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U.S. DEPARTMENT OF COMMERCE

September 10, 1982

To : Norman Bailey

W-NT.

From: Malcolm Baldrige

In accordance with the decision reached yesterday in the SIG-IEP meeting, the attached guidance is forwarded for review by members for use in responding to questions on the President's oil and gas sanctions.

Attachment

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ENFORCEMENT OF PRESIDENT'S FOREIGN POLICY CONTROLS ON SOVIET PIPELINE

INDEX

3

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UNITED STATES OF AMERICA

- - -

DEPARTMENT OF COMMERCE

- - -

PRESS BRIEFING

WITH

MALCOLM BALDRIGE

SECRETARY OF COMMERCE

- - -

ROOM 4830
DEPARTMENT OF COMMERCE
WASHINGTON, D. C.

- - -

THURSDAY, SEPTEMBER 9, 1982

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6

P R O C E E D I N G S

(4:00 p.m.)

SECRETARY BALDRIGE: Good afternoon.

Today, the Department of Commerce has issued a temporary denial order against John Brown Engineering Company, Ltd. of Scotland, and its three United Kingdom subsidiaries.

I want to explain the status of the actions we have taken so far, regarding the pipeline sanctions.

On August 26, we issued temporary denial orders against Dresser France and Creusot-Louire. These orders are temporary so that we can have time to investigate and modify them, if necessary.

Those temporary orders prohibited the export of all U.S. products, services and technology to those two companies.

On September 7, based on facts determined in our continuing investigations of those two companies, we proposed modifying the temporary orders to cover U.S. oil and gas related products, services and technology and to have the sanctions extend to their home-country subsidiaries, to assure compliance with the order -- in effect, closing some potential loopholes.

In the Dresser case, the temporary order has been amended and now applies only to oil and gas related b

products, services and technology.

In the Creusot-Loire case, the modifications are pending so submissions being prepared can be reviewed.

On September 4, we issued a temporary denial order against Nuovo Pignone of Italy and its Italian subsidiary, INSO. That order also covers oil and gas related equipment, services and technology.

Today, as I've mentioned before, we've issued a temporary denial order against John Brown Engineering, Ltd. of Scotland and its three United Kingdom subsidiaries.

As with the others, the temporary order prohibits export of all U.S. gas and oil related equipment, services and technology.

The modification of the sanctions, after our investigations, fully maintains the goals laid out by the President regarding oil and gas sanctions imposed on the Soviets, without unduly harming our allies and friends, and are consistent with the facts determined thus far in our investigations of these cases.

I want to say a word about President Reagan's purpose in implementing these foreign policy export controls, and his resolve to maintain them throughout the crisis in Poland.

The sanctions were imposed because of the Soviet

Union's complicity in the events over the past nine months in Poland, which have resulted in the jailing of many thousands of innocent, patriotic citizens and the forced solitary confinement of Lech Walesa; the imposition of martial law; and the breakdown in communications between the military government, the Church and Solidarity.

Pipeline sanctions were selected because we knew with a fair amount of certainty that the Soviet Union would pay a high cost in time, money and effort if they were prevented from obtaining U.S. products and technology related to pipeline construction.

Could any other sanctions have been selected? Possibly. But this was the quickest, surest way to exact a penalty on the Soviets for their acts.

The President intends, has intended, and will intend to see the process of Polish national reconciliation begin. And we, in the Commerce Department, will continue to administer the regulations which implement that policy as fairly as possible.

I'd be glad to answer any questions, and I have General Counsel here. The Undersecretary for International Trade is also here, so I'd be glad to take any questions.

QUESTION: How are the sanctions consistent with the President's originally stated policy, in light of the fact we are easing them to the extent that they really don't have the muscle that they will, or that the President originally intended them to have?

SECRETARY BALDRIGE: No, I disagree. The policy really, on these temporary denial orders, is this: We start off usually with as broad an order as possible because we have to begin an investigation of all of the facts.

In some of the cases, it would literally have had the effect of forcing some of those companies into bankruptcy, or could have had.

The fact is, as far as the President's policy goes, the means of carrying out the policy of Polish reconciliation was the denial of oil and gas related equipment to the Soviets.

And by denying, on these temporary denial orders, oil and gas related equipment, technology and services, we feel that that fully is carrying out the President's policy.

QUESTION: You talk about these sanctions as imposing a penalty on the Soviets for their actions. When these sanctions were first imposed against the Soviet Union, they were justified on the basis of holding back hard currency from the Soviet Union and making it difficult for Western dependence on the Soviet Union to occur.

It can't do both, can it? In other words, if they are a penalty for the Soviet Union invasion of Poland, then the situation in Poland would have changed when you put the sanctions, right?

SECRETARY BALDRIGE: Well, you're exactly right, but I think you began with a misconception that the original intent was denying the Soviets hard currency. That is the means, not the end.

The President clearly stated on December 30, on those sanctions, and the expansion of them on June 22, that they were directed against the complicity of the Soviet Union in the Polish situation.

The sanctions, themselves, are the means have the Soviets modify that position, but the intent of the President in these sanctions, is to cause change in the Polish situation because of the Soviet complicity there.

QUESTION: Can you say which of the companies might have gone bankrupt and, secondly, can you put a value on the exports that are now denied John Brown and the other companies?

SECRETARY BALDRIGE: Well, I'm not going to answer your first question because I don't think that's fair to the companies, and our surmise is just that.

I think that it is fair to answer your second question, which is on the order of size. These sanctions

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would range from a loss in sales to the companies involved from perhaps $75 million, in some cases, up to as high as $600 million in lost sales over a three-year period.

