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# COCOM: An International Attempt to Control Technology

By

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The changes in Eastern Europe have precipitated a rapid re-evaluation of export control efforts on the part of the Western Allies. This is best evidenced by recent high level meetings in Paris between the participants of the Coordination Committee for Multilateral Export Controls (COCOM). The results of these meetings are extremely important to the future of multi-national methods of technology control.

COCOM was established in 1949 as a response by members of NATO to the growing Soviet threat. Seven western European nations, plus the United States, determined there was a need for the multilateral control of military technology available to the Soviets and their surrogate East Bloc states. The concept was to deny the export of strategic technology to the Warsaw Pact in order to deny access to technologies that increased the effectiveness of their respective militaries.<sup>1</sup>

These efforts to effect controls were promulgated by the experiences of the United States prior to World War II. The United States developed an extremely high level of investment in Japan during the early 1930's. This investment proved to be detrimental in the latter 1930's as Japan strengthened its domination in the Far East. U.S. efforts to place economic sanctions on Japan contributed to the final decision on the part of Japan to attack Pearl Harbor on 7 December 1941. Therefore, members of Congress and many within the post-war administrations of Presidents Truman and Eisenhower had a precedent for wanting to prohibit the availability of developing strategic technologies to the new adversaries in the "Cold War."

COCOM, itself, is a non-treaty international community of nations that is designed to provide a semblance of control of strategic technologies whose release to the Warsaw Pact nations would be detrimental to western interests. From the initial meetings of the member nations in early 1950 through the 1970's, the United States was a leader in the efforts to inhibit the transfer of military or dual use technologies to the Eastern Bloc countries.

Historically, a majority of the COCOM members have shied away from solidifying the organization through a formal multi-national treaty. The decisions about restricting or allowing the export of specific items have always been reached through a process of unanimity. All nations within COCOM must agree to a proposed export or restriction. The agreed methods of enforcement are expected to be implemented by laws and/or regulations of the participating countries. Those technologies that are specifically identified as controllable are included on three lists maintained by the international staff in Paris, France. These lists include strategic technologies dealing with atomic energy, munitions, and dual-use products.

The 1980s were years of increased interest in COCOM's role and effectiveness. U.S. interests were particularly whetted with President Reagan's desire to improve the nation's military

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<sup>1</sup>"U.S. Exports: Strategic Technology Controls," *GIST*, Department of State Bureau of Public Affairs, May 1989.

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posture and insure U.S. national security. Reagan persuaded the Allies to meet and reaffirm their commitments to the strategic and political objectives of COCOM. The meetings resulted in a comprehensive review of the International List, which included the strategic munitions technologies; a call for more equal national controls, including measures dealing with re-export; and an urging of the members to improve the administration and enforcement of existing controls. The January 1982 meetings were the first high level gathering since the 1950's in which participants at the undersecretary level became directly involved.

By the late 1980's, the countries involved in the Coordinating Committee for Multilateral Export Controls had increased to include all of the nations in NATO, except Iceland, as well as Japan and Australia.<sup>2</sup> Each of these countries accepted the premise that the transfer of technology to the East had to be controlled at the international level. This did not suggest that each country totally accepted all of the procedures, nor were capable of the enforcement expected by members such as the United States. However, the precedence of high level meetings continued throughout the 80's. The renewed interest in COCOM as an important method of controlling technology to the Soviets and their allies, led to a series of meetings that were held in April 1983, February 1985, and January 1987. A January 1988 meeting resulted in a reaffirmation of national commitments among senior policy makers at the deputy secretary level.<sup>3</sup>

The reasons for the increased emphasis during the past decade can be attributed to a number of changes that were taking place, both in Europe and globally: the United States no longer enjoyed its traditional superiority in technologies; Europeans began to question the stringent lists that inhibited exports to Eastern European nations; and the enforcement of COCOM decisions was often lax. In addition, there was a perception among many of the members that trade restrictions were often based on foreign policy objectives rather than national security interests.<sup>4</sup>

The meetings did provide some results in solidifying the membership in controlling technologies to the Soviets and Eastern Bloc countries. Some of the licensing and enforcement procedures were tightened. Spain and Australia joined the COCOM group, thereby increasing the prestige of the organization. A diplomatic effort by a number of the nations to obtain cooperation with non-COCOM countries resulted in some successes. This was evidenced by the bilateral agreements made between the United States and twenty-four non-COCOM nations which provided an export control arrangement similar to that of the Coordinating Committee. Lastly, the meetings led to the creation of a group of advisors with military expertise that could more effectively review and make recommendations on dual use types of technologies. Overall, these efforts provided the basis for improved reliability and effectiveness of the COCOM organization.

