
RESTRUCTURING THE UNITED STATES' EXPORT CONTROL LEGISLATION FOR THE POST-COLD WAR ERA

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Trade relations between potential and actual adversaries involve an inherent trade-off between economic benefits, political effects, and national security risks.¹ American Cold War-era export legislation generally ignored that proposition: The United States considered economic benefits to be less important than political-security concerns in its relations with the former Soviet Union. Limiting the inefficiency of this trade-off with the former Soviet Union was further complicated by the potential export of dual-use technology and by the difficulties of coordinating export policy among a coalition of industrialized nations.

The Coordinating Committee of Multilateral Export Controls (COCOM), a multilateral organization of the NATO states, excluding Iceland but including Japan, oversaw exports to the Communist Bloc. In November of 1992, COCOM underwent a remarkable transformation when it met with 25 former communist countries, including Russia. COCOM agreed to accelerate the transfer of advanced technologies to those countries to aid them in developing market-oriented economies. This essay argues that the current U.S. Export Administration Act (EAA), legislated in 1979, no longer suffices to accommodate the developments that have occurred in the international system since the era of Mikhail Gorbachev. Moreover, the United States needs to revise its EAA as it is no longer compatible with COCOM's new policies.

American economic relations with the Soviet Union during the Cold War were so politicized that Congress continued to pass export administration laws that focused on political-security policy but ignored economic concerns. This process began with the Export Control Act (ECA) of 1949 and continues today by virtue of the 1979 Export Administration Act. American export control legislation supported the establishment of a complex bureaucratic structure in Washington to implement the legislative provisions. Bureaus in the Departments of State, Commerce, and Defense were responsible for export-control implementation and regulation, subjecting Soviet export applications for dual-

1. Robert Klitgaard, *National Security and Export Controls* (Santa Monica, CA: The Rand Corporation), R-1432-1-ARPA/CIEP, April 1974.

use technology to lengthy scrutiny. As a result, firms exporting to the Soviet Union either had their applications rejected on grounds of security, or the long review process effectively disrupted their business plans even in cases where firms had been granted permission.² That the export regime has been in operation for 14 years, even as the international system has undergone changes of great magnitude, indicates the inertia of American legislators.

The 1979 EAA, together with its amendments, was intended to make significant improvements on past policy. However, the fundamental policy goals of the previous legislation enacted in 1969 were retained. The amended 1969 Export Administration Act "changed the focus of American policy from strategic embargo to a qualified promotion of exports, while retaining the formal licensing structures."³ It specified three objectives for export controls: 1) to protect American national security; 2) to ensure against the shortfall of scarce domestic resources of the country; and 3) to promote American foreign policy. The legislation noted that the ECA of 1949 and its 1962 amendment — which allowed for an ambivalent export policy with regard to certain goods — generated uncertainty among American exporters. As a result, the legislation may limit exports and have an unfavorable effect on the U.S. balance of payments. These points are addressed in Section 2 of the Act:

- (2) The unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect national security of the United States.
- (3) The unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments.
- (4) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.⁴

Several important conclusions may be drawn from the findings. American export policymakers were demonstrably hesitant about weighing the balance between political-security risks and economic benefits. Therefore, while the policies acknowledged that the *unwarranted restriction* of exports adversely affected the American economy, they also reflected an unwillingness to abdicate the primacy of political-security considerations; they underscored the notion that unrestricted exports may be detrimental to American security interests. The vagueness of U.S. export policy was at the root of the problems that harmed American business. Nevertheless, the policy stopped short of providing a

2. See, for example, *Daedalus Enterprises, Inc. v. Baldrige*, U.S. District Court, 1983, 563 F.Supp. 1345.

3. Gary K. Bertsch, "U.S. Export Controls," in *Controlling East-West Trade and Technology Transfer: Power, Politics, and Policies*, Gary K. Bertsch, ed. (Durham, N.C.: Duke University Press, 1988), 128. The Act was amended and renewed in 1972, 1974, and 1977.

4. Export Administration Act of 1969, Public Law 91-184, 30 December 1969, 83 Statute, *United States Statutes at Large*, Vol. 83, (Washington, D.C.: U.S. Government Printing Office, 1970), 841.

specific guideline for public officials who grant licenses for the export of dual-use items.

