

DEPARTMENT OF COMMERCE LIBRARY  
LAW BRANCH

AMENDING AND EXTENDING THE AUTHORITY FOR  
REGULATION OF EXPORTS

JUNE 19, 1974.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. PATMAN, from the Committee on Banking and Currency,  
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 15264]

The Committee on Banking and Currency, to whom was referred the bill (H.R. 15264) to further amend and extend the authority for regulation of exports, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

NEED FOR THE LEGISLATION

GENERAL BACKGROUND

H.R. 15264, Export Administration Act Amendments of 1974, would further amend and extend, to June 30, 1976, the authority for regulation of exports.

The Export Administration Act of 1969, as amended, provides the President with the authority to prohibit or curtail exports from the United States and authorizes him to delegate his authority to such departments, agencies, and officials of the government as he deems appropriate. The authority to regulate exports has been delegated to the Secretary of Commerce.

The Act authorizes the regulation of exports for three purposes—national security, foreign policy, and short supply. This authority, unless otherwise extended, will expire on June 30, 1974.

The Office of Export Administration (formerly the Office of Export Control) implements export controls. The Office is responsible for: developing regulations; establishing export reporting systems; issuing export licenses; designing actual control systems; enforcing regula-

tions, including compliance; and all operational duties involved in developing and maintaining export controls.

With two exceptions the Department of Commerce authorizes exports from the United States, its territories, and possessions either by issuing specific "validated" licenses or by establishing broad "general licenses." The two exceptions, which require neither validated nor general licenses, are exports from the United States to its territories and most exports to Canada for consumption in Canada.

A validated license is a formal document issued to an exporter by the Department, based on his signed application. It authorizes export of commodities or technical data within the specific limitations of the document.

A general license is a broad authorization established by the Department of Commerce to permit exports under specified conditions. Neither the filing of an application by the exporter nor the issuance of a license document by the Department is required. The conditions for use of each general license are set forth in the Export Administration Regulations 15 CFR, Part 371.

A listing of all commodities for which export licensing authority is exercised may be found in the Export Administration Regulations, sec. 399.1. "Commodity Control List." Based on the Census Schedule B numbering system, with which most exporters are familiar, it is designed to facilitate determination of proper controls by exporters. It identifies, for each listed commodity or category, the destinations for which a validated export license is required. Commodities may be exported under general license to destinations (other than Canada) for which a validated license is not required.

#### *National Security*

It is necessary to control exports of certain commodities and technical data in the interest of national security. Even though there has been significant progress toward improving relationships with the Soviet Union (USSR), Eastern Europe, and the People's Republic of China (PRC), the time has not arrived when we can permit all countries to have uncontrolled access to the small portion of our national product that is strategically oriented. The United States continues to cooperate with 14 other countries participating in the international strategic control system (COCOM) in controlling certain commodities and advanced technologies which all of the COCOM countries agree have a significant strategic potential. Statutory authority to control exports is essential to continued U.S. participation in this international effort.

The commodities under Department of Commerce license control for national security reasons are, with relatively few exceptions, internationally controlled through the COCOM structure. These commodities are, in large measure, high technology products, heavily weighted in the electronics area. Prominent examples are computers, highly sophisticated numerically controlled machine tools, certain videotape recorders, the more advanced types of oscilloscopes, and telecommunications equipment. Such exports must be carefully scrutinized on a case-by-case basis, to quote the language of the Act, "from the standpoint of their significance to the national security of the United States." The other COCOM countries scrutinize their exports on a similar basis, and there is an international consultative procedure that must be followed before most such transactions can be approved.

The Secretary of Commerce has appointed a technical advisory committee for any grouping of such commodities and technical data that he has determined to be difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. The function of these technical advisory committees is to advise and assist the Secretary and other appropriate U.S. Government agencies and officials regarding actions designed to carry out the policy of the Act.

To date, seven technical advisory committees have been established. These provide advice with respect to Computer Systems; Telecommunications Equipment; Numerically Controlled Machine Tools; Semiconductors; Semiconductor Manufacturing and Test Equipment; Computer Peripherals, Components, and Related Test Equipment; and Electronic Instrumentation. The first six committees have been meeting frequently and some have formed subcommittees to deal with specific problem areas.

The principal activity to date has been to provide the Department with technical information and advice that will be considered in formulating the government's position in regard to the COCOM list review. In this connection, the committees have been:

- Identifying commodities being produced in non-COCOM Western Europe and in Eastern Europe that are equivalent to those produced in the United States;

- Providing the Department with technical information that will enable the government to judge whether certain commodities meet the established strategic criteria;

- Identifying military and civil uses of certain types of equipment under export control; and

- Offering conclusions and recommendations as to desirable courses of action.

Following the summit meeting in 1972 in which agreement was reached on bilateral exchanges in science and technology between the United States and the U.S.S.R., a Joint Commission of the two countries was established. Many U.S. companies have since entered into exchange agreements (usually called "technical cooperation" agreements) with the U.S.S.R. and other communist countries and have signed commercial contracts calling for the exchange of "naked" technology; i.e., technology as such and not that embodied in a commodity. Under present export control regulations, such companies are required to obtain export licenses for all design and production data transmitted to these countries, other than that which is already generally available to the public.

