

disposal, sanitation in food plants, and food and drug control in California.

Prior to joining the Canners League in March of 1969, Mr. Bell served as a food and drug sanitarian with the Arkansas State Board of Health, as assistant to the executive vice president of the National Canners Association, and as chief of the California Department of Public Health's Bureau of Food and Drug.

Under his leadership, the league has grown substantially in its membership and influence. Soon after taking over as chief executive officer of the league, Mr. Bell merged it with the California Olive Association and began expanding its membership to the point where, today, it speaks for the vast majority of California fruit and vegetable canners. In addition, through its newly established affiliate and associate memberships, the league is also the spokesman for a large segment of the suppliers to the industry and processors of other kinds of food products.

In 1971 Mr. Bell greatly increased the effectiveness of the league's work with the legislature and the numerous State government regulatory agencies that the canning industry must deal with by moving the association's office from San Francisco to Sacramento, California's State capital.

In his private life, he is a member of the Masonic Order, including the Scottish Rite and Shrine, is active in church and local civic affairs, and is known as a worthy opponent on the tennis courts.

Canning industry members join the California congressional delegation in wishing Mr. Bell well in his retirement. ●

EXPORT CONTROLS FOR FOREIGN POLICY PURPOSES UNDER THE EXPORT ADMINISTRATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, for the benefit of my colleagues, the U.S. export community, and the general public, I place in the RECORD at this point the President's notification to the Congress of his renewal of export controls for foreign policy purposes for 1980, together with an enumeration of those controls (enclosure 1) and the rationale for the extension of each control (enclosure 2). This notification is required by the Export Administration Act of 1979.

Previous legislation granted the President unlimited discretion to control exports for foreign policy purposes. One of the purposes of new legislation I introduced last year was to remedy that deficiency by providing standards to govern the use of such controls.

The Export Administration Act of 1979 provides that all foreign policy controls will expire at the end of each calendar year unless renewed. The President must notify Congress of the annual renewal of each control, justify the renewal in terms of six criteria specified in the act, and report on any efforts to achieve the purposes of the control by other means. The

six criteria, provided in section 6(b), are as follows:

First, the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

Second, the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall U.S. policy toward the country which is the proposed target of the controls;

Third, the reaction of other countries to the imposition or expansion of such export controls by the United States;

Fourth, the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual U.S. companies and their employees and communities, including the effects of the controls on existing contracts;

Fifth, the ability of the United States to enforce the proposed controls effectively; and

Sixth, the foreign policy consequences of not imposing controls.

THE WHITE HOUSE,
Washington, December 29, 1979.

HON. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: In accordance with the authority contained in section 6 of the Export Administration Act of 1979 (Public Law 96-72 of September 29, 1979; hereinafter "the Act"), I hereby extend export controls maintained for foreign policy purposes as specified in Enclosure 1. In accordance with section 6(e) of the Act I hereby notify Congress of this extension.

I am also submitting, as Enclosure 2, my conclusions with respect to: the criteria set forth in section 6(b) of the Act; the nature and result of alternative means attempted to achieve the purposes of these controls or the reasons for extending them without attempting any such alternative means; and the ways in which such controls will further significantly * * * the foreign policy of the United States or will further its declared international obligations.

Pursuant to section 6(k) of the Act, the countries and the goods and technologies listed in Enclosure 1 will be clearly identified in Export Administration Regulations published in the *Federal Register* as being subject to export controls for foreign policy purposes.

With reference to section 4(c) of the Act, adequate evidence has been presented demonstrating that, notwithstanding foreign availability, the absence of these controls would prove detrimental to the foreign policy of the United States.

Revisions of the regulations are being issued with an effective date of January 1, 1980, to comply with section 6(a)(2). They will be reissued in final form later in 1980, in order to take into consideration public comments received pursuant to section 13(b) of the Act.

Sincerely,

JIMMY CARTER.

The result of these provisions is that we now have, for the first time, a public enumeration of and rationale for the foreign policy controls applied by this coun-

try. Guidance is provided for the business community on the criteria governing license approval and denial. Effects of the controls on U.S. exports are specified insofar as possible.

I believe this annual exercise is a most salutary development and a good example of the kind of thing we were trying to encourage with the new act.

Of course, this notification does not take into account new controls imposed on the Soviet Union after January 1, because of the invasion of Afghanistan, but is of all the more interest in light of that development and the economic decisions we must now make in response.

