

DEPARTMENT OF DEFENSE BLOGGERS ROUNDTABLE WITH JAMES HURSCH, ACTING
DIRECTOR, DEFENSE TECHNOLOGY SECURITY ADMINISTRATION (DTSA) SUBJECT:
EXPORT CONTROL REFORM VIA TELECONFERENCE TIME: 6:33 P.M. EDT DATE:
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SERGEANT LEE MCMAHON, U.S. ARMY (Office of the Secretary of
Defense for Public Affairs): Hello. I'd like to welcome you all to the
Department of Defense Bloggers Roundtable for Tuesday, April 20th, 2010.
My name is Lee McMahon with the Office of the Secretary of Defense for
Public Affairs. And I will be moderating our call today.

A note to our bloggers on the line. Please remember to state
your name and blog or organization in advance of your question. And if
you have to place your phone on hold during the conversation, please hang
up and call back in, because we might hear your hold music.

Today, our guest is Mr. James A. Hursch, director, Defense
Technology Security Administration. He will provide details on DOD's
position on export controls. At this time, I'd like to turn it over to
Mr. Hursch for any opening remarks. And then we'll go to questions.

Sir, the floor is yours.

MR. HURSCH: Thank you.

As most of you are aware, the secretary just about two hours ago
gave a speech at Business Executives for National Security on the
administration's proposal for reforming the export control system of the
United States.

The current U.S. export control system poses in our view a
potential threat to national security, because the foundation is over 50
years old. It is essentially a system that was designed for the Cold War
bipolar world and is not sufficiently focused on the most critical
threats we face today.

The world has changed. The threats we face today are different,
including global terrorism and the proliferation of mass destruction and
advanced conventional weapons. And these threats come not from a single

block of countries but from individuals, entities and countries located throughout the world.

In addition, the leading edge of some technologies has spread to other parts of the world from the U.S. And there are competitors for many systems that the U.S. is controlling elsewhere in the world. And the military is now often using commercial, off-the-shelf systems.

Because of this, we believe that there are some -- there's a need for a fundamental change to the system we have today. There have been lots of attempts to make such reforms in the past.

This time we believe is different, because we have a secretary of Defense who realizes the overwhelmingly positive implications of the export control reforms that he advocates and that he is doing them for national security reasons.

The president initiated the process last August. And since then the interagency has analyzed inputs from a variety of sources, in order to identify a broad range of reforms for the administration's considerations. There are four essential pieces of the reform pieces. We call them the four singles as a shorthand. And I'll go through those just briefly.

The first is a single export control list, to make it clear to U.S. companies which items require the licenses for export, and which do not, and where they should go to get those licenses.

This would be a combination or a aggregation of the current United States Munitions List and the current critical items control list that the Commerce Department administers. And we would see this single control list as -- instead of just being divided between munitions and dual-use items as being tiered according to the sensitivity or criticality of an item or the technology associated with it.

The second single is a single licensing agency that would streamline the review processes and ensure that export decisions are consistent and made on the capabilities of the technology.

As it stands today, we have two licensing authorities in the United States, two principal licensing authorities in the United States, the Department of State and the Department of Commerce.

We spend a lot of time sometimes fighting over which of these two authorities should actually control the export of certain items, rather than fighting over how critical or sensitive the item actually is and whether it should therefore be controlled or not.

The third is a single agency that would be charged with coordinating the enforcement -- with coordinating enforcement efforts and to strengthen our ability to investigate and prosecute violators.

Currently there are many agencies involved in the enforcement of our export control laws. We want to make sure that their efforts are not

duplicative and that they are coordinated and focused on controlling those items that are in the most critical part of our list.

The fourth is a single unified information technology system to review license applications across the U.S. government efficiently. Today, there are three principal IT systems for export controls.

The Department of Commerce has one that was established essentially in 1987. The Department of State still runs part of its system through paper licenses but is trying to fix that.

And DOD has a -- has the most modern system, which is likely to form the backbone of the new single system.

We realize that fundamental reform requires extensive coordination and consultation with Congress and other interested groups, and we are doing that, as the secretary said when he gave his speech today. He spoke to Senator Dodd this morning, and he has had discussions with other members of Congress.