The Department of Commerce and, indeed, the government as a whole may not be aware of the nature of these agreements or contracts to export technology until the time when the U.S. company applies for an export license. This makes it difficult for the Department of Commerce and other concerned agencies to discharge properly and effectively their export control responsibilities. Early notification that U.S. firms have undertaken to exchange technology with a communist country would permit the government to consider in a timely fashion the broad East-West trade policy implications of a contemplated transaction involving the exchange of technical data. Correspondingly, the Department's administration of export controls would be facilitated

by early notice of agreements or contracts involving the possible transfer of technology. The awareness of such contemplated transfers would enable the Department to make broad early judgments respecting the national security implications and to deal with the U.S. party to the transaction as appropriate, to minimize the risk that significant strategic technology will inadvertently seep to the communist country in question. Such unauthorized transfers are of concern to the Department of Commerce and other agencies with responsibilities for national security.

The Subcommittee on International Trade heard witnesses who alleged that important technical secrets which would endanger national security were being exported to Russia. The preponderance of testimony from expert public witnesses as well as from representatives of the Departments of Defense, State, and Commerce, indicated that this has not been the case. The Subcommittee also heard business witnesses who believe that their ability to export common technology abroad has been unnecessarily restricted and that overseas markets have been lost to Western European and Japanese producers as a result. The Departments of Defense, Commerce, and State testified that with new reporting requirements the Act would give them better control of exports to protect national security.

Section 4 of H.R. 15264 would amend the enforcement provisions of the Export Administration Act of 1969 by inserting a new provision expressly requiring U.S. firms and individuals to report within 60 days to the Secretary of Commerce any written understanding which would be likely to result in the export to a communist territory of U.S.-origin technical data which is not generally available.

The requirement to report the details of transactions shall not extend to information with respect to payment terms, fees, and remittance arrangement.

### *Foreign Policy*

Continuation of existing authority would facilitate certain export control programs which further U.S. foreign policy as well as U.S. national security. We prohibit virtually all exports to North Vietnam, North Korea and Cuba pursuant to the foreign policy authority of the Act. This authority is also used to implement the U.N. resolution calling for an embargo on trade with Southern Rhodesia and on shipments of arms to South Africa and the Portuguese African territories. Under the foreign policy authority, we have excluded exports of para-military items to certain Middle East countries. Finally, this authority enables the government to control exports of commodities and technologies for use in the development and testing of nuclear weapons in support of the Limited Nuclear Test Ban Treaty and the nuclear non-proliferation policy of the United States.

Section 1(a) of the bill would add a new declaration indicating that it is the policy of the United States to use export controls "to the extent appropriate to retaliate against a nation or group of nations which have unreasonably restricted United States access to their supply of a particular commodity." It is the intent of the Committee that implementation of such a policy by the President be confined to situations in which attempts have first been made to resolve the situation through international negotiations which have not proved productive, and only when such retaliatory action would be effective, when the

nation or group of nations for which export controls might be applied would be otherwise unable to satisfy their needs for the restricted commodity from sources of supply other than the United States. The Committee intends to serve notice to all nations that the United States is able and willing to retaliate in kind against those who would unreasonably deny us access to their resources.

Section 1(c) of H.R. 15264 would add a new clause to Section 3(3) of the Export Administration Act which would indicate that it is the policy of the United States "to deal with world shortages of particular commodities, whenever feasible, through international cooperation with the major suppliers and consumers of such commodities, rather than by taking unilateral actions." In adopting this language, the Committee reaffirms the commitment of the United States to seek international solutions whenever possible for problems of world shortages, as they arise, recognizing that both suppliers and consumers benefit when there is an orderly and equitable flow of world resources.

The World Food Conference scheduled to be held later this year under the auspices of the United Nations is, in the view of the Committee, indicative of a growing endorsement of this approach. It is the intent of the Committee that any specific agreements with respect to export control arising from such conferences and other forums be based on reciprocity. Such agreements are subject to approval by the Congress under its constitutional prerogative to regulate the foreign commerce of the United States. Specific agreements dealing with export controls shall be subject to review by the Committee and approval by the Congress prior to their taking effect.

The declaration of policy in Section 1(c) does not diminish the requirement to fully implement the policy set forth in Section 1(b) of H.R. 15264, dealing with short supply.

#### *Short Supply*

Of increasing importance to the national economy is the authority to control exports of commodities in short supply. While export controls should be established only when demonstrably necessary, the authority to restrict exports to mitigate such scarcities and to preserve adequate supplies for our domestic economy is indispensable.

Since its inception following World War II, the Office of Export Administration has performed in an era of limited short-supply problems. Traditionally, it has been primarily responsible for controlling exports of strategic materials abroad, which has led to its organizational location in Commerce's Bureau of East-West Trade. Nearly all its efforts have been structured toward that specific objective.

In the past, staff members already involved in strategic materials control activities were responsible for implementing short-supply controls. Since these actions were temporary and occurred infrequently, the Office responded to short-supply problems on an ad hoc basis. No permanent implementation program was ever established for commodity shortages because officials assumed that there would be sufficient supplies of commodities available to meet both domestic and foreign demand and that the free market system allocated resources effectively under both surplus and shortage conditions.

During the time subsequent to the last extension of the Export Administration Act of 1969, P.L. 92-412, August 29, 1972, problems

of domestic short supply and inflation became a matter of growing concern to your Committee.