Those are significant sanctions, significant preventative measures, we feel, to help us in resolving this issue.

QUESTION: May I follow that? Do you mean that is a total figure for all companies in the three countries?

SECRETARY BALDRIGE: No. Individual companies involved in the temporary denial orders, which are a preventative measure, would lose in sales, over a three-year period, from $75 million to $600 million.

Now, one individual company could lose $75 million in lost sales, and another one $600 million, but that's the range.

QUESTION: As the sanctions now stand, or as they were originally?

SECRETARY BALDRIGE: No, no, as the sanctions now stand. So, we feel that those are very strong sanctions, and they can be put into place without undue harm, but it is significant harm to the people involved.

QUESTION: The total runs over a billion dollars?

SECRETARY BALDRIGE: Yes, I would say that the total on all companies over a three-year period would run over a billion dollars.

QUESTION: Mr. Secretary, since Mrs. Thatcher has spoken strongly in defense of John Brown's right to exports, and the French government has maintained its position and, as far as I know, the Italian government maintains its position, in effect, you have a small trade war with Europe. You are not really affecting the Russians.

Is there any prospect of getting this off dead center and resolving this with our allies?

SECRETARY BALDRIGE: Well, we can always hope, but there are no present negotiations going on. We feel that until the Polish matter is resolved, that the sanctions are the proper way to go.

The President has stated in the past, as you know, that the sanctions would be lifted if he saw significant changes in the imprisonment of the people and in the release of the prisoners; the lifting of martial law, and a dialogue started between the Church, Solidarity and the Polish government.

QUESTION: My question is, is there any negotiations between the United States and its European allies, to resolve this issue, and there is no movement on Poland?

SECRETARY BALDRIGE: Yes, there are no negotiations going on.

QUESTION: And what happens next, with our European allies?

SECRETARY BALDRIGE: Well, that's a good question. We feel very strongly about the Polish situation. The President has got a firm resolve on that. We feel we are doing the right thing.

QUESTION: What evidence can you offer that the sanctions are having the effect that you want them to, which is to say, bringing about reforms in Poland?

SECRETARY BALDRIGE: Well, we have seen no progress in Poland on reforms yet. We feel that the sanctions will cause the Soviets a very significant delay, cost them significant extra amounts of money, loss in hard currency earnings, and we feel that that will have an effect.

To date, we have seen no change in the Polish situation that amounts to enough to lift them.

QUESTION: If I may follow up, though, if you have seen no evidence that they are working, why continue them?

SECRETARY BALDRIGE: Well, they haven't had a chance to work yet. The pipeline completion date that

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the Soviets have given the Europeans is in 1984. Most of that pipeline is yet to be built, so the effect of the sanctions has not been felt yet.

QUESTION: But they've had a chance to work in Poland, have they not?

SECRETARY BALDRIGE: Maybe I'm missing the point of your question. Most of the pipeline is yet to be built. The sanctions have yet to take their effect. And there is yet no movement in Poland.

QUESTION: Mr. Secretary, just to clarify, since the President has said the sanctions would be lifted if certain reforms occur in Poland, can one then conclude that if there were these reforms in Poland and the sanctions were lifted, the administration would not be concerned about the hard currency that the Russians would get from the pipeline, or the relationships which would be set up by the completion of the pipeline?

SECRETARY BALDRIGE: Yes, we would still be concerned, but we would not put sanctions on to express that concern. The sanctions are related to Poland. We would still be talking to and will continue to talk to the Europeans, about the whole East-West trade list of problems as we see them, but we are talking now about the sanctions, specifically.

The President has stated that if those three

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conditions were met in Poland, he would lift those sanctions. We would still be concerned about the amount of East-West trade going on, and how it is financed, and all the things that have led up to the question.

QUESTION: I wonder if you could break down that figure for the different companies involved -- you know, how much --

SECRETARY BALDRIGE: You would have to ask the companies, themselves. They have stockholders, in some cases, and I don't think that's fair to do that.

QUESTION: Is there any hope of any sort of compromise with the Europeans? I mean, could they adopt alternative measures that you would approve of, which would lead to the lifting of the embargo on the pipeline?

SECRETARY BALDRIGE: That's always possible. We haven't seen them come up with any now, but if a unified approach that was as effective, or more effective, than the sanctions was proposed, we would have to listen very hard.

QUESTION: Mr. Secretary, many of us have been in Versailles, and I wonder, could you address the question, why the provisions of that part of the sanction have not been made clear enough on both sides.

Secretary Haig, then Secretary, left the impression at the last press briefing, that the matter of

15

the pipeline has been resolved, in the positive European sense. A decision by the President could be expected. The opposite was the effect, as we all know.

Why this misunderstanding apparently between the Europeans, on the one hand, and the Americans, on the other?

SECRETARY BALDRIGE: Well, I wasn't at the press conference, so I can't speak to that.

QUESTION: At the meeting in Versailles.

SECRETARY BALDRIGE: I can't speak on what Secretary Haig said there. I know that the feeling in the United States government is that our allies were aware, perhaps not of the exact date, but they were aware of our great concern about this, but, beyond that, I wouldn't care to say.

QUESTION: Mr. Secretary, do you have a figure, an estimate of the cost to American industry, of the December sanction -- the December order -- I'm sorry.

SECRETARY BALDRIGE: Well, we would probably not have a precise figure because we are dealing in estimates, but we'd see probably lost sales in the area of $600 million.

