
CHAPTER II

Future Policy Governing East-West Trade and Technology Transfer

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Future Policy Governing East-West Trade and Technology Transfer

INTRODUCTION

The continuing objective of U.S. regulation of East-West trade has been to balance both the commercial benefits of trade and the objectives of detente against the need to safeguard U.S. security interests. Continuing controversy about the proper balance is inevitable: there is no objective test of whether such a balance has been achieved, the economic and political circumstances affecting East-West relationships are in constant flux, and the United States has no comprehensive East-West trade policy. Alternatives for reforming existing policy can be broadly divided into three categories:

- Policy options premised on an assumption that existing policy has, on the whole, achieved an acceptable balance between trade and security interests. Such recommendations are designed primarily to make existing procedures more efficient and less costly.
- Policy options designed to increase restrictions on East-West trade in order to decrease the risk that such trade could enhance the military interests of the nonmarket nations; and to use the threat of trade curtailments to exact political concessions from the East.
- Policy options designed to move U.S. policy closer to that of our European and Japanese allies by relaxing some of the current restrictions on East-West commerce, making licensing procedures less onerous, and providing trade incentives through the Export-Import Bank (Eximbank) and other mechanisms.

The disagreements that have characterized the debate on U.S. trade policy as it applies to nonmarket nations result primarily from differences in the interpretation of the broader direction of East-West relationships. These are discussed at length in chapters I and IV. This chapter describes policy measures (some already incorporated in the Export Administration Act of 1979) that can affect the implementation or direction of U.S. trading policy with the East; analyzes whether these policies would have the desired effect; and reviews any inadvertent or unintended consequences that might result from their implementation.

REFORMS AIMED AT EFFICIENCY

The administration of U.S. export control policy has come under repeated attack by U.S. businessmen who charge that it is cumbersome, expensive, and slow. While statis-

tics in chapter VII indicate that the situation has recently improved (i. e., the licensing procedure is being speeded), few would argue with the desirability of streamlining some of

the more mechanical parts of the decision-making process. Suggestions to accomplish this have included the following:

Increase appropriations for export=licensing administration.

One way to accelerate the licensing process would simply be to increase the funding and staff available for processing applications; most offices in the Departments of Commerce and Defense dealing with these areas appear to be overworked. This solution, of course, would not resolve any flaws which might exist in the basic structure of the system. Moreover, the Office of Export Administration (OEA) claims that, at present, lack of qualified applicants has made it unable to fill all the positions for which funds have already been authorized.

Institute a new form of export license.

Recent legislation has created a new category of export license, a "qualified general license." These authorize multiple exports to the same end user for items that have been routinely approved in the past, and will hopefully reduce the volume of validated license applications as well as the cost and delay associated with the present need to apply for a separate license for each transaction. The strength of controls should not be diminished and their implementation should be made more efficient through the consequent reduction of the stress placed on the Federal administration of licensing. However, one potential ramification should be noted. At present, the U.S. Government keeps records only of those technology transfers that proceed under validated license. Unless data is also kept on trade conducted under qualified general licenses, there is the possibility that information on sales volumes, which could be valuable in inferring the intentions of the purchasers or the impact of sale on the U.S. economy, could be lost.

Improve efficiency and accountability

- Establish detailed timetables and deadlines for review of applications for validated licenses;
- Establish procedures by which applicants could take legal action against the Government if undue delays occur; and
- Improve reporting to applicants on the reasons for denial of applications.

Each of these measures was incorporated in the Export Administration Act of 1979. Taken together, they could significantly improve the relationship between applicant and Government.

Deadlines, for instance, would provide greater predictability for applicants and eliminate cases dragging on for months, even years, without resolution. Some industry critics have charged that present licensing procedures are overly complex and involve too many layers of consultation, and that important policy decisions are being made by midlevel bureaucrats. Administration goals for processing claims have already had the effect of speeding up the licensing process, and the recent reorganization of the Department of Defense's (DOD) export-licensing activities may also help in this regard (see chapter VII). But deadlines can only accelerate licensing to the extent that delays result from overworked, unresponsive, or sluggish bureaucracies. This is plainly not always the case; major delays in controversial cases may be occasioned by internal disagreement or uncertainty and extensive analysis on the part of the agencies involved. The speediest approach to resolving such cases would be simply to summarily deny controversial licenses. A forced deadline, therefore, could conceivably have the unintended consequence of reducing the number of approvals granted.

