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on
U.S./European Economic Relations -- Problems and Prospects
Testimony by
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Thank you for inviting me to testify on the important subject of U.S./European economic relations. I would like to address the common perspectives which we and our Allies have concerning East West trade, particularly in the area of strategic export controls.

I recently resigned from the State Department because of my inability to continue to perform in a responsible manner the export control functions of the Director of the Office of East West Trade. Lack of input from Defense, which is the only agency which has the capability to identify with precision what is militarily critical, was preventing successful negotiations with our Allies concerning strengthened strategic export controls.

Parallel Allied controls are necessary to make U.S. controls effective. For most items the United States is not a unique supplier. Even where the U.S. is the only supplier, Allied cooperation is necessary to control reexports of U.S.-origin items, exports of the foreign-made product of U.S.-origin technology, and sales by U.S. subsidiaries located abroad. The issue is how to achieve the requisite Allied cooperation.

My thesis is that the Allies are willing cooperators in the important area of strategic export controls.

The conventional wisdom that our Allies want to sell items which we want to control is largely untrue. They do generally resist on-again, off-again foreign policy export controls. But their cooperation concerning security export controls has been reasonably good for 34 years. This cooperation has taken place in the Coordinating Committee, or COCOM, in which the NATO nations plus Japan participate. Western controls have been generally effective

for COCOM-listed items for which license applications have been sought. Leakage has occurred in two other respects - (1) because controls have been illegally circumvented and (2) because some items of concern are not COCOM-listed. Our Allies do take remedial action against illegal diverters when we bring to their attention solid evidence of violations of their COCOM-related laws and regulations. The principal problem from the perspective of State Department export control responsibilities is, therefore, how to strengthen the COCOM list of controlled items. This requires hard work, to determine with technical precision what is militarily critical in areas where the Soviets are deficient.

Our Allies make many valuable contributions to COCOM List Review efforts. The problem is not how to persuade them to do what we think is best. The 1948-1949 Soviet blockade of Berlin persuaded them 34 years ago that strategic exports must be controlled. More recent Soviet activity in Afghanistan and Poland has reinforced that persuasion.

How can we best work together with them to up-date the details of the list? History is replete with examples of how not to do it.

Failures

Time and time again the United States has sought controls without adequately listening to constructive suggestions from our Allies. In each such case we have invariably failed.

Militarily Critical Technologies List (MCTL)

A 1976 Defense Science Board report stimulated an immense effort to develop a comprehensive militarily critical technologies list, or MCTL. This work started from a zero base, largely ignoring three decades of COCOM activity. The current MCTL fills 17 thick volumes. Entries are inevitably of uneven quality. Some are too general to serve as control definitions. Others are so specific as to give rise to concern that present or future critical technologies might inadvertently be omitted. The hope we held out to ourselves and to our Allies that the MCTL would be a panacea whereby we could control significant know-how and decontrol products has proven to be illusory. The exercise has been too ambitious, too unfocused, and insufficiently related to past cooperative efforts with our Allies in COCOM.

Major Projects in Defense Priority Industries

In 1980, after the Soviet invasion of Afghanistan, we pressed the Allies to refrain from "major projects" in the USSR. Nevertheless, French and German firms replaced U.S. firms which had been denied export licenses by contracting to provide to the Soviet Union equipment and technology for, respectively, a steel mill and an aluminum smelter. Our Allies argued that their contracts differed technically from U.S. intended sales. We thereupon proposed in COCOM informal consultation on Soviet projects with more than \$100 million Western input involving "process know-how" in a comprehensive list of "defense priority industries." Our Allies responded that (1) "\$100 million" was not a strategic criterion; (2) "process know-how" and "defense priority industries" were not adequately defined; and (3) COCOM agreements disciplined by a formal case review procedure subject to the rule of unanimity were preferable to informal consultation.

Computers

Negotiations to revise the computer item were proceeding reasonably well in the Spring of 1983, when an informal COCOM computer working group put together a composite draft. But this momentum was lost in the summer. This was because Defense failed to provide any technical advice to State which would have permitted the development of an official U.S. position on the composite draft. Such advice was needed to prepare for an October meeting at which we had hoped to reach final conclusions.

Oil and Gas

In February 1983, the United States submitted about 24 oil and gas related proposals to COCOM. This was one of the follow-up actions to the November 1982 lifting of unilateral U.S. pipeline controls. In December 1982 Allied agreement was reached to seek harmonization of East West economic policies through a number of studies, including one in COCOM on "other high technology including oil and gas." The February U.S. oil and gas proposals were clearly in need of further refinement before they could be incorporated in a control list. Nevertheless, in April 1983, a COCOM Ad Hoc Group agreed that about half of them, with some modifications, were sufficiently well-justified to warrant further study for possible controls. It was not surprising that the July meeting of the COCOM Ad Hoc Group declined to consider a June resubmission of the original February proposals, which did not take into account Allied views expressed in April.

It was also not surprising that Cabinet-level officials questioned a September 13 Assistant Secretary-level committee's recommendation to place the February list of U.S. proposals under unilateral U.S. controls and to deny a major pending case for deep submersible pumps.