QUESTION: From the December order?

SECRETARY BALDRIGE: Yes.

QUESTION: Over three years, or what period?

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SECRETARY BALDRIGE: On the orders -- well, without regard to time, on the orders that had been placed that could not be delivered.

QUESTION: Mr. Secretary, in view of your remarks that this carries out the objective without unduly harming our allies, is this intended as kind of a move toward appeasement of the allies, in the hope that they will come along?

SECRETARY BALDRIGE: No, it's not a move toward appeasement. It is recognizing the facts after investigation. Remember, as I pointed out, these are tempora denial orders. We investigate, then we modify as the circumstances turn out.

In this case, there is no need to -- the phrase I use -- unduly harm our allies. They are our allies and partners. We are aiming at these sanctions at oil and gas.

If we made a total denial order on some of these companies, it would have been, we feel, too strict an action. Now, I don't think that's appeasement, that's investigation and trying to do what is fair and right in a difficult situation.

QUESTION: Mr. Secretary, have you had any indications from the governments in Europe, of possible retaliatory trade on their part?

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17

SECRETARY BALDRIGE: We haven't, officially. There's always talk here and there -- I don't know how loose it is -- but I think neither our allies nor the United States wants to see a trade war. That would help neither one of us.

QUESTION: Mr. Secretary, isn't it a fact that you and Secretary Schultz spoke with Mr. Clark, to have the order modified, over the objections of the people in the Defense Department?

SECRETARY BALDRIGE: Any advice I give to the President, I feel, is privileged information. He can take it or not, and I always answer "No comment" to those kinds of questions.

QUESTION: Mr. Secretary, how many more companies who have pipeline contracts and fulfill them will therefore be defined in the President's sanction?

SECRETARY BALDRIGE: There are still several possibilities in Europe. I'm talking about the major parts of the pipeline -- it that addresses your question. There are still -- I don't know whether it is two or three -- but that we have not seen or heard whether they, in fact, will ship.

And on these temporary denial orders, we are being very careful, because we are talking about our trading partners now, in making sure that the shipment has

18

left, before we put on a temporary denial order. So, I don't want to speculate about any particular company and the action they take. There is always time to change before the ship leaves the dock.

QUESTION: Mr. Secretary, the changed tone of these new denial orders to oil and gas commodities and services, do you expect this to be the tone of the potential future denial orders for a while, or do you expect further modification?

SECRETARY BALDRIGE: No. I think, in striving for consistency, which we want to do on this, that the general tone of the denial orders will be denials on all oil and gas equipment. That is a very strong action, as I've stated before, and we think that, at least at this time, going beyond that, would not be worthwhile.

QUESTION: Mr. Secretary, if the Europeans agreed to an ending of subsidized credits to the Soviet Union and to tighten up on the transfer of high technology to the Eastern Block, would this constitute a sort of unified action which could justify the lifting of the temporary denials?

SECRETARY BALDRIGE: I really don't think it is appropriate to comment on what kinds of actions we could consider. There are so many variables. There are no negotiations going on now. It would be inappropriate

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for me to comment on what they might be.

QUESTION: Mr. Secretary, am I right in assuming, first off, that the whole question of enforcement on this matter is wide open? And that being the case, down the road --

SECRETARY BALDRIGE: I don't know what you mean by "wide open".

QUESTION: In terms of its being tied up in litigation in terms of our allies challenging the position of these sanctions and, therefore, you question the effect of the whole thing, and we are back to squ one again, the purpose of the whole thing.

SECRETARY BALDRIGE: Well, we feel we are on firm ground in this area. I'm sure there will be litigation, but we feel that our authority and the actions we've taken are consistent, and we feel that they will be carried out.

QUESTION: Mr. Secretary, to follow up on that question, when the first sanctions were announced, I think Mr. Homer said the purpose was to deter further shipments. Well, quite evidently, that hasn't worked, and there is no prospect of it working.

If deterrence isn't working, what is the point of penalizing the European countries? What effect are the penalties having if they don't seem to be stopping the pipeline shipments?

SECRETARY BALDRIGE: I disagree with your -- I think, the underlying premise of your question, that deterrence does not work. Most of these companies -- as a matter of fact, all of the companies that we've put temporary denial orders on have orders in much larger numbers -- turbines, compressors, whatever it is -- left to ship, than the initial shipment that they've made. So, the deterrence, in the case of each of the companies, is yet to be seen. Simply because this company in another country has shipped is not a question of the failure of the deterrence.

You have orders for two, and there are still 16 to ship. We have to wait and see what happens to those 16.

QUESTION: Have you indication that the subsequent orders of Dresser France or the Italian companies will not be shipped?

SECRETARY BALDRIGE: No, we have no indication that they will, or that they will not.

QUESTION: If they are not shipped, will you be dropping your orders against these companies, if further shipments do not follow?

SECRETARY BALDRIGE: Yes. Well, of course, we would have to have assurances from the companies, but

I would not want to cross that bridge about when we would drop it, or the method, because those involve some negotiations. I would not want to prejudge, but, obviously, we would want to -- if people wanted to obey our sanctions, we would want to work something out.

QUESTION: If the companies were to go ahead and ship more turbines and compressors, would the sanctions be stiffer?

SECRETARY BALDRIGE: We have to leave open any possibility of broadening the sanctions, if necessary, but the --

QUESTION: Is this the deterrence?

SECRETARY BALDRIGE: Let me say, again, that these sanctions, the strength of these sanctions from, in one case, $75 million, to another case, $600 million in lost sales over a three-year period, is a very powerful action on the part of the United States, and we have yet to see the results coming from that.