Notwithstanding détente and the growing awareness of U.S. economic decline, American policymakers were still fundamentally influenced by the same political-security concerns that had dominated U.S. attitudes towards the Soviet Union for more than two decades. Discarding an entrenched ideal or an established policy pattern, however, is difficult under most circumstances. Hence, the containment doctrine led legislators to look at security issues myopically, without suggesting concrete proposals for the most crucial aspect of export control policy: a specific definition of dual-use technologies. While the EAA acknowledged that relations with the Eastern bloc had a separate economic dimension, it failed to specifically define dual-use items. This omission bedeviled both American business interests and intra-COCOM political relations.

Under the legislative authority of the latest EAA and its amendments, the continued imposition of controls on dual-use technologies and commodities is necessary on grounds of national security, foreign policy, and supply.⁵ However, changes were undertaken to simplify and streamline the cumbersome licensing process as well as to manage export controls to ensure their predictability. In addition, the amended EAA aims to implement the national security restrictions, to keep Congress involved in overseeing the imposition of short supply and foreign policy controls, as well as to improve COCOM coordination and enforcement. More significantly, and reflecting the changed international environment, the amended EAA emphasizes that trade is important to the economic well-being of the country. The following relevant clauses of Section 2 of the 1979 EAA point to the reassessed findings of Congress:

- (2) Exports contribute significantly to the economic well-being of the United States and the stability of the world economy by increasing employment and production in the United States, and by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation. The restriction of exports from the United States can have adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.
- (3) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.
- (5) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combination of countries may adversely affect the national security of the United States.
- (6) Uncertainty of export control policy can curtail the efforts of Ameri-

5. The amendments to EAA included PL 97-145 of 29 December 1981, PL 99-64 of 12 July 1985, and PL 100-418 of 23 August 1988.

can business to the detriment of the overall attempt to improve the trade balance of the United States.

- (8) It is important that the administration of export controls imposed for national security purposes give special emphasis to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.⁶

The Act acknowledges that the American export policy restrictions were much wider in scope than those of other countries; it also expresses concern over the economic problems that have beset the United States. To ameliorate the country's economic woes, the Act places a premium on exports while continuing to acknowledge the primacy of national security and emphasizing the need to control dual-use technology transfer. Thus, the thorny questions surrounding the export of dual-use goods remained unresolved; despite definite improvements, the Act still failed to streamline the licensing procedures. Specifically, the multi-department responsibility for export control that was left intact continued to impede the implementation of a simple licensing procedure.

The Bureau of Export Administration (BXA) at the Commerce Department, which supervises the EAA's regulations and enforcement, acknowledged that the problem had not been resolved and that the BXA was still trying to streamline the licensing system.⁷ Nevertheless, the Commerce Department noted that the BXA has worked to progressively lessen the regulatory burden on American exporters. As a result, the government's interference in international trade has dropped.⁸ The process of streamlining the licensing system to "reduce further the regulatory burdens on the U.S. Government's interference in international trade" continued through 1991, with improved results compared to the previous year.⁹

The Act also makes certain policy declarations which demonstrate modifications over the previous EAA. Section 3, for example, shows that:

- (1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.
- (2) It is the policy of the United States to use export controls only after

6. Export Administration Act of 1979, Public Law 96-72, 29 September 1979, 93 Statute, *United Statutes at Large*, Volume 93 (Washington, D.C.: U.S. Government Printing Office, 1981), 503-5.

7. Export Administration, *Annual Report, 1990*, (Washington, D.C.: U.S. Department of Commerce, 1991), 5.

8. *Ibid.*

9. Export Administration, *Annual Report, 1992*, (Washington, D.C.: U.S. Department of Commerce, 1993), 7.

full consideration of the impact on the economy of the United States and only to the extent necessary:

- (a) to restrict the export of goods and technology that would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;
 - (b) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations.
- (6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subject to review by and consultation with representatives of appropriate United States Government agencies and private industry.
- (9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.¹⁰

The Act introduces several noteworthy provisions which, for the first time, include the possible use of technology transfer as a tool of leverage; it also provides for private industry representatives in the periodical government reviews of proscribed items. For instance, the 1979 statute requires that items unilaterally controlled for national security purposes be reviewed annually, and that multilateral items be examined every three years. In addition, the Act specifies that export controls for foreign policy or national security purposes may not be imposed on goods and technology which are readily available from sources outside the United States. For this provision to be reversed, the president would have to determine that American national interests were in jeopardy by the absence of those controls.¹¹

Cold War Security Requirements

The United States' stringent export policy was driven by its perceptions of the Soviet Union's motives, policies, and activities following the Second World War. If the United States dealt with Moscow before the war "primarily as a revolutionary political force," George Kennan writes, "it was now obliged to deal with it as a traditional military great power, suddenly and unexpectedly

10. *Ibid*, Export Administration Act of 1979, 503-5.