Until now, OEA has been neither always prompt nor explicit in informing applicants of the grounds for the rejection of their ap-

placations. The reason given has been as vague as simply “national security objections.” Prompt disclosure will improve the atmosphere of business-Government relations; fuller details (security classifications permitting) will help industry prepare future cases and might forestall applications subject to the same objections.

Require all license denials to occur at the level of a Deputy Assistant Secretary.

This reform alone would have little bearing on the de facto policymaking occasioned by delay. Indeed, it might even increase it. The requirement could, however, have some impact on the process by creating a situation in which midlevel officials could approve, but not deny, license applications. Chapter VII demonstrates that, as the system now stands, the vast majority of validated license applications are eventually approved in any case; this change would affect those relatively few rejections that occur at mid-levels by requiring the participation of all the agencies involved in the review process.

Improve assessments of foreign availability.

The determination of whether products or processes equivalent to those in the United States are available to controlled destinations from sources outside the United States is an important factor in decisions to grant validated export licenses. Determining “availability” requires either establishing that the controlled country already possesses the technology or product in question or that another Western nation has a technology functionally equivalent to the one proposed for sale and is itself prepared to sell it.

Problems of assessing foreign availability begin with gathering information; but this is only a prelude to the difficult task of developing policy guidelines for deciding claims of equivalency and comparability for a wide variety of complex technologies.

Until now, the assessment of foreign availability has proceeded in an ad hoc manner—carried out on a case-by-case basis by various agencies involved in the technical assessments of applications. A new plan to manage this activity from a single office within OEA can improve the continuity of foreign availability assessment in the Government and help create institutional expertise. The data base established by such a coordinating organization could become a valuable resource for ensuring uniform and equitable treatment of foreign availability issues. If properly staffed by engineers and technicians familiar with a large spectrum of technologies, it will also give the Government an independent resource for verifying and interpreting the assertions of comparability made by the industrial Technical Advisory Committees (see chapter VII). Because no one body in the licensing system has been responsible for foreign availability assessments, the U.S. Government has been criticized by some industry observers for failing to adequately monitor activities such as trade fairs or to take advantage of opportunities to inspect products and processes in the East. This situation could be remedied by hiring individuals specifically assigned to travel abroad, especially in the East, to make such inspections.

It must be pointed out, however, that the establishment of such a capability will not eliminate difficult decisions. Just as the determination of strategic significance is partly judgmental, so too the determination of the degree of technical equivalency necessary before items are deemed comparable can never be automatic.

Improve the monitoring of trade in technology.

Chapters III and VI discuss the difficulties encountered by analysts in locating statistics that accurately characterize the size and character of U.S. trade in technology. Better data would undoubtedly improve the analysis of trade policy both in the Administration and in Congress. But steps to ensure

that the development of techniques for improving monitoring of technology and translating this technique into a workable data-gathering program entail agreement on the following difficult definitional problems:

1. obtaining a clear definition of what represents technology, including embodied technology and high-technology products;
2. refining the definition of "high-technology products;"
3. arriving at some measure for the level of activity conducted under cooperation agreements between U.S. firms and Communist nations; and
4. arriving at a way to acquire accurate, up-to-date, and easily accessible information on the number of turnkey facilities constructed by U.S. firms in controlled-market economies.

Data gathering could be improved in the near term by:

1. obtaining interagency agreement on the format for collecting information from U.S. firms trading in the East; and
2. revising the manner in which data on sales of patents and licenses is kept in accordance with the General Accounting Office (GAO) recommendations (see chapter III).

More explicit reporting requirements have now been applied to the details of any agreements between U.S. companies and Communist nations. This will almost certainly be

strenuously opposed in the business community. Similarly, more comprehensive data might be collected on the activities of Communist nationals engaged in academic exchange programs. This would elicit objections from those concerned with the issue of academic freedom.

Clarify the Coordinating Committee for Multilateral Export Controls (CoCom) procedures.

As chapters VIII and IX indicate, the United States has little freedom to change CoCom procedures. Many of our allies are extremely sensitive on the whole issue of CoCom. Some are willing to cooperate in the organization but not willing to publicly acknowledge that they are doing so for fear either of alienating Communist nations or political groups within their own countries. With some caution, however, it may be possible to open the proceedings and deliberations of CoCom to public scrutiny without embarrassing any member nation. For example, it may be possible to be more explicit about the precise nature of the CoCom list reviews and about the internal procedures that lead to alterations. At present, it is difficult to be overly optimistic about the chances for persuading some of our allies to take even such simple steps, for any increase in public information about CoCom could make it more difficult for them to maintain the fiction that they are not active members.

