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PROCEED WITH CAUTION IN APPROVING SATELLITE EXPORTS TO CHINA

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The U.S. satellite industry is asking the Bush Administration to make export licensing decisions more rapidly in order to expedite sales to and launches from China. The granting of licenses was slowed in 1999 following allegations that export restrictions had been violated in one launch contract and restricted technology had been transferred to China; two companies involved in that incident remain under federal investigation. License applications were frozen in February 2000 after China admitted proliferating missile-related materials, but the U.S. Department of State resumed processing applications when China promised to halt such activity last November. According to the satellite industry trade association, these licensing delays and export controls cost manufacturers $1.2 billion in contracts and 1,000 jobs in 2000 alone. One company claims that it will lose a $180 million contract with China if its license application is not approved quickly. Thus, pressure on the Administration to expedite export licenses and loosen export controls is increasing.

To ensure that U.S. security is not compromised in any way by satellite exports to China, the Administration should adhere to the prudent provisions of Title 15 of the National Defense Authorization Act of 1999 (P.L. 105–261). This law contains strict guidelines on the review and monitoring of satellite export licenses and applications by the Departments of State, Defense, and Commerce as well as the intelligence community. In particular, the Defense Department, not the U.S. firm involved, is responsible for ensuring that national security is not breached in satellite transactions with China. For each license obtained from the State Department, companies must make a full accounting of and get approval for the technology that they pass to China. Such steps allow a prudent combination of caution and fairness to be applied to U.S. commercial satellite activity with China. The Administration should neither delay decisions on license applications nor rush to grant licenses to appease the industry without assuring national security.

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Satellite Launches from China. Industry claims that jobs and contracts are being lost because of the export controls are reminiscent of claims made during the senior Bush Administration. President George H. W. Bush imposed sanctions on China following the violent suppression of student demonstrators in Tiananmen Square in June 1989; he later waived them to permit the launch of American-manufactured satellites. U.S. restrictions on satellite exports were tightened again after the May 1999 release of a declassified House of Representatives report on national security concerns regarding China. The Cox Committee report detailed breakdowns in government licensing procedures and negligence on the part of satellite companies, which may have resulted in the transfer of sensitive technology.

President Bill Clinton weakened export controls over satellite technology and transferred licensing authority for satellites from the State Department to the Department of Commerce in 1996. In March 1999, license authority reverted to the State Department, which suspended all applications to launch U.S. satellites aboard Chinese rockets in February 2000 amid fears that China was exporting missile-related material to Pakistan and Iran. The Clinton Administration lifted those sanctions on November 21 after Beijing promised to stop selling parts and equipment for missile production to countries with nascent nuclear weapons programs. China's promise, however, constituted an admission that it had proliferated this technology in the past. This forced the Administration to impose sanctions under the Arms Export Control Act (P.L. 90–629), but it immediately waived them. The State Department also issued an internal directive to resume the processing of licenses for commercial space cooperation between American and Chinese companies.

The Current License Issue. The first major license application filed after the sanctions were waived last November is for the manufacture of a geostationary satellite by an American company under contract with a satellite firm in Hong Kong. The satellite is to be launched in February 2003 aboard a Chinese Long March 3B rocket provided by the China Great Wall Industry Corporation—the same company cited in the Cox Committee report as the recipient of illegal data in 1996. The total cost of the project, including launch and insurance, is around $230 million. The contract requires that the license must be obtained within six months of January 8, 2001, or the deal will be terminated. Another manufacturer has waited more than two years for permission to send an already completed Chinasat 8 satellite to China for launch. These decisions are anxiously awaited by the satellite industry to see whether the State Department is sincere about processing applications fairly and quickly.

Executive Branch Responsibilities. As P.L. 105–261 makes clear, the Administration must balance the interests of America's space launch industry with national security concerns based on the best intelligence and information available. The satellite industry is lobbying for greater freedom and faster processing of licenses in order to remain competitive in the world market. However, national security is a crucial consideration when sensitive dual-use technology is involved. The White House must ensure that the provisions of the law are followed in the granting and monitoring of licenses, including the submission of all requisite reports to Congress.

Though the satellite industry lobbied to get license authority transferred back to the Commerce Department, given the sensitive nature of the technology involved in the engineering and launch of satellites, the State Department's licensing authority combined with the Defense Department's approval of a technology transfer control plan and close monitoring of all launches is prudent to make sure that commercial interests have been weighed against the security risk posed by each transaction. U.S. firms choose to launch their satellites aboard Chinese rockets because it is measurably cheaper for them to do so. For that reason, contracts for such launches are becoming more common. To maintain security without stifling industry competitiveness, Pentagon representatives must be present at all commercial launches in and technical discussions with China.

Conclusion. The satellite industry complains that the market share for U.S. satellites declined after licensing decisions were slowed in 1999, following the allegations of security breaches by major manufacturers. The best thing that the government can do to remedy this situation without compromising national security is to apply the law expeditiously in a fair and consistent manner, allowing businesses to adjust accordingly. A stricter export regime might hinder the industry's ability to recover its market share, but the worthwhile trade-off is keeping sensitive technology from proliferating to those who would harm America.

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