ENCLOSURE 1

EXPORT CONTROLS FOR FOREIGN POLICY PURPOSES EXTENDED FOR THE PERIOD JANUARY 1 THROUGH DECEMBER 31, 1980

I. All countries except members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand:

A. A validated license is required for the export of crime control and detection instruments, equipment, and related technical data.

B. Applications for validated export licenses will generally be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

II. South Africa and Namibia only:

A. A validated license is required for the export of:

1. All U.S.-origin commodities and technical data for military and police entities;

2. Aircraft and helicopters and items controlled pursuant to the South African arms embargo for all consignees; and

3. Computers for government consignees exceeding performance levels permitted for shipment at national discretion under multilaterally agreed security export controls.

B. Applications for validated export licenses will:

1. Be denied for military or police entities except, on a case-by-case basis, for medicines, medical supplies, and medical equipment not primarily destined to military or police entities or for their use; and

2. Generally be considered favorably on a case-by-case basis for:

a. Aircraft and helicopters for which adequate written assurances have been obtained against military, paramilitary, or police use; and

b. Computers which would not be used to support the South African policy of apartheid.

III. Libya, Iraq, People's Democratic Republic of Yemen, and Syria only:

A. A validated license is required for the export of aircraft valued at \$3 million or more and helicopters over 10,000 pounds empty weight.

B. Applications for validated export licenses will generally be considered favorably on a case-by-case basis for such aircraft and helicopters for civil use if issuance of the licenses would be consistent with the policies set forth in subsections 3(4), 3(8), and 3(10) of the Act and subject to the requirement in subsection 6(i) of the Act to notify Congressional committees.

IV. Libya only:

A. A validated license is required for off-highway wheel tractors of carriage capacity of 10 tons or more.

B. Applications for validated export licenses will generally be considered favorably

on a case-by-case basis for such tractors in reasonable quantities if for civil use, such as transportation of oil field equipment.

V. North Korea, Vietnam, Kampuchea, and Cuba only:

A. A validated license is required for all commodities and technical data except:

1. Technical data generally available to the public and educational materials;
2. Personal baggage, crew baggage, vessels and aircraft on temporary sojourn, ship stores, and plane stores;
3. Foreign-origin items in transit through the United States;
4. Shipments for U.S. Government personnel and agencies; and
5. Gift parcels not exceeding \$200 of commodities such as food, clothing (non-military), and medicines.

B. Applications for validated licenses will generally be denied. Exports on a non-commercial basis to meet emergency needs will be considered on a case-by-case basis.

VI. USSR only:

A validated license is required for the export of petroleum equipment.

VII. All countries:

A. A validated license is required for the export of the following commodities and related technical data:

1. Commodities which could be of significance for nuclear explosive purposes; and
2. Any commodities which the exporter knows or has reason to know will be used directly or indirectly for:
 - a. Designing, developing, or fabricating nuclear weapons or nuclear explosive devices;
 - b. Devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;
 - c. Designing, constructing, fabricating, or operating the following facilities or components for such facilities:
 - i. Facilities for the chemical processing of irradiated special nuclear or source material;
 - ii. Facilities for the production of heavy water;
 - iii. Facilities for the separation of isotopes of source and special nuclear material; or
 - iv. Facilities for the fabrication of nuclear reactor fuel containing plutonium.

B. In reviewing applications for validated licenses pursuant to sub-paragraph VII A above, the following considerations are among those which will be taken into account:

1. The stated end-use of the component;
2. The sensitivity of the particular component and its availability elsewhere;
3. The types of assurances or guarantees given in the particular case; and
4. The non-proliferation credentials of the recipient country.

ENCLOSURE 2

CONCLUSIONS WITH RESPECT TO CRITERIA, ALTERNATIVE MEANS, AND FURTHERANCE OF FOREIGN POLICY OR INTERNATIONAL OBLIGATIONS

I. CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT

These controls continue in effect pursuant to section 6(j) of the Act.

No country has been formally determined to have a government engaging in a consistent pattern of gross violations of internationally recognized human rights. Therefore, except for the embargoes on North Korea, Vietnam, Kampuchea, Cuba, and the South African police and military, the validated license requirement for these items does not constitute a presumption that an application for such a license would be denied. However, where a consistent pattern of such violations appears to be developing, either positive or negative use of export controls might help to deter such development.