The SecDef, our secretary, sees this as a great opportunity to accomplish fundamental change, and he has instructed us to move out, along with his interagency colleagues, to make that happen. Achieving fundamental reform will not be quick or easy. There's a lot of work to do. The goal is to have a legislative package through Congress by the end of the year. But we believe that we should be working already on things that we can do with executive authorities, and have laid out the process of reform in sort of three phases.

The first would do a lot of work to reach agreement on the interagency -- in the tiers in the control list, and would set up some of the coordination functions within the organization that will coordinate enforcement efforts. We'll also make an effort to ensure that we have the right kinds of penalties for violation of the laws.

In the second phase, we will move forward with steps to actually put the current list against the tiered list, and other steps that we can take to begin to set up the IT system and get that implemented.

And then in the third phase, which is the real outcome of the reform, we would actually go to the four singles. And that will require legislative support.

In the secretary's view, we should not just be tinkering around the edge of our current export-control system, but need to make fundamental change. In the end state, we see a system in which we have higher walls around fewer items. The fewer items that we would focus on would be those which are the most critical, or which have WMD implications, or where the U.S. has the most important technology lead over its -- over the other countries in the world. Higher walls would be the clearer system, the focusing of resources, higher penalties for violations in that area and a focused enforcement system.

That's probably a good lead-in. And I'd be happy to take questions. SGT. MCMAHON: Thank you, sir.

Karen?

Q Yeah, I wanted to ask, there have been a lot of complaints from universities over the past few years about the difficulties with the State Department and licensing, particularly when it comes to satellites. I was wondering if you could address how this -- how these changes, these reforms, might affect the academic community, scientists working at universities.

MR. HURSCH: Just -- if I could just clarify that, you've asked me, I think, two questions, and I wanted to be sure what they are.

Q Yeah, two questions in one.

MR. HURSCH: The first -- the first question, is that about foreign scientists at universities?

Q Well, I mean, universities have a number of complaints. One is about foreign scientists, graduate students in the classroom. And then a part of that is because you have universities involved in satellite research -- you know, satellites falling under the State Department control list have become a big concern.

MR. HURSCH: Okay, let me -- let me answer each of those.

Q Sure.

MR. HURSCH: The first one, having to do with foreign students and scientists at U.S. universities, I can only repeat what the secretary said an hour or so ago. He had previously been part of the deemed export working group that the Commerce Department set up before he was called to be secretary of Defense. He believes that the current system, in which a professor would have to rule out or exclude one individual student out of his class from parts of the learning experience for all the other students, is a problem, and not very workable. He did not this afternoon, and I can't at this time, give you the exact solution for how that will be worked out, but he is -- he is aware that this is an issue that needs to be addressed.

From the Department of Defense perspective, as a -- as a participant in the export-control system, deemed exports is probably something that mostly gets dealt with by Commerce and State Department.

On satellites, currently we have a situation where, by law, all satellites are on the United States munitions list.

A lot of people fear that this may have bad impacts on the U.S. industrial base in the satellite area. They also worry that we are controlling things that may not have militarily critical technology in them in terms of commercial satellites.

We are currently undertaking a report under Section 1248 of last year's National Defense Authorization Act, which requires the secretary of State and the secretary of Defense to come up with recommendations on items, space items, that could be moved off of the United States munitions list. That report is nearing its final stages, but there's a lot of other work going on in the administration on space posture, and we will want to make sure that those recommendations all come out together.

So I don't want to prejudge the outcome of that review. However, we are taking it very seriously.

The other -- with regard to how satellites would be dealt with under a single control list, the thing I would add is that there are probably parts of how you handle satellites, such as manufacturing technology and, certainly for military satellites, the things that are on the satellites that you would want to control as the most highly sensitive. While we will need to work this through with Congress, and you might want to put some kinds of safeguards or monitoring mechanisms on them, there may be commercial satellites that you would not feel you had to control in that most sensitive or critical tier.

So I think that's the best answer I can give you right now. I don't want to prejudge the report on how they should be handled in the current situation before it comes out.

SGT. MCMAHON: Thank you, sir.

I believe we had a few people join us during the opening remarks. If you have a question, if you could state your name and organization and go ahead with your question.

Q Hi. It's Colin Clark at DoDBuzz. I have the very sad history of having covered ITAR for almost seven years when I was at Defense News. What makes you believe, with your experience, sir, that members of Congress will actually take the risk of supporting legislation that's as maybe sensible, but radical, as yours is?

