

Curbs on Technology Exports Hurt by Gaps in Enforcement

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WASHINGTON, Oct 13 — Despite the growing concern of Government officials that sophisticated American technology and arms are being illegally shipped to unfriendly nations, including the Soviet Union, the Federal agencies charged with administering the export control laws remain understaffed and their enforcement efforts are spotty.

According to Reagan Administration officials, the Government makes relatively few inspections of outbound shipments, prosecutions are rare, penalties are comparatively light and there is a backlog of unfinished investigations.

The problem of controlling illegal exports has been underscored recently by reports of the activities of Edwin P. Wilson and Frank E. Terpil. Mr. Wilson and Mr. Terpil, former agents of the Central Intelligence Agency, were indicted last year on charges of illegally exporting explosives to Libya and are under investigation for other suspected violations of the export laws.

Problem for Several Decades

Officials in the Commerce Department and the Customs Services said that the problem dated back several decades. But they said it had become more severe because of transfers of "critical" technology that could be used to improve the military abilities of unfriendly nations.

The officials said that they were especially worried about illegal sales of restricted technology to the Soviet Union because the military strength of the United States rests to a large extent on its technological superiority over the Russians.

Accordingly, they said, the Government is developing new ways to stop the flow of illegal exports. Measures include better coordination, improved sharing of intelligence and staff increases. Nonetheless, they said the effort continued to be plagued by insufficient investigative and inspection resources.

Administration officials said that the Soviet Union had stepped up covert operations in this country and abroad in an attempt to obtain technology that can be used for military purposes. Among

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Controls on Technology Exports Are Ill Enforced

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the Soviet targets are computers, microelectronic devices, lasers and telecommunications equipment.

Furthermore, they said that the Government of Libya, which has sponsored terrorist activities around the world, continued to engage in clandestine efforts to obtain United States-manufactured aircraft, parts and weaponry. Only recently, the officials said, Government investigators uncovered a plot to export aircraft and aircraft parts to the North African nation.

Officials said they were attempting to gauge the extent of illegal sales. A New York Times review of the Government's export control program disclosed these problems:

¶The Commerce Department, which has enforcement authority over commercial exports other than munitions that include many high technology items, has a staff of 25 investigators and inspectors for the entire country. Since there are 300 air, sea and highway exit points, the department makes only limited cargo inspections and has not worked closely with Customs Service inspectors. In 1980, the department issued commercial licenses for \$5 billion in technology and commodity exports to Communist countries, including \$736 million for the Soviet Union. Officials said they did not know how much material left the country illegally, though they believe such shipments were substantial.

¶At the close of last year, the Commerce Department had a backlog of 426 incomplete investigations, many involving allegations of unlicensed technology exports. Officials said that the backlog had been reduced but declined to say by how much.

¶The department has relied heavily on administrative sanctions rather than criminal action against companies or individuals in violation of export laws. Only 10 prosecutions have been undertaken since 1975 charging diversion of high-technology products to the Soviet Union or other Eastern European countries. The most recent indictments were in August in California. Commerce officials said development of criminal cases was difficult, but they said they expected prosecutions to increase.

¶The penalties imposed even for serious violations have been considered light in relation to the large amount of money that can be made from illegal transactions.

¶The State Department issued commercial export licenses for \$2 billion in arms and military equipment in 1980. But officials said they could not estimate how much was illegally exported. One reason, according to the Customs Service, which enforces laws governing munitions exports, is that only a relatively few physical inspections are made of arms and weaponry exports. The Customs Service said that its work was import-oriented and that it did not have the staff or funds for extensive export inspection.

¶Many customs inspectors do not have the technical knowledge to inspect sophisticated munitions or technology exports. In a 1979 report, the General Accounting Office, the investigative agency of Congress, described the problem as "a major difficulty," adding that "it takes no special expertise to confirm that a crate contains 60 .38-caliber revolvers," while "it is quite another matter" to identify sophisticated equipment.

¶In its report, the accounting office said that Customs made numerous errors in processing munitions export licenses and related documents, reducing the effectiveness of document control as a means of detecting illegal shipments. The report said that the State Department had not issued clear guidelines on the proper handling of export control documents for munitions shipments. The guidelines still have not been issued.

2 Agencies Bear Responsibility

Except in the case of nuclear materials, responsibility for licensing and controlling commercial exports is divided between the State Department's Office of Munitions Control and the Commerce Department's Office of Export Administration.

Each operates under separate laws and depend largely on voluntary compliance by manufacturers and exporters. Officials stressed that most manufacturers and exporters complied with the law and that many had provided information on possible violations. The officials said that the strongest deterrent was the fact that companies and individuals faced the loss of licensing privileges, or prison terms and fines, if they violate export laws.

Both agencies can deny license applications on national security or foreign policy grounds. Officials say they try to screen out potential violators in the licensing process.

If, for example, a "foreign end-user" listed on a license application is not known, officials say they ask United States embassies to check the user.