II. SOUTH AFRICA AND NAMIBIA

Prohibition of the export of virtually all items to military and police entities and controls on the export of aircraft and helicopters to all consignees and on the export of specified computers to government consignees are intended to distance the United States from the practice of apartheid, strengthen the effect of the United Nations arms embargo, and support racial justice throughout Africa.

There has been no movement toward fundamental social and political change in South Africa. Not extending controls would adversely affect the credibility of our South African policy in the minds of both the South African Government and black African nations.

The United States has attempted to influence the South African Government through public expressions of dissatisfaction with its social and political systems and reduction of diplomatic and other relationships. These other means have been insufficient to serve as an adequate alternative to export controls.

Regarding enforcement, it is recognized that it is extremely difficult, if not impossible, to prevent the South African military and police from acquiring U.S. goods indirectly. On the other hand, we believe that U.S. firms have been conscientious in complying with the controls. Foreign firms with no U.S. ties are probably less zealous in adhering to U.S. regulations, especially for items exported to them under general license and for U.S. components or technology incorporated in foreign manufactured products.

Most types of equipment and technology affected by the controls are available from foreign sources. However, Australia recently restricted sales of aircraft to South Africa.

The effects of the controls on U.S. exports can be only roughly estimated. Factors other than export controls affect the overall export picture.

In general terms, the U.S. share of the South African market dropped from 13 percent in 1977 to 11 percent in 1978. If the 13 percent share had been maintained, U.S. exports would have been \$400 million higher in 1978. In 1977 the United States had the largest market share; in 1978 the United Kingdom and Germany had larger shares. Significant decreases in U.S. market shares occurred from 1977 to 1978 in pharmaceuticals, tires, chemicals, trucks, locomotives, motor vehicle components, and computers. For the first five months of 1979 the U.S. share of the market had recovered to 12.8 percent. There have been substantial U.S. sales since May.

Although it is difficult to determine whether losses are the result of the embargo or of other factors, examples reported by individual U.S. firms include the following:

Loss to a Japanese firm of a \$45 million order for a commodity for which previous orders alternated between U.S. and German suppliers;

Inability of a U.S. company to provide technical data to its South African subsidiary, which resulted in the loss of \$1 million in annual royalty payments and ultimately led to divestiture of the subsidiary;

Loss to a British firm which stresses U.S. export controls in its marketing efforts of three contracts for about \$10 million and of estimated follow-on sales of about \$26 million;

Placement with a non-U.S. firm of a \$50 million order by a South African company which had previously purchased exclusively from U.S. companies;

Sourcing by a U.S. project manager of \$500 million worth of contracts in 1979 without U.S. participation;

Damage to reputation as a reliable supplier because of inability to supply parts and servicing for previously sold equipment;

Loss of exports because of the difficulty of determining whether an insignificant portion might reach the military or police; and

Additional administrative expenditures in order to comply with U.S. regulations while attempting to meet existing contractual and servicing agreements.

III. TERRORISM

The listing of Libya, Iraq, People's Democratic Republic of Yemen, and Syria in the heading of part III of Enclosure 1 of this notification constitutes the determination, pursuant to subsection 6(i)(1) of the Act, as to which countries have repeatedly provided support for acts of international terrorism.

Exports to these countries of crime control and detection instruments and equipment (which include vehicles designed to military specifications), aircraft valued at \$3 million or more, and helicopters over 10,000 pounds empty weight are controlled pursuant to section 6(i) of the Act.

Syria and Iraq have not made major purchases of U.S. aircraft since 1976. The People's Democratic Republic of Yemen trades largely with the USSR and exports of aircraft to that nation have been minimal. Libya, however, has the potential to continue to be a significant market for U.S. aircraft and helicopter manufacturers.

Controls on the export to these countries of U.S.-origin aircraft valued at \$3 million or more and helicopters over 10,000 pounds can be effectively enforced.

Large transport aircraft are available from French, German, and British companies as well as from the Soviet Union. Helicopters are produced by the same countries, as well as by Israel and Japan.

Examples of consequences attributed to these controls by individual U.S. firms include the following:

U.S. helicopter manufacturers report that they have not pursued inquiries from or marketing efforts in these four countries because of the uncertainties caused by the U.S. controls; and

A major U.S. aircraft manufacturer may lose a \$186 million sale of aircraft to Libya because of the application of this control.

IV. LIBYA

Controls on the export to Libya of large tractors further the foreign policy objective of regional stability and are consistent with our policy on military sales to that country. Libyan troops have been directly involved in three countries in the past year (Chad, Uganda, and the Central African Republic) and are on a high state of alert along the border with Egypt, where a brief border war broke out in 1977.