POLICIES DESIGNED TO RESTRICT EAST-WEST TRADE AND TECHNOLOGY TRANSFER

Recommendations designed to move the balance of current policy in the direction of increased concern about security (and possibly a corresponding relative diminution of interest in trade) would reverse the direction of the evolution of U.S. trade policy since the major export control reforms of 1969 (see chapter VII). Since 1969, the United States has moved in the direction of incrementally normalizing trade with the East. While few argue that we should attempt to restore the strict export controls which were in force immediately following the Second World War, there has been repeated concern that U.S. policy has drifted too far in the direction of promoting short-term corporate profits at the expense of fundamental security concerns. A number of measures have been proposed for reversing this drift:

Enhance the role of the Secretary of Defense in licensing.

This proposal would probably have a greater symbolic than operational impact. DOD now plays a major role in all cases involving questions of military relevance. If the Secretary of Defense is concerned about a license application, the Secretary is in a position to make these views known and, in disputed cases, to demand a ruling from the President. In fact, no item has ever been exported to the East over the objection of the Secretary of Defense. The proposal's symbolic value could be significant, however. It might be a first step in an overall program to persuade allies that the United States is making a serious attempt to increase the importance of security interests in overall trade policy. In the U.S. business community it would certainly be taken as a signal that Government policy was moving in the direction of restricting trade with the East.

Move rapidly to compile a list of critical technologies, and embargo their export.

The preparation of a comprehensive "critical technologies" list was advocated in a report of the Defense Science Board Task Force early in 1976 (the Bucy report). At that time, work was initiated in DOD with a view to implementing the report's recommendations. Little substantial progress has yet been made, however. The chief difficulty is probably not a lack of resources (see chapter V) so much as the inherent difficulty of the task and lack of consensus over the object of the exercise. There has been uncertainty, for instance, about whether the completion of the exercise will have the effect of increasing the restrictiveness of U.S. trade controls (by placing more severe tests on any product or technology qualified for export and increasing the number of such items), or of weakening the controls by limiting the categories of products that would require export licenses. If the former, the establishment of such a list provides an opportunity for strengthening trade restrictions and reducing the flow of products and know-how to the East.

It is difficult to be overly sanguine either about the imminence of results or the degree to which the appearance of a list of embargoed critical technologies will solve the difficult national security problems posed by the existence of dual-use technologies. As chapter V points out, determinations of the degree of risk posed by any particular sale cannot be made in an automatic way. Case-by-case analysis will always be necessary and subjective judgments and policy considerations inevitably enter the decisionmaking process. The critical technology exercise

may, at the very least, be a useful in-house exercise for DOD, but it is unlikely to be a panacea for the complex problems posed by East-West technology transfer.

Retain the existing restraints on East-West trade exercised through foreign policy controls, tariffs, and official credits and work to strengthen the leverage available through these mechanisms.

Although the utility of attempting to use trade to extract political concessions is the subject of considerable debate, the tactic is plainly a current part of U.S. East-West trade policy. Indeed, the effect of the Trade Act of 1974, which prohibits the United States from extending most-favored-nation (MFN) tariff treatment and Eximbank credits and guarantees to nations which, in the view of the President, are violating human rights, has been to institute the maximum restrictions possible in this area. The Export Administration Act, moreover, gives the President the authority to deny certain classes of export licenses for reasons of foreign policy (see chapter VII). European and Japanese trading policy contain no such provisions (see chapter IX).

An examination of the effectiveness of using trade leverage as an element of foreign policy must address the following issues:

- Would denial of U.S. technology have a significant impact on the economy of the target nation?
- Would the tactic of using trade to extract concessions have the desired effect?
- What technique could best be employed to curtail trade when such curtailments are required by the leverage policy?

Opportunities for Exercising Leverage

There are only two areas in which the United States is widely thought to have a significant unilateral lead in a technology critical to the Soviet Union: computers and equipment for discovering and producing oil

and gas. But even in these cases, equipment available from other Organization for Economic Cooperation and Development (OECD) nations could provide a workable substitute for U.S. technology. Leverage with respect to the People's Republic of China (PRC) and nations in Eastern Europe may be somewhat greater, but in all cases the flexibility of unilateral U.S. actions is severely constrained by foreign availability. It is clear that a coordinated OECD effort would be needed to significantly increase areas where a threat of an embargo of technology would have significant impact on Eastern economies.

