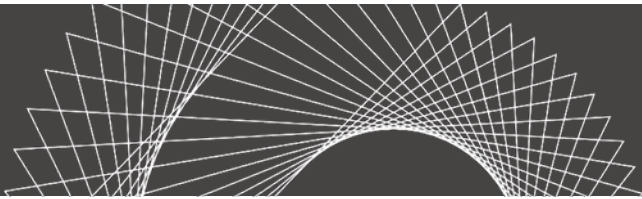


Export Controls and An Evolving Understanding of What “National Security” Means



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Main Points Up Front – 1 of 4

- There has been for some time a significant discussion in the policy community about how the purpose and use of export controls should be expanded, largely in response to Chinese government state policies that create broader-than-traditional threats to the national security and foreign policy interests of the United States and its allies.
- The traditional national security purpose of export controls has been to regulate weapons of mass destruction, conventional military items, and the bespoke and dual-use commodities, software, and technologies necessary for their development, production, or use. These are codified in the lists of items created by the four primary multilateral export control regimes.
- The traditional foreign policy purpose of export controls has been largely to support comprehensive U.S. embargoes and to have limited, unilateral controls on items of human rights concerns.

Responding to PRC and Other Policies – 2 of 4

- Specifically, the issue is the extent to which export controls should also be used to address:
 - China’s objectives of obtaining strategic economic dominance in key technology areas;
 - Allied supply chain resiliency objectives;
 - The misuse of commercial technologies to abuse human rights; and
 - The military-civil fusion policies of China, Russia, and others.
- The U.S. has imposed some unilateral controls in response to some of these issues. Unilateral controls, however, are usually eventually ineffective and counterproductive.
- However, allied export controls are largely limited to controlling the lists of items of proliferation- or military-related concerns identified by the multilateral regimes.

Impact on “Fundamental Research” – 3 of 4

- Because there is no agreement on what the specific items of concern are with respect to the non-traditional threats, a wide variety of restrictions on releases of technology to foreign persons are imposed ad hoc through contractual publication restrictions. These remove technology from the “fundamental research” carve-out in the EAR and create significant internal compliance challenges.
- There is also much policy discussion about whether the core academic freedom principles from NSDD-189 should be changed to limited some foreign person access to certain types of otherwise uncontrolled research.
- There is thus significant tension between having a regulatory system in the US that attracts the best and brightest from around the planet versus imposing limits on foreign person access to address issues that are generally broader than concerns about any one specific foreign person academic/researcher/student.

Role of Allies and Academic Community – 4 of 4

- Allied response to Russian invasion of Ukraine has created a de facto regime of allies to address strategic issues beyond regime-based non-proliferation-related concerns.
- Some plurilateral efforts of allies are in the works to address issues outside of regimes.
- My hope is that this will lead to a new multilateral regime of techno-democracies to address the contemporary national security and foreign policy issues that cannot be addressed by the four existing regimes.
- Opinion: The academic and research communities should be aware of -- and respectful of -- these non-traditional national security and foreign policy concerns. They should also play an active, constructive role in how to address them without doing more harm than good to basic 1st Amendment principles and the role of the US as a technology and research leader.

Taking a Step Back to Describe the Fundamentals



Export Control Basics

- Export controls are the rules that govern:
 - the export, reexport, and transfer
 - by U.S. and foreign persons
 - of commodities, technology, software, and services
 - to destinations, end uses, and end users
 - to accomplish various national security and foreign policy objectives.

All Export Controls on One Page

<u>Actor</u> U.S. Person or Foreign Person (people and companies)	<u>Act</u> Export, Reexport, or Transfer	<u>Physical Things</u> ("Goods," "Commodities," "Defense Articles")	<u>Information</u> ("Technology," "Technical Data")	<u>Software</u>	<u>Services</u> ("Defense services" or WMD-related "activities")
<u>Destinations</u> (Countries or regions, for listed items, or embargoed destinations for all else)					
<u>End Uses</u> (e.g., WMD end uses regardless of item's classification)					
<u>End Users</u> (e.g., SDNs or listed entities, regardless of item's classification)					

Export Control Reform

- The Obama Administration’s ECR effort, with respect to the university and research community, was NOT about making fundamental changes to concepts such as “fundamental research,” “published,” or “educational information.”
- Rather, the goal was to simplify, streamline, and harmonize long-standing principles in this regard for the sake of clarity to reduce unnecessary regulatory burden and thus enhance national security objectives.
- As the then-Assistant Secretary for Export Administration, I spent seven years working the issue and am available today to go into the weeds the history and meaning of any EAR or ITAR issue.
- The most significant updates for this conference were the [2016 revisions and clarifications](#) to the definitions of “technology,” “required,” “published,” “results of ‘fundamental research,’” “export,” “deemed export,” “reexport,” “transfer,” “release,” and “access information.”