Thank you.

(Whereupon, at 4:30 p.m., the press briefing was concluded.)

22

CERTIFICATE OF REPORTER

This is to certify that the foregoing transcript

In the matter of: PRESS BRIEFING WITH MALCOLM BALDRIGE
SECRETARY OF COMMERCE

Before: DEPARTMENT OF COMMERCE

Date: THURSDAY, SEPTEMBER 9, 1982

Place: ROOM 4830
DEPARTMENT OF COMMERCE
WASHINGTON, DC

represents the full and complete proceedings of the aforementioned matter, as reported and reduced to typewriting.

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PHYLISS YOUNG

23

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Why Sanctions were Imposed

QUESTION

Why were the sanctions imposed?

ANSWER

The sanctions on oil and gas equipment and technology against the Soviet Union were imposed by the President because of the Soviet-backed Polish military government takeover which resulted in the imposition of martial law and the imprisonment of thousands of innocent Polish citizens. The President specifically chose the oil and gas sectors because the costs to the Soviets would be the greatest in this area.

Commerce/ITA/0341J

Lifting the Sanctions

QUESTION

Will the sanctions be lifted if the three conditions specified by the President when he imposed the sanctions are met?

ANSWER

Yes, the President stated at a press conference on January 11, 1982, that he will lift the sanctions if three conditions are met. They are: lifting of martial law in Poland, the release of the prisoners and the opening of an honest dialogue between the Polish government, Solidarity, and the Church. The President stated: " Substantial progress towards those goals would lead to a review of our sanctions".

Commerce/ITA/0341J

Pipeline Negotiations

QUESTION:

Is the United States negotiating with the Europeans over the oil and gas epxort sanctions against the USSR?

ANSWER:

No. There are no negotiations with the Europeans now underway. We would, of course, listen to any suggestions from our allies for unified action that would be as effective as the sanctions in meeting the President's objective of reconcilation in Poland.

Commerce/ITA/0099h

Temporary Denial Order

21

QUESTION:

What is a temporary denial order?

ANSWER:

A temporary denial order is requested by the Department from the Hearing Commissioner on an ex parte basis. A temporary denial order denies export privileges to companies upon a showing to the Hearing Commisssioner that the order is required in the public interest to permit or facilitate enforcement of the Export Administration Act or Export Regulations; to avoid circumvention of any administrative or judicial proceedings; or to permit completion of an investigation. It is temporary so that a fair investigation can be made of all the circumstances involved before a final determination is made whether to initiate formal charges of violations.

The recent Commerce actions issuing temporary denial orders against Creusot-Loire, Dresser (Fance), Nuovo Pignone and John Brown Engineering have been taken to enforce the Department's export regulations. These actions are not punitive. They were taken with the purpose of facilitating enforcement of the law and of the investigations into suspected violations by the firms. No decision regarding any imposition of penalties has been made.

Commerce/ITA/0099h

Definition of Denial Order

QUESTION:

What is a denial order?

ANSWER:

A denial order is one of several administrative sanctions which may be imposed by the Department of Commerce following an investigation and an administratve procedure whereby a named party (or parties) has been found to have violated the Export Administration Act or the Export Administration Regulations. A denial order prohibits specified parties from participating in any transaction involving commodities or technical data exported or to be exported from the United States or which is produced abroad by persons subject to the jurisdiction of the United States, or which is subject to reexport control. A denial or export privileges may be partial or entire, may be by commodity or geographical area, and may be for any specified period of time.

The Act and Regulations provide for a range of administrative sanctions which may be imposed against persons who have been formally found to have violated the export control laws, following charges and administrative proceedings. Among the sanctions are civil penalties and denial of export privileges. Thus, in sharp contrast to temporary denial orders, which are not punitive, denial orders issued against parties who are found to have violated are, indeed, in the nature of punitive sanctions.

Commerce/ITA/0099h

Initiation of Temporary Denial Orders

QUESTION:

Who initiates a request for a temporary denial order?

ANSWER:

The Office of Export Enforcement of the Commerce Department is responsible for the enforcement of the Export Administration Act. That Office makes a recommendation to the Office of General Counsel to initiate specified enforcement action. The Office of General Counsel reviews the matter for legal sufficiency and, if appropriate, makes the formal request to the Hearing Commissioner to issue a temporary denial order.

Commerce/ITA/0099h

30

Main Contractors for the Pipeline

QUESTION:

Who are the main contractors on the pipeline and the Western suppliers.

ANSWER:

The prime contractors for the pipeline are a consortium of the German firm Mannesman and the French firm Creusot-Loire for the Northern segment and the Italian firm Nuovo Pignone for the Southern portion.

The pipeline requires a total of 41 compressor stations (22 for the Northern portion and 19 for the Southern). The line calls for 125 compressors (3 compressors each for 40 stations and 5 compressors for one head station). The same number of gas turbine engines are required to drive the compressors. Western manufacturers of the compressors and gas turbines are:

COMPRESSORS

Creusot-Loire	42
Dresser (France)	21
Nuovo Pignone	57
Demag	5

GAS TURBINES*[1]

AEG Kanis	47
John Brown Ltd.	21
Nuovo Pignone	57

*General Electric to provide 125 rotor sets for the gas turbine engines.

[1]The French firm Alsthom-Atlantique contracted in November 1981 to supply 40 rotor sets.

Commerce/ITA/0099h

Dresser (France) and Pipeline

QUESTION:

What is Dresser and what is its relationship to the pipeline and Creusot-Loire?

