

Public Remarks before the High Technology Working Group (HTWG) meeting on October 14, 2010

I would like to begin by expressing my appreciation to the Ministry of Commerce, and particularly my co-chair, Director General Zhang Ji. I am pleased that we are here in China for the High Technology Working Group meeting.

As I look out at this distinguished audience of senior government officials, diplomats, academics, and representatives from a broad range of high technology industry sectors, I am pleased by the breadth and depth of participation. Meetings like this H-T-W-G, which combine the public and private sectors, provide a unique mechanism to identify and address U.S.-China trade barriers.

I am personally committed to the U.S.-China relationship. Each time I return to China, I am struck by rapid pace of change and remain excited about future opportunities for collaboration. Conversations among friends, such as those in the H-T-W-G, make our relationship stronger and expand opportunities for collaboration. I look forward to hearing your candid observations today about actions that would be beneficial for our two governments to undertake to remove barriers to commercial cooperation and trade for civilian-uses. We will discuss those observations tomorrow during the government-to-government session of the H-T-W-G.

An important part of this is being open and frank with one another on our governments' objectives and goals, and to update you on changes to the laws and policies that affect U.S.-China high technology trade.

Export Control Reform

Much has happened in U.S.-China trade since the H-T-W-G's last meeting in September 2009 in Washington, DC, particularly in the area of export controls, starting with a quick update on the statistics.

Of the \$63.4 billion in U.S. exports to China in 2009, only 0.3% was exported under a Commerce license. Less than 2% of all such license applications involving exports to China were denied. Of the advanced technology products on the Commerce Control List in 2009, 83.5 percent, or \$676 million, were exported to China without an individual license under license exception.

I would also like to take this opportunity to update you on the Obama Administration's efforts to modernize the U.S. export control system.

As you, the exporting and importing community, are well aware, the U.S. export control system needs to be updated to address the 21st century threats, technology, and market realities. Without reform, the current export control system ultimately complicates our efforts to enhance global security and secure high technology trade.

In August 2009, shortly before last year's H-T-W-G, President Obama announced he had directed a comprehensive review of the U.S. export control system. As you can imagine, fundamental reform of the export control system is a long process – one that requires careful evaluation of long-standing policy and regulations and development of new approaches, including eventual legislation from the U.S. Congress. We are working hard to execute the President's vision for an export control system that more efficiently and effectively protects U.S. national security.

In addition, the reformed system will help us enhance U.S. manufacturing and technology sectors through clarity and consistency in the export control compliance. The current system does not sufficiently concentrate resources toward protecting those technologies with the greatest potential to harm global security.

On August 30 of this year, the President announced the Administration was moving forward with three specific actions as part of the broader reform effort:

- 1) First, harmonize control lists to better distinguish between items that should be subject to stricter or more permissive levels of control;
- 2) Second, create an export enforcement coordination center; and
- 3) Third, develop a single information technology platform to administer the system.

These changes will bring greater transparency and coherence to our export control system, and most important, help us protect U.S. national security by focusing our resources on the most immediate threats.

Allow me to give you a little more detail on what this means. The current system utilizes two control lists – the Commerce Control List, administered by us at the Commerce Department and the United States Munitions List, administered by my colleagues at the State Department. The goal of the two lists is the same – to protect the United States and enhance global security through the denial of sensitive items to certain end-users, such as those entities with a history of proliferation activities or that may be diverting U.S. technology to end-uses contrary to U.S. law and policy.

However, over the years, the lists themselves and the ways the controls are executed have become unwieldy for the government to administer and exporters to apply. For example, these two lists utilize different definitions and terminology, often for the same concept, leading to disparate treatment for similar items. This type of confusion serves no one well – not the exporter, not the foreign customer, and not U.S. national security.

Through harmonized lists, we hope to remove those inconsistencies and redundancies. The immediate goal is to develop dual use and munitions lists that are more easily understood, more efficient and more effective – thereby making it less difficult for the exporter to understand the rules of the road while furthering global security goals.

In addition to harmonization of the lists, these lists will be tiered, based on transparent rules designed to reduce uncertainty and better calibrate controls for different items and

destinations. This change will allow us to erect higher walls around the most sensitive items to enhance national security. The tiered structure will increase our ability to distinguish between the types of items that should be subject to more permissive or stricter levels of control for different end-users, destinations and end-uses. Harmonizing the lists will also create a jurisdictional “bright line” to clarify commodity jurisdiction determinations and reduce uncertainty about whether an item is subject to Commerce or State Department control.

To accomplish this, the Munitions List and Commerce Control List will be “positive” lists, rather than open-ended and subjective criteria. For example, items generally will be placed on the list based on objective criteria, such as horsepower or microns, rather than catch-all or subjective criteria, such as design intent.