The Utility of Attempting to Exercise Leverage

How will the Soviets or any other Eastern nation react to the exercise, or the threat to exercise trade leverage? There can be no unambiguous answer to this question. Several criteria must be considered.

- How central to the maintenance of the entire system of the target nation and how integral to the country's aims abroad is the object of the leverage?
- To what degree can the issue be framed so that the country can comply without losing face, either at home or abroad?
- Has the country yielded before on this or a similar issue?
- How will compliance be viewed within the country, in the United States, by the rest of the world?
- What stake does the United States have in the issue, i.e., how important are the activities in question of the target nation to the United States?

Soviet response to previous attempts to exercise trade leverage is discussed in chapter IV. The record is ambiguous at best, but certainly when leverage fails, trade is constricted. It must be recognized, of course, that some observers feel that regardless of the practical impact on Eastern economies, the practice of withholding trade from nations whose internal policies are offensive to the United States is amply justified by ethical considerations and the need to focus in-

ternational attention on those aspects of the Communist system that violate human rights.

The reaction of an Eastern nation to a U.S. attempt to exercise leverage cannot be easily anticipated. In some cases these nations may prefer to accept economic damage rather than make political concessions under pressure. Moreover, even in cases where the United States could inhibit an economic activity clearly critical to the target economy, the nation could take actions that might adversely affect U.S. foreign policy interests in unanticipated areas. A case in point is the embargo of oil and gas extraction equipment to the U.S.S.R. Here,

- The U.S.S.R. might turn to Japanese and Western European firms for massive orders of equipment and technology, many of which would otherwise have come to U.S. industries. The United States would thereby be deprived of revenues and the Soviet Union would receive the help it needs in any case.
- The U.S.S.R. might become unable to export enough oil to Eastern Europe to fulfill its needs. This would increase the economic distress of many Eastern European countries and contribute to domestic unrest, place stresses on the relationships between Warsaw Pact nations, and perhaps force countries of Eastern Europe increasingly on world markets for oil.
- The U.S.S.R. might itself become a net oil importer. This would cause a serious disruption in the present market situation. These potential liabilities would need to be weighed against the potential foreign policy gains that could be realized from an attempt to exercise leverage.

Policy Mechanisms

The United States has restricted trade for political purposes in three ways: Presidential intervention in the granting of export li-

censes, tariff policies, and denial of official credits and guarantees.

Executive Discretion in Granting Export Licenses

Existing law gives the President the authority to withhold export licenses in cases where the denial would serve broad foreign policy interests. This power, and the flexibility it implies, can be used in a timely way to influence fast-moving events: licenses are always pending in OEA. The need to make a rapid political point, however, may lead to a somewhat arbitrary selection of the license to be denied, the most convenient licensing issue at hand being seized for the purpose.

Presidential use of the power to deny exports for reasons of foreign policy has been the subject of a number of recent controversies. Use of such controls may be effective as statements of principle on the part of the United States, but there is no doubt that the use or threatened use of such power has introduced an element of unpredictability into the export-licensing system. This may have adversely affected the bargaining position of U.S. corporations in the East. A good example is the recent denial of a license for a Sperry-Univac computer ordered by the U.S.S.R. This action has had greater symbolic than practical value. The computer itself was identical to models already installed in the U.S.S.R. and its capabilities inferior to those of previously licensed computers. Moreover, the Soviets have now purchased an equivalent computer from France (see chapter IX).

It is possible for the President to be given greater latitude in controlling trade as an element in an overall program to indicate U.S. interest in strengthening its determination to confront the Soviet Union and other Communist nations. But, as the above example would suggest, the value of such Presidential latitude as a foreign policy tool in the absence of complete cooperation from our allies is open to question. This is the subject of more complete discussion in chapter IV.

Most-Favored-Nation Status.—The economic value of MFN varies among individual Communist nations, depending on their export mix. A detailed discussion of the economic aspects of granting MFN appears later in this chapter. For leverage purposes, however, its symbolic importance to the PRC and U.S.S.R. is perhaps even more significant. Granting MFN to China while still withholding it from the Soviet Union will almost certainly in itself be construed as an attempt to apply leverage in foreign policy.