MR. HURSCH: Well, I think there's a couple of things. One, we know that there may be some divided opinions that we will reach on the Hill. We have indications that several members are in fact favorable to our approach. Your question is how do we convince members that the risks associated with changing the export control system are worth taking. I think our secretary would say that there are risks in the current system and that we need to take action to mitigate those risks and the best way to do that is to move towards the kind of system he has recommended.

We have no illusions that this is going to be easy. We think it is an issue that cuts across party lines and that we will have members of the Republican Party who will understand the national security arguments being made by our secretary and will support that.

We also believe, as the secretary stated in his remarks to BENS this afternoon, that there are elements of our national security, such as the industrial base, that are suffering some from the current system and

that that needs to be addressed as well and is a clear national security issue.

Q Can --

MR. HURSCH: In the past these -- sorry -- in these past these efforts have really been directed towards increasing exports. And while we believe there are industrial base implications that are important here, this is not about making profits for American companies. This is about national security, from the secretary's perspective.

SG. MCMAHON: Thank you, sir.

Did we have someone else join the line who has a question? And if so, if they could state their name and organization first.

Q Yeah. Hi. This is Doug Jacobson. I'm the editor of Trade Law News. I'm an export control attorney in D.C. And my question relates to obviously the goal of a single list is laudable, but the real issue right now with respect to exporters is not whether something is on a list or not; it's actually the grey areas. It's whether something is subject to one agency's jurisdiction or the other with respect to the specifically designed or modified for military application.

What is the anticipated approach to that as far as trying to get those -- trying to identify the proper -- whether something will be on the list or is not on the list to give certainty for exporters?

MR. HURSCH: Okay.

Q Thank you.

MR. HURSCH: The first -- the first thing I'd like to say is that I -- your question shows a great deal of knowledge about where the problems are in the current system. We spend a huge amount of effort in the interagency debating whether something should be on USML or the Commerce list. And a large part of that has to do with concerns about the level of control on those two lists.

And right now, you could have something that -- for example, a lug nut or a bolt that was specifically designed for a military item, and whether or not it has any real sense of technology in it, it is forever and ever on the United States Munitions List. We think that that doesn't make sense, and that we are spending way too much time and also making it very difficult for American industry to figure out where to come to in the current system. And we spend a lot of time on commodity jurisdiction disputes between Commerce, State and Department of Defense.

Our hope is that with a single-tiered system, where the tiering is based on either the impact of the technology, its sensitivity, the American lead in the area, or whether it could contribute to a weapon of mass destruction, that we get away from arguing about sort of what I call horizontal divisions between the Commerce and State lists and into a much

more meaningful discussion about the importance and sensitivity of the technology.

The administration is currently going through a rather intensive process to try to determine how to write lines that could go or criteria that could go between the tiers and be as clear, predictable and transparent as possible to the export community. We haven't finished that process, so I can't tell you exactly how it will come out.

But everybody seems to be agreed that we should be talking about the importance of the technology rather than whose jurisdiction it falls under. And our hope would be that we would come up with a set of criteria that would let an exporter know where he falls. And then the other piece of this is that as technology spreads around the world and foreign availability becomes clear and widespread, we would see items potentially being continuously reviewed and cascaded down from higher to lower levels of control.

Another element of this is that we would believe that in some cases where you really care about the technology and the know-how and the ability to manufacturer something rather than the export of an item, the technology could, in fact, be in a higher tier than the -- than the items.

All that said, it still sounds like it could be an area where you could have arguments over what tiers that things should belong in. And I think there will be some of that. Hopefully, it will be much more productive and meaningful than the current system.

As we get these criteria built, the other thing we hope to do is -- with a single information-technology system is to allow exporters to have a single entry point into the licensing process. And since they won't be fighting over whether they should go to State or uncertain about whether they should go to State or Commerce, they will have a single entry point.

We hope that the IT system will be set up in a way that it will walk them through the criteria so that they can know what kind of license they are hoping to get. Some people call this a TurboTax-like system. We'll have to see exactly how successful we can be on that. It depends a little bit on the outcome of our criteria discussions. And, hopefully, it will be much more clear and predictable for the export community and also focus on those things that are most important for our national security.

SGT. MCMAHON: Thank you, sir. Did we have someone else join the line who has a question? I think we have some time to go back around the line.

Sharon, did you have another question for Mr. Hursch?

