

The PRESIDING OFFICER (Mr. AL LARD). Without objection, it is so ordered.

SATELLITE EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. LOTT. Mr. President, I am going to provide an update on the investigations that have been proceeding by four of our committees into this U.S. policy toward satellite exports. We have not reached any final determinations. I want to emphasize that. The good counsel is that we have made some progress. We are learning some things, but there is a good deal more work that needs to be done. I believe the Intelligence Committee has an open hearing scheduled tomorrow. Senator COCHRAN's subcommittee has hearings scheduled I believe next week. So we will continue this. We are going to be thorough and we are going to be cautious. We should not jump to conclusions.

In this connection, I recently came across the following statement from 1989 concerning the Bush administration's decision to allow export licenses for three United States satellites: "Allowing these launches is not in the best interests of our country or of our relationship with China. It casts a long shadow that distorts beyond recognition what the United States ought to represent to our own people and to the people fighting for democracy in China." This statement was made by then-Senator AL GORE. He obviously has changed his position.

What we have to examine is whether the policy of allowing the export of U.S. satellites as implemented by the Clinton-Gore administration adequately protects American national interests.

Let me start with the bottom line. Senate investigations have only begun. Lack of cooperation from the Administration has hampered our efforts. Thirteen hearings with 32 witnesses have been held by four committees. I have met with the committee chairmen and other members of our informal task force on China. At this point, five major interim judgments can be made based on what we already know.

First, the Clinton administration's export controls for satellites are wholly inadequate. They have not protected sensitive U.S. technology. National security concerns are regularly downplayed and even ignored.

Second, in violation of stated United States policy, sensitive technology related to satellite exports has been transferred to China. We know what the case is.

Third, China has received military benefit from United States satellite exports.

Every day, there continues to be additional information that comes out in this area.

In fact, in today's Washington Times, there is a news article that says "U.S. Technology Builds 'Bridge' for China Missile."

Fourth, the administration has ignored overwhelming information regarding Chinese proliferation, and has embarked on a de facto policy designed to protect China and U.S. satellite companies from sanctions under U.S. proliferation law. We have a statement from White House official to that effect.

Finally, new information has come to light about China's efforts to influence the American political process. This new information should remove all resistance to naming an independent counsel to investigate the evidence and the allegations.

The administration has failed to fully cooperate with the Senate investigation, even though they have indicated that they would, and there is still time for that. But on May 22, 1998, along committee chairmen of jurisdiction, I sent letters requesting administration documents from the White House, the Departments of State, Commerce, Defense, and the Arms Control and Disarmament Agency. On June 1, 1998, a letter was sent to the Department of Justice requesting documents. On June 2, 1998, a letter was sent requesting documents from the Customs Service. On June 12, 1998, Senators SHELBY and KERREY sent letters requesting information from eight Governmental agencies and the White House as part of the Select Committee on Intelligence investigation.

The letters I joined in sending requested documents in three areas: First, all issues associated with the export of satellites to China, including waivers of U.S. law governing such exports and the decision to transfer control of satellite exports from the Department of State to the Department of Commerce; second, issues associated with China's proposed membership in the Missile Technology Control Regime, MTCR; and third, information on Chinese proliferation activities which indicate possible violations of U.S. laws.

A significant amount of documents have been provided concerning some areas of satellite exports—particularly from the White House and particularly on the presidential waivers allowing satellite exports. But virtually no information has been provided concerning the transfer of export controls from State to Commerce—from the White House or any other agency. And virtually no information has been provided on Chinese membership in the MTCR, or on Chinese proliferation activities in violation of U.S. law.

A review of executive branch compliance with our document requests demonstrates how limited the cooperation really has been.

Until Friday of last week, the Department of Commerce only provided an initial limited set of documents. More has been promised, but the response has again glacial and incomplete. The documents they have provided contain redactions that limit their utility, quite frankly.

The Department of Justice has provided nothing to the Committee on Governmental Affairs, and has insisted on reviewing virtually all documents provided by any other Government agencies—significantly slowing down the process in this area.

The Department of State has provided also virtually nothing. Classified documents, according to a July 2, 1998, letter, would not be provided to the Congress. Instead, documents could be read only at the Department of State. Given that far more sensitive information is routinely provided for the use of the Senate in Senate spaces, this can only be seen as bureaucratic obstruction.

The White House has not responded to the Intelligence Committee. Neither has ACDA, Customs, or State. Defense and Commerce have only provided limited information.