Beginning in the latter part of 1972, there came a sharp rise in the domestic price of several materials and commodities concomitant with increased foreign demand. Among the more important of these, in terms of domestic inflationary impact, were wheat and feed grains, attended by sharply increased purchases by the U.S.S.R., and softwood logs for ultimate use in home construction, increasingly exported to Japan.

Early in 1973, following the abandonment of the Phase II Economic-Stabilization program, the exchange value of the dollar relative to a number of other key currencies was significantly reduced. This was followed by a rush on the part of foreign purchasers toward materials and commodities of all kinds available in the United States, including ferrous scrap, timber, soybeans and certain soybean products. These unrestricted exports accelerated the increase in the domestic price of food and other consumer products.

There was no evidence that, during the last quarter of 1972, the Department of Commerce was exercising its authority to protect the domestic economy from the excessive drain of scarce material and to reduce the serious inflationary impact of abnormal foreign demand. The 102nd Quarterly Report on Export Control by the Secretary of Commerce for the 4th quarter of 1972 indicated that there were no commodities under short supply control. Reporting requirements in this connection extended only to exports of selected kinds of coal and coke and to current trends in production and consumption of walnut logs, lumber and veneer. During the first quarter of 1973, there were again no commodities under short supply control. Reports on coal and coke were terminated, and information requirements from walnut producers were relaxed. Although the Department of Commerce indicated that there was considerable urging from domestic consumers for the control of exports of ferrous scrap, copper, cattlehides, softwood logs and fertilizer, no reporting requirements or curtailments were instituted.

In view of this development, legislation introduced and referred to the Committee on Banking and Currency on March 19, 1973, was referred to its Subcommittee on International Trade, and hearings were begun on March 21 and continued through May 15, 1973. The Subcommittee on International Trade took testimony from public witnesses and representatives of the Departments of Commerce and Agriculture, with particular focus on the situation with respect to softwood logs and lumber, cattlehides and ferrous scrap. The testimony of the Department of Commerce of May 15 was one of sympathy with proposals to establish an early warning system to forecast changes in domestic demand and supply and to consult with industry and other groups to aid in such forecasting. The testimony from the Department indicated that a resurgence of steel production and ferrous scrap demand at home and abroad and increasing U.S. exports of scrap resulted in rising prices and posed the possibility of shortages of scrap. It was the testimony of the Department of Agriculture at that time that other countries were able at the moment, in spite of what were very attractive prices here, to outbid domestic processors for certain available agricultural supplies.

It was the contention of the Department of Commerce, nevertheless, that export controls as a price control device could not be justified, particularly in the present state of our balance of payments. It had also been the contention that in order for there to be an application of controls, the commodity in question need be in short supply domestically and at the same time under serious inflationary pressure, with this short supply and inflationary pressure attributable to "abnormal" foreign demand.

On June 13, 1973, in a television address to the Nation, the President stated a change of position with respect to export control policy. The President announced his willingness to impose export controls on agricultural products to stem domestic food price increases. Regulations issued at the same time required up-to-date reporting of grain exports. The President indicated there was a direct relationship between rising food prices and U.S. food exports, stating that "One of the major reasons for the rise in food prices at home is that there is now an unprecedented demand abroad for the products of America's farms." The President pointed out that, "In allocating the products of America's farms between markets abroad and those in the United States, we must put the American consumers first."

On June 5, 1973, the Subcommittee on International Trade had recommended to the full Committee on Banking and Currency legislation which was introduced on June 8, as H.R. 8547, a bill to amend the Export Administration Act of 1969, to protect the domestic economy from excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand. All of the provisions of H.R. 8547 as introduced were adopted by the Committee. H.R. 8547 subsequently was passed by the House on September 6, 1973. However, final action on the bill was not taken by the Senate.

On March 26, 1974, the Secretary of Commerce requested legislation to extend and further amend the Export Administration Act of 1969. This request was incorporated in the bill H.R. 13840, introduced April 1, 1974.

Hearings on international economic policy legislation, including H.R. 13840 and other legislative proposals which were directed at short supply problems with respect to a wide range of specific commodities, were held from April 22 through May 2 before the Subcommittee on International Trade. Alternative proposals dealing with specific commodities had been introduced by several members of Congress. Testimony was taken from representatives of the Department of State, Department of Defense, Department of Commerce, the Department of Agriculture, Department of Treasury, and the Council on International Economic Policy, as well as from public witnesses.

As a result of these hearings, the Subcommittee on International Trade on June 6, 1974, recommended, without dissent, the introduction of H.R. 15264. Your Committee on Banking and Currency, by voice vote, on June 11, voted to recommend favorable consideration of H.R. 15264 without amendment.

Section 1(b) of the bill would amend Section 3(2)(A) of the Export Administration Act of 1969 to read, "It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce

materials or to reduce the serious inflationary impact of foreign demand.”

It is the intent of the Committee that export regulations implementing this policy reflect that foreign demand needs not be the major cause of serious inflation in the price of a commodity as a condition to permit the use of export controls. It is sufficient that such demand be a significant factor in causing inflation in the price. This does not necessarily mean that foreign demand must have increased, or that there be some unusual characteristic of that demand. It means that under existing circumstances it has, or threatens to have, a serious effect on domestic prices. The reference to scarce materials is intended to refer to relative imbalance of supply, which may occur either when there is high demand relative to supply of low supply relative to demand. It is also the intent of the Committee that controls should be imposed to prevent an excessive drain of scarce materials from taking place and that controls need not be held in abeyance until such an excessive drain has actually occurred.