ANSWER:

Dresser (France) S.A., located in LeHavre, France is the manufacturer of centrifugal gas compressors and a full range of Dresser products and energy related equipment including:

A. Centrifugal Compressors for
   1. gas pipelines
   2. gathering/injection
   3. plant processing
B. Gas turbine build up and packaging using Rolls Royce gas generators
C. Underground mining machinery
D. Drilling rigs including derricks and platform structures

Dresser (France) S.A., is a second tier subsidiary of Dresser Industries, Inc. in Dallas, Texas. It is the subsidiary of Dresser AG (VADUZ) of Vaduz, Liechtenstein whose parent is Dresser Industries, Inc. Desser (France) received technology from Dresser Clark Div. in Olean, N.J., for the manufacture of the centrifugal gas compressors. This technology was exported prior to December 30, 1981.

Dresser (France) is subcontracted to Creusot-Loire of France to provide 21 centrifugal gas compressor units for mating with the 25MW gas turbines, and the internal components for 5 centrifugal gas compressor units to be mated with 10MW gas turbines for use in gas pumping stations on the pipeline.

Dresser (France's) address is Dresser (France), S.A.
CIDEX L 192
Centre SILIC
5, Rue D'Antony
94563 Rungis, France

Commerce/ITA/0099h

33

Creusot-Loire and the Pipeline

QUESTION:

Who is Creusot-Loire S.A. and how is it hooked in the pipeline and its relationship to Dresser (France).

ANSWER:

Creusot-Loire, S.A., located at 42 Rue d'Anjou, F75008 Parish 8, France, is the parent of a large diversified metalworking complex of companies with over a hundred subsidiaries in France and other countries. The company is engaged in the manufacture of steel products including cranes, pumps, extrusion materials and engines. In 1979, the company had 24,247 employees.

Creusot-Loire along with Mannesman is the general contractor for 22 stations in the northern segment of the pipeline. Creusot-Loire has ordered 21 centrifugal compressors from Dresser (France), three of which have been completed and are being delivered to the USSR. These compressors are in addition to the 42 compressors Creusot-Loire will provide. The compressors were ordered from Dresser (France) in Creusot-Loire's capacity as the prime contractor for the northern portion of the pipeline.

Commerce is investigating the extent of the participation of Creusot-Loire in the Dresser violation of U.S. export regulations.

Commerce/ITA/0099h

Effects of Modifications on Dresser France and Creusot-Loire

QUESTION:

What effect will the modification in the temporary denial order have on Dresser France? On Creusot-Loire?

ANSWER:

The modification will have a significant impact on Dresser France. Their Le Havre facility manufactures a substantial amount of oil and gas equipment, but up to 40 percent of their revenues in this coming fiscal year may come from industrial applications.

Creusot-Loire is a much more diversified company. It purchases not only oil and gas equipment, but nuclear related items, machine tools, and computers used for administrative purposes and technology operations. These non oil and gas products will be affected by the modified TDO.

Commerce/ITA/0099h

Modification of Dresser France and Creusot-Loire Denial Orders

QUESTION:

Why were the temporary denial orders against Dresser France and Creusot-Loire modified?

ANSWER:

A temporary denial order is a frequently used vehicle to protect our national interests during the course of an investigation. When alleged violations of our export regulations exist, the issuance of temporary denial orders will prevent U.S. parts and technology, still physically within U.S. borders, from beng shipped to violating parties. It is not a punitive action. They are intended as preventive measures to avoid additional possible violations.

Our initial decision to prohibit export of all U.S. products, services and technology to Dresser France, and Creusot-Loire was based on information we had available to us at that time, in effort to prevent additional possible violation of our regulations toward the USSR. As you know, these regulations are limited to oil and gas technology and equipment.

After investigation, we believe that limiting our denial order to oil and gas equipment and technology is consistent with the President's objectives of preventing, to the extent possible, additional violations without unduly harming our allies and friends.

Our objectives remain the same. We intend to prevent violations of our oil and gas regulations. By modifying the denial order, we are simply refining the implementation and not the basic objective. The President specifically chose the oil and gas sectors because the costs to the Soviets would be the greatest in this area.

35

Difference in the Denial Orders

QUESTION

Are the temporary denial orders against Dresser and Creusot-Loire the same as the one against Nuovo Pignone?

ANSWER

The temporary denial orders against Dresser and Creusot-Loire are being modified to limit them to oil and gas equipment and technology, the same as in Nuovo Pignone's case.

Commerce/ITA/0291J

Secretary's Decision Regarding John Brown and Nuovo Pignone

QUESTION:

What is the Secretary's decision regarding John Brown and Nuovo Pignone?

ANSWER:

The Secretary of Commerce announced the issuance of temporary denial orders against John Brown Engineering (September 9, 1982) and Nuovo Pignone (September 4, 1982) prohibiting export of all U.S. origin equipment and technology related to oil and gas exploration, production, transmission and refining.

Commerce/ITA/0099h

Effects of Temporary Denial Order on Nuovo Pignone

QUESTION:

What effect will the temporary denial order have on Nuovo Pignone?

ANSWER:

Nuovo Pignone is a diversified energy company which relies more heavily on Italian rather than U.S. technology except for turbine production. It is believed that a third of their revenue is derived from pipeline turbines, most of which are oil and gas related. The temporary denial orer will have a significant impact on Nuovo Pignone as over $500 million in business over the next 3 years is in oil and gas turbines, using G.E. rotors which cannot be shipped under this order.

