

CONFIDENTIALMarch 20th, 1960COCOM Document No. 3925COORDINATING COMMITTEERECORD OF DISCUSSIONONEXPORT OF EQUIPMENT FOR THE MANUFACTURE OF EMBARGOED GOODS
TO NON-MEMBER COUNTRIES IN FREE WORLDMarch 17th, 1960

Present: Belgium (Luxembourg), Denmark, France, Germany, Italy, Japan, Turkey, United Kingdom, United States.

Reference: COCOM Document No. 3890.

1. The CHAIRMAN drew the attention of the Committee to the question which had been raised by the German Delegation concerning the export of equipment for the manufacture of embargoed goods to certain non-member countries in the Free World and whether it would be desirable to obtain an assurance that the goods would not be exported to the Soviet Bloc. The German Delegate had also enquired whether other Member Countries had been faced with a similar problem. He invited Delegates to give the views of their authorities.
2. The UNITED STATES Delegate said that his authorities were grateful to the German Delegate for having raised this problem. They recognised the difficulty involved and felt that the problem could become more significant as new Governments emerged in the less developed areas of the world and as less developed areas proceeded with industrialisation. The practice of the United States in this respect was as follows: controls were maintained over various commodities and technical data which were not on the International Lists even if these were consigned to destinations outside the Soviet Bloc. These controls enabled investigation to be made of the use to which the material would be put. If there were evidence that the material would be used to produce embargoed goods for the Soviet Bloc the United States authorities would refuse an export licence. In addition, certain controls were exercised over the export to the Bloc of goods produced abroad from certain United States technical data. The provisions of the Mutual Defense Assistance Control Act were also effectively relevant in this context. The Delegate commented that these remarks broadened the scope of the German question to refer to technical data, which he was sure was consistent with the German intent.
3. The Delegate continued that his authorities agreed with the prima facie view of the German Government that it was desirable to try to obtain an assurance that embargoed goods produced on equipment obtained from Member Countries should not be exported to the Bloc. The problem was of course easiest to deal with when the goods were already under some form of control to destinations outside the Soviet Bloc. In a case where a Member Country maintained no controls over the export of a commodity or technical data to non-Bloc destinations, but where there was evidence that the export would be used for the production of embargoed goods for the Bloc, that Member Country might nevertheless find feasible ways to prevent embargoed products from reaching the Bloc. The Delegate added that his authorities felt

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that the maximum exchange of information in the Committee on practical problems of this kind would be to the benefit of all Member Countries. COCOM discussion of such problems was desirable also because of the light such discussions could throw on the adequacy of the COCOM lists. The exchange of information itself could be of great benefit to Member Countries even if no agreement were sought or reached in the Committee on uniform action to be taken.

4. The UNITED KINGDOM Delegate asked if the German Delegation could be more specific concerning this particular problem. The United Kingdom authorities felt that it was no more than a hypothetical question. Member Countries already took steps to see that the eventual end-use was the one originally stated and that any know-how involved was safeguarded. It did not seem necessary to seek further assurances which might give offence to legitimate customers and which in any case could not be enforced. As far as the Commonwealth countries and Dependent Overseas Territories were concerned, they were all in a position to control List I exports to the Soviet Bloc. His authorities would certainly study further any specific case quoted by the German Delegation.

5. The ITALIAN Delegate said that his authorities were glad that this question had been raised by the German Delegation since they presumed it stemmed from concrete facts. In their opinion it would be difficult to ask for a guarantee from the country of destination. They would appreciate supplementary information about the case submitted by the German Delegation in order to see whether it would then be possible to work out some form of control, based perhaps on the periodical exchange of information on such exports to third countries.

6. The FRENCH Delegate said that the remarks made by his United Kingdom colleague with reference to the British Commonwealth also applied to the countries of the French Community. The problem raised by the German Delegation, however, referred to non-member countries. A statistical approach to the problem would not be easy since Finland was the only non-member country for which statistics were at present required. The French authorities considered that it would be extremely difficult to trace equipment that had been sent to non-member countries but they were willing to participate in a discussion on the means by which this might be done. If a concrete case occurred, they would make enquiries to determine whether the embargoed goods had in fact been exported to the Bloc and would take precautions to ensure that no breach was opened in the control system by this means.

7. The BELGIAN Delegate said that it was his authorities' understanding that the problem was concerned with the export of embargoed equipment only to completely non-member countries, i.e. countries of the British Commonwealth or French Community were not involved. They considered that many difficulties would arise from the practical point of view: even if a guarantee were given it would be difficult to be certain that it was honoured. There was, moreover, a risk of exerting an unfavourable influence on commercial relations if non-member countries were asked for assurances as to the destination of the goods they produced with this equipment. For these reasons the Belgian authorities had never sought such assurances. They felt that the best procedure would be to study each case individually. The Delegate continued that until now the export of embargoed equipment from Belgium to non-member countries was forbidden unless a guarantee had been obtained that it would not be reexported to the Soviet Bloc. This guarantee did not cover the export of goods made with this embargoed equipment.

