

RECOMMENDATIONS

RECOMMENDATIONS OF THE SELECT COMMITTEE

TRANSMITTED ON JANUARY 3, 1999
TO THE PRESIDENT AND CONGRESS

Nuclear Weapons

1. Semi-Annual Report by the President on PRC Espionage

The Select Committee recommends that the President report to the Speaker and Minority Leader of the House, and the Majority Leader and Minority Leader of the Senate, no less frequently than every six months on the steps, including preventive action, being taken by the Department of Energy, the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and all other relevant Executive departments and agencies to respond to espionage by the People's Republic of China (PRC) as typified by the theft of sophisticated U.S. nuclear weapons design information, and the targeting by the PRC of U.S. nuclear weapons codes and other national security information of strategic concern.

2. Urgent Priority to Department of Energy Counterintelligence Program

As a matter of urgent priority, the Select Committee believes the Department of Energy must implement as quickly as possible and then sustain an effective counterintelligence program.

To this end, the Select Committee recommends the following:

3. Implementation and Adequacy of PDD-61

The appropriate congressional committees should review, as expeditiously as possible, the steps that the Executive branch is taking to implement Presidential Decision Directive 61 and determine whether the Administration is devoting, and Congress is



providing, sufficient resources to such efforts and whether additional measures are required to put an adequate counterintelligence program in place at the Department of Energy at the earliest possible date.

4. Comprehensive Damage Assessment

The appropriate Executive departments and agencies should conduct a comprehensive damage assessment of the strategic implications of the security breaches that have taken place at the National Laboratories since the late 1970s (or earlier if relevant) to the present and report the findings to the appropriate congressional committees.

5. Legislation to Implement Urgent and Effective Counterintelligence

The appropriate congressional committees should report legislation, if necessary, to facilitate accomplishment of the objectives set forth above.

6. Five-Agency Inspectors General Examination of Scientific Exchange Program Risks to National Security

The Select Committee recommends that the Secretaries of State, Defense, and Energy, the Attorney General, and the Director of Central Intelligence direct their respective Inspectors General and appropriate counterintelligence officials to examine the risks to U.S. national security of international scientific exchange programs between the United States and the PRC that involve the National Laboratories. Such Executive department and agency heads shall transmit the results of these examinations, together with their views and recommendations, to the Speaker and the Minority Leader of the House, the Majority and Minority Leaders of the Senate, and appropriate congressional committees no later than July 1, 1999.

7. Congressional Examination of Whether Department of Energy Should Maintain U.S. Nuclear Weapons Responsibility

The Select Committee recommends that the appropriate congressional committees consider whether the current arrangements for controlling U.S. nuclear weapons development, testing, and maintenance within the Department of Energy are adequate to protect such weapons and related research and technology from theft and exploitation.



8. Intelligence Community Failure to Comply with National Security Act; Need for Congressional Oversight

In light of the fact that the heads of Executive departments and agencies of the intelligence community failed adequately to comply with congressional notification requirements of the National Security Act with respect to the theft of secrets from the National Laboratories, the Select Committee urges Congress to insist again on strict adherence to such legal obligations.

International Actions

With respect to international actions by the United States, the Select Committee recommends:

9. Need for PRC Compliance with the Missile Technology Control Regime

The United States should insist that the PRC adhere fully to, and abide by, the Missile Technology Control Regime and all applicable guidelines.

10. Need for U.S. Leadership to Enforce Missile Technology Control Regime

The United States must vigorously enforce, and seek multilateral compliance with, the Missile Technology Control Regime.

11. Need for U.S. Leadership to Establish Binding International Proliferation Controls

In light of the demise of the Coordinating Committee on Multilateral Export Controls (COCOM) and the insufficiency of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the United States should work, including in the context of the scheduled 1999 review of the Wassenaar Arrangement, to establish new binding international controls on technology transfers that threaten international peace and U.S. national security.



12. U. S. Action to Improve Multilateral Tracking of Sensitive Technology Exports

In light of the demise of COCOM and the insufficiency of the Wassenaar Arrangement, the Select Committee recommends that the United States take appropriate action, including in the context of the scheduled 1999 review of the Wassenaar Arrangement, to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology and enforce technology control and re-export requirements.

13. U.S. Action to Stem Russian Weapons Proliferation to PRC

In light of the PRC's aggressive military technology acquisition campaign and its record as a proliferator, the United States should work to reduce the transfers of weapons systems and other militarily significant technologies from Russia and other nations to the PRC. These actions should include strengthening international measures, including economic incentives, to encourage Russia to become a full partner in stemming the proliferation of weapons.

14. New Legal Requirements for Executive Branch Reporting on Proliferation

Appropriate congressional committees should report legislation requiring the Secretary of State, the Director of Central Intelligence, and the heads of other relevant Executive departments and agencies to report in a timely fashion to appropriate congressional committees, including the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, on technology transfers that raise a proliferation concern and on the implementation of all the foregoing recommendations for international actions by the United States.