The White House initially declassified some documents concerning waiver decisions in June, but has provided nothing since then.

The Department of Defense has provided only a very limited number of documents.

The Customs Service has provided nothing other than a June 23, 1998, letter stating that they would not meet our June 15, 1998, deadline, but we haven't gotten that information as of yet.

After a review of the Clinton administration's compliance with our requests for information, it is hard to escape the conclusion that delay has become the standard operating procedure. Once again, it is going to make it difficult for us to get the information we need so we can make a clear determination about the damage that has been done with this technology transfer. After an initial show of good faith by the administration, we have not had a lot more cooperation since then.

We will be forced to consider other measures to compel enforcement. I don't plan to move nominees of these non-cooperative agencies until our legitimate oversight requests are honored. We are actively examining the possibility of subpoena options. It is becoming increasingly difficult to continue with the very productive hearings that we have had without this cooperation.

Now, I would like to address the five points I raised earlier in some greater detail. Again, these are preliminary conclusions and we are seeking additional information.

First, the Clinton administration's export controls for satellites are simply inadequate. There has not been adequate protection of sensitive U.S. technology. National security concerns are regularly downplayed and even ignored. Hearings before several committees have detailed the shortcomings in the development and implementation of export controls of satellites.

For example, a senior official of the Defense Trade and Security Administration testified before the Committee

on Governmental Affairs on June 25, 1998, that "over the past six years, the formal process to control dual-use items has failed in its stated mission—to safeguard the national security of the United States."

Transferring the control of satellite exports from the State Department to the Commerce Department in 1996 really resulted in dramatic changes. According to the General Accounting Office testimony before the Senate Select Committee on Intelligence on June 10, 1998, the transfer reduced the influence of the Defense Department. It eliminated Congressional notification. It exempted satellite exports from certain sanctions. Technical information is not as clearly controlled, leading to uncertainty on the part of aerospace companies and to more technology transfer than previously allowed.

Testimony on July 8, 1998, before the Governmental Affairs Subcommittee on International Security, has established that the Department of Defense monitors are not required to be present at satellite launches. This is directly contrary to previous administration claims. No statute, policy, or regulation requires U.S. Government monitors.

At least three U.S. satellites have been launched in China with no U.S. monitors present. No one in the U.S. Government knows what transpired at these launches or if U.S. laws and policies on technology transfer were followed. No one in our Government is even attempting to examine what occurred at these unmonitored satellite launches. Looking at these unmonitored launches, I think, would be a critical element of the next phase of our investigation.

Today's satellite export control system relies on the good will of the Commerce Department, a department which has repeatedly demonstrated its willingness to ignore national security concerns on satellite exports. This is an area where we need to take a close look at how we are going to proceed in the future and what is going to be expected of the Commerce Department.

For example, Commerce has unilaterally removed items subject to inter-agency license review without notice to other affected agencies. Commerce has also refused to send approved licenses to Defense so officials there can evaluate the final product. When it involves satellites and technology, clearly the Defense Department should be a part of this process.

Second, sensitive technology related to satellite exports has been transferred to China. In at least two cases, U.S. companies analyzed Chinese launch failures and communicated with Chinese officials. In 1995, Hughes analyzed the "APSTAR 2" launch failure. Commerce now concedes that this analysis should have been subject to State and Defense Department reviews before a Commerce official gave it to the Chinese. Commerce only provided the report, concluded in 1995, 2 hours before a

Governmental Affairs Subcommittee on International Proliferation hearing on July 8 of this year.

The 1996 Loral launch failure is the subject of a Justice Department review for possible illegal transfer of technology. Compliance with the law is the province of the Justice Department. So we are looking into the impact on American national securities. It is very important that the Justice Department complete that work.

I agree with three assessments by three elements of the State and Defense Departments that China derived significant benefits from their technical exchanges with U.S. companies after the Long March crash in 1996, exchanges which are likely to lead to improvements in the reliability of their ballistic missile, and especially their guidance systems. So we have to be concerned very much about this transfer.

Third, China has received military benefit from U.S. satellite exports. There is a division within the executive branch agencies over how much China has benefited. But there seems to be agreement that certainly some benefit was derived.

The New York Times has reported that U.S. satellites are being used by the Chinese military for its internal coded communications. Administration officials concede that China is using American-made and exported satellites for their military communications. This is a clear and uncontested military benefit for China. The New York Times also reports that an additional satellite export that could enhance the Chinese military's ability to eavesdrop on phone conversations is under review by the Clinton administration.