“Dual Use Research of Concern”

- Analysis during bird flu debate of how to address “dual use research of concern” did not affect US export controls, as such.
- Concerns were addressed through contractual and voluntary access restrictions, not changes to the EAR or the ITAR.
- We recognized, however, that actions taken to restrict publication of technology could create export control implications given the definitions of “published” and “fundamental research.”
- BIS and DDTC coordinated closely with rest of USG when making the revisions to the lists of biologics and toxins in the EAR and the ITAR.
- Export controls have no authority to limit (i) domestic releases without involvement of foreign persons; (ii) imports; or (iii) 1st Amendment-protected speech.

Structure of Per se Carve-Outs from EAR

- Technology and software are not subject to the EAR if:
 - They are “published,” as defined in 734.7;
 - “Arise during, or result from, fundamental research,” as defined in 734.8;
 - “Are released by instruction in a catalog course or associated teaching laboratory of an academic institution;”
 - They “appear in patents or open (published) patent applications” (unless covered by a secrecy order), as described in 734.10;
 - They are “non-proprietary system descriptions;” or
 - They are “telemetry,” as defined.

“Published”

- [EAR 734.7](#): Technology and software not subject to the ITAR are not subject to the EAR if “published,” i.e., if it “made available to the public **without restrictions** upon its further dissemination.”
- That’s it. Very simple. Codifying core principle of 1st Amendment and academic freedom in place for decades, particularly since [NSDD-189](#).
- Only two exceptions: (1) Publicly available encryption software requires a notification process; and (2) Technology for production of “3D guns” made available on the internet is still controlled.
 - Fight over carve-out 3D-printed gun technology is an example of the re-think on traditional principles of export controls.
- ITAR requires permission to make tech data “publicly available.”

Results of “Fundamental Research”

- EAR 734.8: Technology or software that “arises during, or results from, fundamental research and is intended to be published is not subject to the EAR.”
- Note 1: Carve-out does NOT apply to technology or software that is “**released** to conduct fundamental research.”
- Note 2: If researcher or institution decides to restrict or protect the release of the technology or software (other than basic pre-publication review), then the technology or software IS subject to the EAR. The fundamental research carve-out does NOT apply, unless and until there is a decision to publish the technology/software.
- “Fundamental research” means “research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.”

“Deemed Exports”

- EAR 734.13(a)(2): Although there have been many calls to change the scope over the years, the definition (as re-codified in 2016) is releasing or otherwise transferring technology or source code (but not object code) to a foreign person in the United States.
- EAR 734.13(b): Any release of technology or source code to a foreign person is a deemed export to a foreign person’s most recent country of citizenship or permanent residency.
 - The ITAR applies to both source code and object code. Also, nationality is determined by all countries in which the foreign person has held or holds citizenship or holds permanent residency. (See new [ITAR 120.50](#)).
- The EAR and the ITAR each have “deemed reexport” controls, too.

Policy Foundations of Export Controls



Traditional National Security Purpose

- Since the end of the Cold War, the primary national security objective of export controls has been to, in essence, regulate:
 - weapons of mass destruction (WMD) (nuclear, chemical/biological, and missile-related items);
 - conventional military items; and
 - bespoke and dual-use commodities, software, and technology that have some identifiable relationship to their development, production, or use.
- The lists of such items are determined by consensus in the four primary, voluntary multilateral regimes, which are the [Nuclear Suppliers Group](#) (NSG), the [Australia Group](#) (AG) (for chemical and biological-related items), the [Missile Technology Control Regime](#) (MTCR), and the [Wassenaar Arrangement](#) (WA), which covers conventional arms and dual-use items to prevent “destablising accumulations” and their acquisition by terrorists.

