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On July 1, 1987, nine members of the U.S. Congress smashed Toshiba stereos with sledgehammers on the lawn of the U.S. Capitol in a symbolic protest against the bombshell revelation that the Japanese company had illegally provided the Soviet Union with access to quiet submarine propeller blades. This corporate decision, which made it more difficult for the U.S. Navy to detect and track Soviet nuclear submarines, put the collective security of Japan, the United States, and NATO at risk. In response, U.S. lawmakers called for the banning of imports from Toshiba and Kongsberg, a Norwegian state-owned defense contractor that had collaborated on the production of the blades. Some U.S. politicians even suggested going after the Japanese government for not enforcing its own export control laws. The tedious and technical topic of export controls was suddenly and unusually on the front pages of newspapers nationwide. Then the debate calmed down, and export controls faded from the public consciousness.

Today, however, export controls are back. The Russian invasion of Ukraine in February 2022 prompted the United States and 37 other governments to limit high-tech exports to the aggressor. Nor is Russia the only country that has recently been hit with such controls. China has also been targeted, although the Biden administration was alone on October 7, 2022, when it banned certain exports of chips and related machinery to China in an effort to neutralize its nascent semiconductor industry. The ban will have an effect, but global supply chains, multinational corporations, and the internationalization of innovation all mean that unilateral action by the United States is not sufficient to protect its national security, let alone that of its allies. If export controls have returned as a powerful tool for governments, then the United States must recognize the limits of their effectiveness. Successfully controlling the export of equipment and technical knowledge to potential military adversaries will require fully engaging U.S. allies, not imposing unilateral bans.

THE SEEDS OF COOPERATION

In the early days of the Cold War, the United States, its NATO allies, and Japan began to cooperate on limiting exports to communist countries. In 1949, they founded the Coordinating Committee for Multilateral Export Controls (COCOM), which met in secret to decide which products should not be exported to the Soviet Union and its satellite states. Decisions needed to be unanimous. Initially, this was not a problem. When COCOM was established, Europe and Japan were still recovering from the devastation of World War II, while the United States was intact and booming. The allies were also financially dependent on the United States through the Marshall Plan and other American aid. As a consequence, the products that COCOM agreed to control collectively were disproportionately driven by American interests.

But by the 1980s, Europe and Japan had recovered and had top-of-the-line technology manufacturers of their own. Whereas the United States wanted a longer list of prohibited products, the allies wanted a shorter one. They were increasingly suspicious that Washington was gaming the system by carefully defining products on the list so as to limit exports from European and Japanese companies but not from those of their U.S. competitors. The allies were fearful of suffering economic losses if their export products were banned. They could not afford, they argued, to cut off trade with their next-door neighbors.

By the 1980s, U.S. frustration with its allies' other trade policies was also building. A decade of surging Japanese exports including steel, cars, and semiconductors had resulted in an ever-expanding U.S. trade deficit, constant allegations of unfair trading, and a tense period of Japan bashing. U.S. companies were competing with and often being beaten by foreign competitors—including Toshiba and Kongsberg—which were designing and manufacturing leading-edge products outside the United States, beyond the reach of U.S. export control laws.

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Then the scandal broke. In 1981, Tekmashimport, a Soviet importer, used a network of KGB agents and trading companies to contact Toshiba Machine Tools. The Soviets needed the Japanese firm's equipment to cut, grind, and polish large pieces of metal into submarine propeller blades. Toshiba agreed to supply the machines, and it partnered with Kongsberg to calibrate the Japanese tools to make the Soviet submarine propellers nearly undetectable.

When the details of these transactions were finally reported in 1987, there was uproar in the United States. The strength of the congressional backlash alone was enough to frighten Toshiba and the Norwegian government into commissioning two independent investigations. Toshiba strove to limit the damage: it fired executives, hired a team of Washington lobbyists, and took out full-page advertisements in dozens of newspapers apologizing to the American public. But congressional fury persisted and rose again when, nearly a year later, the Japanese courts punished Toshiba —a corporation with $17 billion in annual revenues—with just a $15,000 fine.

For policymakers, the investigations exposed deep problems with the allies' system of export controls. Kongsberg had been working since the early 1970s with machine tool companies in France, Germany, Italy, and the United Kingdom to sell potentially dangerous equipment to the Soviets. This revelation forced those allied governments to conduct their own investigations, which discovered still more offenses. Few NATO members, it seemed, were adequately enforcing their laws that limited the outward flow of technology to the Soviet Union.

POOR TIMING

The timing of the Toshiba-Kongsberg incident was unfortunate for the United States. In his January 1987 State of the Union address, a few months before the scandal broke, U.S. President Ronald Reagan announced the administration's "Competitiveness Initiative," which included a strategy to make the economy more attractive, address the bulging trade deficit, and reduce the restrictiveness of U.S. export controls relative to those in Europe and Japan. Shortly thereafter, the National Academy of Sciences published a study making similar recommendations. In April of that year, the House of Representatives passed the first version of a bill that included major reforms to U.S. export control policy. Then, the congressional backlash to the propeller blade scandal nearly derailed the effort. It helped prolong legislative wranglings, and only in August 1988 did Reagan finally sign a much-revised Omnibus Trade and Competitiveness Act into law.

Given the outrage, it is remarkable that any legislated reforms to U.S. export control policy survived. The act did establish a process to eliminate many of the remaining U.S.-only restrictions for products that COCOM partners did not agree to control, which allowed U.S. companies to export certain products for the first time and compete with their European and Japanese peers abroad. It also reduced the costs and bureaucratic hurdles facing American companies needing a license to export goods subject to those controls that remained.