Transshipping Is a Problem

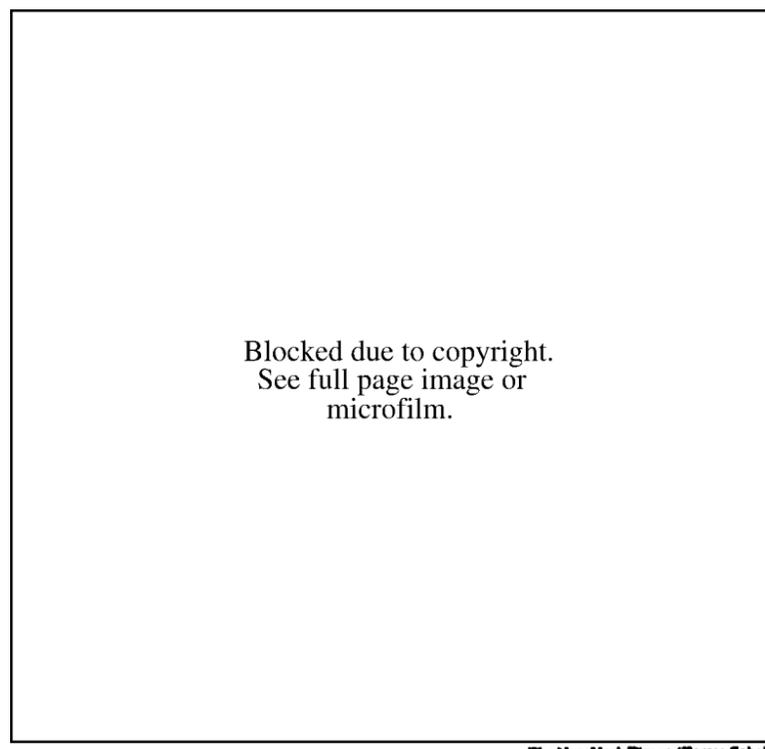
Officials say that before licenses are granted, assurances are obtained from the end-user, which may be a foreign government or private concern, that the materials will not be re-exported without the approval of the United States.

But, the officials acknowledge, the United States has no control once a product leaves American shores. They say they are increasingly concerned that many commodities are legally transferred to allies or neutral countries, then illegally transshipped to the Soviet Union or other Eastern bloc countries.

For instance, Commerce Department officials cited a case in which a license was obtained to export a generator with potential military applications to a university in Turkey for research purposes. An Austrian businessman diverted the equipment to Vienna, and it was then shipped to the Soviet Union.

"It's a large enough problem that we are seriously concerned," said Sharon R. Connelly, an official in the Office of Export Administration. "It's not like a bank robbery where you know you're being robbed. In these cases, you don't know you've been robbed unless you happen to find out about it."

The Customs Service said that it believed that some foreign officials had been bribed by exporters to lie in assur-



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The New York Times/Teresa Zabala

Bohdan Denysyk, an official of the Commerce Department, says that the United States has ample information that the Russians "are stepping up their activities all over the world, including the U.S."

This article continues an investigation by The Times into the transfer abroad of advanced technology, military equipment and expertise by former United States intelligence agents and military officials.

Key issues involve Federal control over such transfers, how they were made and the role of the Central Intelligence Agency in the activities of Edwin P. Wilson, a former agent. Mr. Wilson and another former agent were indicted in 1980 on charges of exporting explosives to Libya to help train terrorists. Other former C.I.A. employees have business ties to Mr. Wilson.

Previous articles have reported on Mr. Wilson's use of Green Beret troops to train terrorists in Libya, evidence that investigators say links Mr. Wilson to the suspect in the attempted murder of a Libyan student in Colorado and allegations that a company controlled by Mr. Wilson bribed a former Federal official.

Sunday and yesterday, The Times has reported efforts by Mr. Wilson to sell restricted American computer technology to the Soviet Union, on the activities of a British businessman with ties to both Mr. Wilson and the Soviet Union and on a small California company that markets sensitive electronics equipment abroad.

ing the United States that commodities would not be transshipped from their country without prior approval of the State or Commerce departments. The authorities would not provide specific examples of this practice.

Illegal weapons and technology transfer takes other forms. Government officials say some exporters submit false documents or otherwise try to disguise what they are shipping. For example, Mr. Wilson is under investigation, according to Federal authorities, for supposedly arranging the illegal shipment to Libya in 1977 of 20 tons of plastic explosives that were placed in barrels and labeled to indicate that they held oil well drilling fluid. Participants in the transaction said the shipment was never examined by customs inspectors.

Both the State and Commerce Departments have elaborate licensing procedures to cover technology and commodities that cannot be exported without Government approval.

The State Department's Office of Munitions Control regulates arms exports under the Arms Export Control Act. The agency maintains a "munitions list" of arms that cannot be transferred to friendly nations without a license and that are banned from export to several nations, including the Soviet Union, Eastern European countries, Libya and Cuba, among others.

