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January 12th, 1959

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COORDINATING COMMITTEE

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RECORD OF DISCUSSION

S. General

ON

REVISION OF THE STRATEGIC EXPORT CONTROLS - ADMINISTRATIVE PRINCIPLES.

December 17th, 1958 and January 8th, 1959

Present: Belgium(Luxembourg), Canada, Denmark, Franco, Germany, Italy, Japan, Notherlands, United Kingdom, United States.

References: COCOM 2408, 2869.5, 2869.55, 2869.57, 2869.61, 2869.64, 2869.72, 2869.73, Secretariat Paper No. 102.

Administrative Principle No. 3

1. The CHAIRMAN recalled that at the previous discussion on December 5th (COCOM 2869.73), four Delegations - those of Belgium, Franco, Italy and the Netherlands - had been unable to accept the United Kingdom proposal for a Memorandum of Understanding concerning unique technological know-how. He invited these four Delegations to give the further views of their authorities.
2. The BELGIAN Delegate said that he had informed his Government fully of the discussions which had taken place but he had received no instructions to modify his position.
3. The FRENCH Delegate stated that he had not failed to report the discussions to his authorities but, like his Belgian colleague, he had received no instructions to modify his position.
4. The NETHERLANDS Dologate said that after very careful consideration his authorities remained of the same opinion as before.
5. The ITALIAN Delegate said that his authorities had made a very careful study of the proposals which had been put forward but he had been instructed to reaffirm the principle of national responsibility for granting export licences in cases when unique technological know-how was concerned. His authorities were nevertheless grateful to the United Kingdom for raising the question which they considered to be worthy of study. They attached great importance to the items which were contained in the list proposed by the United Kingdom and they would not fail to bear this in mind when studying a request for an export licence under the terms of Administrative Principle No. 3. In case of doubt they were prepared to raise the question in the Committee.
6. The Dologate continued that in order to facilitate the search for a compromise his authorities had allowed him a certain amount of latitude and speaking personally he wished to put forward the following proposal in the hope that it might meet with general acceptance. Each Delegation should notify the Committee of the fact that their authorities had granted an export licence for an item mentioned on the United Kingdom list as soon as possible after the licence had been issued. The Dologate said that he hoped that this proposal would serve as the basis for a compromise agreement. If it proved acceptable to the Committee he was sure that his authorities would be willing to confirm it as an official proposal.

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7. The CANADIAN Delegate stated that he had not so far taken up a position with regard to Administrative Principle No. 3; he now wished Canada to be added to the list of Delegations which supported the United Kingdom proposal for a system of prior consultation.
8. The GERMAN Delegate said that he had listened to the Italian Delegate's personal compromise proposal with great interest. He took it that there were two points involved:
- (a) The principle of the discretion of national authorities but readiness to submit the case to the Committee if some doubt existed.
 - (b) When there was no doubt in the minds of national authorities and an export licence had been granted, the Committee should nevertheless be informed immediately afterwards.
- In his personal opinion this seemed to be a good suggestion. He would be interested to hear the views of the French and United Kingdom Delegates on the compromise proposal before expressing further views.
9. The UNITED KINGDOM Delegate said that his authorities continued to think that their original proposals were the essential minimum to fill the gap in the Committee's rules and they could not see how anything less would be satisfactory. The United Kingdom Delegate undertook to report the Italian compromise proposal but his present instructions did not allow him to modify his position that day.
10. The FRENCH Delegate said that he would report the Italian Delegate's suggestion to his authorities but since the latter had already stated firmly that they were opposed to the notion of a special list and the Italian Delegate referred to such a list, he personally doubted very much that it would prove acceptable.
11. The DANISH Delegate said that his first reaction to the Italian Delegate's proposal was not very favourable since the appraisal of the strategic significance of an export varied from country to country.
12. The UNITED STATES Delegate said that his authorities had made a careful examination of the problem and continued to feel that there was no adequate substitute for the United Kingdom proposal and that the special list of items proposed by the United Kingdom was justified. He understood the Italian Delegate as saying that all Members of the Committee recognised that one of the objectives of Administrative Principle No. 3 was to guard against the export of vital technological know-how. Governments would submit cases of doubt to the Committee before licensing; where no doubt existed in the Member Government but an item appeared on the United Kingdom list, the Committee would be notified immediately after the issue of a licence. The Delegate commented that in trying to protect vital technology, post notification might not be very effective unless the Government were prepared to stop licensed shipments on the basis of Committee discussion. Technology had to be sent only once to defeat the Committee's purpose. Once a piece of equipment had been shipped it was obvious that little more could be done.
13. He then referred to the mechanics of the Italian Delegate's proposal. Principle No. 3 referred to embargoed components of non-embargoed items: it was open to question whether such items were everywhere subject to licensing control. If a system of prior consultation were established, such as the United Kingdom proposed, Governments would take steps to ensure that such items were subject to licensing control. He wondered whether the Italian Delegate's proposal also contemplated this; seemingly it would have to do so.
14. The ITALIAN Delegate, in answer to the statement of the United States Delegate, stressed that he had put forward his proposal in an effort to reach a compromise agreement. He invited his United States colleague to recognise that by accepting his proposal the Committee could at least be informed of exports of these items and express what comments they thought fit on the situation created by such transactions with the Soviet Bloc.