11. Section 2404, (f)(1)(B) of the 1979 EAA. (Document 3.4 in James M. Montgomery, "The 'Cumbrous . . . Apparatus'," in *The Post-Containment Handbook: Key Issues in U.S.-Soviet Economic Relations*, Robert Cullen, ed. (Boulder, CO: Westview Press, 1990), 49.

poised on the very edge of America's own newly acquired sphere of political-military interest."¹² Protecting and furthering that interest required the United States to devise means "to prevent the Soviet Union from achieving total hegemony in Eurasia."¹³ Whether the Soviet Union actually intended to dominate the continent is questionable, but the fear of that goal served to define American policymakers' perceptions of Moscow and acted as a catalyst for the policy of containment.

The containment doctrine centered on the U.S. commitment to protect Western Europe and Japan from Soviet expansion, with NATO as the tool and embodiment of that commitment. Moscow's enormous military establishment, its expansion into Eastern Europe, repressive internal mechanisms, and ideological incompatibility with the United States underscored the perception in Washington that containment and deterrence were necessary.

The U.S. government's preoccupation with military security was emphasized by six major components of the twin policies of containment and deterrence. According to Huntington, these included:

- (1) the development and maintenance of a massive active-duty military establishment;
- (2) the creation of an enormous, invulnerable strategic nuclear force;
- (3) the placement of ground, naval and air forces in the forward regions of Europe and Asia;
- (4) the establishment of a highly complex system of alliances and mutual security arrangements;
- (5) the development of force-projection capacities for reacting to possible incidents in Third World countries; and
- (6) the maintenance of technological or qualitative superiority in weapon systems.¹⁴

Although the emphasis on military contingencies is apparent in each of the six components, two of these elements are particularly relevant to this study. The first is the need to achieve and maintain technological dominance; the second concerns the concept of "extended deterrence" to Europe and Asia. While the United States consistently pursued the first goal, the second was subject to the changing international political environment.

Post-Cold War Security Environment

The most significant change in the post-World War II political environment was the rise of Mikhail Gorbachev. Gorbachev's "new thinking" in Soviet foreign policy embodied his desire to play a positive role in the international

12. George F. Kennan, *The Nuclear Delusion: Soviet-American Relations in the Atomic Age* (New York: Pantheon Books, 1983), 219.

13. Samuel P. Huntington, "America's Changing Strategic Interests," *Survival* XXXIII (January/February 1991): 3-17, 5.

14. *Ibid.*

arena. Officials in the U.S. Department of Defense (DoD) conceded that "the likelihood of East-West military conflict along the European Central Front was reduced significantly in 1989 and 1990."¹⁵ In particular, the DoD credited Gorbachev's 1989 decision to renounce the Brezhnev Doctrine, which had justified Soviet intervention in Third World conflicts.¹⁶ The subsequent Conventional Forces in Europe (CFE) agreement, and the partial withdrawal of Soviet forces from Eastern Europe, further undermined the perception of the Soviet Union as a security threat. Outside Europe, Gorbachev made friendly overtures to China, Japan, and South Korea. His initiative to develop normal relations with Japan and South Korea was vital in sending the right signals to Washington, for these countries have been crucial to America's extended security interests.

Furthermore, Gorbachev's rejection of the "zero-sum" approach to security, his emphasis on a defensive doctrine, and his espousal of reasonable military sufficiency indicated a preference for political rather than military-technical aspects of security. From the DoD's point of view, Gorbachev had placed an "unusual emphasis on threat reduction, unilateral restraint, and collaboration with adversaries."¹⁷ Russia has continued to reduce the relevance of military power to its overall security policy.

In terms of Klitgaard's proposition, which suggests that trade relations involve a balancing of economic, political, and national security interests, Russia's redefinition of national security calls for a comparable response by the United States. Logically, the trade-off should be made between security concerns driven by political-security considerations, and the economic benefits that may be derived from increased technology trade with Russia.

