

**CENTER FOR
STRATEGIC AND INTERNATIONAL STUDIES (CSIS)**

**TOWARD A 21ST CENTURY EXPORT
AND TECHNOLOGY CONTROL REGIME**

OVERVIEW OF CSIS STUDY RESULTS

**SPEAKER:
PIERRE CHAO,
SENIOR ASSOCIATE, CSIS**

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PIERRE CHAO: Good morning, everyone, and thanks for attending. There is certainly something in the water in Washington, D.C. to the extent that they are, at last count, was something on the order of 18 export control reforms, studies, efforts, commissions underway. So we can tell that we have sort of reached a boiling point. And the fact that it has reached the attention of the levels of the deputies, I think, says something in that they were willing to come here and launch this. And in many ways, the study that was launched several months ago by CSIS was, again, at the encouragement of Ryan Henry and others to begin to take a look at this, in some ways to scan the landscape in terms of what all these other efforts are underway, to try to pull some threads through them, and in many ways, to see if we can begin to build a big tent under which to pull the main themes, so that we can end up with a chorus of voices, rather than a cacophony of voices when it comes to dealing with this topic.

We ran a process that was inclusive as possible. We got phenomenal support from State Department, Commerce Department, DOD, the Hill. In terms of the conversations, we ran multiple workshops through it, where we had each community involved. We pulled in industry, had sessions with them. David organized a team of legal experts to also look at these issues. And as we began to develop common themes, we began to bring the groups together. Frankly, we wanted to do it in that process because in others that we have seen where you put everybody in the room together at the same time, it becomes too easy to start finger-pointing right off the bat. And so finding those common themes and getting us there was one of the critical things we wanted to do. And in many ways, this is the culmination of our process, but the beginning of a much larger process that is underway. We do not pretend that the 61st study will be the last one. We just hope to sort of help advance the ball.

Can we go to the first slide? One more slide. One of the key things that we have to sort of establish or put is the framework in which we are all operating. Some of them are very obvious to you all. Sometimes it is necessary to bear and state the obvious. But the first that you have to sort of put within the context is clear though that the U.S. is currently involved in a wide spectrum of very complex national security challenges. In many ways – and you heard both secretaries talk about that complexity. And without the acknowledgement of that, I think you would lend yourself to too simplistic of a set of solutions. And you would also frankly differentiate in some ways the imperative and difficulty of a U.S. export control system, vice some of our allies or some of the other countries in the world that don't necessarily face the same level of complexity or global scope.

Clearly we are now in a globalized world. You heard that from Hamre's comments, as well as, again, the secretaries', where the flow of information, people and goods really flow rapidly. Tom Friedman has done very well at describing this with his popular books. We don't need to spend much time in it, but you always have to constantly remind yourself of that simple fact. And I think the dealing with globalization is frankly one of the most complex issues that governments, not only U.S. government, but governments around the world are struggling with when you take a look at this at the topic in its whole.

The other element that has to always be reminded of is the fact that a technologically superior U.S. military has been one of the main stays of the U.S.'s military superiority or asymmetric advantage. And the fact that we – you know, it has rested always on three pillars: recruiting of superior individuals into a professional military, superior training, and superior technology. And actually the ability for the United States to access the world's best technology and use them for the benefit of U.S. military has been an absolute key. Pick any area where the U.S. has an asymmetric military advantage, and I will point to a foreign technology at its root in one form or another, whether that is nuclear weapons thanks to German Jewish scientists, whether it is space, again, thanks to German scientists. We got the better batch than they did. Whether it is armored vehicles, a British invention, airpower, again, a British invention, stealth technology – it was actually a Russian algorithm that Northrop Grumman – or Northrop scientists happened to see at a conference that told them how to calculate the bouncing of radar waves. And so to the extent that we want to – what the U.S. has always been good at, I would argue, is that we had been a great vacuum cleaner of raw technology, and through Yankee ingenuity, have turned that technology into superior weapon systems and abilities.

