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# **Status of U.S. Interagency Review of U.S. Export Licensing and Technology Transfer Policy**

**By  
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We owe Lord Robertson debt of gratitude for more than just convening this seminar. He has maintained a steady focus on the long-term security outlook for the alliance. And he has been a consistent voice appealing to each North Atlantic Treaty Organization (NATO) member state to take the steps necessary to assure an effective military capability in defense of allied territory and interests, long into the future. He has encouraged many of the allies to spend more on defense. With my government, Lord Robertson has urged substantial efforts to assure that allied militaries are able to field comparable, and interoperable, advanced defense technologies, many of these residing in the U.S. defense industrial base.

So, from the outset of the Bush Administration, the Secretary General has identified the U.S. defense export licensing regime as a key factor in the equation of NATO’s future effectiveness as a fighting force.

## **Who Benefits from Interoperable Militaries?**

There are many in Washington, and elsewhere, who would regard more privileged access to advanced U.S. defense technology by our transatlantic allies as a benefit being conferred by the United States on the European defense industry and in one sense this is undeniable.

Yet, when one considers the scope and breadth of security obligations, deployments, and ongoing missions presently assigned to American military forces and when we add up the burden this imposes on the American soldier and taxpayer alike it is clear that the goal of increasing allied defense spending to ensure greater alliance interoperability, deployability and combat effectiveness, confers a major, lasting and very strategic benefit on the security interests of the United States.

I might add that NATO’s decision to assume important new security roles, such as in Afghanistan, gives credibility and impetus to achieving this longer-term vision of a NATO that is relevant to the 21st century security environment.

The recent establishment of Allied Command Transformation will, I predict, further sharpen our collective focus on highly effective concepts of operation enabled by technology.

## **Defense Trade Export Policy and National Security**

With that, let me turn to President Bush’s ongoing review of Defense Trade Export Policy and National Security what is known inside the Washington Beltway as NSPD-19.

The main impetus to undertaking this review was, really, three-fold:

- A strong belief that the 21st century threats are different from those that shaped our defense posture in the 20th century.
- A concern that grew quite pronounced throughout the 1990s that the U.S. licensing process was overly complex and slow, and not compatible with the growing trend of multinational collaboration in the defense industry. I would add that the benefit to U.S. interests of exercising controls on U.S. defense technology in the manner we have been doing, was being achieved at a

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high cost in terms of damaged political influence and goodwill among the very countries on whose security partnership we depend.

- The third impetus to this policy review was, and is, the need to ensure that the U.S. and its allies are able to make optimal use of advanced defense technology for our shared security purposes.

What I find noteworthy, looking back on the past two years in the Bush Administration, is how cooperative the key agencies in Washington have all been on defense trade policy issues. By that I refer to the Defense Department Acquisition as well as Policy offices, and the Commerce Department, in addition to my own Department of State. Senior officials in all of these offices share President Bush's very serious commitment to national security and the imperative of keeping dangerous defense technologies out of irresponsible hands.

At the same time, reflecting the President's management philosophy, all of these agencies equally recognize that important foreign policy and national security goals can better be achieved by elevating the focus and quality of our efforts.

We are highly conscious of the strategic purpose of NSPD-19 and its connection to NATO transformation, namely: to better prepare the alliance to cope effectively with new threats and dangers emanating from outside Europe that could endanger the safety, interests, and values of both the United States and Europe

### **Major Improvements in the Licensing Process**

At the start of the Bush Administration, the State Department was faced with a large agenda of unfinished business in the defense export policy arena inherited from the previous administration:

- We had a series of actions known as the Defense Trade Security Initiative (DTSI), including streamlined program and project licenses, a promised review of the *U.S. Munitions List*, and an offer to negotiate *International Traffic in Arms Regulations* (ITAR) exemption arrangements with Australia and the United Kingdom, adding to the longstanding (but recently revised) U.S. and Canada exemption arrangement.

- Within the State Department, the licensing office was adjusting to sharply increased manpower levels and the newly assigned legal responsibility for licensing commercial communications satellites, as well as a strong push in both the Department of State and Department of Defense to move to electronic licensing, including paperless processing among these government departments and offices.

Two years later, there is very substantial progress to report:

- We have processed the first-ever Global Project Authorization, in support of the Joint Strike Fighter multinational development project.

- The National Security Council staff has led an intensive inter-agency effort to review the *U.S. Munitions List*, and about half of the categories of this list have completed or will soon complete review. This process is helping us to identify items that either may not belong on the *Munitions List* or do not merit intensive controls. That, in turn, will help our bureaucracy focus more time on proposed exports of more sensitive defense goods and technology, including some items representing new threats that we are recommending adding to the *U.S. Munitions List*.

- Our ITAR exemption negotiations with Australia and the United Kingdom, after an extraordinary effort by all concerned, have both successfully reached agreement. Legislative action is needed in Washington and other capitals to allow these arrangements to come into force.

- In the State Department's Directorate of Defense Trade Controls (DDTC), along with very significant increases in manpower the last two years, we have realigned the organization, expanded the management ranks, and brought in senior executive leadership to run the whole function.

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- Deputy Assistant Secretary Gregory Suchan will assume his duties at the end of the month as the so-called Deputy Assistant Secretary for Defense Trade Controls. The Managing Director, who has also been Deputy Assistant Secretary during a six-month transition period, is Robert “Turk” Maggi, and he is with us today.

- We have a new Policy Directorate and a new Management Directorate, to go along with Licensing and Compliance Directorates, and we are building a public outreach team to make the whole export licensing activity more conveniently accessible to defense industry and allied governments alike.