## U.S. POLICIES

Throughout the 1980's the United States attempted to strengthen export controls and enforcement among its allies. These efforts were not always successful. The *COCOM International List of Critical Technologies* was almost identical to the U.S. *Militarily Critical Technology List* (MCTL) which was developed by the Department of Defense to identify those products and technologies that are essential to control from the standpoint of U.S. security. COCOM's list was designed to identify technologies that were of specific strategic importance to the West, and was strongly influenced by the U.S. perceptions of need. However, many items on the list became debatable in the latter part of the 1980's, as other member nations questioned the

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<sup>2</sup>COCOM members now include: Australia (April, 1989), Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Spain (late 1985), Turkey, United Kingdom, and the United States.

<sup>3</sup>"U.S. Exports," *GIST*, Department of State Bureau of Public Affairs, May 1989.

<sup>4</sup>*Ibid.*

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need to control such items. Many of the listed products and technologies came to be viewed as difficult to justify as being truly strategic to western security. The International List, itself, included items designed specifically, or used principally, for potential military systems. In addition, items incorporating unique technological "know how" that would enhance the development and production of arms, munitions, and military systems were also included on the list. Lastly, the list included items for which deficiencies existed in the proscribed nations and which hindered their production or development of military armaments.

For many years, this International List provided the key element for ascertaining the essential controllable technologies in which the COCOM countries had a definitive interest. The majority of COCOM's members supported the need for strong national security export controls. However, considerable disagreement seemed to center around the scope of the numerous items included in the list and the associated degree to which these controls were necessary and practical. Canada, Great Britain, France, West Germany, and Japan advocated major reductions in the list for a number of years. They argued that their efforts would be far more credible and more easily enforceable with fewer items on the required list. The United States was adamant about retaining an aggressive export control program that continued to severely limit a great number of technologies from being made available to the Warsaw Pact nations. The key argument used was that many of the items on the list were easily dual-capable and therefore subject to military adaptation.

A Technology Transfer Panel was formed in 1984 within the Armed Services to investigate the transfer of defense related technologies to the Warsaw Pact. As part of its charter, the panel was also tasked with the responsibility for identifying technologies that, if compromised, would have a significant negative impact on U.S. national security. These taskings required a familiarity with the means of technology transfer and the need to examine the effectiveness of existing laws and procedures.

The panel found a number of instances of illegal technology transfer, whether intentional or not, among other COCOM countries. A recommendation was made to give the President the authority to impose import sanctions on those countries which knowingly transfer technology that is on the International List. Another key suggestion was that COCOM be raised to treaty status, which would presumably insure better leverage for the United States government in its quest for better international enforcement. Finally, the panel found that the facilities and administration in Paris were wholly inadequate to effectively provide an efficient center of international cooperation. Therefore, the U.S. took the initiative in modernizing the facilities and capabilities of the multinational COCOM offices in Paris.

In essence, the United States, supported in many instances by other members, has been the most vocal advocate for strengthening controls within COCOM. Whereas many COCOM participants find the International List unwieldy, the U.S. position has traditionally been to advocate more extensive controls. In order to add technologies, and/or products, to the list the process calls for the unanimous agreement of all parties. This, of course, is difficult, particularly when it involves adding items not considered to be as critical by some nations as others. On the other hand, it takes unanimous approval to remove items as well. The problem with this procedure has been the tendency of certain nations to provide lax enforcement when dealing with technologies which they feel do not necessarily need to be controlled.

The apparent intransigence on the part of the United States to relax export controls on many items led to a deepening rift within the COCOM community. Most members were not interested in a formal treaty arrangement that gave other members, particularly the U.S., a position of leverage in their procedures for dealing with exports. A growing feeling among many within COCOM that the list of controlled items was both dated and unwieldy in size caused continued friction.

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Within the United States, the Department of Defense has generally been the most leery of accepting liberalization of the International List. This conservative position has not been universally accepted throughout the government. The Department of Commerce, which is responsible for insuring that U.S. industry is provided the means to be competitive globally, has been less stringent on supporting maximum controls.

Of course, the Soviet Union has been very vocal about the policies that have been followed by U.S. policy makers. With the easing of the East-West confrontation and the dissolution of the wall between eastern and western Europe, the Soviets welcome relaxation of controls by many of the western nations.

