

Crapo Statement at Export Control Hearing
July 18, 2019

WASHINGTON – U.S. Senator Mike Crapo (R-Idaho), Chairman of the U.S. Senate Committee on Banking, Housing and Urban Affairs, delivered the following remarks at a hearing entitled, “Export Control Reform Implementation: Outside Perspectives.”

The text of Chairman Crapo’s remarks, as prepared, is below.

“The hearing will come to order.

“No one can dispute that technological advances are of vital importance to United States progress and development, where progress in knowledge and innovations undergird the growth of U.S. economic productivity.

“The U.S. China Commission found that about half the U.S. GDP and two-thirds of its productivity gains is attributable to U.S. technology improvements.

“In August of 2018, the President signed the Foreign Investment Review Modernization Act, called “FIRRMA,” and the Export Control Reform Act, known as “ECRA” into law.

“FIRRMA is designed to strengthen the existing regulatory architecture in significant ways to deal with inbound foreign investments that would have the potential to threaten U.S. national security interests.

“ECRA importantly reauthorizes an otherwise moribund Export Administration Act, continued only by annual reissuances of presidential national security declarations.

“It authorizes the Bureau of Industry and Security (BIS) at Commerce to update controls on exports designed to prevent certain U.S. dual-use technologies, lower-level military items and other things from ending up in the wrong hands.

“These two important, hugely bipartisan bills were intended, in no small part, to ensure that with proper controls in place to establish highly guarded inward and outbound regimes, a productive relationship between the United States and China is not only possible, but could be of the highest value in terms of global prosperity and security.

“Today’s hearing picks up from where the Committee left off when it last looked at assessing investment controls on technology in its June 4th hearing on ‘Confronting Threats from China.’

“On June 4th, we examined China’s intention to secure global technological leadership for itself, with a particular emphasis on some of its inbound foreign direct investment strategies, particularly into the U.S. semiconductor industry.

“Today, the Committee shifts gears slightly to examine control issues surrounding exports of things outbound from the United States, and other re-exports or transfers that may occur abroad.

“Right now, there is a raft of export control regulation on the horizon at the Commerce Department.

“So far, BIS is actively engaged on two rulemaking fronts covering ‘emerging and foundational technologies,’ which include technologies from such sectors as artificial intelligence, computing, additive manufacturing, data analytics, robotics, surveillance and a long list of others.

“Importantly, items BIS designates as ‘emerging technology’ will also be deemed to be ‘critical technology’ under FIRRMA, and subject many potential inbound investment deals to CFIUS review notification requirements.

“The current rulemaking under consideration at BIS is not set in stone.

“It is busy pouring over a myriad of industry and government comments that will inform its application of strict controls over emerging technologies, which industry will use to understand to whom it can transfer these technologies, who can otherwise use them and who can even research them.

“The Committee has before it a very accomplished panel of witnesses assembled to help us pull apart the underlying risks associated with the U.S. continuing its robust international economic relationships, including that with China, against preserving U.S. technological leadership over these emerging and foundational technologies and some of the more sensitive items that that would produce.

“In the past, export controls sometimes have not been able to keep up with innovation, and this problem is exacerbated by today’s pace of advancements, particularly in the ‘artificial intelligence’ sector, which owing to its nature is itself a difficult sector to control.

“Considering that BIS is very unlikely to designate all artificial intelligence technology, we are fortunate to have Dr. Buchanan here today to help the committee better understand what ‘artificial intelligence’ means, how it works, and why or why not certain aspects are more controllable than others.

“Our professional export control experts, Mr. Hirschhorn and Mr. Daly are expected to offer their assessments on how BIS may establish controls that address emerging and foundational technologies, while preserving the innovative capacity of the United States.”

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