Applying these criteria, the lists will then be split into three tiers: (1) those items that provide a critical military or intelligence advantage and are available almost exclusively in the United States, or items that are a weapon of mass destruction; (2) items that provide a substantial military or intelligence advantage, and are available almost exclusively for multilateral partners and allies; and (3) those items that provide a significant military or intelligence advantage, but that are available more broadly.

There will be different levels of control and licensing policies placed on items in each of these tiers, depending on the destination, end-user and end-use. This more flexible structure will enhance our ability to update control lists as technology, and the item’s relative sensitivity, evolves over time.

We are not yet at a point where we can say how this export control reform effort will affect specific countries. However, the levels of controls on items will continue to be aligned with U.S. commitments in the multilateral export control regimes, U.S. statutes and longstanding U.S. policies governing exports. Let me be clear - there are currently no plans for the Administration to seek changes to laws that proscribe the export of U.S.-origin items for certain destinations and end-uses.

In any case, as the reform effort moves forward, the Department will work to inform U.S., foreign and multinational industry and other governments about changes to U.S. export control licensing policy and procedures. I want to hear your comments, concerns and opinion on export control reform today. I am also interested in learned whether we have been successful in addressing your concerns in the past. Transparency is critical to the effort’s success – you in the audience, the trade community, are the individuals at the front line in protecting global security against unauthorized diversion of items, of both U.S. and Chinese origin.

As China increasingly becomes a supplier of sophisticated technology, it will become an increasingly inviting target for those states, organizations, and individuals that pose a mutual threat to U.S. and Chinese national security interests. It is imperative that the two governments work together to prevent these items from falling into the hands of those persons who seek to harm us or any other nation and its people.

Making it easier to understand the rules also improves efforts to enforce those rules. Part of our job is to make sure you understand the rules that we expect you to help us enforce – we cannot do our job without you in the international trade community.

The U.S. Government is undertaking efforts to enhance enforcement coordination across the multitude of U.S. agencies with authorities to enforce export controls. Just as we are seeking to harmonize the control lists and the ways those controls are implemented, we are also seeking to better coordinate enforcement functions. As President Obama has announced, he intends to sign an Executive Order shortly to create an export enforcement coordination center. This center will work to eliminate gaps and duplication in the enforcement function, across the U.S. government. The enforcement center will further complement our ability to coordinate and strengthen U.S. export control enforcement activities.

We will also pursue increased outreach and on-site visits domestically and abroad, to work better with our industry partners and customers. We intend to improve outreach efforts to the China, as is evidenced by the robust U.S. Government team I have brought to China today. The Departments of State, Defense and Commerce are all present here at the Beijing Hotel to hear directly from the trade community operating in the United States and China. We also intend to work more closely with PRC authorities to support mutual goals for global security.

The third piece of the current actions underway to reform the U.S. export control system is a single information technology platform to administer the export control system. The Departments of State and Defense are currently integrating their IT systems, and the Department of Commerce is working to integrate our systems by next year. Merging into a single platform will create efficiencies for the U.S. government to review applications, and ensure greater information sharing for each license application. Most importantly from your perspective, it will make it easier for exporters seeking licenses to be able to interface with a single system and go to a single source for application updates.

The Way Forward

I am sure you are anxious to learn about the way forward and when these reforms will be implemented. Such an effort takes time, and we want to ensure we get it right – which is why I am pleased to participate in the H-T-W-G with you, so I can hear directly from industry about what is important to you to improve the bilateral trade relationship.

The Administration's goal is to begin issuing proposed revisions to the control lists and licensing policies later this year. These will be open for public comment, including comments from foreign governments and companies. We welcome and will seriously consider all comments received on proposed regulations.

As we implement these steps, the Administration will continue to work with Congress and the export control community, including on the necessary authorities to consolidate

these activities under a single licensing agency and single export enforcement coordination agency.

U.S.-China Trade

The Administration's efforts to reform the U.S. export control system are being driven by our focus on better ensuring the national security of the United States and to better focus and enforce our technology controls on end-users and end uses of concern.

Although the U.S. Government's statutory and policy limitations on the export of military items and certain dual-use items for military end-use in China will likely remain unchanged, the U.S. Government's export control reform effort is not designed to hinder trade, including high technology trade, with China in dual-use items to civilian end-users for civil end-uses.

Accordingly, I remain positive in my outlook for future discussions and the U.S.-China relationship moving forward. We have mutual interest in stopping U.S. and Chinese origin items from making their way into the hands of terrorists. We have mutual interests in stopping proliferation. We have mutual interests in being responsible world citizens that enhance global security. We both want to see expanded U.S.-China high technology trade. We can accomplish these goals through increased discussions, transparency and action. Dialogue, like today's discussions and the government-to-government talks tomorrow, represent a building block to support our shared interests.

In closing, I look forward to speaking with all of you throughout the day's events and hearing from you about what efforts our governments can undertake to enhance bilateral high technology trade while adhering to global nonproliferation norms.

Thank you very much for your attention.