The authority to control exports in fulfillment of this policy should be implemented within the context of an international economic policy that places long-term priority on the maintenance of an open international trading system with a minimum of governmental interference. A principal objective of monitoring and control activity, in addition to avoidance of shortages and mitigation of the effects of unavoidable shortages, should be deterrence of disruptive speculative market behavior likely to give rise to a need for export controls. Consequently, the manner in which export licenses are allocated should function as a disincentive to disruptive market participation.

Export controls, when required, should be imposed in a timely manner, with consideration of the impact of the controls upon sectors of the domestic economy and upon traditional foreign purchasers. Embargoes should be avoided except in extraordinary circumstances and quantitative limitations should be imposed sufficiently early to effectively cushion adverse effects on the domestic economy and at a level that would minimize the disruptive effects on historical supply relationships.

Implementation of this policy should be applied on an equitable basis to any product or industry sector on the basis of objective economic criteria. To the extent feasible, the imposition of export limitations should be preceded by consultations with the principal importing countries affected by such limitations. However, it is the intent of the Committee that such consultative procedures should not be used as a delaying tactic or device with respect to the imposition of controls, notwithstanding the provisions of Section 1(c) of H.R. 15264, dealing with foreign policy.

Formal monitoring and international consultation with respect to the export of a given commodity should be based on the following indications:

1. A large or rapid increase in exports, either actual or prospective, in relation to available domestic supplies. Determinations regarding what constitutes a “large or rapid” increase should take into account both the ratio of total exports to available supply and the percentage increase in exports from a representative base period in relation to historical export trends for the commodity.

2. A large or rapid increase in domestic price levels that is attributable in part to export demand. Determinations should take into account the normal price behavior in the U.S. market for the commodity and any available evidence regarding the extent to which the price increase is attributable to demand, as distinguished from cost, factors.

3. Other information which would assist in determining the causes and probable duration of existing short supply and/or inflationary pressures, their impact upon particular U.S. industries and the economy, and whether available data suggest a trend toward mitigation or exacerbation of current pressures.

Export limitations should be based, in addition to the criteria above, on the following:

1. The elasticity of supply for the product: specifically, the extent to which domestic supplies can be increased in the short-term in response to higher price levels. This criterion implies a need for serious consideration of factors influencing availability of supply for particular commodities or classes of commodities (e.g., distinctions between renewable and non-renewable resources). For example, where domestic supplies are highly price-elastic, relatively larger price increases presumably could be tolerated without resort to controls, compared with products for which domestic supplies are not demonstrably responsive to price movements.

2. The impact of actual or threatened shortages on the ability of affected sectors of the economy to maintain a reasonable level of operations, including the effects of such shortages on production, capacity utilization, employment, and operating margins. In this connection, the Secretary should consider the potential adverse effects or indirectly affected industries at later stages of processing, as well as the probable effects of shortages on the industry or industries most directly affected. This involves consideration of the potential "negative multiplier" effects flowing from the bottleneck-creating potential of the particular product in short supply. Determinations based upon the potential adverse effects of shortages on the indirectly affected industries (i.e., industries at later stages of processing) should take into account:

(a) the extent to which other products may be quickly substituted for the item in short supply in the operations of such industries.

(b) the importance to the national economy of the output of the indirectly affected industries.

3. The probable effect of price increases for the short supply item on the prices of articles at later stages of processing.

4. Available information concerning the nature and duration of any major interruption of domestic or foreign supplies and/or substantial additions to, or contractions of, domestic productive capacity.

5. The extent to which the unrestricted export of recyclable waste materials (a) increases domestic dependence upon foreign source raw materials and products which are made from such materials and (b) prompts the increased domestic use of energy for the production of goods from virgin materials.

Section 2 of the bill would amend existing law to provide that the Secretary of Commerce, in consultation with appropriate technical advisory committees, shall investigate which materials or commodities shall be subject to export controls because of the present or prospective domestic inflationary impact or short supply of such material or commodity in the absence of any such export control. The Secretary is required to develop forecast indices of the supply and demand for such materials and commodities to help assure their availability on a priority basis to domestic users at stable prices.

The Section further provides that implementation of export controls for the purpose of rectifying conditions of domestic short supply or inflationary impact shall not be exercised with respect to any agricultural commodities without the approval of the Secretary of Agriculture.

The Section also provides that, upon written request by representatives of a substantial segment of any industry which processes materials or commodities which are subject to export controls or are being considered for such controls because of the present or prospective domestic inflationary impact or short supply of such materials or commodities in the absence of any such export controls, the Secretary of Commerce shall appoint a technical advisory committee for grouping of such materials or commodities to evaluate technical matters, licensing procedures, worldwide availability, and actual use of domestic production facilities and technology.