And so while we sit there and try to prevent technologies from a systems (risk in?) going out, I think we have got to be very careful that you don't prevent the raw technologies from coming in. And as much as people want to build a semi-permeable barrier that only flows one way, we know that that isn't possible. And acknowledging that truth about the technology flows, I think, is important because if you don't acknowledge it, then you lend yourself to doing some policies that will choke off that. And I think Secretary England's comments about people brings in a very interesting dimension into that, that frankly, we had not focused a lot of time on, but I know that the National Academies in their studies related to export controls and deemed exports is very focused on.

The other element is, you know, the fact that just like Eisenhower sort of astutely recognized in his time was that if you are in a long struggle against an adversary – at that time, it was the Soviet Union; in this time, it is radical Islam or take your pick – you need not only a strong military, but a strong economy in order to be able to survive that long struggle. And so all the comments made about how do you impose these policies while at the same time ensuring that it does not choke off U.S. industry or industrial relations is also something that is absolutely fundamental. And if you think about it, export controls, which normally is this weird sort of little esoteric part of Washington, D.C. policy sits at the nexus of all of these issues, and that is why it is as critical of a topic, and I think why we have a full room today.

Next slide. What is clear is that the export control system as a whole is under increasing strain due to the nature of the changing environment. The high tempo of allied operations is increasing the volume of licenses. And you just see the amount of licenses that are going through the system since 2001. We have doubled the volume. So despite the fact that there have been good improvements in terms of processing times and in terms of internal processes, some of those improvements in terms of time is being overwhelmed by just the sheer volume. And there has not been a commensurate increase in terms of the number of people.

The other thing that is hiding underneath that sort of rising number of licenses that you can't see from the statistics, but everybody in the industry who submits those licenses now, and anybody who receives the licenses now, the complexity of the licenses is increasing at almost that same rate. Not only is dual-use technology – get more embedded and used more, but also the types of things that we are looking to export.

Globalization of corporate ownership and industry supply chains continues at pace. What is a U.S. company? A company that is domiciled here? A company that is headquartered here? A company where 51 percent of the shareholders are American, but they happen to own a European company? Is that an American company? I mean, all of these complexities are in place. My comment about commercial technology being used is there. The accelerating pace in geographical diffusion of technological innovation is also critical. We, again, forget our history or that there is a little bit of a revisionist history to the extent that U.S. technology had a long lead start in U.S. industry in the '50s, '60s, and '70s only because the rest of the world managed to destroy their technological base during the Second World War. And it was a U.S. that was untouched.

If you go back to the 1930s, there was a far different picture of where technology was all residing. And in many ways, we are just seeing a reversion of the mean in terms of where those technologies are coming from. Where once upon a time, the scientist and the young students would come here, study here, and stay here, they have an opportunity to go back home and start businesses. Friedman uses that very interesting analogy. Would you rather be a B-minus – if you are an Indian student, is it better to be a B-minus student in Potomac, Maryland or to be back in India, right? That same B-minus student. And where do they get the opportunities?

And also there is the migration of R&D centers where collaboration is the easiest, as opposed to the safest. And so again, Secretary England alluded a little bit to the fact of that comment about these days, people are setting up R&D center where it is easier to cooperate, not necessarily the safest place to cooperate, which adds complexity. And I think the evidence of the systemic stress can be shown in the growing caseload levels that everybody has put into place since 2001. Fifteen percent increase in ammunition license, doubling in the demand of dual-use licenses that the Commerce Department has to deal with. TAAs now total roughly half the total volume of the hardware licenses, and those TAAs are extremely complex to try to process with caseloads up at 50 or 60 percent levels. And I think that is where the frustration is beginning to – that the whole community as a whole is beginning to feel.

Next slide. The other thing to put into place is the fact that the pace of the world is accelerating, as anybody who lives in it knows. But industry has begun to adopt speed as a strategic advantage. The military has begun to adopt speed as a strategic advantage. Right? How do you get inside the enemy's OODA loop, for those who are familiar with that term? And as the acceleration of time or speed becomes a strategic differentiator, not only in the military, but in the business realm, it is often now getting to a pace that the system cannot keep up with. And so just like the typical – okay, you have done fantastic, now what are you going to do for me lately? We are finding ourselves in the same situation. We have cut processing times in half, great. Now what are you going to do for me because I have cut my business timeframes in half even faster than you are. And that is one of the elements that have to be taken into account.