Commerce/ITA/0099h

Nuovo Pignone Products Line

QUESTION

What is Nuovo Pignone, what is its product line, and how large is it?

ANSWER

Nuovo Pignone is part of the Italian Government-owned ENI oil company. ENI is a multi-billion dollar company with operations world wide. Pignone's specific products fall into three general categories: gas turbines, compressors, and oilfield pumps, valves and coolers. Its yearly revenue is estimated at $900 million.

Commerce/ITA/0291J

Nuovo Pignone Contracts

QUESTION

How much of the Soviet natural gas pipeline is contracted to Nuovo Pignone?

ANSWER

Nuovo Pignone is one of the prime contractors for the Soviet pipeline and is contracted to deliver 19 complete gas compressor stations, estimated at $600 million. As part of that contract, Pignone is also scheduled to deliver 57 gas turbines and 57 compressors for the pipeline.

Commerce/ITA/0291J

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Nuovo Pignone Ships Turbines

QUESTION

When did Nuovo Pignone start shipping their products to the Siberian pipeline?

ANSWER

The first shipment of gas turbines left Saturday, September 4, 1982. Consequently, the Department of Commerce issued a temporary denial order against Nuovo Pignone Saturday night. A temporary denial order prohibits the person or company on whom it is served from participating in exports in the designated sectors (in this case gas and oil) from the United States.

Commerce/ITA/0291J

Nuovo Pignone

QUESTION

Did the Italian Government order Nuovo Pignone to ship?

ANSWER

No. It is my understanding that the decision to ship was made by the company itself.

Commerce/ITA/0291J

John Brown Engineering

QUESTION:

What is John Brown Engineering Ltd and what is its relationship to the pipeline?

ANSWER:

John Brown Engineering, located in Clydebank, Scotland, is the manufacturer of heavy and light industrial gas turbines for power packages and mechanical drives rated from 10 to over 100MWs. They are a manufacturing associate of the General Electric Company and depend completely on G.E. to provide the rotor section or core of the individual gas turbines for their complete gas turbine line. John Brown Engineering manufactures most other components, and assembles and packages the complete gas turbine unit using technology for assembly provided also by G.E. under its manufacturing associate agreement.

John Brown Engineering is a wholly owned subsidiary of John Brown and Company Ltd. of London, U.K. John Brown and Company have 16 subsidiaries in the U.S. and John Brown Engineering has 3 subsidiaries, but none in the U.S. John Brown Engineering employs approximately 1,700 people and is the major subsidiary of John Brown and Company.

John Brown Engineering has a $182 million contract to supply 21 model MS5002 gas turbines for the Siberian natural gas pipeline beginning in August 1982. They have 6 completed units on hand which were in their possession prior to 30 December 1980. These units were modified for rail shipping and cold weather operations and have now been shipped (September 9) to the Soviet Union.

Commerce/ITA/0107h

John Brown and Creusot-Loire

QUESTION:

What is John Brown Engineering's relationship to Creusot-Loire S.A. of France and how is it connected to the pipeline?

ANSWER:

Creusot-Loire along with Mannesman of West Germany is the general contractor for 22 pipeline compressor stations in the northern segment of the pipeline. Creusot-Loire has ordered 21 Model MS5002 gas turbine engines from John Brown Engineering, six of which are completed and being delivered.

DSchlechty/0107h

Effects of Denial Order on John Brown Engineering

QUESTION:

What effect will the temporary denial order have on John Brown Engineering?

ANSWER:

John Brown Engineering's business is both power generation and oil and gas related turbines. The impact on John Brown Engineering's oil and gas related areas will be substantial, since they will not be able to complete their contracts to the Soviet Union. They can still sell power generating equipment which is their predominant line of business.

Commerce/ITA/0099h

Japanese Exports to USSR for Pipeline

QUESTION:

There are reports from Tokyo that a Japanese firm, Japan Steel Works using American technology has shipped pipeline valves to the Soviet Union. What does the Department of Commerce intend to do about this violation of the President's oil and gas sanctions?

ANSWER:

I understand Japan Steel Works may have a licensing agreement with an American firm which produces valves, including pipeline valves. Based on a preliminary assessment the U.S. firm, Grove Valve and Regulator Company, in fact manufactures conduit pipeline valves designed for pipeline usage. Such valves would probably be covered by the sanctions announced December 30 and extended June 22. If that is true, such an export to the Soviet Union could be a violation of the Department's regulations. The Department of Commerce is taking steps to determine if the Japanese shipment violates U.S. sanctions.

Commerce/ITA/0138h

ID 8205553

RECD DATE 8/13/82

TO Clark FROM Brady, L. DOC DATE 8/12/82

KEYWORDS Export Control

SUBJECT: Export Administration Act Renewal

ACTION: Prepare Memo for Clark DUE 8/15/82 STATUS S FILES

FOR ACTION	COMMENTS	INFO
NAU	Bailey	~~Gus Weiss should go~~
		File EZWT.

COMMENTS:

REF# LOG# NSCIFID

ACTION OFFICER (S)	DATE	ACTION REQUIRED	DUE	COPIES

DISPATCH W/ATTACH FILE (C) (C)

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

48

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82 ... P 3: 24

SEP 10 1982

MEMORANDUM FOR: Members of Advisory Committee on Export Policy (ACEP)

FROM: Lawrence J. Brady
Chairman, ACEP

SUBJECT: Export Administration Act Review

The ACEP structure will be the key interagency working group for conducting a detailed review of the EA Act. I am attaching the same background paper that was sent out earlier so as to acquaint you with what we see as the list of issues to be addressed. I would invite you to expand this list as you deem appropriate.