Traditional Foreign Policy Purpose

- The foreign policy objectives of U.S. export controls have been primarily focused on regulating a relatively small number of basic items used in human rights abuses (such as instruments of torture) or that supported U.S. unilateral sanctions, such as those against Iran, Cuba, Syria, the Crimea region of Ukraine, and North Korea.
- Such export controls are generally unilateral.
- There is not a multilateral regime to identify or coordinate export controls on items of human rights-related concerns.

Historical Role of Economic Considerations

- Economic considerations of lost sales were never studied or considered because one does not compromise national security or foreign policy objectives for profit.
- Also, the effectiveness of the multilateral system depended upon a common understanding among the allies that controls would be used to achieve non-proliferation objectives and not for domestic economic protectionist reasons.
- Any economic benefits for U.S. exporters would come from:
 - keeping the lists of controlled items current (so as not to over-control items that no longer meet the standards);
 - the efficient operation of the licensing system in the least regulatory burdensome way possible to achieve the national security and foreign policy objectives; and
 - having multilateral controls that also applied to competitors in allied countries.

NSDD-189 (1985)

- “It is the policy of this [Reagan] Administration that, to the maximum extent possible, the products of fundamental research remain unrestricted.”
- “It is also the policy of this Administration that, where the national security requires control, the mechanism for control of information generated during federally-funded fundamental research in science, technology and engineering at colleges, universities and laboratories is **classification**.”
- “Each federal government agency is responsible for: a) determining whether classification is appropriate prior to the award of a research grant, contract, or cooperative agreement and, if so, controlling the research results through standard classification procedures; b) periodically reviewing all research grants, contracts, or cooperative agreements for potential classification. No restrictions may be placed upon the conduct or reporting of federally-funded fundamental research that has not received national security classification, except as provided in applicable U.S. Statutes.”

NSDD-189 Cont.

- In developing this directive, administration officials were aware that the U.S. leadership position in science and technology was essential to economic and physical security, requiring “a research environment conducive to creativity, an environment in which the free exchange of ideas is a vital component.”
- Bush administration overtly reaffirmed NSDD-189 in the months following the September 11, 2001 attacks. National Science Board [re-affirmed it in 2018](#).
- Although NSDD-189 is in the Federal Acquisition Regulations (FAR), government contracting authorities often impose controls beyond just classifying the technology, which often flow down to the universities.
- Concerns about espionage also influence contractual limitations, which have an impact on export control compliance.

What is not New re PRC and Export Controls

- For decades there have been complete U.S. embargoes on military- and space-related items destined to China – including zero *de minimis* rules for any U.S. content in foreign-made military or space items. So, not the issue.
- For years, the licensing policies on listed dual-use items have been quite strict given risk of PRC inward and outbound diversion.
- Significant enforcement authorities have been directed at illegal exports/transfers to, from, and within China.

The Issue with China and Export Controls

- How should dual-use export controls be used to regulate purely commercial commodities, software, and technologies that are not subject to any multilateral controls in order to respond to China's:
 - technology acquisition policies to advance its policies to strategically subsidize indigenous capabilities in critical economic sectors to the detriment of U.S. competitors, technology leadership, critical infrastructure, and supply chain security (Made in China 2025);
 - civil-military fusion policies to help modernize its military capabilities; and
 - massive human rights abuses using such technologies?
- **Because the Cold War-era export control system focused on WMD and conventional military proliferation, it was not designed to address such China-specific concerns and contemporary national security concerns.**

PRC and University Collaboration

- Many Chinese universities and research institutes are on the Entity List. The listings prohibit the export of essentially any type of commodities, software, or technology subject to the EAR – even if not identified on the Commerce Control List.
 - This requires additional due diligence and compliance obligations on technologies not normally subject to export controls.
 - It also makes identifying the entity involved more difficult given relationships of labs and departments.
- Also, Chinese universities and research institutes more commonly than those in other countries are directly involved in research, development, and testing of military items.
 - This creates additional due diligence requirements and the potential application of the military end use / user rules that apply to otherwise uncontrolled items that are subject only to Anti-Terrorism controls.
 - It also makes determinations of civil vs. military end use more difficult given civ-mil fusion policies.