Official Credits.—The availability of cheap Government credits and loan guarantees is a matter of substantial importance in the Communist world where hard-currency shortages restrict the ability to purchase Western goods and technologies (see below and chapter III). The high level of Soviet borrowing before the cutoff of Eximbank credit in 1974 (see chapter VII) suggests that the impact of this policy was felt strongly in the U.S.S.R. China's modernization plans will require substantial use of Western credit (see chapter XI) and the PRC is obviously anxious to take advantage of credits in the United States. Again, extension of Eximbank and other official credits to the PRC and not to the U.S.S.R. could have serious foreign policy repercussions. As noted above, restrictions on official credits to most Communist nations are already as stringent as possible. Further contraction would require legislation covering the extension of U.S. private commercial credits to the Communist world.

Attempt to limit as far as possible the foreign availability of technologies that appear only on the U.S. export control lists.

One way of accomplishing this is through present U.S. policy requiring reexport licenses for technologies originally developed in the United States, sold to a CoCom member, and subsequently shipped to a controlled country. Under this rule, West European and Japanese businessmen obtain both

U.S. and CoCom licenses for such shipments. The United States is the only CoCom member to impose this kind of control, and its existence conveys an impression that the United States lacks confidence in the CoCom mechanism. But such a policy obviously has no impact on the availability of technologies not of U.S. origin. Efforts to limit such sales through diplomatic efforts outside of CoCom have met with limited success (see chapters VIII and IX). It may be possible to undertake bilateral or multilateral agreements with OECD nations with conservative governments if these nations can be persuaded to reverse the trend of European and Japanese trade policy and entertain more restrictive export programs.

Attempt to strengthen CoCom by recognizing the organization through treaty; increasing policing of CoCom decisions, and/or formalizing sanctions to be used against transgressors in member nations; or expanding the CoCom list to more closely conform to the U.S. Commodity Control List (CCL).

There is every indication that, at present, suggestions for a longer list, more stringent policing or the imposition of sanctions in CoCom would be strenuously resisted by some members. Attempts to strengthen the organization would probably better prosper through the continuation of quiet, informal, high-level negotiations. Only given a different international climate and a broad change in U.S. foreign policy, might the United States be able to persuade its allies to alter their policies on East-West trade. If, for instance, the United States entirely abandoned detente and adopted a clearly confrontational policy with respect to the Soviet Union, parties and individuals in other Western governments more sympathetic to a strengthened CoCom might be expected to grow in influence.

Curtail the transfer of information through academic and scientific exchange programs by controlling the subject matter and/or facilities to which visiting scientists and scholars are admitted.

It has frequently been charged that academic and scientific exchanges are an important and relatively unmonitored and uncontrolled source of technology transfer. A consistent attempt to restrict the flow of potentially strategic information to the East would have to include careful supervision of this channel, at least as it allows visits from high-level technicians in strategic areas. This might amount to the determination that the potential danger to the national security of the United States of such visits

outweighs the political, scientific, and cultural benefits which accrue from exchange programs. It must be pointed out, however, that many regard these passive mechanisms of transfer as far less likely to result in the ability to absorb, diffuse, and improve on a technology than are other commercial channels. Moreover, even those who see such exchanges as important channels of technology transfer are often reluctant to impose any requirements on the institutions involved for fear of violating academic freedom. In this sense, there may be something of a double standard in regard to the constraints placed on academic versus commercial exchange activities. Proposals to require company reporting of commercial exchange agreements have received more widespread support.

POLICIES DESIGNED TO ENCOURAGE EAST-WEST TRADE AND TECHNOLOGY TRANSFER

The special role of technology in East-West trading relationships is difficult to define. It is theoretically possible to increase trade volumes without increasing trade in high technology, but this opportunity is ultimately limited by the fact that without some increase in technological sophistication, the Eastern trading partners will be unable to improve their capacity for earning hard currency. Moreover, it is often impossible to decouple sales of technology from sales of products in the corporate strategies of many U.S. firms (see chapter III).

Policies oriented toward expanding and encouraging U.S. trade with the East fall into two categories: 1) measures designed to change the trade/security balance in the direction of increased trade in technology by relaxing some of the current restrictions inherent in the licensing regulations, and 2) measures designed to increase the overall level of U.S. exports to the East. Most of the latter are indistinguishable from the family of suggestions that have been made for generally improving the U.S. export enterprise.

Many elements of the U.S. business community have pressed anxiously for a relaxation of those regulations restricting U.S. technology trade with the East which, in their view, put them in a position of disadvantage vis-a-vis European and Japanese competitors. Further steps to encourage the transfer of U.S. technology would inevitably risk repercussions on U.S. national security, while more general trade policies aimed at products rather than technology entail lesser risks.