Satellite Launches

15. Implementation of the Strom Thurmond National Defense Authorization Act for FY 1999

The Select Committee expects that the Executive branch will aggressively implement the Satellite Export Control Provisions of the Strom Thurmond National Defense Authorization Act for FY 1999.

16. State Department Should Have Sole Satellite Licensing Authority

To protect the national security, the congressional judgment that the Department of State is the appropriate agency for licensing both exports of satellites and any satellite launch failure investigations must be faithfully and fully implemented.

17. State Department Need for Adequate Personnel and Resources for Satellite Export Licensing

To protect the national interest in foreign commerce, the Department of State must ensure, consistent with national security, that satellite export licenses and notices to Congress are acted on in a timely fashion and that exporters are informed about the progress of their applications and have access to appropriate dispute resolution procedures. In order to achieve the foregoing, the Executive branch and the Congress should ensure that the Department of State has adequate personnel and resources devoted to processing export license applications.

18. Corrective Tax Legislation for Satellite Exports

To ensure that satellite manufacturers are not disadvantaged in such collateral areas as tax credits by the transfer to the State Department of responsibility to license satellite exports, the appropriate congressional committees should report necessary legislation.

19. Heightened Requirements for Defense Department Monitoring of Foreign Launches

The Department of Defense must give high priority to its obligations under the Strom Thurmond National Defense Authorization Act, including requirements for *(i)* recruit-



ing, training, and maintaining a staff dedicated to monitoring launches in foreign countries of U.S. satellites; and (ii) establishing and monitoring technology control plans to prevent any transfer of information that could be used by the PRC to improve its missile launch capabilities.

20. Defense Department, Not Satellite Firms, Should Be Responsible for Security at Foreign Launches

The Select Committee recommends that the appropriate congressional committees report legislation providing that, in connection with foreign launches of U.S. satellites, the Department of Defense shall contract for security personnel who have undergone background checks to verify their loyalty and reliability. The number of guards shall be sufficient to maintain 24-hour security of the satellite and all related missile and other sensitive technology. The satellite export licensee shall, as a condition of licensure, be required to reimburse the Department of Defense for all associated costs of such security.

21. Need for Adequate and Permanent Force of Well Trained Defense Department Monitors

The Department of Defense shall ensure sufficient training for space launch campaign monitors and the assignment of adequate numbers of monitors to space launch campaigns. The Department of Defense also shall ensure continuity of service by monitors for the entire space launch campaign period, from satellite marketing to launch, and, if necessary, completion of a launch failure analysis. In addition, the Department of Defense shall adopt measures to make service as a monitor an attractive career opportunity.

22. Need for Full and Timely Reporting of Technology Passed to PRC, and of Foreign Launch Security Violations

The Department of Defense monitors shall maintain logs of all information authorized for transmission to the PRC, including copies of any documents authorized for transmittal, and reports on launch-related activities. Such information shall be transmitted on a current basis to the Departments of Defense, State, and Commerce, and to the Central Intelligence Agency. Such documents shall be retained for at least the



period of the statute of limitations for violations of the International Traffic in Arms Regulations (ITAR). In addition, the Department of Defense shall adopt clear written guidelines providing monitors the responsibility and the ability to report serious security violations, problems, and issues at the overseas launch site directly to the headquarters office of the responsible Defense Department agency.

23. Application of Export Control Laws to Space Launch Insurers

The Select Committee recommends that relevant Executive departments and agencies ensure that the laws and regulations establishing and implementing export controls are applied in full to communications among satellite manufacturers, purchasers, and the insurance industry, including communications after launch failures.

24. Expansion of U.S. Launch Capacity in National Security Interest

In light of the impact on U.S. national security of insufficient domestic, commercial space-launch capacity and competition, the Select Committee recommends that appropriate congressional committees report legislation to encourage and stimulate further the expansion of such capacity and competition.

High Performance Computers

The Select Committee supports the sale of computers to the PRC for commercial but not military purposes. The Select Committee recommends that the appropriate congressional committees report legislation that requires the following:

25. Legislation to Require Comprehensive Testing of HPCs, Clustering, and Massive Parallel Processing in National Security Applications

The Select Committee recommends that appropriate congressional committees report legislation directing the Department of Energy, in consultation with the Department of Defense, to conduct a comprehensive review of the national security implications of exporting high-performance computers (HPCs) to the PRC. This review should include empirical testing of the extent to which national security related operations can be performed using clustered, massively-parallel processing or other combinations of computers.



26. Annual Threat Assessment of HPC Exports to PRC

The Select Committee recommends that appropriate congressional committees report legislation directing the Intelligence Community to conduct an annual comprehensive threat assessment of the national security implications of the export to the PRC of HPCs and other computers that can be clustered or combined through massively parallel processing.