What Does “National Security” Now Mean?

- Basic rule of regulation – to know the solution one must clearly define the problem to be solved.
- So, what does “national security” mean with respect to export controls on commercial items that do not have a clear relationship to WMDs or conventional military items?
- How far do we go into purely economic great power competitive issues when defining “national security” more broadly?
- Where is the line between domestic protectionism and economic security / national security?
- This is the decision for the Biden Administration to make.
- See testimony at: https://www.uscc.gov/sites/default/files/2021-08/Kevin_Wolf_Testimony.pdf
- See Annex II “statement on export control cooperation” at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/29/u-s-eu-trade-and-technology-council-inaugural-joint-statement/>

BTW – A Reminder

- Export controls are not the solution to all problems. Must also consider:
 - Sanctions (can focus on individual companies using US dollar transactions as jurisdictional hook)
 - Import and domestic controls (e.g., NDAA 889 procurement controls and ICTS rule approach to protecting critical infrastructure)
 - IP theft prosecution
 - Industrial Policy -- domestic support for STEM, R&D, and industry generally
 - Foreign direct investment controls (CFIUS)
 - Tariffs
 - Diplomacy
 - Investment restrictions (inward and outward)

Ways to Address with Export Controls

- Unilateral (U.S. only) vs. Multilateral (with allies)
- The story of U.S. dual-use export controls these last four years has been the expanded use of unilateral, extraterritorial list-based, end-use, and end-user controls largely to address PRC government policies contrary to U.S. national security and foreign policy interests.
- There is little disagreement in U.S. political and policymaking circles that export controls and other tools must be used to respond to the China-specific national security threats, although there is little agreement on where the right line is generally.
- There is also little disagreement that the traditional multilateral export control system is not an effective or quick tool to address them (but still works well for traditional proliferation-related issues).

Why Regime System Not Effective re PRC

- Need for consensus of regime members, many of which just see PRC as an economic opportunity.
- Regimes do not have the mandate to deal with country-specific issues or purely commercial technologies. Controls must be “destination agnostic.”
- Regimes do not have mandate, with small exception, to address human rights issues.
- Regime members generally do not have the flexibility in their legal systems to adopt non-regime-based technology controls or end-use or end-user controls, except with respect to those related to weapons of mass destruction.
 - That is, even if an allied government wanted to block the export of an emerging or foundational technology to PRC that is not on a regime list, it would not have the legal authority to do so.

Unilateral Controls Not Effective in Long Run

- Can be very effective in the short run.
- But, history has shown that unilateral controls eventually end up harming the very industries to be protected – and are not effective over medium term. For example, U.S. unilateral worldwide controls on commercial satellites (after several years) seriously hurt U.S. satellite industry and helped Japanese and European competitors.
 - U.S. companies offshore their development and production.
 - Incentives created for non-U.S. companies to start manufacturing the same items.
 - Creates incentive for foreign buyers to design out U.S.-origin content.
 - Income for R&D goes to foreign competitors to help them out-compete US companies.
 - Shipments from allied countries go to the end user, end uses, and destinations of concern, so control not effective.
- <https://www.cnas.org/publications/reports/rethinking-export-controls-unintended-consequences-and-the-new-technological-landscape>

Export Control Reform Act of 2018 (ECRA)

- ECRA requires BIS to identify “emerging” and “foundational” technologies not now controlled by a regime but that are “essential to national security,” but did not define terms.
- This effort was specifically in response to Chinese commercial technology acquisition efforts, but set clear standards for control and a requirement that the controls be made multilateral over time.
- So, allows unilateralism for a few years, but requires that U.S. work to make them multilateral.
- <https://www.akingump.com/en/news-insights/the-export-control-reform-act-of-2018-and-possible-new-controls.html>

Export Control Reform Act of 2018 (ECRA)

- ECRA re-affirmed traditional national security and foreign policy reasons for, and structure of, the U.S. export control system.
- ECRA, however, also requires the administration to identify and control “emerging” and “foundational” technologies not now controlled by a regime but that are “essential to national security.” ECRA did not define the terms.
- This effort was specifically in response to PRC commercial technology acquisition efforts, but set clear standards for control and a requirement that the controls be made multilateral over time.

