

REMARKS OF SENATOR JOHN HEINZ (R.PA)  
CHAMBER OF COMMERCE INTERNATIONAL TRADE FORUM  
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I particularly welcome the chance to be with you today because of the timeliness of the topic of export controls and technology transfer. It reminds me of the old Chinese curse, may you live in interesting times. These are indeed such times; whether they are a curse remains to be seen. Certainly they provide an opportunity.

I will attempt, in a short fifteen minutes, to do justice to the issues you have asked me to address:

- Reauthorization of the Export Administration Act.
- Other technology transfer reforms.
- East-West Trade Issues.

All this in 15 minutes. So fasten your seatbelts. Here we go.

1) Reauthorization of EAA:

Unfortunately, I do not bring you particularly good news on the status of the reauthorization of the EAA.

The current authorization runs out on Sept. 30, 1990. As of today, there are no new positive initiatives underway in either house, except one I will mention momentarily.

I see three reasons behind this lack of activity.

First, the National Academy of Science study mandated by the 1988 Trade Bill as a follow-up to the 1987 study has not gotten off the ground. It has taken the NAS nearly a year just to select a chairman, and the full committee will not be selected until next month. It is hard to believe it can complete its work before September, 1990. The first study, though not by NAS, back in the late 1970's laid the groundwork for much of the legislation of the last decade. The first study laid the groundwork for much of the legislation of the last decade. We look to the new study to lay a new foundation, but it would be nice to have it before we have to build the rest of the house.

Second, Commerce has been slow in implementing certain provisions mandated by the 1988 trade Act. Thus far, only two of five new regulations mandated by the Act have been completed and published:

- reexport provisions
- General License for COCOM destinations

Industry, I am told, is unhappy with parts of these, but I am preaching to the choir on this and will leave it at that.

The three regulations still under review include:

- General License Free World
- definition of a supercomputer
- raising the de minimus level for parts and components in American products from 10% to 25%.

We will all learn together the outcome of these particular provisions. We have also learned in the past two weeks that even when Commerce does take decisive action, it does not go unchallenged. If you have any doubts about that, I would refer you to the articles in the Post two weeks ago quoting Bob Mosbacher and Dick Cheney on AT Computers and to the amendments we have suddenly faced on the Senate floor this week.

All this serves as a useful reminder that the inter-agency conflict, if not outright bureaucratic warfare, that has plagued our export control process during the Carter and Reagan Administration regrettably remains alive and well.

We have tried in the 1979 Act, the 1983, 84, and 85 rewrite, and the 1987 and 88 revision of the Act to address this problem by setting policy and clearly expressing Congressional intent. As you know, getting a Congressional consensus has also been difficult, but on the whole I have to say we in Congress have done a better job than the Executive Branch.

But in some ways the problem has recently gotten worse. The opponents of liberalization have developed a new strategy -- expanding the universe of items that need to be referred to the State Department Office of Munitions Control -- the greatest black hole in the government right now.

Setting clear policy in the Congress, however, has proved to be insufficient. Inevitably, the licensing process embodies discretion. It is not enough to say products should be decontrolled where foreign availability exists, for example. Someone - a sentient executive branch being - must determine whether a given item or technology is available. And, given the rapid change in our technology base, that someone cannot be the Congress passing a law.

Thus the way we make these decisions and who makes them can be as important as the criteria on which they are based. That is why I have concluded that the best way to solve this problem permanently is through the creation of a new federal agency responsible for export control and technology transfer policy. Along with Senator Garn, I am preparing legislation to do just that.

## 2) Office of Strategic Trade and Technology

The bill Senator Garn and I plan to introduce will create an independent, cabinet-level Office of Strategic Trade and Technology. The OSTT has the following unique features:

--First, it conceptually brings under one administrative roof both the Export Administration Act and the Arms Export Control Act.

--Second, it physically transfers the Bureau of Export Administration from Commerce, the Office of Munitions Control from State, and the Defense Technology Security Administration from Defense to the OSTT.

--Third, it includes four offices headed by associate directors, equivalent to undersecretaries, specifically focused on and for:

1. Dual-Use Technologies, which will include EAA oversight
2. Defense Trade
3. Proliferation, which will include foreign policy controls, including chemical, biological and missile proliferation).
4. Economic Security, which will address industrial base, foreign investment, and Defense Production Act issues.

--The Office of Economic Security is a new idea. In addition to line responsibilities I mentioned, it will also function as a coordinating and advisory group with other agencies concerned with how national security considerations should influence economic policy and the decision making process itself. I believe that if the current export control system had such an office we could have avoided such difficult confrontations between the legislative and executive branches as the FSX and the Korean Fighter Program.

--Fourth, the OSTT provides for a private sector Trade Advisory Committee with direct access to the Director. The TAC will have direct input to the COCOM list review and be a member of U.S. delegations travelling to COCOM. We have never accorded our private sector experts -- the most directly concerned parties -- the attention and opportunity for input that our trading partners have. Our businesses are not the enemy, and we should not treat them as if they are.

--Finally, the OSTT will include a Strategic Trade Policy Council (STPC) comprised of the Secretaries of State, Defense, Commerce, and Treasury, the director of the CIA and the U.S. Trade Representative. The Council will be responsible for export control policy formulation, streamlining the COCOM control lists, and so on. It will also set up a dispute resolution mechanism to decide contentious cases in a timely and expeditious manner.

I see the interaction between the Policy Council and the Director, who is appointed by the President, confirmed by the Senate, and has Cabinet-level status, as similar to that between the US Trade Representative and the Trade Policy Committee or Economic Policy Council.