Our electronic licensing initiative is a major evolution. Working with eighteen U.S. defense exporters, large and small, during this pilot project phase, we are processing actual cases and working through a range of technical issues.

The Department of State, working closely with Ms. Bronson and her Department of Defense colleagues, has overcome enormous challenges and is ready to open the flow of fully electronic licensing cases between our two Departments. The Department of State is also very close to achieving an electronic connection with the U.S. Customs Service in the Department of Homeland Security, which will greatly enhance our knowledge of what defense goods are actually being exported, and our ability to assure compliance with U.S. laws and regulations.

Under the new management structure in 2003, the Department of State has been systematically reviewing every segment of its process, and designing systems and tools to assure timely action by competent and properly-informed offices.

Under NSPD-19, we are looking closely at a number of additional procedural factors that affect the timing and predictability of obtaining export authorization for U.S. defense articles and technology, including:

- How to adjudicate Commodity Jurisdiction cases without incurring long delays;
- How to ensure that non-sensitive cases are not referred unnecessarily from the Directorate of Defense Trade Controls to other offices and departments;
- How to work with our Congress to ensure that no part of the executive-legislative approval and oversight process for arms transfers unduly harms the ability of our defense companies to compete in legitimate overseas project opportunities; and,
- How to maintain continuous process management so that our work is done efficiently and our staff is better able to pay comparatively more attention to sensitive export cases.

These steps, taken together, represent a wholesale re-tooling of the Department of State’s licensing process, one that we hope will make the job of the Pentagon and other departments easier and more effective as we go forward.

The chorus of voices a few years ago, from other U.S. agencies, industry, Congress, and allies alike including North Atlantic Treaty Organization agencies advocating a major effort to improve the licensing process, as been answered. These changes are now well underway and visible to the naked eye, and will be manifestly evident over the next year.

### **Policy Review**

That brings us to the area of policy. Indeed, for the first time, we will no longer have a chronically under-resourced and non-responsive U.S. licensing process as an excuse for not meeting alliance interoperability goals. Now, the relevant export control issue will be the terms of release for export by the U.S. of certain advanced defense technologies to other countries.

The first, as I just noted, is whether the U.S. and its NATO allies, respectively, will see fit to move toward a more advanced defense technology relationship in their export and procurement policies.

A second is whether concerted U.S. steps to advance NATO interoperability will be reciprocated by the allies fulfillment of their *Prague Capabilities Commitment*, and substantial

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improvements in the readiness, deployability and sustainment of European forces that would be assigned to the NATO Response Force. On this second point, let me just say that the United States strongly supports greater defense spending, capacity-building and sharing of burdens within the alliance; we support the *Prague Capabilities Commitment*, and the NATO Response Force. By making this commitment and effort, the allies will be investing in their future influence within American policy circles, and a continued strong say over how their interests will be protected.

A strengthened NATO will solidify the U.S. commitment to the alliance, as NATO's military credibility and options grow; enhanced European capabilities will benefit ESDP, by addressing new and emerging threats that affect Europe just as much as the United States.

The third fundamental question is whether allied governments will join with us in taking more advanced measures to ensure that our advanced defense technology remains under well-conceived and administered controls, once exported.

I have never heard any allied country say that its export control system is inadequate. But in 2003, it is fair to ask how many of the NATO allies control the export of defense technology by intangible means, that is, by email, fax, or internet. This is no longer a marginal issue, when one considers that almost all of the work covered under the Joint Strike Fighter Global Project Authorization, now in the systems development and design phase, is being done across borders, electronically, through a Virtual Private Network.

In the months and years to come, my organization will be reaching out to allied governments to build partnerships in the area of compliance with our respective security arrangements governing export and import of sensitive defense technologies. This kind of compliance partnership will raise the level of confidence among officials of the NATO governments, such that our defense industries will enjoy a broader mandate to collaborate on high-technology military capabilities.

We need to do this for military reasons. We need to do it as a means of keeping European and American defense industries, along with those of other principal security allies beyond Europe, working for common purposes. And we need to do it for strategic reasons ñ in order that the United States will not find itself so unique in its military size and capability that we and our allies no longer view the world through the same foreign policy lens.

### **Summary: Issues Under Review**

There is, understandably, keen interest in the specifics of the NSPD-19 policy review. I cannot tell you this morning what choices President Bush will make when all the recommendations are developed and debated by our Cabinet Secretaries. What I can tell you is that the Bush Administration has put a great deal of effort into the question of how to reverse some troubling trends in NATO military modernization. We are taking a very serious look at many issues that we believe can make a positive difference in bringing our defense industries closer together as we transform NATO forces, including:

- How best to advance the success of NATO programs;
- How to deal with incompatibilities in our governments' respective treatment of foreign nationals having access to controlled defense goods and technology;
- How to ensure that only reasonable and appropriate conditionality is placed on exports of U.S. defense technology to our allies, and that allied governments, in turn, are open to procuring U.S. defense technology on a competitive basis;
- How to ensure that our technology controls place minimal burdens on the ability of U.S. companies to export commercial communications satellites to allies;
- How best to work with our friends and allies to ensure U.S. defense technology is satisfactorily protected against unauthorized use or diversion; and,
- Other such policy issues.

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We have solicited and received a lot of suggestions from industry and government. Lord Robertson has brought many concerns to our attention from the perspective of NATO agencies. I hope all those here who support the ambitious agenda for NATO reform will embrace these U.S. initiatives, put the past behind you, and work with us to achieve new levels of both international technology collaboration and technology security. We stand ready to be your partner in that effort.