The United States, however, has continued to take a harder line on controls of technologies destined for the Soviet Union than for the Eastern European nations that have so recently begun to move toward democratization. With the changes in Eastern Europe, the United States has recognized the need to help them develop an effective industrial infrastructure to overcome instability within the region. With this in mind, a two-tier program was introduced. The East Europeans would receive substantially more sophisticated technology than the Soviets if each of the recipients could introduce controls for preventing re-export to the U.S.S.R. This is predicated on the theory that the Soviet Union may use these more advanced technologies for military use. For its part, the U.S. agreed to authorize non-strategic technologies to be furnished to the U.S.S.R. on a case-by-case basis.

Those technologies that have been cleared for Eastern Europe include some telecommunications, representing a relaxation of controls on cellular systems and some types of satellite ground station technologies.<sup>5</sup> In addition, the transfer of some fiber optics and microwave technologies would be considered if the accepting country provided safeguards to prevent diversion to the U.S.S.R. The Bush Administration also recommended relaxation of the export controls on computers and machine tools. All of these recommendations were not readily accepted by conservatives in the Pentagon, but these arguments were overcome by events in East Europe and pressures from other arenas in government and industry.

During 1989 and early 1990, events in Europe raised the issue of future of COCOM. U.S. intransigence, and European re-evaluation of the threat, forced COCOM countries to consider the future of a multilateral export control system that was organized primarily to control technologies to the East. On 25 October 1989, U.S. representatives met with their European counterparts to resolve the outstanding issues among COCOM members. The most troublesome area of disagreement was the reformation of the list of controlled items. By mid-February, 1990, compromise became essential for a continuation of an effective multi-national system. This resulted in a softening of the U.S. position.

On 6 and 7 June 1990, the United States presented a much more flexible approach to the high level meetings of COCOM in Paris and a willingness to reduce the control list. This liberalization of the U.S. position entailed a change on the part of the Defense Technology Security Administration (DTSA), the primary Defense Department technology watchdog. There was conjecture that this change was attributable to a drop in the credibility of DTSA within the Defense Department and the Executive Branch.<sup>6</sup> Traditionally, this organization had carried a great amount of influence. Recently, however, DTSA has not fared well in the battle to retain a conservative approach to technology transfer. This undoubtedly forced the Pentagon to consider a more flexible approach to international controls.

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<sup>5</sup>"U.S. Seeks To East Technology Sales in Eastern Europe," *New York Times*, 3 May 1990, p. 1.

<sup>6</sup>"Runup To The CoCom HLM," *Export Control News*, Volume 4, Number 4, 30 April 1990, p. 2.

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## OBJECTIONS TO U.S. POLICY

The United States perception of export controls has not necessarily been the predominate view among all of the COCOM members, nor even among all the constituencies within the U.S. Thus, there has been a strong sense of disillusionment and frustration among various elements of U.S. industry, which have been dramatized through numerous efforts to re-evaluate U.S. policies dealing with technology transfer in the global environment. William H. Gregory, in a 1983 editorial entitled, "When To Transfer Technology," exemplified this feeling by commenting that "too much dogmatism" existed in U.S. policy.<sup>7</sup> He went on to argue that the issue of *when* to transfer technology was more important than *whether* to transfer.<sup>8</sup> His argument centered on the concept that early release loses a lead, but a release too late prompts competition.

Although the U.S. position has become far more flexible during 1990, this does not preclude the perceived shortcomings of COCOM, as seen by U.S. authorities. Differences in interpretation of technical parameters have caused a number of inconsistencies within the administration of West-West trade. For example, not all COCOM partners have been willing to maintain extra-territorial (i.e., third country) controls and do not necessarily cooperate in enforcing U.S. re-export restrictions. Few COCOM members have traditionally had formal mechanisms in place for checking the pre-license and end-use of exports being transferred in the West. Also, few of the members have had formal methods of denying the rights of known or suspected diverters. Therefore, third party transfers have caused considerable tension between the U.S. and many of the other members.

Issues concerning the releasability of technology have also been debated within the United States. On the one hand, there are many proponents of the liberalization of U.S. exports, which directly relate to those being considered by COCOM. On the other hand, many argue that the release of technologies with military potential closes the gap of qualitative advantage which the United States relies on for its national security.<sup>9</sup>

With the coming EC92 economic union in Europe, and the overwhelming changes in Eastern Europe, many argue that present U.S. policies greatly hinder the global competitiveness of U.S. industry. In 1989, a private sector technology advisory committee, chaired by Boyd McKelvie of General Electric, strongly recommended the liberalization of a number of exports, such as telecommunications, computers, and machine tools, rather than sweeping changes to the control list. Portions of this advice were, in fact, used by the Bush Administration in mid-1990.