It must be recognized, however, that there is little likelihood that even complete removal of political barriers would lead to vastly increased trade between East and West. Such trade is now limited primarily by a shortage of hard currency in the Communist world. While increasing the availability of debt financing can provide short-term gains, the only long-term gains likely to be achieved must be the result of an increased ability of Eastern nations to export. Promoting trade, therefore, must ultimately lead to a promotion of the strength of the trading partner.

This imposes commercial risks in any trading relationship, since there is a danger that a strengthened trading partner will begin to replace U.S. exports with domestic production and possibly begin exporting into third nations that currently purchase U.S. goods. In the case of Communist nations, there is the additional risk that a strengthened economy will inevitably lead to increased military prowess.

The following policies aimed at the expansion of U.S. trade with the Communist world must be considered in light of these caveats, and the potential benefits accruing in the U.S. economy must be weighed against them.

Expand export financing.

Given the chronic hard-currency shortages in the East, access to Eximbank and Commodity Credit Corporation guarantees and credits is probably the single most important factor in significant expansion of overall levels of U.S. trade with the East.

The United States ranks fifth behind West Germany, France, Japan, and the United Kingdom as a supplier of official credits to the Communist world. In 1977, West Germany extended nearly eight times

more export credit to the East than did the United States, France over seven times, and Japan about five times. While no quantitative estimates of the impact of this situation on overall trade volume are available, many U.S. exporters contend that it puts them at a serious competitive disadvantage vis-a-vis other OECD nations. There are indications, for instance, that the availability of credit is an important reason for multinational corporations' preferring to handle their Eastern transactions through European subsidiaries.

Although purchases of U.S. technology would almost certainly increase with the availability of credits, a program to expand credit in the East might be targeted at financing for "nonstrategic" commodities such as grain. Credit expansion would require both raising the ceilings on available credit, and also eliminating barriers to financing exports to the East posed by the Trade Act of 1974. Congress might, for instance, make financing equally available to all countries with which it is U.S. policy to encourage trade, subjecting the policy to periodic review for individual nations. The availability of Government credits would be attractive to those Eastern nations in which borrowing has risen dramatically in recent years, but which are still considered good credit risks in the West (see chapter III).

Grant MFN to countries not presently enjoying it.

Amending the Trade Act to allow nondiscriminatory trade treatment for Communist countries not presently receiving it would also have an impact on levels of U.S. trade with the East. However, at least in the short run, these increases would not materially affect the U.S. balance of trade—either in terms of flooding the United States with Communist imports or of significantly increasing the prospects for U.S. exports. In order to purchase goods and technologies from the West, Eastern nations must earn hard currency through their own exports (see chapter III). Nondiscriminatory tariff



Photo credit U S Department of Commerce

**Former Secretary of Commerce Juanita Kreps in China
for U.S.-PRC trade negotiations**

levels, by encouraging import of Eastern goods in the West, can thus indirectly affect the volume of Eastern purchases.

A number of factors determine the extent to which levels of trade with individual nations can be increased through the granting of MFN. Foremost among these is the commodity composition of the exports. The extension of MFN does not result in a uniform reduction of tariffs. Under the existing Hawley-Smoot tariff scheme, tariffs on some items are more severe than on others; further, negotiations over the years have resulted in differing rates of relaxation, and the granting of MFN leads to considerable variation in tariff reductions. For example, the Soviet Union is predominantly an exporter of raw materials which at present have relatively low tariffs. Czechoslovakia, on the other hand, is an exporter of light manufactured products on which high tariffs are levied. From a purely commercial point of view, extension of MFN would affect Czechoslovakian exports relatively more, although MFN retains a great symbolic value to the U.S.S.R.

In 1977, the U.S. Department of Commerce estimated that the extension of MFN to the two largest Communist economies, the U.S.S.R. and the PRC, would result in a very modest increase in U.S. imports from those countries—together in the \$30 million to \$40 million range. This may be contrasted with the expected \$50 million increase resulting from recent MFN extension to Hungary. Extension of MFN to Czechoslovakia and East Germany if accompanied by concurrent normalization of commercial relations could increase imports from those countries by as much as \$200 million in the absence of other, nontariff barriers. And MFN extension to all other Communist nations could mean an increase in imports from those countries of between \$200 million and \$225 million. This figure would represent less than 0.2 percent of total U.S. merchandise imports in 1977.