With the disintegration of the Soviet Union, President Yeltsin has expressed, as had Gorbachev, the keenest interest in Western technology in order to revitalize the Russian economy. Until the November 1992 COCOM meeting, the United States had been noticeably reluctant to export high technology items to Russia for fear of the potential for dual-use. American policymakers had long felt that trading in dual-use technology increased the military power of the Soviet Union, irrespective of any economic or political benefit that might be derived from the transaction. Accordingly, most suggestions for dual-use technology transfer to the Soviet Union were scrutinized and typically curbed. Though such logic may have been reasonable prior to Gorbachev's years in the Kremlin, such a rationale should be revisited in light of recent economic and political developments.

Revising U.S. Export Control Legislation

For more than three decades following World War II, American policymakers contended that the sale of dual-use technology to Moscow empowered the

15. U.S. Department of Defense, *Soviet Military Power* (Washington, D.C.: U.S. Government Printing Office, 1990), 16.

16. *Ibid.*

17. *Ibid.*, 23.

Soviet military. Yet this supposition contained one major drawback: no worthwhile attempt had been made in those years to define specifically the term "dual-use technology." Successive export control regimes also failed to define the terms. Thus, the policymakers' assumption rested less on a careful analysis of a thorny issue, than on a convenient desire to engage in all out economic warfare against the Soviet Union. From Washington's perspective, the relentless intensity that was necessary to wage the Cold War successfully would require subordinating economic relations with Moscow to the more immediate and critical political considerations. Under these circumstances, the very thought of trade — let alone barter involving dual-use technology — was beyond consideration.

While the 1976 Bucy Report finally defined the concept of dual-use technology, that definition came too late.¹⁸ Greater understanding of the concept would have further rationalized the export administration laws and would have provided significantly better guidance to American business. In the absence of any specific definition, the American bureaucracy dedicated to overseeing the implementation of the control regimes adopted a broad interpretation of the notion of dual-use commodities. It was also notoriously reluctant to grant licenses to prospective exporters on the grounds that the items would enhance the Soviet Union's military capabilities and jeopardize American business interests. While such an argument appears reasonable at first glance, a closer look will reveal its loopholes.

There are two analytical considerations intrinsic to the bureaucratic argument. First, even if the Soviet Union had diverted the imported items towards military use, just how much did it divert, and what kind of effect did the diversion have on Soviet military capabilities? Second, if there has been an enhancement in capacity, what has been the correlative threat to U.S. security? These fundamental questions lack coherent answers. Consequently, one cannot unequivocally declare that the Soviet Union derived extraordinary benefits from diverting Western technology, or that it posed a correspondingly greater security threat to the United States and its allies.

Unquestionably, there were cases of the Soviet Union diverting Western technology intended for civilian use towards military purposes. There had also been instances of Moscow gaining sophisticated technology from Western sources through surreptitious efforts. Nevertheless, even DoD — the most conservative of the government agencies responsible for overseeing dual-use technology trade — has not been able to prove conclusively that (a) the USSR diverted to military use most of the technology that it acquired legally from the West, or (b) its weapon systems have relied extensively on Western technology to achieve increased levels of sophistication and performance. The verified cases

18. The Bucy Report is officially known as *An Analysis of Export Control of U.S. Technology — A DoD Perspective*, U.S. Department of Defense, Office of the Director of Defense Research and Engineering, Report of the Defense Science Board Task Force on Export of U.S. Technology, (Washington, D.C.: U.S. Department of Defense, 1976). It distinguishes technology from products or science, and meticulously describes what constitutes "strategic" material or know-how.

of diversion provided insufficient data to conclude any definitive statistical inference.¹⁹ In addition, some of the claims with regard to Western technology boosting a large array of Moscow's arsenal have been purely speculative. Therefore, in the absence of verifiable information of consistent frequency, there is no statistical yardstick by which to infer the magnitude of diversion and the impact of Western technology on the Soviet Union's military capability.

Despite the lack of evidence, the United States has persisted in the belief that the former Soviet Union's military sophistication is largely a product of covertly or overtly acquired Western technology. Furthermore, even if the Americans' contention is accepted as true, it still does not follow that every gain in Soviet military power resulted in a U.S. loss. Indeed, this correlation has not been proven. Whatever may be the case, the United States has generally overestimated the likelihood of Western technologies finding their way into Moscow's military systems and enhancing the Soviet Union's power at the expense of the West. Nonetheless, some U.S. suspicion about Soviet intentions may be attributed to U.S. fears that prospective dual-use technology transfers might provide Moscow with the prime ingredients to fashion the proverbial hangman's rope.²⁰