There are also ample voices for going further in decontrolling technologies. A report of the EC92 Task Force, released in December of 1989, argued that "if the U.S. fails to reduce or remove unilateral controls over re-export of United States origin products to third countries, its companies may find it difficult to export to, or cooperate with, European firms and governments."<sup>10</sup> Similarly, a U.S. task force said that the United States should assign higher priority to reducing the list of multilaterally controlled goods and technology, and should, in turn, press the European Community to indicate the extent of authority which will be wielded over control policies of member nations and how the community will enforce these policies.<sup>11</sup>

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<sup>7</sup>"When to Transfer Technology," *Aviation Week And Space Technology*, 3 June 1983, p. 11.

<sup>8</sup>*Ibid.*

<sup>9</sup>"Institutional Changes May Lie Ahead For Export Control Agency," *Atlantic Trade Report*, 1 February 1990, p. 3.

<sup>10</sup>"Clashes Ahead Over Technology Transfer, Panel Predicts," *Atlantic Trade Report*, 14 December 1989, p. 3.

<sup>11</sup>*Ibid.*

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Rand Bregman, the director of Soviet and East European Services at APCO Associates, supports relaxing exports to the Soviet Union because of "that nation's large market potential."<sup>12</sup> For example, the Soviets use a telephone system that is over thirty years old and only has approximately ten lines per one hundred people.<sup>13</sup> This compares to the United States, where there are over ninety lines per one hundred people.

The National Research Council's scientific panel suggested in 1988 that the United States needed more flexible and focused procedures in the export of computers.<sup>14</sup> They reasoned that policies present at that time were unenforceable, due primarily to the globalization of the computer market in which the U.S. faces increased competition from other national firms that operate with fewer export barriers, but under the same COCOM guidelines.

Within the United States Government, a call for the reconsideration of U.S. export policy was heard as late as March 1990. The U.S. Commerce Department Secretary, Robert Mosbacher, offered the argument that East Germany can be left out of the COCOM rules due to unification with the Federal Republic of Germany, and that the current system of controls in relation to East Germany "are absurd."<sup>15</sup>

Those who find it difficult to accept the traditional conservatism of the United States in this period of changing global politics are generally adamant about the need for decreasing the numbers of items controlled and the importance of opening markets in Eastern Europe. Some, in fact, strongly support far more flexibility with the Soviet Union. In May, 1990, Foreign Minister Hans Dietrich Genscher of the Federal Republic of Germany suggested that the, "COCOM wall through Europe must be dismantled."<sup>16</sup>

Another argument for more U.S. governmental, and therefore COCOM, flexibility concerns the question of who is best able to provide reasonable controls of technology, other than the strategically sensitive items. This segment suggests that industry, itself, has a vested interest in technology control and is quite capable of handling many control requirements without direct governmental intervention. Part of this philosophy is predicated on the idea that government controls limit sales opportunities in the fast paced and extremely competitive international business arena. The issue essentially involves a determination of when technology become obsolete or compromised. U.S. industries, just as other nations' industries, are forced to continue to develop more advanced technological concepts just to stay competitive. The rapid aging of technologies "forces industry to determine the point at which that technology still has a value, but will not threaten the ability of the firm to compete in the international market over the longer term."<sup>17</sup>

## PROBLEMS AND RESOLUTIONS WITHIN COCOM

The past year has been important in the evolution of COCOM as a continuing viable organization that maintains a semblance of control on the valuable resource called technology. The United States has recognized a need for compromise in the stringency of export controls and is providing valuable contributions to the re-examination of the needs of the members. This does not, however, diminish the fact that there are areas of U.S. interest which must be addressed by all the COCOM members and considered when liberalizing the control procedures.

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<sup>12</sup>"U.S. CoCom Proposal May Freeze Out USSR," *Atlantic Trade Report*, 12 April 1990, p. 2.

<sup>13</sup>*Ibid.*

<sup>14</sup>"Flexible Export Controls On Computers Urged," *Washington Post*, 30 December 1988, p. B2.

<sup>15</sup>"CoCom's Relevance In East Germany," *Atlantic Trade Report*, 29 March 1990, p. 3.

<sup>16</sup>"U.S. Seeks To Ease Technology Sales in East Europe," *New York Times*, 3 May 1990, p. 1.