These are provisions which were contained in H.R. 8547, which was passed by the House on September 6, 1973, and to which no objection was raised during consideration of that legislation, either in the House or in the Committee. The continuing need for this legislation is underscored by the subsequent report of September 15, 1973, of the Office of Organization and Management Systems of the Department of Commerce, which stated that. "The Monitoring function appears to be the one most susceptible to improvement and most likely to be the subject of outside criticism. This is understandable since this function is: (a) the only function for which there was no prior experience in the Office of Export Control; (b) the intelligence gathering and analytical operation on which crucial Short Supply Program decisions are based; and (c) the core of future Departmental involvement in Short Supply problems.

"The problems in the monitoring function include: (a) An information system which does not effectively answer all current information needs. (b) A lack of sufficient controls on the data base, which makes it subject to question. (c) A lack of written procedures. (This also applies, to some extent, to the licensing function.) (d) A lack of specifics on the complete range of current and future information needs. (e) An absence of current efforts directed toward improving the validity of the data base and correcting the deficiencies noted above."

In his prepared testimony before the Subcommittee on International Trade, the Secretary of Commerce stated that, "Short supplies and rising prices of some commodities can be expected to arise intermittently in the future." The Secretary further indicated that steps are being considered to correct deficiencies in data availability from government sources by mobilizing the resources of the Census Bureau, and

that the Bureau has certain steps "under review." The Committee has a greater sense of urgency than is apparent from the testimony of the Secretary in this matter.

Section 3 of the bill would provide a new Section 6 to the Export Administration Act of 1969, a petition procedure for short supply export controls and monitoring. Under these provisions any person who represents a substantial segment of an industry which processes any material or commodity may transmit a written petition to the Secretary of Commerce requesting the imposition of controls or the monitoring of exports or both in order to effectuate the policy declaration with respect to short supply. Each petition shall be in a form which the Secretary of Commerce shall prescribe and shall contain information in support of the request. It is the intent of the Committee that such prescription shall function to neither invite frivolous petitions nor constitute an onerous burden on a petitioner which would require him to show more than probable cause.

Within a period of 75 days or less, under these provisions, notice of the petition would be published in the Federal Register, hearings would be held and the Secretary would be required to either institute monitoring, controls, or publish in the Federal Register a detailed statement of his reasons for not instituting such monitoring or control.

Although short supply control decisions affect a wide variety of domestic interest groups, including the general public, consultation has been largely limited to the views of commodity exporters and has excluded domestic interest groups ranging from producers to consumers. Economic groups affected by supply shortages should be more involved.

On the basis of hearings testimony and communications from the Department of Commerce and the public, there is evidence that the application and implementation of the short supply policy declaration contained in the Export Administration Act have been uneven. In some instances, controls have been imposed for reasons and under conditions which are not consistent with the policy criteria of the statute as interpreted by the Department of Commerce in public testimony. In other instances, industries which have requested the imposition of controls and have been denied such relief appear to have been in a situation in which the stated criteria of scarcity, inflationary impact, and foreign demand have been met.

In the case of aluminum scrap, for example, export levels, after falling during 1971, doubled in 1972 and almost doubled again in 1973. According to the Department of Commerce, exports of aluminum scrap climbed steadily and sharply from the fourth quarter of 1972 through the fourth quarter of 1973. During the same period, the price for new aluminum clippings doubled from 7.5 cents per pound to 14-15 cents per pound, and have subsequently risen in early 1974 to 22-24 cents per pound.

Similarly, exports of wastepaper (particularly newspaper and particularly from West Coast exports) rose rapidly during 1973. National exports rose by 71 percent in the first nine months of 1973 and West Coast exports by 187 percent. Waste newspaper prices more than doubled from May to November 1973. While it appears that other factors also influenced domestic price levels, export demand clearly played an important role, particularly in the West Coast market. The

processors of aluminum scrap and of waste newspaper requested the imposition of export controls under the circumstances and obtained no relief, despite the submission of substantial data. The representatives of these industries were unable to obtain a clear decision from the Department of Commerce. In the case of users of ferrous scrap, similar data was submitted, but a positive decision with respect to the imposition of controls was long delayed, exacerbating conditions of supply and price domestically. On this basis, the Committee feels there is a definite need for a systematic procedure under which domestic industries can obtain clear and timely decisions with respect to the implementation of short supply policy.

Section 3 of the bill would further provide a new Section 7 of the Act, a petition procedure for hardship relief from export controls, which the Committee believes appropriate and necessary to guide and direct the Secretary of Commerce more closely in his consideration of granting relief from export controls.

The Committee recognizes that the licensing program may in certain situations work a hardship on domestic manufacturers and their employees. For example, one domestic manufacturer, American Motors, stated that, as a result of export controls on scrap steel, its continued domestic production of a major consumer product has been endangered, with potential dislocation of the economy and employment. A critical component of this manufacturer's final product is provided by its facility in Canada in compliance with the terms of the United States-Canada Automotive Products Agreement of 1965. This component, the engine block, is produced in part from scrap steel exported from the United States, which scrap is presently subject to controls. Relief in the past has been unavailable to the manufacturer, and there has existed a threat that the manufacturer's American production lines would be closed as a consequence of the export control program.

The new section directs the Secretary to consider relief in situations such as may be represented by a domestic manufacturer who produce or causes to be produced from materials exported to a foreign subsidiary or division or firm, a critical component of the product which it assembles or manufactures in the United States with domestic labor. Exemption from export controls is warranted in such a case because the domestic economy benefits through the uninterrupted and efficient production of the domestic product. In such instances, the exported commodity or material is returned for use in a domestic product, either sold for use in the United States, or exported, with a value greater than the value of the component raw material otherwise restricted from export, thus contributing favorably to the balance of payments.