Complexities of the foreign assistance policies get into place, particularly it was a lot clearer in the Cold War when your economic adversary was the same as your military adversary. In some cases, our economic adversaries are our military friends, and our military friends are our economic adversaries. And that has to be taken into place. And then overall in this entire system if you think about what becomes more and more important, just as important as the processing of licensing as a mechanism for understanding things, intelligence begins to rise in its value because you need to know more and more about who exactly is it going to on the front end, and on the back end, are they actually doing what they said that they were going to do. And so you see a bifurcation of the system back towards the front and the back.

So if that is the overall environment that we are in – next slide – these are the 18 studies or the – I hope I get the number right – that have been underway. There have been a whole series of efforts in place inside each of the key constituent government organizations that deal with licensing in terms as they try to look at their processes. Whether it is the tiger teams, which is a triaging mechanism that has been put into place, inside the Department of Defense that has put in a lot of efficiencies, a series of efforts inside the Commerce Department, again, to look at processing times, as well as inside the State Department to try to, again, look at places where they can triage, where they can work faster. There has been a longstanding effort that has been a good solid one by the MOU Attaché's group, which is an agglomeration of countries that the U.S. has treaties with or MOUs with for technology sharing that have been a constant effort to try to find where things can be moved better.

There has been a major study done by a NATO advisory group, and we are going to hear a presentation on that that looked at this from an allied perspective. There was a massive effort led by AIA and others in terms of the Coalition for Security and Competitiveness that, I think, really looked at the near and midterm types of issues that could be solved in terms of processes, transparency, and testimony to sort of the quality of that effort. We got the beginnings of response out of that NSPD, which I think, again, are good steps forward. The think tanks, as usual, have all stepped up to the plate and are doing a wide variety of studies. The National Academies has gotten multiple studies underway, some of which are due to come out over the next couple of months. So there are lots and lots of good ideas. And there are some real outputs in place that begin to get the game changing sort of types of environment. So not only the NSPD, but the U.S.-U.K. treaties that were signed by the respective governments and up in front of the Senate that begin to shift towards new philosophical approaches on how to get from here to there.

If you sort of take all of these efforts and you boil them down and sit and talk to the individuals who are trying to hammer through this – next slide – what you very rapidly find is that the bait is split amongst two major philosophical camps or two camps that we uncovered as we are underway in this effort. There is a large group, the one camp that sits there and says, it is the resources and the processes that are in place, that if you read the law carefully, it gives you actually a great deal of flexibility, and you can do things. The key issue is adequate resourcing toward licensing and enforcement. We just need to put the right business processes in place. And frankly if those right processes and resources were put into place and the licensing time is dropped down to five days or whatever, most of industry would not complain and life would go

on. And that the system overall is fairly well time-tested. It just needs to be more user responsive.

There is another entire camp that sits there and says, you know what, you will never get the right resources. We will never get the right management processes in place, and therefore, we need to look at it fundamentally from the bottom-up. And if the current volume today is 80,000 licenses, that the issue shouldn't be how to I process 80,000 licenses faster, it is how do I get that 80,000 number down to 30,000 in terms of a different look. And a fundamental redesign is required. You would actually need to look at the statues and pop them out, that you are focusing by doing this kind of triage mentality in terms of if I am saying 98 percent yes to something all the time, why exactly am I doing it all the time? What if I can – if I approved a spare part for an F-16 to one NATO ally, and I have approved it to another NATO ally, why exactly do I need a third licensing between those two NATO allies, right? So looking more at the fundamentals.

And frankly, I think you want to pay close attention to when you hear the baits and discussions and recommendations about what those two camps are all about because a lot of times, those two camps frankly talk right past each other in terms of the goals they want to achieve, and what the recommendations are, and what is important versus what is not.

Next slide. So when you take the studies that have been put underway and you try to pull the threads in terms of where is there sort of commonality and findings, or commonality and viewpoints or emphasis in terms of what the issues are, and we tried to do it in a sort of colorful format. In terms of summarizing them, what you find is that the friction that the whole system causes in terms of international cooperation and cooperation with our allies is popping up very large in terms of common sets of findings amongst all those studies, as well as the fact that how it grinds against the trends of globalization, and in some cases, how it is beginning to hurt U.S. competitiveness.