The list is extensive and includes small and large weaponry and sophisticated technology, such as cryptographic equipment. In security and highly technical areas, the State Department consults with other agencies, including the Defense Department, before deciding to issue a license. The same is true of the Commerce Department.

As a matter of practice, neither agency issues a license if the Defense Department objects on national security grounds.

The Commerce Department's Office of Export Administration issues licenses for so-called "dual use" technology products, those having both military and civilian applications, under a 1979 amendment to the Export Administration Act.

The department maintains a "commodity control list" of 137 generic items covering thousands of products, including machinery, chemical and petroleum equipment and electronics and precision instruments, that require approval. The system was put in place in the 1940's, primarily to regulate trade with Communist countries.

The Commerce list is the same as an international list agreed on for mutual

security by the Coordinating Committee for East-West Trade policy, except for 34 items that the United States controls on its own for national security reasons.

Some of the technology products have great military significance. If the United States approves an export application for such an item, it must seek concurrence from the committee, which includes Japan and all members of the North Atlantic Treaty Organization except Iceland.

Over the last decade, in the interest of détente, the United States often sought committee approvals for exports to the Soviet Union. But after the Soviet military intervention in Afghanistan in 1979, the Carter Administration imposed tighter controls over technology exports and suspended 700 licenses, some of which were later reinstated. Reagan Administration officials say that restrictive trade policies are continuing.

Technology and Strategic Margin

The officials say that the United States has relied on its technological superiority to offset the Soviet Union's quantitative advantage in weapons. They say the United States continues to lead in advanced technology, but that legal transfers in the 1970's contributed significantly to the Russians' strategic capabilities.

In a report titled "Soviet Military Power," the Defense Department said last month: "The United States is losing its lead in key technologies, including electro-optical sensors, guidance and navigation hydroacoustics, optics and propulsion."

As a result of the tightened export controls, officials said that covert efforts by the Soviet Union to obtain Western tech-

nology had become an even larger problem. "We have ample information that they are stepping up their activities all over the world, including the U.S.," said Bohdan Denysyk, deputy assistant secretary for export administration in the Commerce Department.

Mr. Denysyk acknowledged that the Commerce Department needed additional inspectors and investigators to combat the problem and that the enforcement program had been marred by inadequate coordination and bureaucratic infighting.

But he said that the Commerce Department and the Customs Service had been working together more closely. Now, he said, teams of investigators from Commerce, Customs and the Federal Bureau of Investigation are working on cases, and his agency is expanding its operations.

William T. Archey, deputy commissioner of the Customs Service, said that emphasis on enforcement programs had been "almost nonexistent" in previous administrations. He said his agency was putting more resources into enforcement and was studying whether it should redeploy its personnel.

Mr. Archey said the enforcement program also needed "top notch intelligence" from the F.B.I. and the C.I.A. to allow investigators to spot problem areas.

Victor G. Weeren, another Customs Service official, complained that inspectors from his agency "haven't had a real close working relationship" with Commerce inspectors.

He said an additional 565 Customs inspectors were needed for a significant nationwide inspection program.

"As a matter of routine," Mr. Weeren said, "we don't inspect outbound shipments. He said that his agency did some spot checking and planned to do more, but he added that it was "unfortunately true" that it was relatively easy to export items illegally.

Mr. Weeren says his agency does inspect Commerce Department-licensed shipments from Kennedy International Airport in New York under an inter-agency agreement. Only two inspectors are assigned to the project, which Mr. Weeren described as successful, noting that 21 unlicensed shipments to the Soviet Union and Yugoslavia had been detected since 1978.

Mr. Weeren said that, because of understaffing, it was "unfortunately true" that it was relatively easy to export items illegally.

Both Mr. Denysyk and Clyde G. Bryant, an official in the State Department's Office of Munitions Control, said that an accelerated inspection program would not in itself stop illegal exports.

Spot Checks a Deterrent

"You cannot stop every package going out of this country," Mr. Bryant said, "or you would bring export commerce to a complete halt." Both officials said, however, that an intensive program of spot inspections would serve as a serious deterrent.

Mr. Bryant said the "ultimate control" had to be the penalties for illegal exports. He said the Arms Export Control Act provided penalties of up to two years in prison, a \$100,000 fine or both.

Persons who violate the Export Administration Act can be fined up to five times the value of the exports or \$100,000, whichever is greater, and imprisoned for up to 10 years.

Commerce Department officials said the Government's intensified effort in developing criminal cases was already paying dividends.

The officials said that last August, a Federal grand jury in Los Angeles indicted four persons for violating export laws and other statutes. The defendants were accused of conspiring to export unlicensed electronics equipment to West Germany for transshipment to the Soviet Union and Eastern-bloc countries.

Commerce officials also referred to the Government's 1980 prosecution of a California couple who were convicted of making clandestine shipments of laser mirrors to the Soviet Union.