The administration has ignored overwhelming information regarding Chinese proliferation and has embarked on what appears to be a de facto policy to protect China and U.S. satellite companies from sanctions under our U.S. proliferation law. For instance, on June 11, 1998, the Committee on Foreign Relations heard testimony from the former director of the Nonproliferation Center of the Central Intelligence Agency. The Clinton administration has used "almost any measure" to block intelligence judgments that China had transferred missiles to Pakistan—a clear violation of U.S. law that requires the imposition of sanctions. Intelligence analyses "were summarily dismissed by the policy community."

According to the testimony, the intelligence community is "virtually certain that this transfer had taken place . . ." I am convinced, after a personal investigation, that it did take place, and it was a very dangerous for Pakistan to be receiving these missiles. Why has that been the case, and why hasn't the administration been willing to take actions providing sanctions where clearly that information has been provided?

Finally, new information has come to light about China's efforts to influence

the American political process. This new information should remove any doubt about the need for an independent counsel in this area.

It has already been reported that FBI Director Freeh has indicated his view that an independent counsel should be appointed. It is time to renew attention on the Attorney General. It is time for an outside, impartial investigation by an independent counsel into the serious and credible charges of direct Chinese Government financing or involvement in the 1996 elections. We have very good committees that are working together in a bipartisan way and looking into these very important questions. I urge them to continue to do so, and to do it in a calm and methodical way. It is essential that we get cooperation from the administration to provide the additional information that we requested, the additional evidence. And we will carry out our constitutional responsibilities. Nothing less should be expected of us.

In view of the inquiries we had about how these are proceeding, what information we have been getting, what is outstanding, and also what is our plan, as far as future hearings, I thought it was important that I give some review of what has transpired.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, in light of the statements that have just been made and the time consumed by the majority leader, I ask unanimous consent that each side have 10 minutes to debate the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will have the opportunity to discuss, in greater detail, the remarks just made by the distinguished majority leader. Let me just say that our interest, too, is to have a bipartisan review of the actions taken with regard to the technology transfer in China. But I do hope that it will be bipartisan. The majority leader gave what I would view to be a pretty partisan report this morning with regard to the allegations pending on this particular matter, and I will have a very thorough response to the majority leader at some point today. I do believe that the issue warrants our review. As he said, this is a constitutional responsibility, but it also warrants objectivity and very thoughtful and careful consideration of the facts. Many of the reports the distinguished majority leader cited were allegations that have yet to be proven, allegations reported—he mentioned the New York Times on a number of occasions—allegations reported, citing unidentified sources, and what I would consider to be very questionable sources with regard to the information reported in some cases. So we are going to have to be very careful about the distinction between allegation and fact, the distinction between what has actually occurred and what is reported or what is

alleged to have occurred. So I hope that we can do that, as he noted, in a bipartisan way, thoroughly and very carefully examining the facts and coming to some conclusion prior to the time we issue any reports.

THE TOBACCO AMENDMENT

Mr. DASCHLE. Mr. President, in the next few minutes we will have an opportunity to revisit an issue that many of us hoped would not have been rejected last month. The amendment before us is the so-called McCain managers' amendment to the comprehensive tobacco bill reported by the Commerce Committee. The only significant change is the Lugar amendment to repeal the tobacco quota and price support programs is removed.

There were many complaints about how loaded up the tobacco bill had become. The amendment we are discussing this morning has none of the extra provisions dealing with taxes and drug abuse. Each day that we wait, 3,000 kids start to smoke; 1,000 of them will die prematurely of tobacco-related illnesses. Tobacco companies are targeting 12-, 13- and 14-year-old children as replacement smokers to fill the shoes of the 2 million smokers who quit or die each year. We have all heard the facts. Tobacco-related disease kills 400,000 Americans each year.

So today's tobacco amendment, the McCain managers' amendment, is simply designed to deter teen smoking without raising all of the other issues that surfaced during the debate. We had hoped very much that we could modify this amendment before its consideration today. Our Republican colleagues and the leader chose to oppose our unanimous consent request to change the amendment. We were going to modify the legislation to make it a straightforward authorization.

I will tell my colleagues that the modified amendment will be offered at a later date on another bill. We will be content to have the vote on the point of order on this amendment and then we will, as I have noted before, revisit this question on several occasions.

I am disappointed that our colleagues, for whatever reason, have chosen not to allow us to modify our amendment at this time. I hope no one will be misled. Their actions reflect their willingness to make difficult choices on tobacco legislation targeted at teenage smokers.