Intra-COCOM Relations: The Cost of Containment

In spite of having been based on somewhat erroneous assumptions, U.S. policy could still be exonerated if it could gain the consent of its COCOM partners. Yet as the Western Europeans and Japanese have continued to assert their economic power, they have challenged the American contention that the security of the West vis-a-vis the Soviet Union had to be one dimensional, i.e. political-strategic. To them, security is as much economic as it is political, and the resulting policy divergence has generated friction. Increasingly, Europe and Japan have begun to export dual-use technologies to the former Soviet Union on a larger scale and more frequently than the United States. While the Americans have included the security of their allies as essential to the maintenance of Western security, Europe and Japan have hurt the United States by reaping economic gains at the expense of American business. Ironically, in spite of their greater proximity to Russia, Western Europeans seem to have perceived a lesser security threat from their former communist neighbors than has the United States. This perception may be attributed to the fact that Europe's and Japan's safety were assured by America's extended security guarantee.

If the statement about the partners' threat perception is valid, then the intra-COCOM policy differences have hurt the United States by reducing its leverage with its allies. In effect, its partners have also become its most potent

19. An objective view of the Soviet Union's efforts at acquiring Western technology is provided by the National Academy of Sciences in *Balancing the National Interest: U.S. National Security Export Controls and Global Economic Competition* (Washington, D.C.: National Academy Press, 1987).

20. The story goes that when Vladimir Lenin was asked by the Polish Comintern member Karl Radek about how to carry out the hanging of capitalism, Lenin responded that the capitalists were going to sell him the necessary rope.

economic competitors. That is particularly galling for the United States, since it has incurred costs by its reluctance to trade dual-use goods with an adversary to whom its allies seem to have had little hesitation in selling the same type of commodities. Did the greater propensity to trade help the West European and Soviet political relationship and subsequently reduce political tensions? It is difficult to answer that question with empirical evidence. Undoubtedly, increased contacts did not visibly harm the Western Europeans. Since commercial interactions started burgeoning in the late 1960s, Western Europe endured few political confrontations with Moscow, and Europe reaped financial benefits as a result.

If the United States' COCOM partners were willing to export dual-use technology before the Gorbachev era, they have even more reasons to continue with such exports in a period of diminishing threats from Russia. In a more secure environment, the United States should be pursuing increased trade in dual-use technology with Russia, and thus bring its policy in line with its allies. Prospective sellers from the other industrialized nations will otherwise supply the requisite items, and American business will lose.

Since the military power of Russia has generally subsided, which has in turn diminished the threat to the United States and its allies, the case for enhanced trade in dual-use technologies is clear. However, even though Russia has made quantitative cutbacks in its military strength, it may qualitatively upgrade its remaining weapons through a greater use of Western technology. The risk is present but unlikely, and should not be used as an excuse to restrict the export of dual-use goods in the manner of the regimes that have so far defined American trade policy in that area.

The United States could just as easily limit trade on the presumption of another possibility. Though Russia may eventually succeed in its struggle to transform into a fully-functional market economy, it will require Western aid. Then, Russia, with its substantial natural and human (largely skilled) resources and a powerful industry, will transform into an economic power able to hold its own against the economic giants of the world. Once it possesses a sound economy, Russia could then develop and augment a new generation of sophisticated weaponry. In this scenario, an economically powerful Russia may ultimately reduce economic benefits for the United States, and greater Russian military and political power may undermine U.S. political interests. According to this prognosis, all trade should be minimized and transactions involving dual-use technologies reduced even more.

Having recognized the possibility of this negative outcome, stronger arguments may nevertheless be made to demonstrate the positive returns for the United States which may result from increased trade. Simply put, trade will increase economic and political benefits to the United States to the point where even a qualitative jump in Russian military power would be irrelevant. America's former enemies, Germany and Japan, have become responsible members of the international community, in part through America's Marshall Plan after World War II. While Germany and Japan practiced a virulent form of military jingoism prior to World War II, they channelled their energies towards becoming

first-rate economic powers following the end of that conflict. In addition, both states have developed a pacifist attitude with regard to military matters since 1945 and give no indication that they will abandon that approach in exchange for greater military power.

Germany and Japan provide a compelling precedent for the future of Russia. In drawing up an analogy between Germany and Japan on the one hand and Russia on the other, the caveat must be made that Russia is already a superpower. While Japan and Germany possess the technology to develop powerful military arsenals, they have chosen not to do so. Russia too may discover that economic prosperity will be more significant for the welfare of the country, and decide to reduce its military power to a strictly defensive posture. The United States is no longer economically powerful enough to provide Russia the degree of economic aid it donated to Europe and Japan after World War II. Nevertheless, it can contribute to Moscow's economic advance by imparting managerial know-how, investing in joint ventures, and trading in dual-use technology.

