SUPPLIER RELIABILITY: A PREREQUISITE FOR EXPORT EXPANSION

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Summary

Many years ago, the United States found that efforts of governments to manipulate international economic relations in the hope of achieving political objectives not only strangled world economic progress but also helped cause world wars. Despite this finding, congress passed the Export Control Act in 1949. Although it has been modified slightly and its title has been changed to the Export Administration Act, it continues to provide the President with virtually unlimited discretionary power to intervene in private business transactions involving widely available commercial products between U.S. firms and their overseas customers. Since passage of the statute, its authority to intervene has not been used judiciously. Instead, it has been used capriciously and vindictively. The result has been the loss of untold billions of dollars of export sales.

The losses have come about in several different ways. First by refusing to issue export licenses, the Commerce Department has caused orders to be cancelled. Second, overseas buyers experiencing cancellations or protracted delays in shipments have refused to reorder from U.S. suppliers. Third, U.S. firms have dropped out of exporting because they were unwilling to incur the additional and frequently unpredictable costs associated with export licensing. Fourth, the demonstration effect of the dropouts has discouraged nonexporting firms from getting involved in exporting. Finally, some U.S. firms have gone abroad with their technology to avoid or minimize the effects of U.S. export control regulations.

Export expansion programs can be effective only if there is a radical shift in U.S. export policy to one that is unambiguously supportive of market-determined trade in commercial goods. Stop-go export licensing of commercial transactions must be discontinued -- the sooner the better. This could, of course, be done with a revised statute. It also could be achieved by a new Executive Order. Healthy and sustained export expansion cannot be attained without one or the other.

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Introduction

That the search for profit is what drives our economic system is both a commonplace and all too frequently taken for granted. Unless this elemental point is fully appreciated, however, the export position of the United States cannot be understood. And without understanding, effective policies and programs for expanding exports cannot be developed and applied.

Before proceeding further, there are several basic points about the business of exporting that must be recognized. The first is what is meant by the term exports. Exports are sales of goods, services, and technologies made by U.S. firms to buyers in foreign countries.[1] Second, any U.S. firm that exports does so for only one reason: it perceives that profit margins from exporting are at least equal to those from selling domestically. If a firm does not perceive equal or higher profit margins from exporting, it will not, and indeed should not, get into exporting. Third, profit margins are dependent upon many variables, but only a few of them can be influenced directly by government action. Fourth and last, expansion of exports has become a national imperative.[2] Our economic well being and even our national security are critically dependent upon imported materials, metals, minerals, and oil. They must be paid for by exports. While few forecasts of future events are accurate, one is certain. It is that U.S. requirements for imports will continue to increase. Hence, our exports must increase correspondingly.

Government programs to expand exports can be effective only if these basic facts of business life are taken fully into account. Jawboning and such government subsidized trade promotion schemes as exhibits of selected U.S. merchandise in foreign cities have proved to be futile or only marginally and temporarily effective at best. The principal cause for this lack of effectiveness is our shortsighted federal export policy.

Current Export Policy

Our current export policy is to intervene in commercial transactions between U.S. firms and their overseas customers whenever the behavior of their governments offends influential members of congress, or any of a number of special interest groups, who through political pressure cause the President to apply restrictive export controls. The statute that permits him to impose such controls is now called the Export Administration Act. The theory is that such intervention will be so disruptive to the buying countries that they will change their behavior to a style more consonant with the wishes of the special interests.

This policy is diametrically opposite to our policy at the end of World War II. At that time the U.S. defined as a major foreign policy objective the depoliticization of international trade. Having just concluded a long and costly war, President Roosevelt realized that the use of international economic policies to achieve political goals had a destructive influence upon the world economy and helped cause the war.[3] He saw that our long-term national interests were best served by an open world economy in which decisions as to whom to buy from and sell to and at what price would be determined by a market mechanism operating without government interference.

This ideal was short-lived, however. In 1949 congress passed the Export Control Act.