The law also introduced new extraterritorial penalties for foreign companies that violated COCOM controls. Toshiba and Kongsberg were sanctioned for their past wrongdoing. But even that was necessarily watered down, as it would have been costly and posed national security risks to cut the U.S. military off from these companies' products, including Kongsberg's Penguin missiles.

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More important, the 1988 act permitted the U.S. government to sanction foreign companies for future violations of COCOM, including potential bans on U.S. imports or government purchasing. In the event of a future breach, it also allowed the U.S. attorney general to sue foreign firms for damages to try to recoup whatever amount the secretary of defense estimated was needed to restore "the military preparedness of the United States." In the Toshiba case, one estimate put the cost of developing new submarine-tracking capabilities at $8 billion. These punitive U.S. sanctions introduced new risks for COCOM: the more severe the penalty, the less likely an ally would be to constrain itself by agreeing to add a new high-tech product to the list in the first place.

Whether U.S. extraterritorial efforts to enforce COCOM would have proved disruptive is unknown. The Berlin Wall fell in 1989, and the Soviet Union collapsed in 1991. Without a purpose, COCOM was disbanded altogether in 1994. Countries subsequently negotiated new and fundamentally different export control regimes, the largest of which, the Wassenaar Arrangement, was created in 1996. This regime was set up to limit rogue actors' access to certain products and to fight terrorism. Russia and 41 other countries are signatories, and decisions require unanimous consent. As a result of Russia's membership, the unanimity requirement, and its limited founding objectives, Wassenaar is weaker than COCOM and ill suited to tackle today's emerging challenges.

A NEW WORLD

The question of the future of export controls matters most when it comes to China. Washington watched with concern as Chinese President Xi Jinping developed his "Military-Civil Fusion" policy, which enlists

Chinese firms to help modernize the People's Liberation Army. U.S. worries intensified following reports in July that SMIC, a Chinese chipmaker, had developed advanced node semiconductors, despite a round of U.S. export controls in 2020. These concerns led the Biden administration to announce massive new controls targeting Beijing in October 2022. All indigenous Chinese chipmakers were suddenly cut off from U.S. exports of the equipment and services needed to make high-end semiconductors. Although the timing was a surprise, the policy reflected growing bipartisan concern that China was using Western technology to develop superior missiles, drones, and other weapons.

These U.S. export controls were unilateral. Although the Biden administration tried to achieve joint action, agreement with critical allies—the Dutch and Japanese governments in the case of this particular technology—has proved elusive. Without joint controls, Dutch and Japanese firms could take over the market niche vacated by U.S. companies. Thus, the failure to align controls would hurt the U.S. companies without protecting national security, calling the existence of U.S.-only controls into question.

Extraterritorial U.S. export controls or enforcement are also not long-term solutions. They are unsustainable for an alliance with democracies such as Japan and the Netherlands. While pointing the finger at U.S. policy actions may sometimes shield these countries' economies from Chinese retaliation, Japanese and Dutch leaders need to convince their voters that such policies are also in their national security interests.

UNITED WE STAND

In order to be effective, Washington and its allies must agree to harmonize and enforce export controls of the sort announced by the Biden administration in October. That will require persuading allies that the joint costs of inaction are greater than the economic losses of imposing the controls. New arrangements to acquire and share intelligence regarding legitimate security concerns related to high-tech products may also be needed. Although the United States will likely be the source of most of that information, because of its well-developed intelligence collection apparatus, its allies will also play an important role in stopping U.S. officials from seeing threats that are not there.

Intelligence is also needed to inform trade and finance ministers and other economic policymakers, given that new export controls require complementary policies to be effective. The need for complementary and coordinated policies was demonstrated by U.S. President Donald Trump's bewildering approach to semiconductors. His administration worked at cross-purposes: while the Commerce Department was announcing new restrictions on chips and equipment sales to China in 2019 and 2020, Trump's trade representative was telling Beijing to buy more U.S. exports of chips and equipment as part of his signature Phase One trade agreement. A failure to ensure that the administration as a whole understood its strategic priorities, backed by credible information, led to a mess of policymaking.

The Biden administration's approach is at least coherent. Some of the economic losses to American, Dutch, and Japanese equipment makers stemming from the October export controls can be offset by new demand from local semiconductor manufacturing facilities now being buttressed by the U.S. CHIPS Act, as well as by Japanese and European subsidies.

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Yet even at the best of times, coordinating export controls is hard. That is particularly the case today, when allies remain scarred by the trade policies of the Trump administration. Many rightly panicked when the United States' new flagship climate bill—the Inflation Reduction Act of 2022—included explicit tax discrimination against their electric vehicle industries. They feared it was "America first" all over again. The Biden administration's Trade and Technology Council with the European Union was supposed to prevent these sorts of ally-unfriendly economic policies. With allied trade and investment increasingly affected by U.S. legislation in addition to executive action, that means convincing Congress to be an equal partner.

Although there is no appetite in Washington to go back to the international economic policies of 2016, the United States also cannot reach for those of 1988 or 1949. The days are long past when the United States' near monopoly over technology and advanced manufacturing allowed it to unilaterally protect its national security. The history of export controls in the twentieth century also shows that uncoordinated efforts are futile. Protecting U.S. economic and security interests requires a more inclusive, comprehensive, and rational relationship with key allies.