<sup>17</sup>American League of Exports and Security Assistance, Inc., Memo 87-10, 26 June 1987, p. 7.

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The future of COCOM is now being charted. Without compromise, the chances of a viable future are limited. What is the role of COCOM globally, now that the Soviet Bloc has been dismantled and there is a definite need to provide new technologies in order to bring stability from the chaos resulting from 45 years of limited growth and socialism? The perceived or actual decrease of the threat in Eastern Europe has many questioning the foundations of the Western defense system. COCOM was founded in the era of the early Cold War years. Its goal was to strictly limit technology accessibility to the Soviets and their surrogate states in East Europe. Today, this concept appears to be obsolete. COCOM must analyze the threat that does exist and, at the same time, consider the most important reasons for maintaining an international system of controls. This entails redirecting the efforts of the member nations and reconsidering the vulnerabilities of the technologies being developed.

One area of contention that must be overcome is the concept of "differentiation." This term refers to the U.S. approach, supported by Japan, to dealing with the East Europeans. Prior to the opening of the Eastern Bloc over the past year, this procedure was used to cause instability within the Warsaw Pact. The United States differentiated between various countries of the Warsaw Pact when providing them with imports. Presumably, this illustrated that those nations that supported U.S. international ideals could benefit from a relationship with the West. This same concept has been applied to the emerging democracies in Central Europe. By applying a "more favored" nation principle to those who support western ideals and who forsake the old ties with the Soviets, those nations can receive better opportunities for technology. This principle has not been widely accepted among other COCOM members. The proximity and historical relationships of the countries in Central Europe with the rest of Europe, make it difficult for the western Europeans to differentiate between neighbors who need help. In addition, the need for stability is paramount to all within Europe, which necessitates the development of strong and efficient infrastructures throughout Eastern and Central Europe. This, of course, includes insuring that technologies are made available that will enhance industries and businesses in all of the countries.

Many European countries are supportive of providing more technologies to the East. This includes dealing with the Soviet Union on the basis of increasing their import/export relationship and strengthening their private enterprise. As of 1 April 1989, every enterprise within the U.S.S.R. was entitled to establish foreign trade relations. The result of this movement to develop outside business relationships include efforts on the part of West Germany to participate in joint ventures with the U.S.S.R. Hertel-Stanko GmbH, of Fuerth, FRG, set up a joint venture (50%-50%) totalling about 2 Million Deutschmarks, designed to improve Soviet machine tooling. The reasons given included: to intensify import/export between the countries, to enlarge the market for Soviet tools in the FRG and other countries, and to increase the sale of Hertel products in the Soviet Union.<sup>18</sup> This is a sharp reminder to the United States that there are business opportunities that are becoming more readily available throughout the Eastern European region and that those countries which have a vested interest in that region will become involved. This is not to say that these allies would endanger their security interests, or those of the U.S., by giving away modern, strategically significant technology. Members of COCOM have repeatedly said that this would not be acceptable. However, the interpretation of the criticality of these technologies is one of the primary questions to be resolved. The U.S. has suggested and is leading in the re-evaluation of the entire International List. Already, thirty products/technologies have been deleted (effective 1 July 1990). Another eight are being considered for deletion in August of 1990. These efforts have been extremely important in keeping COCOM from folding. A continued need for the control of nuclear technology and chemical/biological capabilities offer COCOM a lead in an extremely important area of export responsibility. The influx of countries capable of developing more sophisticated weapons provides a global role for COCOM and insures participation by more

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<sup>18</sup>"Joint Venture With USSR Signed," *Sueddeutsche Zeitung*, 28 February 1989, p. 36.

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nations interested in world stability and peace. This, of course, requires a more effective means of enforcement. COCOM members must be willing to accept the role of enforcer, once the lists are scrubbed and the most vulnerable strategic technologies are identified.

In summary, COCOM has a history of being very successful, as is evidenced by the state of the countries coming out from under the Soviet umbrella. There have been philosophical differences among the members over the years, but the common goal of inhibiting the Warsaw Pact from easily obtaining technology appears to have been positive. The United States is now receptive to liberalizing many export practices that have been traditionally implanted in U.S. policy. This willingness on the part of the U.S. has strengthened the relationship of those involved in COCOM, and has helped provide a future for an organization of long standing that required a re-evaluation of its role in the changing world. The need for a COCOM is still there. How the members approach the problems of the changing global environment will determine its effectiveness. Inherent in this approach is a necessity to recognize the needs of national businesses and balance that with national security interests.

### **ABOUT THE AUTHOR**

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