A Departure from Tradition

Noteworthy is the fact that it was the first comprehensive set of export restrictions ever legislated by congress during peacetime. Even so, the Act was initially conceived as a temporary measure -- it was given a two year life -- and might well have been allowed to lapse had it not been for the Korean War.[4] The Act was renewed six times in its original form, and was renamed the Export Administration Act in 1969, which also has been renewed several times with only minor modifications. Its most recent renewal was in 1979.

This thirty-one year old statute has given to the President more power to control U.S. foreign commerce than any other single piece of legislation. Subject only to the vaguest standards of foreign policy, national security, and domestic shortages caused by excessive exports, the Act gives him authority to cut off the entire export trade of the United States. Furthermore, the procedures for using this power are left almost entirely to his discretion, and at the same time heavy administrative and criminal sanctions may be imposed for violation of any regulations he may introduce.[5] Finally, the functions exercised under the Act are exempted from administrative procedures and from judicial review.[6]

Enormous Losses of Export Sales

Since passage of the Act, thousands of export transactions worth untold billions of dollars have been lost to U.S. firms. Many of these losses were sustained because export licenses could not be obtained from the Commerce Department. Also lost to U.S. firms were the costs -- some of which were substantial -- of their sales efforts incurred in out-competing their rivals in other developed countries. In sum, U.S. business firms have experienced intervention by our government in normal commercial transactions with most of the countries in the world. In not one instance can these interventions be shown to have produced the desired behavioral change in the buying country. On the contrary -- what these interventions have produced is a growing antagonism between the U.S. exporting community and the federal government.

Not only have U.S. export controls been directly responsible for the loss of billions of dollars of U.S. exports: they have been and continue indirectly to cause losses of large amounts of export business. Under the Export Administration Act, export sales for a broad range of manufactured goods, services, and technologies must be approved in advance by government authorities. Such controls apply to many products of new technology -- those in which the United States has a competitive edge in world markets. Unfortunately for our trade balance, an undetermined but significantly large number of firms manufacturing these products have been and continue to be unwilling to incur the additional and frequently unpredictable costs of exports that require specific government approval for each transaction and therefore have not and will not pursue such business.

Furthermore, overseas buyers expecting prompt delivery of U.S. goods have been disinclined to reorder from U.S. suppliers whenever deliveries have been subject to protracted delays or to outright cancellations on a force majeure basis. Moreover, such disappointed buyers stimulate other buyers to search for suppliers other than those in the United States for needed imports. As a result, U.S. firms have been and continue to be "sourced out" of many large foreign projects.

Finally, U.S. firms have gone abroad with their technology to avoid or to minimize the effects of U.S. export control regulations. In some cases the flight has taken the form of licensing (selling the manufacturing know-how) a foreign firm to produce the product or service. In other cases, the flight has taken the form of establishing wholly-owned subsidiaries. Other forms of technology transfer to foreign countries also have occurred, many for sound business reasons, and would have occurred whether or not the U.S. had an export control program. The point to be made here, however, is that a number of U.S. firms have moved their production facilities out of the United States during the past 31 years, and among their reasons for doing so was to reduce the burden, and hance costs, of U.S. export controls over widely available commercial goods and technologies.

Summing the losses of export business that disappeared into those drains yields a large number of dollars indeed. On an overall basis, the losses in 1978 alone are estimated to have amounted to \$10 billion dollars.[7] These transactions would have provided 400,000-500,000 jobs for U.S. workers, most of which would have been skilled jobs.[8] Similar or even larger losses probably were suffered in 1979 as our reputation for being an unreliable supplier continued to spread.[9] But the high-water mark in lost export sales undoubtedly will be reached this year because of the cancellation by President Carter of contracts between U.S. firms and the Soviet Union covering grain and other widely available commercial products.[10] The losses are not just limited to sales to the Soviet Union. Government prevention of fulfillment of contractual obligations will cause buyers in other countries to redouble their efforts to find sources of supply that are beyond the reach of our federal government. And these are not all of our losses by any means, for to them we must add the social and psychological damages to unemployed workers that cannot be expressed in monetary terms.

