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EXPORT CONTROL OF COMMERCIAL GOODS AND TECHNOLOGY

STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL
FINANCE & MONETARY POLICY
SENATE COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS

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Mr. Chairman and Members of the Subcommittee

Under the Export Administration Act of 1979, as amended, the U.S. government controls exports of commercial goods and technology that could also be used for military or nuclear purposes. Controls over the export of militarily critical items are an important contribution to U.S. national security. Under the Act, the Secretary of Commerce administers the control system and issues export licenses, but certain kinds of export control licenses are reviewed by such other agencies as the Departments of Defense and State. Export licenses are also required for many subsequent reexports of controlled products to third countries.

The United States controls exports to proscribed destinations, primarily the Soviet Bloc, in cooperation with our NATO allies and Japan. The informal multilateral organization through which these control efforts are coordinated is called COCOM (The Coordinating Committee for Multilateral Export Controls). This multilateral effort is essential to effective control because most of what we try to control is available from other COCOM members.

U.S. export licensing requirements are stricter than those of other countries and increasingly less effective because of the growing availability of comparable products from developed countries and from newly industrializing countries, such as South Korea and Brazil, who are outside the COCOM system. Exporters are particularly concerned with the large volume of exports that require licenses; the complexity of the regulations and the time required to obtain export licenses; licensing requirements for reexport of U.S.-goods, including parts and components; and foreign availability of goods and technologies subject to U.S. export controls. They fear that sales may be lost and the incentive for U.S. companies to develop new products and technology lessened. A recent National Academy of Sciences report found that, while controls do hamper Soviet acquisition of sensitive goods, they also have an increasingly corrosive effect on U.S. relations with other countries and make it harder for U.S. businesses to compete in the international arena. In addition to the concerns over national security controls, the use of export controls for foreign policy purposes is viewed by U.S. exporters as causing concern about the reliability of the United States as a trading partner. Such controls also adversely affect U.S. firms' investments in the targeted countries.

In several reviews of various aspects of the export control program, we concluded:

-- The list of controlled items and the number of required licenses is too large. Almost half the export license applications received each year could be eliminated without affecting national security. There is also potential for further reducing license requirements for exports to countries who cooperate with the U.S. in controlling exports to the Soviet Bloc.[1]

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[1]Export Control Regulation Could be Reduced Without Affecting National Security (GAO/ID-82-14) May 26, 1982.

-- In 1985, (when the Defense Department began its review of selected free world license applications), the Commerce Department approved licenses in about two-thirds of the cases for which Defense recommended denial. Defense generally based its denial recommendations on general concerns and did not have specific adverse information with respect to individual license applications to support its denial recommendations. Basically, Defense and Commerce differed with respect to policy issues.[2]

-- Controls imposed for foreign policy reasons are largely symbolic. Under these circumstances, even the availability of comparable products from other countries does not limit the imposition and maintenance of foreign policy controls. Consequently, the costs of symbolic controls are borne by American businesses in the form of export sales lost to firms in other countries that continue to export to the country that is the target of the controls.[3]

CURRENT GAO WORK

Currently our work on export controls covers such matters as:

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[2]Export Licensing: Commerce-Defense Review of Applications to Certain Free World Nations (GAO/NSIAD-86-169) Sept. 16, 1986.

[3]Export Controls: Assessment of Commerce Department's Foreign Policy Report to Congress (GAO/NSIAD-86-172) Aug. 19, 1986.

-- Export and import provisions of the Libyan Sanctions Program.

-- Defense Department's implementation of and current issues relating to the militarily critical technologies approach.

-- Implementation of the 1985 foreign availability statutory provisions relating to export controls. In recent testimony we reported the following preliminary findings:

  - The 1985 amendments were driven by congressional interest in reducing the number of products and related technologies subject to export controls. This has not occurred.
  - It has taken Commerce considerably longer than it originally envisioned to complete foreign availability assessments, due to difficulties in reaching agreement with Defense and developing the information to assess foreign availability.
  - There are apparently various policy and coordination problems between Commerce and Defense involving the sharing of information, the evidence required to support a determination of foreign availability, and the lack of an expeditious approach to resolving differences over what the evidence means.
  - There have been very few requests for foreign availability determinations from U.S. firms and technical advisory committees. Technical advisory committees, each typically including government members

from a number of agencies and members of firms that are engaged in working with the technology in question, assist Commerce in administering export controls.

- U.S. multilateral control commitments need to be considered in the foreign availability process.

-- And lastly, with respect to foreign policy controls, as you know Mr. Chairman the Export Administration Act, as amended requires that the Secretary of Commerce may impose, expand, or extend export controls for foreign policy purposes only if he first (1) consults with Congress, (2) makes certain determinations regarding the impact, significance, and effectiveness of proposed controls, and (3) reports to the Congress. The Act also requires the GAO to assess the Secretary's report to the Congress to ensure that it has fully complied with the statutory reporting requirements. We are currently making an assessment of Commerce's foreign policy report to the Congress that extends with one exception, the foreign policy export controls in place as of January 20, 1987. The controls on exports to the Soviet Union of oil and gas equipment and technology are not being extended.

Mr. Chairman this concludes my statement. I will be happy to answer any questions you may have.