Large tractors could be used to transport tanks and other outsized military vehicles, thereby enhancing the mobility of Libya's sizable armored force.

This type of vehicle is available from foreign suppliers in adequate quantities to serve the Libyan market. However, U.S. controls prevent an American contribution to Libyan military activity.

Controls of sales of off-highway tractors of carriage capacity of 10 tons or more can be effectively enforced.

Discontinuation of the controls would be seen by other friendly countries as a United States contribution to strengthening Libyan capability to mount hostile actions along its borders.

The controls supplement other means designed to influence Libyan behavior, including numerous demarches on issues such as Libyan activity in Uganda. There are very few alternative means available to the United States. For example, Libya has no

need for U.S. economic or military assistance.

In 1977 the U.S. exported to Libya 330 vehicles of this type with a value of \$7.1 million; these figures dropped in 1978 to 14 vehicles at \$0.3 million. A sale of about \$60 million was lost to a foreign firm in 1978. Industry representatives estimate a potential Libyan market of about \$50 million. There is also some indirect adverse effect on exports to other markets.

V. EMBARGOES OF COMMUNIST COUNTRIES

The embargoes on exports to North Korea, Vietnam, Kampuchea, and Cuba are administered not only under the Export Administration Act but also under the Trading With the Enemy Act. The latter authority continues by virtue of sections 101(b) and (c) and 207 of Public Law 95-223, and has been extended twice pursuant to national interest determinations, the most recent being from September 14, 1979, to September 14, 1980.

These embargoes were originally imposed for security reasons. During the Korean conflict we imposed an embargo against North Korea. During the Vietnam war we embargoed trade with communist controlled portions of that country and, when the communists took over complete control in 1975, this embargo was extended to all of Vietnam and to Kampuchea. The embargo against Cuba came at a time when Cuban actions presented a serious threat in the Western hemisphere.

The circumstances which prompted imposition of these embargoes have changed over the years. However, it would be irresponsible to discard them on that basis alone. Ending a virtually total embargo is a dramatic action with significant policy ramifications.

North Korea is still technically in a state of war with the United States, the Republic of Korea, and the United Nations. It is expanding its offensive military and subversive potential and suppressing human rights. It recently rejected U.S. overtures for tripartite discussions on ways to ease tensions on the Korean peninsula.

In the case of Vietnam, we announced our willingness some time ago to end the embargo at such time as normal diplomatic relations are established and Ambassadors are in place. Subsequent Vietnamese invasion and occupation of Kampuchea have blocked progress.

Controls on exports to Kampuchea should be similar to those affecting Vietnam, particularly in light of the present occupation. The United States is making a major exception to the embargo of Kampuchea in the form of humanitarian aid to the people.

Full normalization of trade and diplomatic relations with Cuba hinges upon Cuban willingness to address, among other issues, restraint in other countries and compensation for American citizens whose property was expropriated by the Cuban Government.

The controls on North Korea, Vietnam, Kampuchea and Cuba are understood and generally supported by the public, so there is little difficulty in enforcing them.

Other countries are not formally cooperating with the United States in these embargoes. However, third country exports to North Korea are minimal because that country is in default on its international trade payments, there is very little trade of any kind with Kampuchea, and Vietnam and Cuba now largely orient their former trade with the United States toward the USSR.

All of the OECD countries combined exported only \$435 million to Vietnam in 1977. Even without the embargo, the Vietnamese would probably have turned elsewhere whenever possible, buying from the United States only when it was in their particular interest to do so. The most notable loss has been the replacement of U.S. firms by European

firms in oil and gas exploration activities in and offshore Vietnam.

In 1959, U.S. firms supplied 64 percent of Cuba's total imports. If the embargo were lifted, the USSR would probably continue to be Cuba's major trade partner, but U.S. exporters, with the advantage of proximity, could be expected to replace some Japanese, Canadian, and European firms currently exporting to Cuba.

In aggregate value, U.S. exports to Cuba would likely not exceed \$300 million annually over the medium term and would probably reach no more than \$100-150 million in the first year if trade were resumed.

Because Cuba does not represent a substantial incremental market for any specific U.S. industries, the embargo has not retarded the ability of any U.S. economic sectors to compete in world trade. Exporting to Cuba would not, therefore, substantially raise production levels or efficiency in any industries.