Q Yes, I do. I guess I'm a little bit confused. Where would this agency reside? Would it be part of Department of Defense or part of Department of State or sort of interagency?

What -- because it seems like industry concerns have often been focused on the State Department office. So I'm just curious where it would be.

MR. HURSCH: Yeah, this is an issue that is not finally decided yet. The secretary today said that options are being developed and that he is hopeful that we will make a decision in the coming months, this spring, so that means probably the next month and a half, if we follow the calendar.

At this point there are lots of options being discussed, and none of them are necessarily totally off the table, but -- and I wouldn't hazard a guess as to how the president will decide.

Q Actually, if I could just do a quick follow-on to that, I'm surprised, actually, that this announcement came out of the Department of Defense, because, I mean, technically the licensing decisions are made in State Department. Was it an executive decision that basically the reforms would be announced by the Pentagon?

MR. HURSCH: Yes, there was. But it was based on -- again, I said what makes this reform effort different than the previous ones is that it is very much of interest and very close to the heart of our secretary of Defense. And so while he has the full agreement of his interagency colleagues, he has been a leading force in the discussions on this item, and he has some very clear ideas about the need for fundamental reform. And so there was a decision made that because we want this to be a national-security reform as opposed to a purely economic reform, that the secretary was the right one to put it forward.

Q Thank you.

SGT. MCMAHON: Thank you, sir.

Colin, do you have another question?

Q Yeah. I wonder how the enormous bureaucracy spread across these three places can be melded. I mean, that seems to be what you're talking about. They're all trained differently, they all have different backgrounds, they all have different clearances. Any idea? Or are we way too early in the game for that?

MR. HURSCH: We have -- again, since you don't know where this -- we don't yet have a presidential decision on where the agency will end up, we haven't gone through a full game plan. However, I -- and I agree that what you point out is a -- is a real challenge and part of the reason that the secretary of Defense talked about why this needs to be driven from the top down.

Q Right.

MR. HURSCH: He mentioned that earlier today. He realizes that there are bureaucratic obstacles throughout the government getting this done, but he feels that it's worth the effort.

Again, one of the things I think it's important to say is that what we are not looking to do here is just create a new bureaucracy. And so if -- you know, one of the options that has not been ruled out or ruled in that some people brought up would be an independent agency. If we were to go that direction, which I am not suggesting to in any way signal that we would, you would need to take resources out of the existing bureaucracy to staff that, rather than creating a whole new bureaucracy.

I -- again, I want to be clear that I'm not suggesting that's the direction we're going.

Q Right.

MR. HURSCH: In fact, it may be one of the lesser options, so.

SGT. MCMAHON: Thank you, sir.

Q Could I just follow up quickly? Have you gotten much feedback yet from industry on that?

MR. HURSCH: Yeah. As a matter of fact, as I got back from the speech, there is already a statement on the Aerospace Industries Association website endorsing Secretary Gates's proposal, saying that there's a lot of hard work to be done.

Q Right, I meant people who actually deal with the system day by day -- you know, the licensing folks, folks like that.

MR. HURSCH: Right. And then the National Association of Manufacturers has also said that, in a paper issued this morning, I think, that to the extent they knew at that time what the broad outlines were, they were broadly supportive of it, but they had some specific suggestions. We've received, earlier in this process, input from several other industry associations. I think there is some nervousness out there, to be honest --

Q Sure.

MR. HURSCH: -- about the potential that this -- that -- especially anytime you ask Congress to help you with something, that you might get more help than you wanted. Q Yeah.

MR. HURSCH: (Chuckles.) But I think all of them believe, as the administration does, that the current system has actually been quite a bit improved over the last several years as efficiency has increased, that we have been more transparent, but that the next step, the step to get away from the system that, you know, really needs to be fundamentally changed is more than just tinkering a little bit more and trying to move licenses faster.

So I think they believe -- most of them agree with us that there are need for some fundamental changes. I think there is some nervousness out there.

Q Can I try one last one?

MR. HURSCH: Yes. Sure.

Q Would you move from the assumption of no, then --

MR. HURSCH: I'm not sure they're -- I mean, first of all --

Q While the -- the law says that State -- for State, that they have assume a negative answer.

MR. HURSCH: Right. Right, whereas Commerce in many cases --

Q Right.

MR. HURSCH: -- actually has a presumption of yes.