Successes

It is clear that proposals do not succeed when we are not sufficiently sensitive to helpful ideas from our Allies. It is equally clear that proposals are agreed upon if followed by cooperative efforts leading to technically precise, well-justified, and administrable definitions.

MCTL

Some of the good MCTL work has been helpful in refining U.S. proposals for individual items in the COCOM List Review.

No-Exceptions Policy

Following Afghanistan, the United States adopted a policy of approving no exports to the USSR exceeding the technically defined limits above which COCOM review for exceptions cases is required. There have been virtually no such exceptions for the past four years.

Metallurgy

When objecting to the U.S. "process know-how" proposal, the Allies suggested as an alternative that the United States submit technically precise proposals to revise the formal COCOM list. We did so, concentrating in the defense priority industry of metallurgy.

They then agreed, after careful review and reasonable modifications, to U.S. proposals to control three important, precisely defined items in the areas of (1) technology for the production of superalloys; (2) spherical aluminum powder and the technology for achieving uniform particle size and sphericity of metal powders in general; and (3) equipment and technology for the production of munitions list items.

Computers

One particularly well-justified element of our 1978 computer proposal (array transform processors for signal processing or image enhancement) has been accepted de facto in COCOM even though it is not yet formally incorporated in the COCOM list.

Other Items, Including Oil and Gas

Our Allies have recently agreed to a number of high priority, well-defined U.S. proposals to strengthen controls in such areas as

silicon and space vehicles. Some of these have relevance to the oil and gas area. For example, there is much in common between the technology for deep submersible pumps and that for pumps in space vehicle propulsion systems.

Key to Success

For effective controls there is no substitute for hard work in cooperation with our Allies to develop technically-detailed and well-focussed controls..

Export Administration Act

Given the serious foreign policy consequences of inadequate cooperation with our Allies, I would like to point out some portions of Export Administration Act proposals now under consideration by the

Senate which would be damaging to the kind of Allied cooperation which is vital to effective export controls.

Defense "Veto"

The so-called Defense "veto" in Section 10(g) should preferably be repealed but at least should not be expanded, as proposed, to apply to West-West as well as to West-East export cases. This section of law encourages officials in Defense to conclude (counter-productively) that views not only of other agencies but also of other Government are irrelevant in determining what should be controlled. It is bad enough for our exports to the East to be curtailed beyond restrictions needed because of carefully defined strategic considerations. But we must avoid further unnecessary impediments to our much more important exports to Western destinations.

Industrial Capabilities

A proposed finding that exports are of concern if they contribute to "industrial capabilities" (as contrasted with the present wording of "military potential") would not only be inconsistent with our oft-repeated denials of intent to wage economic warfare but would also point us back toward the non-productive 1980 effort to control exports to poorly-defined "defense priority industries."

Import Sanctions

An authorization to deny U.S. imports from firms violating regulations issued pursuant to COCOM commitments would indicate to our Allies that we think we know better than they do what constitutes

a violation and what should be done about it. This is a formula to discourage rather than to encourage progress based on the constructive cooperation in COCOM which has been built up over the years.

Extraterritoriality and Retroactivity

The prospects for needed cooperation in administering multi-lateral strategic export controls are greatly strained when we penalize foreign firms for non-cooperation in U.S. unilateral controls, whether we call such unilateral controls "security" or "foreign policy." This is especially true if the U.S. controls affect exports of non-U.S.-origin items from subsidiaries abroad or affect pre-existing foreign contracts.

Export Sanctions

Mandatory denial of exports to violators, as proposed in Section 5(1), would discourage cooperation. A disproportionate U.S. penalty might be required against a foreign firm which inadvertently permits diversion to an unauthorized but benign end-use.

Intra-COCOM Exports

We should discontinue U.S. license requirements for exports to and reexports from other COCOM countries of COCOM-listed items. The license requirement serves no useful purpose. It does not aid enforcement. Instead we should require written assurances from ultimate end-users against reexports unless authorized by the host country. The end-user assurance would be an improvement in enforcement over the present practice of obtaining such statements only from distributors in most instances. Deferral to host country authorization for reexports would not reduce U.S. control for cases subject to COCOM review, because of the opportunity for a U.S. veto under the COCOM rule of unanimity. For lower performance items, such deferral would be consistent with commitments we gave our Allies years ago that we would respect their views for items which, under COCOM agreements, can be shipped at national discretion.

COCOM Treaty

Requiring negotiations for a COCOM treaty would also discourage cooperation. This might even jeopardize continued COCOM membership of several of our Allies, where the COCOM concept would encounter severe domestic political criticism in any parliamentary debate.

Even if a treaty were successfully negotiated, we could not obtain (and probably would not want to obtain) a supra-national body. Accordingly, we would achieve no strengthening of the organization and would risk conditions which would weaken COCOM. Merely seeking negotiations for a treaty would unwisely indicate U.S. dissatisfaction with existing COCOM organizational arrangements, which have served us well for many decades.

Summary

There is no need for any major changes in how COCOM operates. It works well when we give it a chance. This we do when we cooperate in the joint search with our Allies for clear, technically precise, well-justified, and administrable controls.