Remedial Action is Essential

My contention is that export expansion programs will not and indeed cannot be effective until there is a sharp and convincing reversal in our export policy. Essential to the effectiveness of a new export expansion initiative is explicit recognition of these two realities:

1. Exports from the United States of commercial goods (materials, products, services, and technologies that have been developed by business firms (1) with private funds to meet commercial needs and (2) with government funds and released for commercial production and distribution) provide support for our balance of payments and yield profits, which in turn provide taxes to the government, dividends to stockholders, and most important of all jobs for U.S. workers. Earnings from export trade contribute significantly to our long-term national interests of maximizing the number of good jobs for U.S. workers and maintaining our world leadership in science, technology, engineering, and

international humanitarianism.

2. Restrictions on exports from the United States of commercial goods, services, and technologies have not had an important bearing on the fulfillment of the foreign policy of the United States, have not contributed to our national security, and have not contributed to a reduction of inflation in our domestic economy. Instead, they have raised the level of distrust and encouraged attitudes of hostility toward the United States in countries that have been or would be supportive of our foreign policy and national security objectives; have had a serious adverse effect on our balance of payments; have curtailed the efforts of American business to undertake and sustain effective export marketing programs in all countries with which the United States maintains diplomatic relationships; and have contributed to unemployment, slow growth of productivity, reduced innovation, and high rates of inflation in our domestic economy.

It is unrealistic to expect congress to mount an effort to amend the current Export Administration Act before its termination date of September 30, 1983, in view of the many hearings and literally heroic efforts to improve it during 1979. Nevertheless, the present legislation controlling exports clearly has outlived its usefulness. Indeed, even the most conscientious efforts to administer it have resulted in enormous losses of U.S. export business.

The Remedy: A New Executive Order

Through its control over the budget, the congress might be able to convince the President that he should issue an Executive Order that would establish an unambiguously positive export policy necessary to convince U.S. businessmen that its government is committed to giving long-run support to their efforts of developing and expanding overseas markets for U.S. commercial goods, services, and technologies. Achievement of this objective, however, requires that the President discontinue the imposition of transaction-by-transaction licensing requirements on exports of commercial goods, services, and technologies to all countries with which the U.S. maintains diplomatic and/or trading relations except under such limited conditions as explicitly declared national emergencies requiring cessation of all economic relationships. The recommended Executive Order should not, of course, reduce any of the controls over U.S. exports of military goods, services, or technologies. On the contrary, its reach should be clearly limited to only those goods, services, and technologies covered by the Export Administration Act of 1979, i.e. commercial products, services, and technologies.

By removing such disincentives to exporting as capricious, stop-go export licensing and other bureaucratic red-tape on hundreds of thousands of normal business transactions each year, the costs to business firms of exporting would be reduced. In many cases the reductions would be dramatic. They translate directly into wider profit margins on exports. This, in turn, not only would attract nonexporters into exporting, but also would stimulate firms already exporting to export more. Fundamentally, this is what export expansion is all about.

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[1] This paper focusses exclusively upon goods, services, and technology that meet the following criteria: They are bought and sold on commercial terms by U.S. firms; they have been developed by U.S. firms with private funds to meet consumer and other business needs; and whenever they are developed with government funds, the funding agency has determined that they should not be withheld from the commercial marketplace.

[2] Administration of Jimmy Carter, 1980., pp. 400-403.

[3] Forbes, February 18, 1980, p. 2.

[4] Harold J. Berman and John R. Garson, "United States Export Controls -- Past, Present, and Future", Columbia Law Review, Vol. 67, No. 5, May 1967, pp. 791-92. This is the most comprehensive analysis of the Export Control Act and its impact on U.S. exports and exporters that has ever been published. Its findings also apply to the Export Administration Act.

[5] Berman and Garson, pp. 792.

[6] Section 13 of the Export Administration Act of 1979.

[7] Electronic Industries Association, January 1979. This estimate is based upon an informal survey of high technology firms, which include most of our country's largest contributors to our balance of trade.

[8] See The Impact of International Trade on U.S. Employment, Subcommittee on Trade of the House Ways and Means Committee, November 15, 1977, pp. 5-7.

[9] See George P. Schultz, former Secretary of the Treasury, in Business Week, May 28, 1979, pp. 24 and 26.

[10] Business Week, January 28, 1980, pp. 34-5.