These figures are based on the assumption that volume of U.S. trade with the East and

its commodity composition remain static. However, long-term effects could be significantly greater. To the extent that the removal of political barriers fosters familiarity both with U.S. markets and with U.S. producers, U.S. imports from the East and consequent U.S. export potential may be improved in the future. Eastern nations will not only earn hard currency through their sales; MFN agreements create legal and financial structures under which commercial interaction can be carried out more efficiently and with more certainty for U.S. entrepreneurs. In this regard U.S. business operates at a disadvantage vis-a-vis West European and Japanese firms in marketing products in the East.

Owing to relatively late normalization of trading relations with the East, however, U.S. business may be at a permanent disadvantage with its OECD competitors in Eastern markets, even if MFN is extended in the near future. Moreover, a note of caution is warranted: while such background agreements are a necessary condition for greater U.S. exports, they are not sufficient. Expectations regarding significant increases in Romanian purchases in the United States since extension of MFN in 1975, for example, have not materialized. The entire trade climate, including availability of credit and level of export controls, must be taken into account when projecting the possible impacts of MFN extension.

Restrict the President's ability to impose trade restrictions for reasons of foreign policy.

A proposal recently adopted by Congress requires that the President stipulate that reasonable efforts had been made to achieve foreign policy objects through other instruments than trade before the leverage of trade restrictions could be exercised. In addition, some have argued that Congress also be empowered to overrule such prohibitions by concurrent resolution. The enactment of such a regulation would have some effect in reducing the uncertainties inherent in the

potential use of trade for foreign policy purposes. The uncertainties would not be entirely removed, however, since in many cases Congress could be expected to concur with the President. Moreover, restrictions on the President's freedom to use trade in this way could, in some circumstances, dilute the admittedly weak leverage now available to the United States.

Bring the U.S. CCL into closer conformity with the CoCom list and/or "index" the list to allow for automatic removal of obsolete or out-of-date technologies.

It is argued that U.S. producers are uniquely disadvantaged by the fact that the U.S. CCL is more restrictive than those maintained in other CoCom nations. At the heart of this issue is the question of whether the United States because of its technical strengths has a special responsibility for restricting categories of products beyond the CoCom list. While the perception (and the reality) of broad U.S. technological leadership has changed during the last decade, the United States does retain some supremacy in certain military technologies and therefore a special responsibility for safeguarding them. Whether this special responsibility is fairly represented in the U.S. export list has become a matter of contention.

A less comprehensive means of scaling down the CCL is to index it, i.e., to require annual updates on the performance levels of goods and technologies and the automatic removal of items that fall below these levels. There is obviously a range of standards by which such levels might be set. Items removed from the list because they are obsolete in terms of the Western state-of-the-art might still significantly improve existing military capabilities in the East. Other standards, based perhaps on levels already sold to or developed in the East, might involve less chance of this, but any automatic alteration of CCL entails the danger of eliminating items of potential military significance.

Alter the present export-licensing system so that it more closely resembles those of other CoCom nations.

Descriptions of the export-licensing systems of West Germany, France, the United Kingdom, and Japan (see chapter IX) reveal significantly more informal consultation between industry and Government over license applications than in the United States. In many cases this includes prior consultation which permits firms to know the disposition of their cases before applications are actually submitted.

Unquestionably, U.S. export-licensing procedures are universally regarded as the most time-consuming, rigorous, and uncertain of all CoCom nations. To the extent that delays or denials of licenses result in loss of contracts or deter Eastern countries from seeking out U.S. suppliers or U.S. firms from actively pursuing business in the East, this may have an impact on U.S. market shares in existing East-West trade. It is unlikely, however, that the relaxation of these controls would have much effect on increasing overall trade volume without concurrent alteration of credit and tariff policy in the United States and increase in export capabilities in the East (see chapter III). Moreover, the licensing systems in Europe and Japan reflect judgments on East-West trade and national security that have not been shared by U.S. policymakers. They also reflect close and consensual business-Government relationships that are not typical of private and public sector relations in the United States. It is unlikely that U.S. institutions would readily lend themselves to procedures which are predicated on such consensual relationships.

Create a single Government agency charged with advancing U.S. trading interests.

Proposals have been made for establishing a Department of Trade incorporating a variety of trade-related Government activities. Alternatively, the existing Office of the

Special Trade Representative in the White House could be established as a permanent organization and enlarged to embrace trade policy coordination and trade negotiations with the East.