I think what we would move towards -- and I describe this tiered system -- is different levels of rigor in evaluation, depending upon the criticality of the technology.

Q Okay.

MR. HURSCH: So things that are relative -- that are, you know, not, you know, the bolt that might be designed for a defense item, but that has no intrinsic qualities that make it, you know, critical or sensitive might very well not, you know, have a presumption of anything. It might be able to move relatively freely. And that, we hope, will help us move spare parts and supplies to our allies and partners around the world, which is one of the key reasons the secretary's interested in doing this.

SGT. MCMAHON: Thank you, sir.

Douglas, did you have another question? (Pause.) (Charlie ??)?

Q Sure, thank you very much. How -- sanctions and embargoes are kind of -- go hand in hand with export controls. They're slightly different, of course, but they're similar. How does OFAC, the Treasury Department's Office of Foreign Assets Control, fit into this approach? Is that something that's been contemplated, to merge them in, or to bring in those sanctions as well, or to keep them as a separate and distinct part of the Treasury Department? Thank you.

MR. HURSCH: Yeah, at this point, they -- we do not believe that those functions should be rolled in. It has been discussed.

I would say that the -- as the secretary said in his speech, that we retain the full right, under this proposal, to put in place sanctions and foreign policy controls where necessary. And -- but we

would hope that again those will be clear and transparent when they're -- when and if they are imposed.

Q Okay. Thank you very much.

SGT. MCMAHON: Thank you, sir.

Sir, if you have time, we'll go around the line one more time for questions.

MR. HURSCH: All right.

Sharon, did you have a question?

Q Yeah. I think you partially addressed it before, but just to give people who don't follow it on a day-to-day basis a timeline, I mean, if all of this goes forward in terms of proposals and Congress approves it, when is the soonest that you -- that we would actually see sort of an overhauled export control system? And when will be the earliest such an agency could be stood up, a single agency?

MR. HURSCH: If we -- if we're talking about phase three, the full implemented reform, that depends entirely on congressional action.

If, as the secretary stated he hopes, we would get legislation for the president to sign this year, we believe that the full transition could be another year or 15 months after that, although that is not a fully agreed and decided position. But that's sort of a guess. And that's based on the fact, as we discussed earlier, you know, there may be needs to move some resources. There would be a need to expand resources, depending on which licensing agency option was selected. We would need to publish a full set of new regulations. There would probably be a need to consult with -- there will be a need to consult with both the Hill and with our allies and explain this to them in detail, how the new regulations would work.

So there's a lot of work to be done even after you get the full agreement of the House. Getting the -- even the IT system, which, you know, we tend to sort of say, "Well, that's obvious" -- getting it done, getting the code written, getting it tested, getting it fully operational and ready to take what is currently, you know, over 60 -- oh, hundreds of thousands of licenses a year, 60,000 that we tend to see -- we want to make sure that works and we don't have a failure. So we will take some time to implement this. What is important for us now is that we get the agreement from Congress to move forward, so that we can get under way with the hard work ahead.

STAFF: Hey, Lee, it's Katie (sp). I think Mr. Hursch is going to have to jump off the line here to head into another meeting. So --

SGT. MCMAHON: Okay. We will wrap it up.

Sir, I'd just like to ask if you have any final comments today.

MR. HURSCH: I think the thing that I would like to stress again is that we -- that the administration does in fact realize this is -- it's hard work, that it's complicated, that there are a lot of concerns and issues that need to be addressed as we go through this, and that we will be working closely with the Hill and having full consultations with the Hill. We'll be talking with our allies and partners, and we'll be talking with industry associations as we go forward, to make sure we get it right.

And then the other thing I'd like to stress is just one time -- I can't say it often enough -- from our perspective, this is a national security reform. And that is the reason why the Department of Defense is out in front on it.

Q Good luck.

MR. HURSCH: (Chuckling.) Thank you. We need it.

Q (Laughs.)

Q Right.

SGT. MCMAHON: Thank you, sir. Today's --

Q Okay. Thanks very much.

SGT. MCMAHON: Today's program will be available online at the DOD Live Blogger Roundtable link on dodlive.mil, where you will be able to access a story based on today's call, along with source documents, such as biographies, this audio file and print transcripts.

Again, thank you, sir, and thank you to our blogger participants. This concludes today's event. Feel free to disconnect at this time.

END.