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8. The DANISH Delegate commented that it would be very difficult to control the reexport of goods from non-member countries. He felt that the most satisfactory solution would be to extend the cooperation of non-member countries in the COCOM control system.

9. The UNITED STATES Delegate said that in general the cooperation of non-member countries was good. This did not mean that Member Countries should not guard against the possibility of frustration wherever they could. The fact that non-member countries already cooperated satisfactorily indicated that such cooperation as might be sought in terms of the problem the German Delegation had raised could be achieved without disrupting commercial or political relations.

10. The JAPANESE Delegate said that the position of his authorities was the same as that of the United Kingdom: they did not favour the German suggestion that guarantees should be sought because of the administrative difficulties involved. It would be difficult to decide the coverage of the equipment in question because it might manufacture both embargoed and non-embargoed goods.

11. The GERMAN Delegate thanked the Members of the Committee for the views they had expressed. He assured his French and United Kingdom colleagues that his authorities had no problem with exports to countries of the French Community, the British Commonwealth and Dependent Overseas Territories. The problem lay with the uncommitted countries, the non-cooperating non-member countries. His authorities were well aware of the practical problems which might be involved, as for example, the danger of harming normal business relations mentioned by the Belgian Delegate. The conclusion to be drawn would seem to be that all Member Countries should do their utmost in a discreet way to avoid the frustration of the COCOM controls.

12. The UNITED STATES Delegate pointed out that his own remarks had been based on the assumption that the problem encompassed the export of non-International List I commodities to non-member countries where they might be used for the production of embargoed goods.

13. The FRENCH Delegate asked his United States colleague what problems could arise where the export of non-embargoed equipment was concerned? In the first place, it would be impossible to ascertain what was produced from exported raw materials. For example, non-embargoed steel plates might well be used in the construction of a machine for making ammunition. In the second place it should be remembered that non-embargoed equipment could be exported to the Soviet Bloc direct.

14. The UNITED STATES Delegate further stated that the problem with respect to goods that were not internationally embargoed was perhaps less obvious in Member Countries where the control system was limited to the COCOM embargo. In the United States it was natural and logical to take into consideration certain commodities which were not covered by the international embargo and the United States Delegate understood that such items were prominently involved in the German presentation of this problem. It was obvious that the export of certain types of non-embargoed equipment to non-member countries could be used to facilitate the supply of embargoed products to the Soviet Bloc.

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15. The GERMAN Delegate said that he felt that part of the discussion might be somewhat theoretical. Each Member Country took the responsibility for applying the controls agreed by its authorities, which was the COCOM system as far as most of them were concerned. All Member Countries would certainly regret the fact that finished embargoed products might be exported to the Soviet Bloc from a non-member country but it would seem impossible to impose conditions on the sale of non-embargoed equipment to non-Communist non-member countries whereas the Bloc could purchase such equipment without limitation.

16. The FRENCH Delegate commented on the United States reference to the level of controls applied by the Members of the Committee. A certain number of products which were not caught by the International Lists were caught by a special list of the Ministry of National Defence and represented a stricter form of control.

17. The UNITED KINGDOM Delegate agreed with his German colleague ~~that~~ Member Countries should simply do their utmost to avoid the frustration of the control system.

18. The UNITED STATES Delegate said, with respect to the remarks of his French colleague, that his own observations had not been directed towards any particular country. The fact, however, that some Member Countries went beyond the COCOM controls indicated that the problem in this area was greater than some Delegations had indicated. He felt that the German Delegate's summing up had not been in terms of the ideal solution but rather in terms of what had been heard at the present discussion of the practices currently applied by the Members of the Committee. Finally, the Delegate might wish to refer to this subject again at a later date.

19. The GERMAN Delegate confirmed that his summing up had dealt with the views expressed at the present meeting.

20. The CHAIRMAN summed up the discussion by saying that the lack of decision in the present debate was probably because there was a certain variety in relations with non-member countries. Some cooperated fully, others with varying shades of success. The best general solution was obviously to improve this cooperation. Some Delegations had informed the Committee how they dealt with the type of case under discussion; other Delegations had said that controls would be difficult to enforce. It was well known that it was possible to insert certain conditions in ordinary commercial contracts, for instance limiting production to certain areas. Finally, all Member Countries should try to obtain the maximum possible within the limits of the case. If assurances were not observed there might be indirect ways of dealing with such problems.

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