I hope that this approach will reinforce the constructive tension in the interagency process that the system needs, but without the current lack of discipline, leadership and timely decision making.

This, briefly, is the outline I have in mind. There are still one or two outstanding issues that need to be resolved before we introduce the bill, and I would welcome your comments -- now or later -- on the concept.

### 3. East-West Trade

Now let me comment on several East-West trade issues. I want to stress that these hardly occur in a vacuum. There are undeniable changes occurring in the East. Glasnost and perestroika are not figments of our -- or Gorbachev's -- imagination. His challenge is to make them work. Our challenge is to anticipate his success or failure and develop the right policies in response.

At the same time, I believe it is in our interest to encourage his success. We all gain from a more open Soviet society and economy that devotes its resources to economic rather than military development.

Therefore it is clearly in our interest to take measured steps, as the President has done in Poland and Hungary, that recognize the evolution that is taking place and encourages it to go further.

#### 1. Soviet Union:

That is true with respect to export control policy as it is anywhere else. Let me say that I do not believe that the President's recent decision to lift the "no-exceptions policy" or Secretary Mosbacher's computer decision will open the high tech floodgates to the Soviet Union.

At the same time, the U.S. is under increasing pressure from COCOM partners to relax export controls further. As evidence of the pressure, I understand that three of our COCOM partners have bypassed COCOM controls on proposed joint venture projects because of the fear that the U.S. would exercise its veto of the technology included in the joint ventures. The events in China teach us that the path of economic and political reform is rarely smooth. Whether it is inevitable remains to be seen. The West needs to continue to work together to safeguard our security interests with respect to both China and Eastern Europe. None of us should let our natural desire for the quick deal affect our unity or resolve.

There is also growing support for waiving the Jackson-Vanik amendment now that the Soviet Union has shown progress in its emigration policy. The President has indicated a willingness to waive the restriction on Soviet imports when the Soviets codify into law the progress made on emigration. On reflection, I am not sure that codification is either necessary or wise because it could ultimately be more limiting than an administrative approach. But the President is clearly correct in his insistence on more evidence that the policy change is permanent and not temporary, as has happened in the past. Congress will no doubt follow his lead in that regard, but I would not expect us to take the initiative.

#### 2. Eastern Europe:

We all followed the President's visit to Poland and Hungary closely. I believe the President's economic package in both countries was appropriate. There was, however, one item conspicuous by its absence: a technology transfer program. I am told the President omitted technology transfer from his economic package because of the vexing problem of how to deal with diversions to the Soviet Union.

I recently proposed to Secretary Baker a three-point plan to liberalize export controls to Poland and Hungary. The plan included:

--the adoption of a "differential," not unlike the China greenlines. The greenlines took 3 1/2 years to put together and to negotiate at COCOM. There is, therefore, no great rush here either.

--the negotiation of government-to-government Customs agreements to provide for a mutual assistance agreement to prevent, investigate and correct breaches of customs laws in the U.S. and host country. The U.S. currently has a customs agreement with Yugoslavia, and is considering one with Czechoslovakia and Hungary, but not Poland.

--a strategic trade agreement which allows for verification checks that American technologies exported to Poland and Hungary are not diverted or illegally obtained. The U.S. currently has about 13 such agreements in various forms of completion.

This kind of technology transfer safeguard regime is based on the political willingness of recipient countries to enter into it. Such an agreement does contain elements of extraterritoriality, but the 13 countries which have indicated a willingness to negotiate them have concluded that the price paid for obtaining high technology from the U.S. and COCOM countries is worth it.

The benefits of developing such a regime are clear. It will further the development of separate economies in Eastern Europe independent of the Soviet Union while promoting economic development tied to the West. It is also a constructive means of responding to the Allied pressures I mentioned.

### 3. China:

In some respects, China is a case of reverse evolution, at least temporarily, and a reminder to all of us never to assume the irrevocability of reform in socialist economies. Lenin's famous dictum of one step backward, two steps forward, can also be applied in reverse. Unraveling the complicated network of bureaucratic inefficiency, irrationality and corruption these countries have created cannot be a smooth, continuous process, and we should form our policy accordingly.

Both the Senate and the House have overwhelmingly passed amendments calling for additional economic sanctions against China in response to the brutal suppression of the prodemocracy demonstrators in Tiananmen Square. The media has given economic sanctions extensive coverage in the last few weeks, perhaps in an attempt to make up for its inadequate coverage of China's human rights abuses over the years.

One appropriate response to the events in Tiananmen Square is to refocus our attention on human rights, as we have done for so long with the Soviet Union. This is not only the right thing to do, it is also more constructive than automatic imposition of a wide range of export controls -- the classic self-inflicted wound strategy I have been criticizing for years.

I have called for a hearing on U.S. export control and technology policy toward China. Among other things, it should address China's

long-standing history of human rights abuses and make that an element of our long term policy toward China. It is time that the government of this country stopped sweeping China's human rights abuses under the rug.

### Conclusion

I don't think I made my 15-minute limit, but I hope I've provided some food for thought. The changes taking place in the Eastern Bloc, both positive in Europe and negative in Asia, afford us unprecedented challenges and opportunities to bring the Cold War to an end and begin a new more cooperative era in East-West relations. It is not clear whether we are really prepared to seize the moment here. Clearly our own domestic export control situation is not ready, which is why Jake Garn and I are proposing a major overhaul. Whether the Administration has the vision to adopt these changes and to provide the needed leadership is also still an open question. Reauthorization of the Export Administration Act next year could provide the forum for that debate. I can assure you I'll be there, and I hope all of you will too.