The United States has no concerted, coordinated policy on East-West trade. The development of such a policy would be welcomed in many quarters of the Government and business communities. Proponents of a Trade Department argue that it could help to counter activities of organizations in other nations where the interests of business and Government are more closely tied than is the case in the United States. Japan, where trade-related ministries work very closely with private industry, is an extreme example. Whether such a system is either appropriate to or even possible in the United States is open to question, and a complete analysis of the issue is beyond the scope of the present study. Objections may be expected to the creation of a new bureaucracy, especially if this is not accompanied by conscious formulation of coherent and internally consistent aims in East-West and other world trade.

Relax antitrust restrictions inhibiting consortia of U.S. industries organized for export.

Present antitrust law is vague and has sometimes been narrowly interpreted as it applies to the cooperative activities of U.S. firms abroad. Revision to allow various export trade associations, trading companies, etc., could help U.S. firms to compete with Japanese trading companies and European bidding consortia, without precluding the possibility of penalties for impeding fair competition.

Increase participation and improve performance of overseas Government personnel in fostering U.S. exports.

American businessmen have charged that, unlike their Western European and Japanese counterparts, U.S. embassies do little if anything to further U.S. commercial interests abroad. Redefinition of the responsibilities of commercial attaches or other State Department personnel to explicitly include active support for businessmen attempting to conclude foreign contracts (so long as such aid does not discriminate among U.S. firms) would help to eliminate some of the competitive edge presently enjoyed by firms in other nations. If it is felt that such activities are inappropriate for existing embassy staff, new export-related offices could be created in appropriate countries.

Bolster the U.S. R&D enterprise.

All other things being equal, trade with the East will benefit from the same kinds of measures that promote U.S. foreign trade in general. Moreover, regardless of whether East-West trade in technology expands or contracts, the best way to ensure continued U.S. superiority in technology is to maintain a vigorous program of Federal and private R&D projects. Attempts to control the export of technology can be effective only up to a point. It would be foolhardy to rely entirely on such controls to maintain a position of relative technical strength. Investigation of all the actions that could be taken to strengthen the R&D enterprise in the United States would require a much lengthier analysis than can be conducted here. Several proposals for mitigating certain perceived barriers to expansion of U.S. R&D and for providing incentives for accelerated R&D are listed in table 1.

Table 1.—Recommendations for Bolstering the U.S. R&D Enterprise

Amelioration of disincentives	Establishment of incentives
<ul style="list-style-type: none"> • Modification of antitrust regulations to permit easier pooling of research efforts for environmental improvements. • Institution of a uniform patent and licensing policy for Government-sponsored research. • Passage of legislation controlling third-party product liability litigation. • Partial stabilization of raw material costs by stockpiles, trade agreements, and long-term national planning. • Modification of Government regulations to make them less expensive and time-consuming, while still achieving the desired goals. • Continuation of the effort to strengthen the present patent system. • Development of better integration of antitrust laws and patent laws. • Extension of the life of a patent beyond 17 years, possibly for a period of 10 to 15 years after final Government approval, if long-term testing is required for Government approval, or other factors delay commercialization. 	<ul style="list-style-type: none"> • Greater than 100-percent deductibility of research expenses from taxable income. • Grants-in-aid for cost of new research facilities and/or equipment. • Tax credits (possibly at the rate of 80 percent) for increases in industrial R&D over base-period expenditures. • Exclusions from taxable income or part of any royalty received from the export of technology. • Accelerated depreciation allowances for research facilities and equipment. • Long-term low-interest loans for high-risk R&D. • Cash grants repayable only from successful projects for high-risk R&D. • Inclusion of R&D expenses under the 10-percent investment tax credit provision. • Initiation of a technological depletion allowance program. • Deduction (or accelerated depreciation) of the cost of new technology or patents. • Special, low capital gains taxation for small businesses engaged in R&D. • Institution of an option for small businesses to capitalize their research expenses. • Direct deduction from Federal income taxes of all expenses incurred in the performance of research associated with Federal regulations. This deduction can be prorated, at 80 percent for example, so that the Federal Government and companies can share the expenditures roughly in proportion to the direct benefits obtained from the research. • Increase of Federal support of basic research in universities to compensate for decreased basic research in industries. • Encouragement of cooperative research between universities and private industries.

SOURCE: The American Chemical Society, *U.S. Chemical and Engineering News*, Apr. 30, 1979