#### ADMINISTRATION AND REPORTING

Section 5 would amend the Export Administration Act of 1969 by extending the Act to June 30, 1976.

In granting this extension, the Committee intends and expects that the Department of Commerce shall more fully exercise its administrative responsibilities with respect to reports to the Congress. The Office of Export Administration recently de-emphasized this responsibility. The Export Administration Act requires that the President and the

Congress be provided with a quarterly report of operations performed under the Act. Before 1973, the Office was responsible for preparing and publishing the report. Control of the report was shifted in 1973 to the Bureau of East-West Trade.

Placing responsibility for the report in the Bureau of East-West Trade produced a subject change in its contents. The report now focuses on the expansion of East-West Trade and relegates its subject of export controls to one chapter. The primary emphasis of that chapter is on strategic export controls.

The report provides only a limited description of short supply export control actions and does not provide substantive analysis and assessment of the domestic and international impact of export control decisions. Quarterly reports have not been published in a timely manner and not within 45 days subsequent to the calendar quarter, as specified in the Act. The Committee expects the situation to be promptly remedied.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### EXPORT ADMINISTRATION ACT OF 1969

\* \* \* \* \*

#### DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.

(2) It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials [and] *or* to reduce the serious inflationary impact of [abnormal] foreign demand; (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, [and] (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States, *and* (D) *to the extent appropriate to retaliate against a nation or group of nations which have unreasonably restricted United States access to their supply of a particular commodity.*

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations with which the United States has

defense treaty commitments, [and] (B) to formulate a unified trade control policy to be observed by all such nations, and (C) to deal with world shortages of particular commodities, whenever feasible, through international cooperation with the major suppliers and consumers of such commodities, rather than by taking unilateral actions.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular articles, materials, or supplies, including technical data or other information, to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and qualified experts from private industry.

AUTHORITY

SEC. 4. (a) \* \* \*

\* \* \* \* \*

(c) Nothing in this Act, or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export articles, materials, supplies, data, or information except where [the national security, the foreign policy of the United States, or the need to protect the domestic economy from the excessive drain of scarce materials] *implementation of the policies contained in section 3(2) of this Act* makes such requirement necessary.

\* \* \* \* \*

[(e) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.]

(e)(1) *The Secretary of Commerce, in consultation with appropriate United States departments and agencies and any appropriate technical advisory committee established under section 5(c)(2), shall undertake an investigation to determine which materials or commodities shall be subject to export controls because of the present or prospective domestic inflationary impact or short supply of such material or com-*

*modity in the absence of any such export control. The Secretary shall develop forecast indices of the domestic supply and demand and, to the extent necessary, foreign supply and demand for such materials and commodities to help assure their availability on a priority basis to domestic users at stable prices.*

*(2) To effectuate the policy set forth in clause (A) of paragraph (2) of section 3 with respect to any agricultural commodity, the authority conferred by this section shall not be exercised without the approval of the Secretary of Agriculture.*

#### CONSULTATION AND STANDARDS

SEC. 5. (a) \* \* \*

\* \* \* \* \*

(c) (1) Upon written request by representatives of a substantial segment of any industry which produces articles, materials and supplies, including technical data and other information, which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such articles, materials, and supplies, including technical data and other information, which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government. No person serving on any such committee who is representative of industry shall serve on such committee for more than two consecutive years.

(2) Upon written request by representatives of a substantial segment of any industry which processes materials or commodities which are subject to export controls or are being considered for such controls because of the present or prospective domestic inflationary impact or short supply of such materials or commodities in the absence of any such export controls, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such materials or commodities to evaluate technical matters, licensing procedures, worldwide availability, and actual use of domestic production facilities and technology. Each such committee shall consist of representatives of United States industry and government. No person serving on any such committee who is representative of industry shall serve on such committee for more than two consecutive years. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

**[(2)]** (3) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) with

respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees shall be consulted with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to any articles, materials, or supplies, including technical data or other information, and including those whose export is subject to multilateral controls undertaken with nations with which the United States has defense treaty commitments, for which the committees have expertise. Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b) (2) of this Act. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

[(3)] (4) Upon request of any member of any [such] committee established under paragraph (1) or (2), the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

[(4)] (5) Each [such] committee established under paragraph (1) or (2) shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

PETITION PROCEDURE FOR SHORT SUPPLY EXPORT CONTROLS AND  
MONITORING

Sec. 6. (a) (1) Any person who represents a substantial segment of an industry which processes any material or commodity may transmit a written petition to the Secretary of Commerce requesting the imposition of controls, or the monitoring of exports, or both, with respect to such material or commodity in order to effectuate the policy set forth in section 3(2) (A).

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of its request.

(b) Within fifteen days of receipt of any petition described in subsection (a) the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include the name of the material or commodity which is the subject of the petition; whether the petitioner is requesting that control or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and provide that interested persons shall have a period of thirty days commencing with the date of publication of this notice to submit to the Secretary of Commerce written data, views, or arguments with or without opportunity for oral presentation.