I would like to meet Friday, September 17, 1982, at 2:30 p.m. in Room 3407, to finalize these issues and staff them out to the appropriate agencies and/or lower level technical working groups. We should also discuss the proposed schedule on page 6 of the attachment. An issue was raised at the meeting last week that we should also discuss. Specifically, there was concern that the ACEP should try very early on in this process to come out with a statement or paper which articulates what the Reagan Administration wants the Export Administration Act to accomplish and how it can reflect Administration policy regarding export controls. I think this is an excellent idea as it would serve to better focus many of the issues under review. However, I am not sure that we can pursue this statement of philosophy or policy without having gotten more into the specific issues. We will discuss this at the meeting.

Attachment

19

ADDRESSEES

Richard Perle
Assistant Secretary of Defense for
International Security Affairs
Department of Defense

James P. Wade, Jr.
Deputy Under Secretary for
Research and Engineering
Department of Defense

Richard T. McCormack
Assistant Secretary for
Economic and Business Affairs
Department of State

Robert Gates
Deputy Director for Intelligence
Central Intelligence Agency

✓William Clark
Assistant to the President for
National Security Affairs
National Security Council

Herman Roser
Assistant Secretary for
Defense Programs
Department of Energy

Kenneth S. Pedersen
Director, International Affairs
NASA

Judith T. Connor
Assistant Secretary for Policy
and International Affairs
Department of Transportation

Marc Leland
Assistant Secretary for
International Affairs
Department of Treasury

Norman Terrell
Assistant Director
Nuclear and Weapons Control Bureau
ACDA

REVIEW OF THE EXPORT ADMINISTRATION ACT OF 1979

I. INTRODUCTION

The Export Administration Act (EAA) will be up for review in 1983; Congressional hearings are expected as early as the Spring of 1983. It is expected that the 1983 review will be lengthy and contentious due to the sensitivity and visibility of the issues involved and the interest for several large groups (industry, Black Caucus, Jewish Service Organizations, etc.). In order to prepare properly for the review, it is important to develop an interagency position on the Act by March 1983.

In addition, the Administration's implementation of export controls has recently come under fire from different quarters for a variety of reasons. Foremost among these is the argument that Commerce's trade promotion role is in conflict with its export control function. The business community has also argued that the Boycott provisions in the EAA and the Ribicoff Amendment are confusing and unnecessary. These and other sensitive issues will require not only the interagency process but also lengthy consultations with affected parties.

The Hill has already taken the initiative in preparing for the review.

Senator Jake Garn has recently introduced a bill (S.2837) amending the EAA to create a new Office of Strategic Trade (OST) which would take over Commerce's licensing function. The OST, in conjunction with the Department of Defense, would have almost exclusive authority in making licensing decisions. The Bill also recommends major substantive changes in areas such as technical data, defining proscribed destinations, etc.

On the House side, Congresswoman Byron has also just introduced the Strategic Trade Act (H.R. 6880) amending the EAA to establish a new office, the National Security Control Agency, wihin the Office of the Under Secretary of Defense for Policy. H.R. 6880 transfers to DOD licensing responsibility for all items under national security control.

6\

II. OTHER PROBABLE AREAS OF CRITICISM

Foreign policy controls: These are likely to attract conflicting criticism. On the one hand, some Members of Congress are unhappy with what they perceive as a liberalization of the anti-terrorism controls and the controls on South Africa (Congressman Bingham is sponsoring a bill that would reinstate foreign policy controls as they existed prior to 1 March 1982.).

On the other hand, significant sectors of industry are likely to criticize the controls on Libya and the USSR oil and gas controls as overly restrictive, and are mustering support from Congressmen whose constituencies are being injured by the controls (The House Foreign Affairs Committee has already passed a bill returning the USSR controls to the level prior to December 1981.).

Economic Impact Analysis: Both Congress and industry have criticized the Administration's "wanton disregard" of the long-term economic impact of foreign policy controls, and its lack of such in-depth analyses.

Militarily Critical Technologies List: The Administration will most likely be criticized for its tardiness in implementing the MCTL and for the broad reach of items on the MCTL.

Excessive Time in Reaching Final Licensing Decisions: Despite success in largely complying with statutory review deadlines Commerce will probably still be criticized for licensing delays, particularly where interagency disagreements arise.

Technical Data Regulations: These regulations have been the focus of a great deal of misunderstanding and criticism by the academic/scientific community.

Distribution License: Questions may be raised as to the degree to which the Distribution License constitutes a "loophole" in export controls.

52

III. ISSUES TO BE REVIEWED

The following represents a list of issues that will require review over the next several months. While it is not an all-inclusive list, it does highlight the complexity and scope of the issues. Also, some of them are already being addressed in separate fora (Vice President's Task Force on Regulatory Relief, Sub-ACEP, etc.) but should be coordinated to ensure completion by March 1983.

1. Licensing Procedures: U.S. businesses have complained that the licensing process is lengthy and complicated, imposing an undue regulatory burden on them.

2. License Review Deadlines: U.S. businesses have complained that the established deadlines (up to 180 days) are too long, and especially in those cases which must be referred to COCOM for approval (COCOM members can request as much time as they wish to review a case).

3. Interagency Review Process: Industry has argued that too many agencies review each case and decisions are inconsistent.