See: <https://www.akingump.com/en/news-insights/the-export-control-reform-act-of-2018-and-possible-new-controls.html>

“Fundamental Research” ≠ “Foundational Technologies”

- The two topics are separate policy topics.
- Identifying “foundational technologies” is an ECRA requirement to address national security issues not addressed by traditional regime process.
- Although neither the Trump nor Biden administrations have defined or taken action, it is clear that it is completely separate from whether rules regarding “fundamental research” should or should not be changed.
- In other words, new foundational technology controls will impose more controls on now uncontrolled technologies, but will not per se change what is or is not “fundamental research.”

Impact of Russia's Invasion on Export Controls

- For the first time since the Cold War, U.S. allies and partners have collectively responded to a broad-based threat from an authoritarian major power by materially amending their export control laws and policies to achieve strategic objectives beyond those of the four primary export control regimes.
- Although the new controls are limited to Russia and Belarus, the mold has nonetheless now been broken for coordinated U.S. allied and partner use of export controls to achieve strategic and other policy objectives regarding specific countries, end uses, and end users of common concern beyond traditional nonproliferation objectives.

Personal View: A New, 5th Regime Is Needed

- A new export regime is needed for two reasons.
- First, a new regime of like-minded techno-democracies is therefore needed to address traditional nonproliferation issues that the legacy regimes will not be able to because of Russia's disruptive membership.
- Second, the regimes' mandates do not permit actions to address other significant contemporary policy issues, such as those related to: (i) how to respond to the national security threat from China's objective of obtaining strategic economic dominance in key technology areas; (ii) allied supply chain resiliency objectives; (iii) the misuse of commercial technologies to abuse human rights; and (iv) China's and Russia's military-civil fusion policies.

Point for This Conference

- Whether as unilateral, plurilateral, or multilateral controls, there will be significant new types of export controls imposed over the years on technologies beyond those associated just with proliferation- or military-related applications.
- This will affect not only direct exports, but decisions on which contractual limitations will affect what can be considered the results of fundamental research.
- The academic and research communities should participate directly and actively in a new discussion of what national security means in the face of country-specific threats that are not limited to those directly associated with non-proliferation or military concerns.

Senate USICA Export Control Provisions

<https://www.congress.gov/bill/117th-congress/senate-bill/1260/text>



Expand Human Rights-Focused Controls

- Sections 5211(b) and (c)(1) would require the Biden-Harris administration to conduct a review of items that are and are not controlled for human rights reasons, but should be, including items with critical capabilities to enable human rights abuses involving:
 - censorship or social control;
 - surveillance, interception, or restriction of communications;
 - monitoring or restricting access to, or use of, the internet;
 - identification of individuals through facial or voice recognition or biometric indicators; or
 - DNA sequencing.

Expand Human Rights-Focused Controls (cont.)

- Section 5211(c)(2) would require the Biden-Harris administration to review whether **end-use and end-user controls** (in addition to controls on lists of items) should be imposed on the export, reexport, or in-country transfer of certain items with critical capabilities to enable human rights abuses that are subject to the Export Administration Regulations (EAR) if there is knowledge or U.S. Government-provided information that the foreign party will use the item to enable human rights abuses.
- Section 5211(e) would make it U.S. policy to seek to secure the cooperation of other governments to impose export controls that are consistent, to the extent possible, with such new human rights-focused controls.
- Identical provisions in House bill (Sec. 30316).

Emerging Technology Concerns

- Section 3004(b)(10) would make it U.S. policy to ensure that the U.S. leads in the innovation of critical and emerging technologies, such as next-generation telecommunications, artificial intelligence, quantum computing, semiconductors, and biotechnology, by:
 - modernizing export controls and investment screening regimes, and associated policies and regulations;
 - reducing U.S. barriers and increasing incentives for collaboration with allies and partners on the research and co-development of critical technologies;
 - collaborating with allies to protect critical technologies by (i) crafting multilateral export control measures; (ii) building capacity for defense technology security; (iii) safeguarding chokepoints in supply chains; and (iv) ensuring diversification of supply chains.
- Identical provisions in House bill (Sec. 30003(b)(9)).

