that Congressional prerogatives must be respected, but over the years this process has become lengthy and unpredictable. I know that by working with you, we can do better. Secretary Clinton looks forward to talking with you and other Members on this issue, and I hope to be part of that discussion.

We realize that we have more work to do to refocus our export control system, but we are committed to this initiative because the American people will benefit. As President Obama noted last August:

“...these reforms will focus our resources on the threats that matter most, and help us work more effectively with our allies in the field. They’ll bring transparency and coherence to a field of regulation which has long been lacking both. And by enhancing the competitiveness of our manufacturing and technology sectors, they’ll help us not just increase exports and create jobs, but strengthen our national security as well.”

And that brings me to Phase III, which will complete the reform process by creating the “four singularities” – a single control list, a single information technology system, a single enforcement coordination agency, and a single licensing agency. This will bring the initiative to its logical conclusion.

Without completing this entire agenda and creating the single list and single licensing agency, we would miss the opportunity to better focus our export control efforts, and face higher national security risks as a result.

And, of course, we want to continue to work collaboratively with this Committee. I am happy to answer questions, but first I would like to turn to my colleagues from the Departments of Commerce and Defense, Under Secretary Eric Hirschhorn and Principal Deputy Under Secretary Jim Miller, so that they may give you their Departments’ perspectives on the reform effort.