

Opening Statement
“Export Control Reform Implementation: Outside Perspectives”
July 18, 2019

Thank you, Chairman Crapo, for holding this hearing, and thank you to our witnesses for being here today.

Last year, Congress passed ECRA, the Export Control Reform Act, which provided a permanent statutory basis for U.S. export controls, alongside and in tandem with FIRRMA, the Foreign Investment Risk Review Modernization Act, to broaden the range of transactions that the CFIUS process would assess. Both of these measures exist to serve key U.S. national security and foreign policy objectives.

Today, nearly one year later, this hearing will help us to assess our current export control regime and whether ECRA is being implemented and enforced in a system that is resourced to get the job done.

In ECRA, Congress included provisions designed to address emerging and foundational technologies. In crafting these provisions, Congress recognized the dynamic nature of technological innovation and the importance of control and enforcement processes that would evolve with those changes.

Congress also sought to ensure that identification of these technologies remains an ongoing and organic process, and that new controls be limited to technologies that are considered essential to U.S. national security.

It also directed federal agencies to take into account foreign development and availability of those technologies, and the effect controls would have on the development of the technologies within the United States.

We want to protect U.S. national security priorities through tough, appropriate export controls. Ultimately, important national security and law enforcement considerations should be paramount, but kept separate from routine trade and economic considerations. Unfortunately, as with its treatment of ZTE and Huawei, this administration seems to be failing that crucial test.

Although export control decisions can appear to be simple, each one requires complex policy and legal analyses involving statutes, regulations, international commitments, intelligence and law enforcement equities, industrial base implications, license administration, foreign availability, and multilateral and bilateral foreign policy issues.

The technologies are often complex and evolving. Technologies that were once sensitive become ubiquitous. Generally non-sensitive commercial technologies can be applied to new uses or by end users of concern in ways that can harm our interests. Concerns about destinations, end users, and end uses vary widely and change constantly. This is, in other words, complicated stuff. And we must get it right.

As Commerce proceeds with its rulemaking process on emerging and foundational technologies, this Committee must ensure that Commerce hews to the standards established in ECRA. It's hard to have a conversation about export controls and emerging technologies without addressing the role China plays in these areas.

Through its Belt and Road Initiative and Made in China 2025 initiative, China is executing ambitious plans to develop new technology and manufacturing capabilities. It is investing in artificial intelligence and 5G infrastructure. It is reported to be investing \$10 billion in a national quantum information lab. And it is two years into an additive manufacturing plan to create a \$3 billion industry by next year.

China is laser-focused on dominating technology and manufacturing sectors in the decades to come. China's history of diversion of dual-use items to help modernize its military and its civil-military fusion policies were a key driver of our efforts to update CFIUS and export controls last year. They should remain a focus of our executive agencies as they set controls and issue licenses under new export control laws and regulations.

China's sometimes illegal acquisition strategies require a forceful response from the U.S. government and our international allies. In that sense, the United States is not alone in the issues it faces from China.

That's why, as Commerce and other agencies identify and consider controls on emerging and foundational technologies, it's important that any new unilateral controls be implemented with an eye toward multilateral agreements.

Multilateral controls – like multilateral sanctions -- are much more effective if they are imposed by and with our allies, and if control standards are harmonized to the degree they can be.

Thank you. I look forward to hearing from our witnesses.