27. End Use Verification for PRC Use of HPCs

The Select Committee recommends that the appropriate congressional committees report legislation that requires:

- As a condition to U.S. HPC export licensing, the establishment by the PRC of an open and transparent system by September 30, 1999, which provides for effective end-use verification for HPCs sold or to be sold to the PRC and, at a minimum, provides for on-site inspection of the end-use and end-user of such HPCs, without notice, by U.S. nationals designated by the U.S. Government.
- Failure to establish such a system by that date should result in the U.S. Government's lowering the performance level of HPCs that may be exported to the PRC, the denial of export licenses for computers destined to the PRC, or other appropriate measures.
- An independent evaluation of the feasibility of improving end-use verification for HPCs in the PRC, and preventing the use of such HPCs for military purposes.

28. U.S. Leadership for Multinational HPC Export Policies

The Select Committee recommends that the appropriate congressional committees report legislation that requires efforts by the Executive branch to encourage other computer-manufacturing countries, especially those countries that manufacture HPCs, to adopt similar policies toward HPC exports to the PRC.



Export Legislation and Other Technology Controls

The Select Committee believes that it is in the national interest to encourage commercial exports to the PRC, and to protect against the export of militarily sensitive technologies. To this end:

29. Reauthorization of Export Administration Act

The Select Committee recommends that the appropriate congressional committees report legislation to reenact the Export Administration Act, with particular attention to re-establishing the higher penalties for violation of the Act that have been allowed to lapse since 1994.

30. Prioritization of National Security Concerns With Controlled Technologies; Continuous Updating

Relevant Executive departments and agencies should establish a mechanism to identify, on a continuing basis, those controlled technologies and items that are of greatest national security concern.

31. Executive Department Approvals for Exports of Greatest National Security Concern

With respect to those controlled technologies and items that are of greatest national security concern, current licensing procedures should be modified:

- To provide longer review periods when deemed necessary by any reviewing Executive department or agency on national security grounds; and
- To require a consensus by all reviewing Executive departments and agencies for license approval, subject to appeal procedures.



32. Streamlined Licensing Procedures

With respect to controlled technologies and items that are not of greatest national security concern, current licensing procedures should be modified to streamline the process and provide greater transparency, predictability, and certainty.

33. Effect of Maintaining Looser National Security Controls for Hong Kong Since Its Absorption by PRC on July 1, 1997

The Select Committee recommends that appropriate congressional committees report legislation requiring appropriate Executive departments and agencies to conduct an initial study, followed by periodic reviews, of the sufficiency of customs arrangements maintained by Hong Kong with respect to the PRC and the appropriateness of continuing to treat the Hong Kong S.A.R. differently from the PRC for U.S. export control purposes. Such a study should consider, among other things, the implications of unmonitored border crossings by vehicles of the People's Liberation Army.

34. Mandatory Notice of PRC or Other Foreign Acquisition of U.S. National Security Industries

The Select Committee recommends that appropriate congressional committees report legislation amending the Defense Production Act of 1950 to require notice to the Committee on Foreign Investment in the United States (CFIUS) by all U.S. companies that conduct national security-related business of any planned merger, acquisition, or takeover of the company by a foreign entity or by a U.S. entity controlled by a foreign entity. The amendment also should require Executive departments and agencies to notify CFIUS of their knowledge of any such merger, acquisition, or takeover.



Intelligence/Counterintelligence Issues

35. Comprehensive Counterintelligence Threat Assessment of PRC Espionage

Supplementing its recommendations with respect to security at the National Laboratories, the Select Committee further recommends that Executive departments and agencies with counterintelligence expertise undertake a comprehensive counterintelligence threat assessment of PRC espionage targeted against U.S. public and private entities.

36. Legislation to Improve Sharing of Sensitive Law Enforcement Information within the Executive Branch

The Select Committee recommends that appropriate congressional committees report legislation to authorize and direct the Department of Justice to promptly share national security information, on a classified basis, with appropriate Executive departments, agencies, and entities. To achieve this objective, the Select Committee recommends the creation of an appropriate interagency mechanism.

37. Five-Agency Inspectors General Examination of Countermeasures Against PRC Acquisition of Militarily Sensitive Technology

The Select Committee recommends that appropriate congressional committees require the Secretaries of State, Defense, Commerce, and the Treasury and the Director of Central Intelligence to direct their respective Inspectors General to investigate the adequacy of current export controls and counterintelligence measures to protect against the acquisition by the PRC of militarily-sensitive U.S. technology, and to report to Congress by July 1, 1999, regarding their findings and measures being undertaken to address deficiencies in these areas.

38. All-Source Intelligence Analysis of PRC Plans for Technology Acquisition

The Select Committee recommends that appropriate congressional committees report legislation directing the Intelligence Community to undertake and maintain a current, all-source analysis of PRC aims, goals, and objectives with respect to the acquisition of foreign, and particularly U.S., technologies, including, for example, PRC efforts to exploit the open character of U.S. society by penetrating businesses, academic and



social institutions, and political practices. Such legislation should include a requirement to report on the adequacy of resources, encouragement, and priority status accorded all-source intelligence collection and analysis by relevant Executive departments and agencies concerning the PRC and PRC counterintelligence.

