
Export Control Policies

by

**Dave Tarbell, Director
Defense Technology Security Administration**

[The following is a reprint of the Congressional testimony of Mr. Tarbell which was presented before the Senate Banking Committee, Subcommittee on International Finance and Monetary Policy, on September 21, 1995, in Washington, D.C.]

Thank you, Mr. Chairman, for the opportunity to testify on the topic of export controls. You have asked particularly about progress in negotiating a successor regime to COCOM [Coordinating Committee for Multilateral Export Controls] and about how export controls can address the new security threat posed by the proliferation of weapons of mass destruction. Overall, DoD's export control efforts are under the purview of the Under Secretary of Defense for Policy. The Deputy Assistant Secretary of Defense for Counterproliferation Policy is responsible for direct oversight of this program, which is managed on a day-to-day basis by the Defense Technology Security Administration (DTSA). These issues are subjects of major concern to the office of the Under Secretary of Defense for Policy, as well as to other offices in DoD.

My presentation has three parts. First, I will outline the type of Export Administration Act (EAA) that we would like to see emerge from Congress. Second, I will explain the national security framework that defines DoD's approach to export controls. Third, I will describe DoD's interest in the COCOM successor regime. The successful establishment of that regime is critical to our national security and regional defense goals. Of course, I am also prepared to address questions on other subjects of interest to the subcommittee.

First, let me discuss the EAA. I wish to begin by stating that, in my judgment, the export controls program continues to operate effectively under the International Emergency Economic Powers Act (IEEPA). Because the EAA was not extended or reauthorized, it was essential to our national security that we continue to have a basis to control exports of dual-use technologies. Thus, under the authority of IEEPA, the President by Executive Order renewed this year his direction that the provisions of the EAA and the Export Administration Regulations continue to be followed.

In its letter of invitation the Committee asked for the Department's views on S. 2203, proposed during the 103rd Congress. Let me address this by outlining the type of EAA bill the Defense Department would like to see emerge from Congress. First, the Department believes that the export control process must be disciplined and must reflect an equal partnership among the agencies and departments with expertise in this area. At the same time, the EAA should preserve the President's flexibility by providing him with broad authority to adjust controls consistent with world developments, and to organize the Executive Branch process for implementing the authorities in the EAA. If it is important from a national security, foreign policy, or nonproliferation standpoint to deny an export, the government should have the power to do so. The Administration's proposal sent last year to Congress embodies these principles and is wholeheartedly supported by my Department. As part of the Administration's export control team, we look forward to working with the Senate Banking Committee to fashion a new EAA.

Let me now describe how the Department of Defense approaches export controls as a part of our overall national security policy. This will help you understand the concerns we wish to see addressed in a new EAA. DoD continues to believe that export controls are a very important tool of U.S. national security policy. They help to reduce the likelihood of military conflicts by limiting the spread of destabilizing arms or dual-use technologies. As well, I wish to emphasize particularly that judicious but decisive use of export controls aimed at chokepoint items and technologies can slow or stop the spread of weapons of mass destruction and their means of delivery.

We face a new situation with the end of the Cold War and the growing worldwide diffusion of technology, which has required that we make adjustments in the scope and focus of our export controls. There are new indigenous capabilities outside the United States and increased economic pressures throughout the industrial world to increase exports.

As part of the Administration's nonproliferation and export control strategy, DoD established the Counterproliferation Initiative. Nuclear, biological, and chemical weapons—sometimes referred to collectively as weapons of mass destruction (WMD)—are no longer a hypothetical threat in regional conflicts. Programs to develop or acquire WMD and their means of delivery are widespread around the world. For the DoD to be able to fulfill its responsibilities in this new era and to reshape our forces for the new world, we must take seriously the WMD threat in future conflicts. The United States must be able to deter and, if necessary, prevail with conventional forces, even if a regional aggressor threatens or uses WMD. The U.S. also must be prepared to counter the use of advanced conventional weapons that may be obtained by hostile states.

This is the purpose of the Counterproliferation Initiative. Indeed, in our concept, counterproliferation equals prevention plus protection, and export controls play a central role in the prevention part of this equation.