That is what this amendment is all about. So we will have an opportunity to vote on it. We can vote procedurally and we can obfuscate the question, but we will come back, and we will come back again and again over the course of the coming months, to offer legislation that will not be subject to any points of order. So we may be delaying that vote, but we will eventually have that vote.

I think it is critical that everyone recognize what a very important moment this is. The attorneys general are

meeting as we speak. There is very likely to be an agreement dealing with past actions on the part of the tobacco industry. The question is, Can we deal with future ones, can we anticipate similar actions and establish public policy that will prevent the tobacco industry from targeting teenage smokers? That is, in essence, what we are attempting to do here with advertising restrictions, with research, with an array of disincentives to teenage smokers that otherwise will not be part of any agreement. It takes legislation.

So, Mr. President, this will be our opportunity to do that. I know there are other Senators who wish to speak, and I will yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. There is a time-honored tradition here which has been violated, at least in my concern, where a person who offers the amendment usually is afforded the opportunity to modify it, and that was not afforded to our leader last evening.

Is this the Senator's understanding that even if we have an attorneys general agreement that basically deals retrospectively with what has been achieved in the past but will not provide the kind of preventive programs that are so important to discourage teenagers from smoking, it will not strengthen the Food and Drug Administration to be able to take effective action in terms of certain advertising programs for youth and will do very little in terms of discouraging children from purchasing cigarettes because of an increase in price? Is it the Senator's understanding that one of the reasons he continues to press this is because even if there is an attorneys general agreement, that it is retrospective rather than prospective?

Mr. DASCHLE. The Senator from Massachusetts says it very well. That is as succinct a description of the problem as I have heard. The attorneys general may help address past problems, the retrospective and very serious concerns that have been raised in court cases throughout the country. The problem, then, becomes, how do we avoid those problems in the future? And what every attorney general has said is the only way you can do that is to establish new public policy that strengthens regulatory controls on tobacco, ends advertisements that target kids, expands our research efforts, increases the price of tobacco to deter youth from falling prey to the smoking habit, holding tobacco companies accountable for accomplishing youth smoking reduction targets, that is, let's put into place strategies that reduce teen smoking. Permanently. This must happen prospectively. What the Senator from Massachusetts said is exactly right. It's a question of whether or not we can successfully put into place laws that preclude any further

abuses by the tobacco industry. We must act now to stop the industry from any further use of covert strategies such as those that, thanks in large measure to the work of the attorneys general, are now common knowledge.

Mr. KENNEDY. Just finally, because I see others in the Chamber, of course, those kinds of inflictions of addiction are continuing among the young people in this country today without this action.

My final question is this: Is it the Senator's purpose in providing a substitute, if he had been able to do that, or make the modification last night in the time-honored tradition of this body, would the Senator's modification basically have addressed the objections which were made to the earlier consideration of the tobacco proposal? I understood that is where they were directed. So if the measure had been permitted to be modified, that effectively the kinds of procedural issues and questions that have been raised would effectively have been attended to and we would have on the floor of the Senate a real opportunity to address the substance of the amendment?

Of course, I think, myself, they both have become interchangeable, but I am just interested in what is the leader's viewpoint on that issue.

Mr. DASCHLE. I thank the Senator from Massachusetts for his question. We are in an interesting position here. The Republican majority will argue that the pending amendment violates our budgetary rules, and on the basis of that violation, they will vote against the amendment and vote against the motion to waive the point of order on the budgetary rules.

Last night, we offered to change the amendment to accommodate the budgetary rules, and we were denied the opportunity to change that amendment. So here you have the Republican majority objecting to our amendment based upon budgetary rules, but unwilling to allow us to change the amendment so that it conforms to budgetary rules. So the question then becomes, What is the basis for the real opposition? The basis for the real opposition, one could only assume, is that they simply do not want to pass meaningful tobacco policy that takes aim at the array of serious policy concerns the Senator addressed in his earlier question.

Mr. KENNEDY. I thank the leader.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Illinois.

Mr. DURBIN. Is the Senator saying the vote which we are about to take is one where there will be objection to the Senator's motion on procedural grounds, and yet the Senator was not afforded the opportunity to correct any procedural problems?

Mr. DASCHLE. The Senator from Illinois is correct.

Mr. DURBIN. So, in other words, I recall a gentleman I worked for in Illinois by the name of Cecil Partee, who