(c) *Within thirty days after the end of the thirty-day period described in subsection (b), the Secretary of Commerce shall—*

(1) *impose monitoring on the exportation of such material or commodity;*

(2) *impose controls on the exportation of such material or commodity; or*

(3) *publish in the Federal Register a detailed statement of his reasons for nonimposition of such monitoring or controls.*

(d) *The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under any other provision of this Act.*

PETITION PROCEDURE FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) (1) *Any representative of a substantial segment of an industry which processes any material or commodity subject to export control in order to effectuate the policy set forth in section 3(2) (A) may transmit a written petition of hardship to the Secretary of Commerce requesting that the appropriate rule or rules be amended to alleviate the hardship resulting from the controls.*

(2) *Any person who processes any material or commodity subject to export to export control in order to effectuate the policy set forth in section 3(2) (A), or who exports any such material or commodity, or who in its manufacturing process utilizes any such material or commodity may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate the hardship.*

(3) *Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of its request.*

(b) (1) *Within fifteen days of receipt of any petition described in subsection (a) (1) the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include the name of the material or commodity which is the subject of the petition and a brief description of the petition.*

(2) *If specifically requested by the petitioner, within fifteen days of receipt of any petition described in subsection (a) (2) the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include the name of the material or commodity which is the subject of the petition and a brief description of the petition.*

(3) *Any notice which is published under this subsection shall provide that interested persons shall have a period of thirty days commencing with the date of publication of the notice to submit to the Secretary of Commerce written data, views, or arguments with or without opportunity for oral presentation.*

(c) (1) *Within thirty days after the end of the thirty-day period described in subsection (b), the Secretary of Commerce shall publish in the Federal Register his decision with respect to the petition and his reasons therefor.*

(2) *In the case of any petition by any person under subsection (a) (2) which is not published by the Secretary of Commerce under subsection (b) (2), the Secretary shall, within sixty days of receipt of*

the petition, transmit a written decision to such person which includes his reasons therefor.

(d) For purposes of this section, when making a decision with respect to a petition transmitted to him concerning hardship relief from export controls, the Secretary of Commerce shall take into account such factors as—

(1) the adverse effect on employment in the United States or any region thereof resulting from the controls;

(2) the probability of insolvency of a person resulting from the controls;

(3) any interference with imports into the United States which are essential to the domestic economy or would cause undue disruption of the domestic economy resulting from the controls;

(4) the adverse effect of the controls upon a domestic company which manufactures or assembles a product which includes a critical component which is produced outside of the United States in whole or in part from an item or items subject to the controls; and

(5) any other factors which the Secretary deems to be relevant.

#### VIOLETIONS

SEC. [6] 8. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than \$10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be fined not more than five times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(c) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

#### ENFORCEMENT

SEC. [7] 9. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) *Any person who enters into a contract, protocol, agreement, or other written understanding, which contemplates, or is likely to result in, the exportation to a Communist country or area, of United States origin technical data which is not generally available, shall report the details of the transaction to the Secretary of Commerce within*

*sixty days from entering into such contract, protocol, agreement, or other written understanding.*

[(c)] (d) No department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

[(d)] (e) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, record-keeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

#### EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. [8] 10. The functions exercised under this Act are excluded from the operation of sections 551, 553-559, and 701-706, of title 5 United States Code.

#### INFORMATION TO EXPORTERS

SEC. [9] 11. In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export license request.

## QUARTERLY REPORT

SEC. [10] 12. The head of any department or agency, or other official exercising any functions under this Act, shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder.

## DEFINITION

SEC. [11] 13. The term "person" as used in this Act includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

## EFFECTS ON OTHER ACTS

SEC. [12] 14. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

## EFFECTIVE DATE

SEC. [13] 15. (a) This Act takes effect upon the expiration of the Export Control Act of 1949.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

## TERMINATION DATE

SEC. [14] 16. The authority granted by this Act terminates on June 30, [1974] 1976, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.



## DISSENTING VIEWS TO THE REPORT ON H.R. 15264, THE EXPORT ADMINISTRATION ACT AMENDMENTS

In reporting out H.R. 15264, To Amend and Extend Regulations on Exports, the Committee on Banking and Currency ignored critical testimony before the Subcommittee on International Trade.

This testimony made clear the urgent need for the following:

(1) Protection of American labor and industry against unfair competition from the non-free and slave labor of the Soviet Union and the Warsaw Pact nations

(2) Assurance that the security of the United States is not endangered by transfer of U.S. technology and capital equipment to those communist countries

(3) Reassertion of the Constitutionally-assigned Congressional responsibility to regulate foreign commerce.

Because the Committee ignored the abundant testimony to this urgent need, this bill is not ready for floor action. It should, therefore, be returned to the Committee for full consideration of the facts set forth before the Subcommittee.

Today, the Soviet Union is unable to compete with the United States in the world marketplace; it continues handicapped by backwardness in technology, industrial know-how, and capital goods.

Given continued U.S. outflow of these elements, the Soviet Union will be able to combine them with its non-free labor force and become a massively unfair competitor.

Unlike the American worker, the Soviet worker has neither freedom of choice of occupation nor place of employment; no right to organize into free, independent trade unions; no recourse for grievances; no right to strike; no one to plead his case with his employer. His employer is the all powerful Soviet State—and he is its servant.

This harsh fact of Soviet life applies to the tightly-regulated main labor force; it grows harsher, proportionately, for those who work as prisoner labor and slave labor.