The biggest difference between sort of most of the efforts that are underway today and the focus of the efforts that are underway today, compared to the efforts that were underway in the late 1980s or late 1990s, was that there is far more of a national security focus, and probably appropriately so, rather than an economic one. And in discussing this topic up on the Hill, we have found very little sympathy for pure economic arguments about this topic and much more resonance with the national security implications of a system that does or doesn't work right in terms of unintended consequences and where the friction has been put into place.

Next slide. When you take a look at where the recommendations are, a lot of the recommendations and focus, which is represented in that first column, is really focused more on the efficiency side and transparency side. And so from that perspective, I think the grand coalition had it right in terms of the first place to go after is where can we go for processing times and that. But then, you rapidly go into some of the broader topics, I think, that everybody wants to sort of get us towards, which is looking at those control lists in terms of what exactly is on them, improving sort of the overall interfaces, and looking at international agreements, as well as are we looking at the right unit of analysis when we do our whole system. And so to the extent that we have been working away on the licensing time, now the time to move at the border

policy comment, I think is rightly so. And from that standpoint, I think Secretary England's challenge is exactly the right one.

Next slide. And so if you sort of summarize the findings or the problem statement, what the fundamental issue is how do we keep the export control system to evolve – keep it evolving as rapidly as the environment is, so you can frankly relieve or reduce these frictions. The fact that this friction is unintentionally impacting sort of a broader national security goal of maintaining our U.S. technology edge is, I think, the burning bridge of the imperative that takes us there. And the fact that it is impacting our ability to interact with our allies is part of the burning bridge. The fact that globalization and commercialization sort of continues to sweep is the critical thing that we need to sort of to deal with, and that – how do you find the system again that is keeping up with the new strategic imperatives of time. So if you want to take all of that environment and beginning to pull at the threads. We came up with four sort of macro-threads and areas that we think are important for the future debate to begin to focus on.

Next slide. Next slide. The first one is that who is becoming far more important than what. What do we mean by that? Most of the export control reform methods over the last 20 years have been focusing on what should be controlled as the basis of reform. There is lots of – there has been incessant calls for reviews of export control lists. The lists are out of date, they need to be updated. It was the fundamental basis about the argument of higher walls around fewer things. And most of those reform commentary made a lot of sense when the who was well-defined, right? It was the Soviet Union in the Warsaw Pact. Got it, now I need to focus on well, what exactly it is that we are allowing to transfer. And however, in the current environment, the who question is actually becoming the primary one. In each case when somebody says, well, I want to take an item off a list or I want to do that, you very quickly, rapidly default to asking, well, who exactly is it going to? Because if it is going to a close ally, it may be okay; if it is going to someone suspicious, it is not. And if it is going to a band person, I absolutely don't want it to be so.

There are arguments about well, what do I care about spare parts to an obsolete 20-year-old fighter? You don't if that obsolete 20-year-old fighter is – I'm going to insult somebody, so I will invent one, you know, the F-1. However, if that spare part happens to relate to an obsolete fighter called the F-14, you do care because there is only one person that flies those F-14s. It is Iran, right? And so the who suddenly became very important as opposed to the what. And as you sort of create these ad hoc coalitions to address particular national security issues, the calculus of what becomes sort of changed and shared. And so when you take into account this, the changing global supply chain, et cetera, you really need to get more into the who, rather than the what types of questions.

Next slide. And we have the beginnings, I think, of the changing of this thinking. And it is an extremely important shift, and one that ought to be pulled on very, very hard and taken to its logical expansion and conclusion. The validated end user program at the Commerce Department has begun to put in with in terms of determining who is a trusted entity is a beginning of that thinking about who rather than what because it says that looking at the national level is not good enough or it doesn't tell me as much as it used to.

And I've got to go beneath it, in terms of finding what's going on. The U.S.-U.K, U.S.-Australia treaties, the way that they are designed, again, fundamentally get at this issue of who rather than what to the extent that it carves out special behaviors for trusted communities. And if you think about that as well as the expedited processes for coalition partners that are with us in Iraq and Afghanistan, you know, countries that are participating with us in a different context, we might not be sort of transferring technology as rapidly or different types of technologies within that context, we are willing to do so.