4. Technical Data Regulations: Currently a very controversial area. The academic/scientific community perceive DOC efforts to enforce these regulations as an "expansion" of controls over open scientific exchanges and basic research. DOC is currently working with other agencies, as well as the academic/scientific community through the National Science foundation and the Association of American Universities, to clarify these regs. Also, industry has argued that the technical data regulations should be limited to MCTL items (this area is currently under review by the Sub-ACEP).

5. Simplification of the Export Administration Regulations: As mandated by the EAA, Commerce is in the process of simplifying the regulations to make them more readable and useful. This includes a reformat of the CCL. The Vice President's Task Force on Regulatory Relief is scheduled to review the EAR as well as undertaking a review of the more substantive policy and procedural issues of the licensing process.

53

6. <u>MCTL Implementation</u>: DOC is reviewing the MCTL with Defense, Energy and U.S. industry in order to implement the essentials into the CCL. Also, the Executive Branch has been criticized for taking several years to develop the MCTL with no visible changes to the CCL.

7. <u>Unilateral Controls</u>: U.S. businesses complain that, because of foreign availability, unilateral controls place them at a competitive disadvantage.

8. <u>Foreign Availability Analysis</u>: DOC has recently taken steps to effectively perform this function: acquiring a full-time foreign availability analyst; working with the TACs to obtain foreign availability information in industry's possession; developing a form for applicants to fill out and submit with application which will supply us with the foreign availability information they regard as relevant to their proposed export. Criticism is expected from industry and the Hill noting that Commerce has not progressed far enough and is not taking foreign availability into account in case processing.

9. <u>Foreign Policy Controls</u>: A thorough review is necessary to fend off challenges as to the efficacy of these controls in general, and to determine the degree to which they achieve their objectives in the face of foreign availability.

10. <u>Economic Impact Analysis</u>: Industry and the Hill have argued that the Executive Branch disregards the economic impact in imposing controls. Although DOC is evaluating its estimation technique, including utilization of economic data provided by industry through the Sub-PEC, this issue will be a dominant one in the EAA review.

11. <u>Restriction of Imports (U.S. Sanctions)</u>: The EAA of 1979 provides the Executive Branch with the ability to restrict U.S. exports to foreign violators and deny exporting provileges to U.S. violators. For added flexibility in dealing with violators, the power to restrict imports into the U.S. by violating parties may be necessary to enforce the EAA. This initiative may be opposed vigorously by U.S. industry and foreign governments.

12. Short Supply Controls: With the elimination of quantitative restrictions on the export of refined petroleum products, the Moakley Amendment of the EAA of 1979 simply results in a paperwork exercise and delay in issuing licenses (a 30-day wait is required while Congress reviews applications). Industry has suggested eliminating the validated license requirement while retaining the power to reimpose controls if shortages occur.

13. Enforcement Issues: Consideration should be given to amending the statute to provide specifically for detention and seizures of suspected outbound cargoes, search, seizure, arrest and firearms authority for special agents of the Office of Export Enforcement. The section 12(c), confidentiality section, should be reviewed for possible amendment in light of past difficulties encountered in export enforcement situations. Additional law enforcement tools should also be examined including allowing court ordered electronic surveillance in cases involving national security control investigations.

IV. METHODOLOGY

To provide general guidance in the review of the above-mentioned issues, it is recommended that Commerce chair an Interagency Oversight Group with members at the Under Secretary level (membership composed of representatives from all interested agencies plus two from industry), and using the existing ACEP structure to staff out each of the relevant issues. This suggestion is based on the success of the preparatory work done for the COCOM High Level Meeting overseen by the Under Secretary's Group. Wherever posible, the same procedures, and already-existing groups should be utilized to avoid duplicative effort.

The Oversight Group will direct the interagency working-level group (ACEP) at the AS level, which is already in place. The ACEP will be used to resolve issues.

The ACEP Chairman will divide lead responsibility for each issue among the agencies, who will then establish lower-level Technical Working Groups to examine each issue and provide recommendations to the ACEP.

55

Consultations

It is extremely important to consult with all interested parties before the Administration formulates its position. Accordingly, the Oversight Group, ACEP members and other levels of government should lay out a comprehensive consultative agenda that includes the ISACs, Sub-PEC, MAPAG, and TACs. Some organizations--Sub-PEC, ISACs--are already working on recommendations for the EAA and should be integrated into the overall plan.

Public Hearings

In addition, public hearings on the issues should also be held in cities like Boston, New York, Chicago, San Francisco, and Dallas. These areas contain the bulk of the high technology companies that are affected by the EAA. Results of these hearings will be submitted to the ACEP for inclusion into the final recommendations.

V. PROPOSED SCHEDULE

1. The Under Secretary's Oversight Group will meet every two months to review progress made to date, and to provide necessary guidance.

2. The ACEP will meet every month to review progress, and to resolve any differences which may arise.

3. The ACEP will divide issues and work assignments by September 15, 1982.

4. The lower level groups designated by the ACEP will submit an initial draft identifying problems, including pertinent recommendations, by October 15, 1982.

5. The ACEP will integrate plans and issues by October 30, 1982.

6. After submission of initial draft, consultations with industry will start with industry on an agreed-upon schedule (develop schedule by September 15, 1982).

7. Public hearings should start on October 15, 1982 with no more than one per month.

8. Drafts of proposals due from agencies by December 15, 1982 with integration and distribution to agencies by January 5, 1983.

9. ACEP will complete integration of public comments into the draft by February 15, 1983, and submit final product to the U.S. Oversight Group.

10. Administration position due by March 31, 1983.