United States Department of State

Assistant Secretary of State
for East Asian and Pacific Affairs

Washington, D.C. 20520

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TO: Members of the China IG

FROM: Paul Wolfowitz, Chairman, China IG

SUBJECT: Technology Transfer for China

For four months we have considered technology transfer
to China. You have seen Commerce's excellent paper. In the
inter-agency NSSD context, OSTP has also made a very valuable
contribution. Its final report is attached (Tab B). I believe
it is now worth summarizing where we stand.

AREAS OF AGREEMENT. No agency wants to tighten controls.
Because of the unique character of Chinese military capabili-
ties, no agency advocates full liberalization, under which
China would be treated identically to most other countries
outside the Soviet Bloc. All agree improvements can be
made administratively--without changing current guidelines
or altering the level of technology available--to expedite
licensing decisions. A representative list of these is
attached (Tab A). Agencies also agree that a US-China
understanding on technology transfer, perhaps along the lines
of those we have with Austria, Sweden, and other countries,
would be desirable.

OPTIONS. The four individual issues in the OSTP paper
are related to one another. For example, the issue of moving
China from Category P to Category V depends partly on whether
one also modifies the technology transfer level. Therefore,
it seems to me that there are three principal packages of
decisions that have some agency support that the EARB or NSC
should consider:

I. Maintain the Current Level of Technology Transfer.
Retain the present system of controls and make administrative
improvements. No major changes in the amount, types or levels
of technology to be licensed would be made, but the system
should work more efficiently and be more understandable.

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II. <u>Increase the Level of Technology Transfer.</u>
Retain the present system of national security controls;
make administrative improvements; symbolically raise the
level of technology available to China by moving China from
Category P to Category V; raise the level in practice by
rigorously defining those areas within the four mission areas
most critical to our national security and targetting our
controls more precisely on them. Establish an interagency
committee to do the necessary definitional work and draw up
a selective ("red line") list of the most sensitive tech-
nologies which would be subject to a presumption of denial.
It would establish a second level ("green line") below which
licensing policy would be the same as for all other friendly,
non-allied nations. For technologies between these levels,
there would be case-by-case review, with a presumption of
approval unless the export would substantially and directly
enhance China's capabilities in one of the four mission areas
and pose a credible, major risk to our security.

Under this option, there would be a clear Presidential
statement that for purposes of achieving broader US security
objectives, it would be US policy to accept a greater degree
of risk than heretofore in making China licensing decisions.

III. <u>Increase Level of Technology Transfer to 75% of World
Levels.</u> Maintain national security controls; adopt administra-
tive improvements; and set a benchmark level by which to judge
all items falling in the special mission areas. The level
would be set at 75% of the state-of-the-art readily available
to the rest of the world. Below the benchmark, both within
and outside the four mission areas, approvals would be the same
as for all other friendly, non-allied countries. Above it,
items in the four mission areas would be approved, case-by-
case, so long as their export did not present a major risk
to national security, while items outside the mission areas
would be approved on the same basis as applied to other
friendly, non-allied nations. The result would be a signi-
ficant liberalization. China could be kept in Category P or
moved to Category V.

<u>EARB.</u> The above options now need higher-level delibera-
tion. I suggest that they be discussed at an EARB meeting next
Monday, May 2 along with the OSTP draft.

TAB A

Suggested Administrative Improvements

1) Defense should immediately provide Commerce delegations of authority for cases whose technology levels are below current COCOM criteria for general exceptions to the international list of dual-use equipment.

2) No matter what level of technology transfer control is selected, Commerce, in consultation with all concerned agencies, should publish within three months, and update annually, guidance on China cases for each item on the Commodity Control List. The guidance would indicate the level of technology permissible for approval (a "green line") and the level above which there would be a predisposition to deny licenses (a "red line"). This guidance would be designed to allow technology transfer up to the green line level by delegation of authority to Commerce. Between the green and red lines, there would be case-by-case review. The organizational administration of the review would remain the same as now.

3) Agencies should take action to ensure that all technical and other data on difficult cases is shared fully and equally before the case is presented to the Operating Committee of the Advisory Committee on Export Policy or Working Group I of the Economic Defense Advisory Committee.

4) For those matters requiring case-by-case review, more discipline should be exercised in meeting licensing deadlines. Also, cases should not normally be returned more than once to an exporter for redraft. A way to achieve this goal would be to have the technology transfer working group meet more often with technical experts from the exporter, instead of relying on written correspondence.