And so this emphasis on who becomes important. It also then begins to shift a great deal of emphasis onto the intelligence side or the understanding. It shifts the burden towards the front and back end of the overall process. We are identifying who exactly these people are, are they who they say they are? What are they doing? As well as the back end, it becomes fundamental. It begins to take you away from less of a transaction approach and brute-forcing the understanding of who by looking at the transaction and instead spending time on those, which are frankly deeper policy questions and more complex ones.

Next slide. And so the recommendation set actually goes to identifying other areas for expansion of this trusted community idea. I don't think, and the group as a whole in our studies doesn't think, when we say that we want to be very careful in how we phrase this, right? The U.S.-U.K., U.S.-Australia Treaty frankly represent an aspirational kind of high end, we think, of what this system would represent, but there are other types of trusted communities that fall below that. The F-16 community, the F-16 ownership community within NATO and our allies, I think, represents an example of what one could deem as a trusted community. Again, if I'm already licensing and approving those parts to each country individually, you could make that a trusted community that allows the flow of those parts in and amongst themselves regardless. You certainly want to know if something pops out of that trusted community into the broader world, coalition partners for certain things, people that I train with. Do I really need to be licensing every time every bit of piece of equipment when I go into a NATO exercise, when I know in some cases I'm going to be consuming them and there's going to be nothing left, treaty allies, verified end user programs and various situations?

And so from a legislative look and a look from the standpoint of the Hill, I think engaging in this discussion of how you get – identifying what these threshold levels for membership of trusted communities, identifying what could be exempted from licensing within this kind of a thing is the beginnings of a movement towards a little bit of that different world that Gordon England was talking about. Next slide.

Second recommendation area that we wanted to focus on is this issue of sort of how we look at these control list reviews and other topics. There are sort of – there's always this deep frustration that, the let's not review fast enough, or how do I know what are the crown jewels really? What's interesting is when you talk to the Defense industrial policy community and talking to the export control policy community, you always get the same type of commentary, right? If I knew what the crown jewels were, we could focus on that and other things we could care less, and yet that process is an extremely difficult one, in which to do so requires sort of deep domain knowledge. And in many ways, because it's an insular type of activity, it's not always necessarily the responsibility of one entity. There is deep expertise on military items, for

example, that reside within DOD, within DTSA and engineering, that when it comes to new technologies like nano or bio, et cetera, it becomes more diffuse in another place.

And so to the extent that the export control formats of the last 20 years have always recommended let's change the list, we would argue let's focus a little bit more on exactly how you would do that and what are the policies, procedures, and organizations that you would want to, that focusing on that element would be more fruitful than putting on yet another recommendation of, well, the list should be reviewed. I know that, you've been telling me that for 20 years. Let's figure out how we do this in a better fashion. Next step.

One of the things that we think that would help sort of getting us there is a technology assessment group of some sort. We see it as a government resource, not a policymaking body, but a truly a technical resource that can support – that is the place where one can turn to for questions like, well, what is exactly commonly available around the world? What's going on in these new emerging technologies? You know, again, we're not looking to duplicate the deep domain technology expertise that already exists in a place like DOD about our use of radars, but there is a need for – we would argue there is a need for deeper technology domain expertise in rapidly emerging new technologies as well as areas.

Where you house it, we're somewhat ambivalent. We picked a place like the National Academies because it's a fairly neutral place. And we were very sensitive to the reaction and the commentary about this. So for God's sake, don't create yet a fourth institution that would provide a fourth opinion that sort of becomes another place to appeal and another no in the system. And so that's why, again, we saw this very much as a resource and a technical resource. The one that is desperately needed to the extent that it become, it's the beginnings of a place that is constantly helping refresh these technology lists that for years we've been saying that we want to have updated.

Third set of recommendations, next slide, everything that's been sort of again focused on in terms of the near-term studies always focus on this issue of timeliness, lack of transparency, consistency, you know, all the jurisdictional battles is the friction that is in the system. And when you look at the recommendations and the studies that have been in place, they have ranged in extremes in terms of how to respond to that. Some are, you know, let's put more people into place and that will help relieve it. Some of the more extreme recommendations have said, well we need to just, if we just create a single agency that did this, life would somehow be better. And we as a group rejected the one end of the extreme about creating a separate agency from the perspective of that there are three legitimate points of views, we think, that need to go into the system: the national security point of view, a foreign policy one, and an economic security one and that the presence of the three actors that are in place today is actually important to represent those multiple points of view.