Our export control policy has two objectives. First, we want to stop the transfer to potential adversaries or combatants of technology that is not in our national security and defense interests to transfer. Second, we want to monitor technology flows that are acceptable in themselves but that need to be tracked to prevent diversion and to ensure that we know what military capabilities our forces might face in any given region.

The Department of Defense is convinced that export controls on key dual-use items are critical for protecting our military advantages. When we evaluate the need for export controls, we are guided by how an item or technology is used in U.S. military systems and by what contribution it could make to the capabilities of potential adversaries.

It is important to recognize that we do not control for control's sake. Our controls must be effective to be worth the cost. Moreover, with the increasing pace of technological change and the growing diffusion of technology (especially in our information age), there inevitably will be increased foreign availability. This situation requires that we be careful not to put U.S. exporters at an unnecessary competitive disadvantage, particularly when export revenues are an important contribution to profitability and to financing defense-related R&D, and hence help to sustain the defense industrial base.

Because of growing foreign availability and indigenous production in many proliferant states, however, we focus our export control efforts on chokepoint items and/or technologies that are critical to developing and deploying military capabilities.. By focusing our controls more tightly, we can make the acquisition of WMD and their means of delivery as well as conventional arms and associated dual-use technologies much more difficult. At the same time,

we can track ongoing transfers so that we will have a better sense of the capabilities of potential adversaries in any future Desert Storm. This is why a forceful program of export controls aimed at selected items and technologies is a core element in our Counterproliferation Initiative.

An important element of our export control strategy is to work with our allies and friends to harmonize policies for the control of arms and dual-use technologies. Under Secretary of State Lynn Davis will address the overall objectives of the COCOM successor regime, the status of negotiations, and the results of the High Level Meeting that was held last week. I would like to address some of DoD's interests in ensuring a robust and meaningful regime. DoD has been playing a central role in this effort, with particular emphasis on using our military and technical expertise in the development of meaningful control lists and in helping to devise an organizational structure that will allow the new regime to meet the new security challenges of the post-Cold War era.

The regime is to have two pillars: arms and sensitive dual-use technologies. DoD has been pressing hard for a regime that involves serious information exchange and scope for consultation. Member countries will do their own licensing without sending cases to a central clearinghouse, but they will establish a policy framework for review of items on agreed control lists. Information exchange will be essential to ensure that national policies are being implemented consistently within the agreed framework.

For several years, the United States has been working closely with our allies to implement an export control system that is adaptable and effective in seeking to ensure that arms and sensitive dual-use technologies that have critical military applications are not exported or diverted to potential adversaries or states that threaten the stability of key regions. We are particularly concerned that we prevent militarily useful exports to proliferant states—such as Iran, Iraq, Libya, and North Korea. The new regime also will promote greater responsibility in the transfer of armaments and sensitive dual-use technologies to regions of instability such as the Middle East and South Asia (India/Pakistan). DoD officials participate regularly in the multinational meetings that are working to develop the procedures and control lists for the new regime.

Admission to the post-COCOM regime requires states to meet specific criteria and to endorse certain principles. Most important, members must maintain national export controls adequate to ensure their ability to prevent destabilizing transfers; they must be members in good standing of the nonproliferation regimes; and as a condition of membership they must agree to adopt responsible export policies regarding states of serious concern, such as Iran. The COCOM successor regime, by its focus on general dual-use technology and conventional arms, will complement the existing control regimes that are concerned with nonproliferation. These include the Missile Technology Control Regime (MTCR), the Australia Group, and the Nuclear Suppliers Group.

Negotiations for the COCOM successor regime have proceeded slowly at times. But the supplier states are close to final agreement on a new, multilateral institution to promote responsible policies for the export of weapons and dual-use technologies. This will close a gap in the international security and nonproliferation system, as well as help to ensure that U.S. exporters will face a level playing field.

In sum, in the new, post-Cold War world, the Administration and DoD are giving strong emphasis to preventing the proliferation of dangerous military capabilities. We are also intent on using multilateral controls to the maximum extent possible in order to ensure that controls are effective and to avoid putting U.S. exporters at a competitive advantage. DoD's export control policies are intended to achieve these objectives. I believe we are succeeding.