VI. PETROLEUM EQUIPMENT TO THE USSR

The control on the export of petroleum equipment to the USSR provides a flexible foreign policy tool. When necessary and appropriate it can be used to sensitize the Soviets regarding actions which are damaging to United States foreign policy interest.

The United States supports the improvement of bilateral economic relations with the Soviet Union as an element in our effort to improve overall relations. At the same time it is recognized that improvement in one sector of the bilateral relationship cannot be long sustained if it is not accompanied by improvements in other areas. Discontinuation of this control would represent a change in policy not warranted by existing circumstances in our relationship with the USSR.

Among the various means of furthering U.S. objectives vis-a-vis the Soviet Union, this control continues to be useful.

While the United States Government can effectively control exports of U.S.-produced petroleum equipment, for most items adequate quantities of similar equipment are available from foreign sources. There is only limited foreign availability of some deep submersible pumps and seismic equipment.

The effect of the controls on U.S. exports can be only roughly estimated since other factors affect the data. Although no license applications have been denied since the control was imposed in August 1978, some exports have been lost.

U.S. exports of petroleum equipment to the USSR average about two percent of total U.S. petroleum equipment exports. The U.S. share of the Soviet market had been generally increasing until the third quarter of 1978. In 1974, U.S. suppliers received 13.6 percent of all Soviet oil and natural gas machinery orders placed with Western manufacturers. The 26.9 percent U.S. share of the 1977 Soviet market for petroleum equipment increased markedly to 55.5 percent in the first quarter of 1978 and to 51.1 percent for the third quarter. It dropped to 8.0 percent for the last quarter, bringing the figure for all of 1978 down to 44.6 percent. The U.S. shares for the first three quarters of 1979 were 23.5, 20.0 and 9.7 percent.

Although it is difficult to determine whether losses are the results of the controls or of other factors, reports by U.S. firms include the following:

Loss to foreign competition of contracts for gas lift equipment valued at about \$70 million (plus larger anticipated follow-on sales) because of delays and uncertainty in the U.S. licensing process;

Expenditures in the range of hundreds of thousands of dollars attributable to late delivery penalties and other costs related to the licensing process;

Use of the U.S. license requirement by foreign companies as leverage to obtain sales, since U.S. companies must schedule delivery

to allow time for a license review and U.S. firms are never certain that the license will be granted.

VII. NUCLEAR NON-PROLIFERATION CONTROLS

Section 17(d) of the Act and section 309(c) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242 of March 10, 1978), are interpreted as intending that:

(a) Nuclear non-proliferation controls do not expire on December 31, 1979, and a determination to extend them is thus not required; and

(b) The criteria and other factors set forth in section 6(b) and (e) of the Act are not applicable to these controls.

The Congress is therefore notified that these controls continue in force.

Nuclear non-proliferation controls further significantly the foreign policy of the United States and its declared international obligations. ●

IN MEMORY OF JUSTICE WILLIAM O. DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, Justice William O. Douglas will be best remembered, in accordance with his own wishes, as a conservationist—not only for the wilderness he so loved, but also for the rights and guarantees of the first amendment that he so cherished. This remarkable man was a teacher, a writer, a chairman of the Securities and Exchange Commission, a jurist, an environmentalist and a humanist. Any one of these careers would have been sufficient for most people. Justice Douglas did them all.

Every one of his undertakings was based on a conviction that principles of conduct ought to be implemented through concrete action. It was not enough for him to write on conservation matters; he annually led a band of hikers along the historic C. & O. Canal to demonstrate the need to preserve this waterway. It was not enough for him to teach the law of corporations at Columbia and Yale; he was one of the first members of the Securities and Exchange Commission and later its chairman. He did not set out for a career on the Supreme Court but it was there he made his greatest contribution, and there, that his principle of advocacy and action put to best use in this staunch defense of the first amendment.

His service to the Court spanned nearly two generations and witnessed a rapidly changing America. In 1939, at the age of 40 he was appointed to the Court. The crucial issue then before the Court centered on the authority that President Roosevelt had vested in the newly created "fourth branch" of Government—the administrative and regulatory agencies of the New Deal era. Justice Douglas consistently favored the agencies whenever Congress or the courts attempted to weaken or restrain these creations of what he saw as enlightened Government.

After World War II, a new issue dominated the Court's deliberations: freedom of speech. How much dissent could a democracy endure? Does a Communist have equal rights under the Constitution even in the circumstances of