15. The GERMAN Delegate said that all Members of the Committee agreed that vital know-how should not be exported to the Bloc; the only point at issue was whether the necessary checking was done on a national basis or before the Committee. He agreed with the United States Delegate that post notification could only register the fact that certain know-how had been exported, but he thought that no Member Country would authorize the export if it considered that the know-how was vital. Although he supported the original United Kingdom proposal, the Italian Delegate's proposal constituted a real concession which he was willing to recommend to his Government if it were generally accepted by the Committee.

16. The FRENCH Delegate pointed out that the Committee was concerned with preventing the export of new and essential techniques to the Soviet Bloc. The French authorities were ready to consider suggestions for stopping the export of special know-how but the point was what were these **new vital techniques**? French experts had gone fully into this problem and their arguments had already been stated in the Committee. They felt that there was no need for any special treatment of the items contained in the United Kingdom list. The remarks made by the German Delegate did not touch this fundamental aspect of the problem and in this respect the French position remained the same.

17. The Belgian Delegate said that as in the past his authorities would consult the Committee if they felt that there was some particular danger attached to the export of a particular item. Referring to the Italian Delegate's proposal he did not think that his authorities would be opposed to the principle of post notification but the use of a special list would create a number of difficulties.

18. The GERMAN Delegate, in reply to the statement of the Belgian Delegate, said that he thought that there must be a list of some sort if a system of post notification were accepted. He did not think that his authorities would agree to prior or post notification in general.

19. The UNITED STATES Delegate observed that although he did not think that there was an adequate substitute for the United Kingdom proposals, it did not mean that no substitute at all was possible. The Italian Delegate's initiative was appreciated and his proposal would certainly be considered very seriously by the United States authorities. Some Delegates had said that the present Principle had worked satisfactorily so far; it would be hard to demonstrate that this was in fact so. He was sure that all Member Countries had applied the Principle in good faith, but there nevertheless remained some differences of opinion as to the objectives of Administrative Principle No. 3. Now that the embargo list had been reduced it was generally agreed that enforcement should be stricter. The same was true as far as technology was concerned, that is, the Committee should be in a position to improve the control of the export of technology to the Bloc.

20. The BELGIAN, FRENCH and NETHERLANDS Delegates considered that the present positions of certain Delegations were too far removed from their own positions for a continuation of the discussion to lead to concrete results. They further considered that the present text should continue to be applied as in the past.

21. The UNITED KINGDOM and UNITED STATES Delegates said that they felt that it would be useful to give careful consideration to the Italian Delegate's proposal since it might still form the basis of a compromise agreement.

22. The CHAIRMAN said that although it was obvious that the United Kingdom proposal for a Memorandum of Understanding was not acceptable to all the Members of the Committee it was still worth while to take the discussions a stage further. There was no unanimity in recognising that a gap existed in the control system but such a state of affairs might occur in the future if technical developments made certain items dangerous. He asked all Delegations to report back the state of the discussions fully to their authorities.

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23. The COMMITTEE agreed to resume discussion on Administrative Principle No. 3 on January 26th, 1959.

Administrative Principle No. 4

24. The COMMITTEE agreed that the following text of Administrative Principle No. 4 would come into force on January 15th, 1959:

"The object of the embargo should not be defeated by the export of component parts. Each country will take such action as it can to achieve this aim, and will continue to seek a workable definition for component parts which could be used by all the participating countries."

Administrative Principle No. 5

25. The COMMITTEE agreed that the following text of Administrative Principle No. 5 would come into force on January 15th, 1959:

"So far as practicable, the object of strategic controls should be maintained by restrictions on the export of technical data, technical assistance, and any other technology applicable to the design, production and use of embargoed items."

Administrative Principle No. 3

26. On January 8th 1959, the ITALIAN Delegate informed the Committee that his authorities had endorsed the proposal he had made in a personal capacity; it was therefore an official proposal of the Italian Government.

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