The U.S.S.R. has a long list of precedents in the area of economic warfare. They include: expropriation, dumping, embargo, and encouraging the Arabs to impose their oil embargo upon the United States and other nations which Soviet leaders sought to bring into line.

Meanwhile, a new Soviet technique has begun to show itself: cheaply-priced Soviet products sold in Western countries which have contributed to Soviet productive capacity and know-how. For example: Soviet tractors have recently been introduced into the American market—selling for \$7,500, half the price of comparable U.S.-made tractors.

Lada, the Soviet automobile built by a factory planned and constructed for the U.S.S.R. by Fiat of Italy, compares, roughly, with the Fiat 124. It will sell in the United States for a price well below the Fiat 124.

Clearly, privately-owned American industry and well-paid organized American workers could not hope to produce goods at a price approaching the competitive with goods produced under these tightly-State-controlled Soviet conditions.

This would be the economically-disastrous result of today's dangerous course of export administration even if Soviet leaders were not presently converting our exports into a massive buildup of their war machine.

Admiral Elmo Zumwalt, Chief, U.S. Naval Operations, has warned: "At this moment, I consider that the Soviets have a possible first-strike capability, whereas we do not."

Admiral Zumwalt has also warned: "Russia's Communist *ideology* (Irl.) is expansionist."

The Admiral has also reminded us that, addressing the Communist leaders of the Warsaw Pact nations, Soviet Communist Party Secretary Leonid Brezhnev has stated:

"We communists have got to string along with the capitalists for awhile. We need their agriculture and their technology. But we are going to continue massive military programs and by the middle 80's, we will be in a position to return to a much more aggressive foreign policy designed to gain the upper hand in our relationship with the West."

Secretary of Defense James Schlesinger has expressed concern that, should the U.S.S.R. marry technologies emerging from its research and development program to the throw-weight and numbers of Soviet ICBMs allowed under SALT I, "They would develop a capability that was preponderant relative to that of the United States."

Director of Defense Research and Engineering Dr. Malcolm R. Currie has put it this way.

"The Soviets have become critically aware that their great deficiency is not in scientific knowledge but rather in production technology. They apparently feel that they can neither close pivotal gaps in their military capability nor gaps in their general economic growth, both domestically and world-wide, until they acquire a manufacturing technology comparable to ours. This applies particularly to high technology areas having both military and civilian application, such as integrating circuits, software, aircraft, engines, avionics and specialized instruments to name a few."

Professor Antony C. Sutton, who spent 11 years at the Hoover Institute, Stanford University, studying and researching the origins of Soviet technology, has told our Subcommittee:

"The Soviet military-industrial complex is . . . dependent on technology transferred from the West, mainly from the United States. No distinction can be made between civilian and military technology and all transferred technology has some military impact.

"The term 'peaceful trade' in regard to Soviet trade is grossly misleading and should be abandoned. The crux of the problem at issue is technical transfers through the medium of Soviet trade and the use of such technical transfers for military purposes."

Avraham Shifrin, former Soviet Red Army Major and former Chief Legal Adviser, Contact Division, Soviet Ministry of War Equipment, has told our Subcommittee how the U.S.S.R. plans and uses trade to

produce military weapons and ease the inevitable bottlenecks, breakdowns and shortages which stem from the Soviet-planned economy.

Mr. Shifrin, now a citizen of Israel, has also attested to the fact that Soviet-supplied tanks used against Israel by Egyptian and Syrian forces, were fitted with ball bearings manufactured on equipment exported to the Soviet Union from the United States.

Other American advanced technology and automated machinery is now pouring into the Soviet Union for the Kama River truck plant under construction in accordance with specifications provided by American industry.

Donald E. Stingel, President, Swindell-Dresser Company, had told our Subcommittee of his firm's role as the plant's principal engineering and construction company. His testimony has included the revelation that the firm is providing the U.S.S.R. with a technological capacity yet to be realized even in the United States. Specifically:

This Kama River plant will have an annual production capacity for 100,000 10-ton trucks and engines for civilian or military use—far more than the American productive capacity for such trucks. That Soviet tank production will benefit from this plant has emerged from Mr. Stingel's testimony regarding the nature and capacity of the plant's foundry.

Meanwhile, American technology and instrumentation have been used to perfect Soviet Intercontinental Ballistic Missiles and advance the development of MIRVs and Laser beam weapons.

Intelligence agencies and certain other elements of our Government reportedly view this problem so seriously that a special, high-level National Security Council study has been commissioned. The objective: attempt to determine what can be done to stem this out-rush of so-called "peaceful" technology with military application.

The preliminary conclusions of this study indicate a greater out-flow of military-related technology to the U.S.S.R. and Warsaw Pact countries than suspected.

These conclusions leave no doubt that U.S. export administration is replete with loopholes and that U.S. monitoring of these transactions is so poor that the Administration has no confidence that it knows the full extent of benefits to the Soviet Union.

There is, therefore, no doubt that the current law is dangerously defective, and that legislative remedy already is dangerously overdue.

Because H.R. 15264 fails, miserably, to address itself to this critical problem it must be returned to Committee for necessary repair.

BEN B. BLACKBURN.  
 PHILIP M. CRANE.  
 JOHN B. CONLAN.  
 JOHN H. ROUSSELOT.