Work More with Allies

- Sections 3209(e)(6) and (7) would require the creation of a Technology Partnership office at the Department of State to lead efforts to, among other things, coordinate with allied technology partners and export control regimes on (i) export control policies and (ii) the use and control of emerging and foundational technologies.
- Sections 3255(15), (16), and (17) contain the sense of Congress that the President should:
 - actively engage the EU on export control issues and harmonization efforts;
 - strongly advocate at the multilateral export control regimes “for the listing of more items and technologies to restrict dual use exports” to PRC; and
 - explore the value of establishing a body akin to the Cold War-era Coordinating Committee for Multilateral Export Controls (COCOM) to coordinate U.S. and EU export control policies to limiting exports of sensitive technologies to the PRC.
- Same provisions in House bill at section 30255.

Visitors to the U.S.

- Section 4495(a) would give authority to the State Department to deny admission of alien if seeking to enter the U.S. to “knowingly acquire sensitive or emerging technologies to undermine national security interests of the United States by benefitting an adversarial foreign government’s security or strategic capabilities.”
- Section 4497 would require sponsors under the Mutual Education and Cultural Exchange Act to certify that a license is not required to release controlled technology to exchange visitors or to ensure any that any required licenses are in place. Sponsors would also need a plan to prevent unauthorized releases of export-controlled technology to visiting researchers and scientists.

General Issues re PRC

- Section 5104(10)(C)(ii) would state that it is U.S. policy to encourage U.S. businesses to development codes of conduct for doing business with the PRC, requiring U.S. companies to maintain robust due diligence programs to ensure that the U.S. business is not engaging in business with the PRC military or any Chinese entity subject to U.S. export controls without a required license.
- Section 5202(b)(1) would state that the President should use the full range of authorities to impose sanctions, export controls, and other measures to combat malign behavior by the PRC government, entities owned or controlled by the PRC, and other Chinese individuals and entities responsible for such behavior.
- Section 3406 would require an assessment on how the PRC uses Hong Kong to circumvent U.S. export controls (same as in House Sec. 30320).

Other

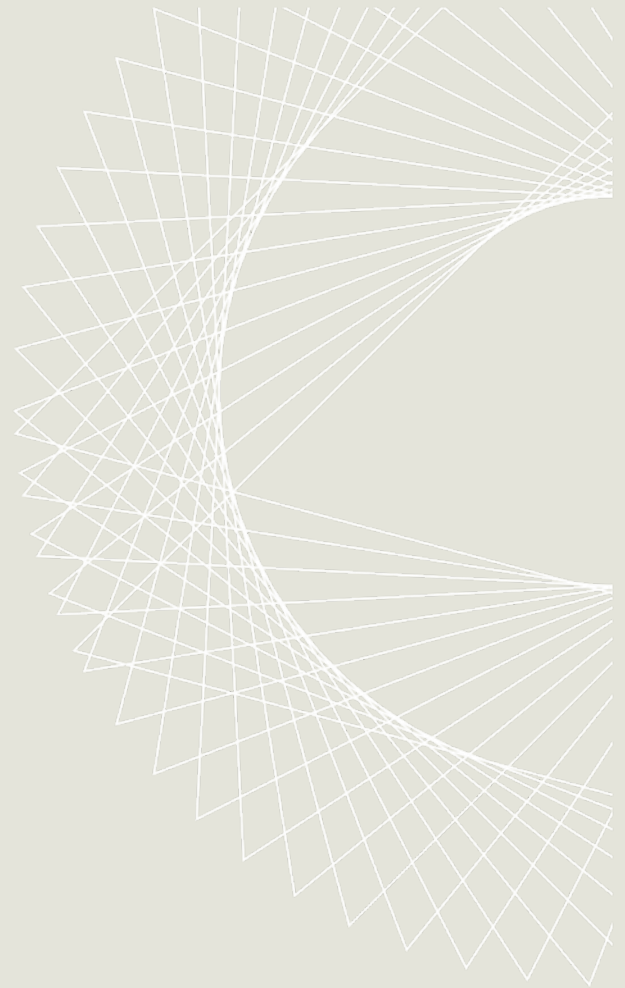
- Section 5203(c)(2) would require the administration to deny licenses allowing exports to those engaged in significant activities undermining cybersecurity on behalf of the PRC or by those who support such efforts.
- Section 2673 would require NASA to “provide appropriate protections against the public dissemination of” export-controlled technology. (This is a housekeeping edit to limit a current requirement that the NASA administrator make unclassified information public.)