The United States should continue to ban the export of items with explicit military applicability. For reasons of economic security, it also should embargo the export of its most sophisticated technology. The United States has already made considerable progress towards creating harmony with its COCOM partners. COCOM agreed in 1990 to draw up a new "core list" of dual-use goods and technologies that would be controlled for export purposes.²¹ In May 1991, the multilateral body agreed to adopt a policy of drastic reductions in controls on strategic exports, thereby enabling the former Soviet Union to obtain much more advanced technology than was permitted under previous COCOM regulations. The U.S. Department of Commerce estimates that the new Core List reduces the scope of COCOM controls by close to 50 percent.²² This reduction underscores the preeminence in American policy circles attached to political-security issues. Only the decreased threat from Moscow convinced the United States to restructure its domestic Commerce Control List (CCL), which includes features like greater specificity in descriptions of controlled items, alignment of control parameters with current industry technical standards, and decontrol of items readily available in everyday commerce.²³

The new core list took effect on 1 September 1991. The United States deserves the credit for directing the COCOM regime towards addressing the reality of security issues in the 1990s. The U.S. willingness to decontrol more items on the COCOM core list and the CCL reflects both greater emphasis on U.S. economic security as well as an interest in exploring the former Soviet Union's market potential. In an effort to build cooperation with Russia and other Commonwealth of Independent States (CIS) countries, COCOM, at the U.S. initiative, invited these countries in June 1992 to join a newly proposed organization entitled the "Export Controls Cooperation Forum."²⁴ The principal goal of this

21. U.S. *Federal Register*, Vol. 56, No. 168, 29 August 1991, 42824.

22. Bureau of Export Administration, (Washington, D.C.: U.S. Department of Commerce, 1992), 1.

23. *Ibid.*

24. "Tutwiler on COCOM Export Controls Forum," *Izvestiya*, 4 June 1992, in *FBIS-Central Eurasia*, 5

multilateral body was to find ways to block the spread of sophisticated technologies from the CIS to countries with dictatorial regimes — an objective very close to U.S. interests. The June idea was realized when the 17-nation COCOM agreed to join with the 25 former communist countries and to form a 42-nation COCOM Cooperation Forum.²⁵ The Forum is designed primarily to help the 25 countries develop safeguards to ensure that the technology they gain is used exclusively for civilian ends and that it will not be diverted into the hands of nations that are building weapons of mass destruction.²⁶

Recommendations

The 1979 EAA needs to take into account the developments that have modified the character of COCOM and its policies, including the reassessed security situation of the United States following the decline of the Soviet threat, and the cooperative environment that has evolved between America and Russia. A complete overhaul should not be advocated since the United States' adversarial relations with certain countries will require that the general embargo provisions of the Act be maintained for reasons of national security. However, some provisions should be eliminated because they no longer fit the change in East-West relations. The 1985 amendment to the 1979 EAA stipulates:

(5) Section 2 is amended by adding at the end the following:

- (11) The acquisition of national security sensitive goods and technology by the Soviet Union and other countries the actions and politics of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.²⁷

The Act needs to incorporate the changing nature of multilateral cooperation for export control. Through this process the U.S. focus on preventing the acquisition of sophisticated technologies by dictatorial nations may be properly addressed and the specific parameters of cooperation and coordination by the expanded multilateral forum be defined.

American export administration legislation was enacted to conform to the reality of the Cold War. The current regime, operating for 14 years, reflects that era, and is no longer adequate to deal with the changes in U.S. relations with

June 1992, 8.

25. "COCOM Becomes Agency to Promote Technology Transfers," *The Washington Post*, 25 November 1992, D1.

26. "West Will Expand High-Tech Sales," *The New York Times*, 25 November 1992, A9.

27. Export Administration Amendments Act of 1985, Public Law 99-64, 12 July 1985, 99 Statute, *United States Statutes at Large*, Vol. 99, Part I, 1985, (Washington: U.S. Government Printing Office, 1987), 120-21.

Russia and COCOM after the Cold War. The new realities demand that the venerable 1979 EAA be replaced by a new regime that reflects the United States' current domestic and foreign agendas, as well as the present international environment.



