

Statement of Richard Ashooh
House Financial Services Committee
Subcommittee on National Security, Illicit Finance,
and International Financial Institutions

January 30, 2024

Chairman Luetkemeyer, Ranking Member Beatty, and distinguished Members of the Subcommittee:

Thank you for the opportunity to testify before you today. Having served as Assistant Secretary of Commerce for Export Administration at the Bureau of Industry and Security (BIS) from 2017 until 2020, I had both the honor and challenge of confronting many of the serious national security threats being considered by this Committee. My comments today are my own, drawn from that experience.

The concerns at the heart of this hearing are well-founded and derive from the oft-stated objective of the People's Republic of China to unseat U.S. technology leadership in the world. While great strides have been made in addressing these concerns, national security and economic threats are never static and must be constantly addressed.

It is important to stress at the outset that U.S. global technology leadership remains strong and that the American culture of innovation is the envy of the world. I stress this because it is essential for policy makers – as you consider the challenge of promoting U.S. technology advancement while regulating it in the face of potential threats – to cause no harm to the very thing you are trying to promote and protect. The progress that has been made in shoring up protections for U.S. technology is the result of legislation this Committee had a key role in enacting - the Export Control Reform Act and Foreign Investment Risk Review Modernization Act, also known as ECRA and FIRRMA enacted in 2018. There are lessons from that debate which remain relevant as Congress considers new measures such as an outbound investment regime or dramatic changes to FIRRMA or ECRA.

While the issues associated with regulating financial behaviors or technology development are many, I will confine my comments today to three recommendations that are drawn from the lessons of recent efforts to regulate in this area.

1. Leverage existing authorities.

The temptation to address a broad panoply of legitimate concerns which do not necessarily rise to the level of a national security threat is alluring. There is also a persistent temptation to regulate technologies that are important but may not constitute a threat to national security if shared beyond our borders. It is job number one for policy makers to clearly define – and be specific in targeting – legitimate security threats.

One of the most crucial updates to FIRRMA and ECRA was to dovetail their definitions and authorities. Establishing a unified definition of “critical technology” and grounding that definition in well-defined export control lists such as the Commerce Control List and the United States Munitions List created clear, specific, updatable mechanisms for regulators to target specific threats. Prior to FIRRMA and ECRA, CFIUS, the Export Administration Regulations, and many other agencies all worked under differing and often competing ideas of what technology matters, wasting valuable time and effort on debates instead of action. This synchronization of definitions created a powerful alignment of authorities and should be the basis for any additional remedies being contemplated.

2. Act Multilaterally

National security threats are rarely stove-piped – solutions to address them should not be either. National security threats are commonly carried out by individuals or groups, funded by governments, with the help of – or in pursuit of – technology. Therefore, just as multiple agencies must collaborate within the United States, it is essential that the U.S. seek multilateral collaboration with relevant allies. Many like-minded countries have emplaced national security reviews similar to those of the U.S. such as foreign direct investment screening and export controls. Many of these measures are the result of U.S. leadership, resulting in a more comprehensive and therefore effective approach.

3. Address the Gaps

For all the measures in recent years to protect U.S. technology, gaps remain. It is currently possible that export-controlled technology could be the beneficiary of U.S. financing – intentionally or not. Before implementing a complex new regime, enhancements to current authorities should be considered first. For example, a recent amendment to the Export Administration Regulations defines the term

“support” by “U.S. persons” to include, among other things, financing. While further study must be conducted, Congress and the Executive Branch should consider clearly defining this newly expanded definition to address the concerns around illicit financing of controlled – and therefore critical – technology. This feature of the law creates a regulatory “hook” to limit financial activities already tied to restrictions based on export controls.

Another opportunity for improvement exists in the multilateral space. The need for alignment among specific technology-leading countries is recurring and should not be ad hoc. Quantum computing, artificial intelligence, and semiconductor development are examples of technologies where the most advanced capabilities reside in a small handful of countries. A coordinated agreement encircling key technologies – including the financing of them – is best done among the countries that control the development. The U.S. along with key allies should consider a new method for multilateral controls in targeted technology areas that can work with – but is separate from - the existing multilateral regimes such as the Wassenaar Arrangement that have served the U.S. and partner nations well in the past but are ill-suited for complex technology supply chains.

Without such alignment, unilateral policy will ultimately fail in combating both national security and economic threats coming from China –it destabilizes U.S. leadership in the global market and enables China to source sensitive technology and equipment in critical industries from countries unbound by shared national security objectives.

U.S. global technology leadership is indisputable – but it is perishable. Efforts such as the work the Subcommittee is doing today are essential to maintaining it.

I am happy to take your questions.