We acknowledge that those multiple points of view create friction by necessity and by definition, as well as the fact that there are two governing laws. It causes friction in the system as we battle through jurisdictional battles. And so I think the trick becomes how do you derive the benefits of having those multiple point of view while minimizing the friction in the system? This is a classic matrix organization problem that anybody in the industry will recognize, right?

And in some ways, just in the same way that IPTs have been created as an organizational response from others, our recommendation goes, it pays homage to that – next slide – to the extent of this notion of, can you cohabitate sort of the – people have told me that that’s a horrible phrase, so if somebody can come up with a better phrase, I’ll take it – the primary sort of exporting licensing functions of the three key agencies. And it, essentially, it leverages the best business practices in place which is these integrated teams.

We would argue you want to leave the policy functions and the ownership of the resources back in the existing panel organizations. We’re extremely aware what happens when you sort of disassociate people from their central organizations. It’s not an argument, again, for a central agency; it’s one of how can you get better cooperation amongst those three groups that come from three different points of view and try to minimize the friction?

Now, we live in the 21st century. We’re willing to take first pass at this by doing this from a technological standpoint to the extent of putting in fatter data pipes, more robust data links, video conferencing, et cetera, et cetera. If I can do virtual design teams around the world, I ought to be able to do it from this perspective. I think part of the key is there, but to the extent that that also doesn’t work, then physical cohabitation is also a critical one. I realize that the most difficult problem will be finding that exact geographic center between State, Commerce, and DOD on that one block where everybody would want to be. And yet, I frankly don’t think you have to get to that extreme to the extent that, again, in the 21st century there ought to be a way to do that.

I think there’s another insularly benefit that comes out of that. To the extent that you can have that kind of a robust sort of data interchange and pipe and transparency inside there, ultimately that can become and be the basis for transparency and a pipe that the outside world can then feed into. But we would argue let’s take the first steps first and sort of see if it can be done internally. And we’ve seen the beginnings of this in terms of what, for example, what each of the organizations has done more internally. So if you take a look at what DOD has done internally in terms of its communication and data pipes, and if you think about it, they’ve had to sort of coordinate amongst a disparate group of people in order to solve its process. We’re just arguing for an interagency version of that. And ultimately we think that that cohabitation can do yet another sort of step function improvement in terms of how the processes work from a transaction standpoint.

Next slide, last recommendation or set of topics to focus on, as all three secretaries – as having the former secretaries and the existing secretaries pointed out – ultimately, anything we do does not unless it’s done in the broader context of a globalized system and without our allies. A whole set of strong U.S. controls alone cannot keep dangerous technologies away from adversaries if it’s not done with a common understanding. It is probably time to rejuvenate sort of the bilateral or multilateral sort of efforts that are underway in terms of export controls and to find that common consensus. I realize how difficult that is; if we can barely get consensus in the U.S., let alone to sort of bring that into a broader group. And yet without it, it becomes absolutely impossible to do.

And it is also frankly a key component of this trusted community concept, which ties through the first recommendation, is a strong set of national laws that can establish who is within the trusted community and is able to sort of sufficiently punish the violators. It was one of the big breakthroughs I think in the U.S.-U.K. treaty to the extent that there was a deep sense of confidence, for example, in the U.K.'s Official Secrets Act that allows us to identify those trusted communities, but that only occurred because there was a common set of understanding with an ally. And to the extent that you want to create these broader regimes, it can only be done within a multilateral setting. And so of all the recommendations in some ways it's probably the most amorphous to go forth and do something multilaterally. We acknowledge that and appreciate that, but it is probably of all of them one of the most important ones as well that we put out there. And so the amount of work to sort of flesh that out, we do not underestimate and realize that it will take a lot more work to get us from here to there.

So that was a quick sweep through the study. This is what we'll be taking sort of around to the community in terms of back out to it. It's – we hope it helps to begin to sort of organize some of the broad threads that are out there and to put a little bit of a framework on that. And as more studies come out, we'll sort of see what we can fold into this and what else also stands on its own. We've got a little – (end of available audio) –

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