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TAB

TECHNOLOGY TRANSFER

Today, technology transfer ranks only behind Taiwan as an
irritant in bilateral US-PRC relations. More than
97 percent in dollar terms of all trade to China in 1982
was approved, however, a number of key items were dis-
approved because they came under national security controls
in the four mission areas. These license denials are most
visible and are of great importance to the PRC in their
quest for rapid modernization of their nation. (See
background at TAB B.) During his February talks with
Chinese leaders in Beijing, Secretary Shultz responded
to Chinese complaints on this issue by noting that it
was under review and that Science Advisor Keyworth
and Secretary Baldrige would deal with this issue in their
upcoming visits in May. Therefore, we need to decide prior
to Keyworth's departure on May 7, just how far we are
prepared to move in redefining and modifying our current
technology transfer policy towards China.

Issues for Decision

As part of the Interagency Group preparing the response
to the NSSD on China, an interagency working group was formed
to examine problems with our current technology transfer policy
with China and identify issues and options for resolving the
problems. The group has produced an exhaustive analytical
report on this issue (at Tab A) which reflects a consensus
of views among its participants. Following is a summary of
the issues for decision along with a brief analysis of the
advantages and disadvantages in each case. It should be
noted that these issues are not mutually exclusive and
that the most logical approach may be to combine several
steps, e.g., improving implementation, redefining the
level of technology permitted, and changing present controls.

Issue 1: Maintain current system for control of exports but
          establish a tighter commodity control list

During the Interagency Review, a number of improvements
to the overall system were identified, including the
establishment of a tighter commodity control list,
the incorporation of additional implementation procedures
(see Tab A), and an effort to negotiate a better understanding
with the PRC on technology transfer, particularly retransfer

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to third parties. There is Interagency Agreement that these procedures should be adopted and that a national security controls review committee be established for this purpose to develop this list by around June 1.

Pros

o   Guidelines for implementing U.S. technology transfer policy would be sharpened and overall operating efficiency would be improved.

o   New list could result in increased predictability of U.S. actions on export cases.

Cons

o   PRC would continue to complain that they are being treated as an adversary rather than as a "friendly" nation.

o   Chinese may object to negotiation of an understanding unless accompanied by other changes as in the following issues.

Issue 2:   Modify Technology Transfer Level

One of the main obstacles to implementation of the U.S. export control policy is the definition of the quantitative level of control.   In practice, the application of the "two-times" rule when coupled with national security controls to exports that fall in the four mission control areas often results in exports to China which are not substantially different from exports to Soviet-Bloc countries.

Other technical levels have been proposed as a solution that involve the replacement of the "two times" rule with a "4 or 5 times" rule.   Another approach would be to utilize the level established for exports to the free world as the reference point and establish a new level such as 75% for China as a percentage of the free world levels.   These proposals, however, have most of the same disadvantages that attend the "two times" rule both in definition and implementation, and in addition might result in risks to long term U.S. national security interests.

Pros

o   Expands list of licensable exports to PRC.

o   PRC would interpret this change as a move toward liberalization of U.S. licensing policy

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Cons

o   Might result in risks to long-term U.S.
     national security interests.

o   Would continue to be difficult to administer.

Issue 3:   Move China from Country Group P to Group V
            but keep COCOM and National Security Controls

In some cases, the technology transfer level for China
could be the same as that for the free-world. However, we
would retain COCOM controls and national security controls
on specific mission areas of concern (intelligence, nuclear
weapons, ASW, and electronic warfare) which would enable
us to continue to control essential items and tighten the
screws later if needed.

Pros

o   Change would carry considerable political
     significance to the PRC even with continued
     application of COCOM controls and national
     security controls.

o   China could readily identify itself among
     other friendly, non-aligned nations, such
     as India.

o   Change would be far easier to administer
     and would create a presumption that would
     help resolve some pending cases.

Cons

o   Application of national security controls
     would in long run continue to be a focus
     of Chinese concerns, as some exports
     continue to be denied.

o   COCOM controls would continue to be a
     second order source of irriation to the
     Chinese since they would not be applied
     to India and other Category V countries.

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Issue 4: Replace National Security Controls with Foreign Policy Controls

Under this approach, we could maintain precisely the same "mission" controls (intelligence, nuclear, ASW and electronic warfare) on technology exports but we would lessen the perception that China is considered a military threat to the U.S. and its allies. Department of Defense would remain fully involved in the licensing process but would lose its statutory veto.

Pros

o   Taken in combination with a relaxation in the level of technical transfer to the PRC, the change would signal a significant shift in our overall technology transfer policy.

o   There would be more flexibility in that the President would not have to inform Congress that he has overruled the Secretary of Defense in disputed cases.

Cons

o   This would be the hardest approach to sell to Congress since China in effect would no longer be a national security destraction.

o   Foreign policy controls might not be as effective in limiting exports of items of serious military concern.