Industrial Base and Defense Trade with Allies

- Section 3232(a)(2) is a Sense of Congress that allowing for export of defense-related technologies and services to the U.K., Australia, and Canada would advance U.S. security interests by leveraging defense-related technologies and skilled workforce of trusted allies in order to reduce dependence on the PRC and other countries of concern for defense-related innovation and investment.
- Section 3232(b) would require the State Department to submit a report describing its efforts to facilitate access among the U.K., Australia, and Canada of U.S. Munitions List articles and to identify regulatory barriers to such efforts.
- Same as in House bill Sec. 30102.

H.R. 4521, America COMPETES Act Provisions not in Senate Bill

<https://www.congress.gov/bill/117th-congress/house-bill/4521/text>



Licensing Data re Huawei and SMIC

- Sec. 30325 would require the House Foreign Affairs Committee to make publicly available aggregate statistics on licensing information (ensuring all confidential business information is protected) regarding licenses involving PRC companies on the Entity List.
 - Would essentially only pertain to licenses issued under policies established for Huawei entities in July 2019 and August 2020, and for SMIC entities in December 2020.
 - There are no other similar licensing policies for exports to entities on Entity List, which are presumptively denied.

New Controls on U.S. Person Activities

- Section 30326 would clarify/expand ECRA authority for controls on activities of U.S. persons for military, security, or intelligence activities.
 - The control in ECRA is now limited to controls on U.S. person services only if related to WMD-related and “military-intelligence” activities (although BIS could use general authorities to address same issues).
- Change would, e.g., clearly authorize Commerce to impose controls over U.S. persons:
 - assisting foreign militaries and other foreign persons on development, production, integration, or use of foreign military items that are not subject to U.S. export controls;
 - training foreign intelligence services on building hacking and intelligence-gathering tools not subject to U.S. controls; and
 - helping foreign police develop surveillance systems using items not subject to U.S. controls.

Other

- Section 30404 would require State to submit a report re PRC persons involved in digital surveillance contrary to human rights, including whether such persons should be added to the Entity List.
- Section 30612 would prohibit the export of electronic waste to ensure that counterfeit goods do not reenter U.S. electronics supply chains from the PRC and other countries.
- Section 30317 is a Sense of Congress that the President should re-examine U.S. commercial export control policy for the PRC, other arms-embargoed countries, and state sponsors of terrorism.

Proposed Amendments Not Included



Provisions that Were Not Included

- 146 Chabot (R-OH) would have required ZTE to be added to the Entity List.
- 352 Case (D-HI) would have required Treasury to propose a system to ensure that entities sanctioned under one U.S. authority be automatically sanctioned under other authorities, unless a waiver is granted.
- 446 McCaul (R-TX), had multiple export control provisions.
 - Sec. 30642 would have required additions to Entity List of those on the Defense Department’s Chinese Communist Party Military List.
 - Sec. 30648 would have required export controls on uncontrolled semiconductor production equipment to China if a multilateral agreement could not be reached within 180 days.
 - Sec 30649 would have imposed controls re advanced integrated circuits exported to PRC.
 - Sec. 30666 would have changed the interagency voting rules for export control cases to give junior career staff at agencies the authority to veto license applications and prohibit escalation to senior officials and political officials if it would result in an approval of a license.
 - This change would not be specific to PRC issues, but on all applications of all issues, and it would change the 1996 Executive Order setting up the interagency review process (that was confirmed in ECRA in 2018).

Additional Information

- Additional information and commentary about the current public debate about the use and role of export controls to address PRC-specific and other issues is at:
 - https://www.akingump.com/a/web/4TkJLuDdoUSFf4gjMCz9ya/3b2k3P/beitrag-wolf-aus-aw-prax_2021_04_v2-korr-2-umbruch.pdf
 - <https://www.banking.senate.gov/imo/media/doc/Wolf%20Testimony%206-4-19.pdf>
 - https://www.uscc.gov/sites/default/files/2021-08/Kevin_Wolf_Testimony.pdf
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