

# Debate Around U.S. Foreign Trade Legislation as an Element of Détente in Soviet-American Relations (1969–1979)<sup>1</sup>

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**Abstract.** Detente in Soviet–American relations throughout the 1970s was a complex and multifaceted process. The interaction of the two states in foreign trade, technology transfer and scientific exchanges was an important part of it. On the one hand, according to some detente ideologists, a critical mass of commercial ties along with scientific and technological projects established in accordance with the tenets of equality and mutual benefit could have created conditions for overcoming the Cold War and maintaining peaceful coexistence in the foreseeable future. At the same time, it was in the sphere of foreign trade that sharp disagreements first manifested themselves, indicating a clear-cut rift between the external political goals of the superpowers and the ability of their internal legislative systems to address these challenges. This article is devoted to reviewing the processes of transforming U.S. foreign trade legislation during the detente period. It aims to insert this track into the pattern of forming Washington's course towards the Soviet state from the late 1960s to 1979. The research draws on the documents of both chambers of Congress, revealing the content of the debate on the adoption of export regulation laws and reflecting the views on this issue that existed at that time. The digital documents of the United States Department of State and presidents Richard Nixon and Jimmy Carter are used to reflect their attitude vis-a-vis trade matters. It is shown how the executive and legislative branches interacted when updating the regulatory framework of foreign trade. The conclusion holds that while maintaining the general liberal vector in drafting foreign trade laws, they have always contained control standards for the export of high-tech products to socialist countries, aimed at curbing scientific and technological progress in the USSR. As a result, the economic, scientific and technical foundation of detente in Soviet–American relations remained feeble and proved inadequate for preventing the confrontational recession in the early 1980s.

**Keywords:** Cold War; detente; export control; most favored nation; Soviet–American relations; U.S. Congress

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The international détente of the 1970s was one of the most contradictory and fascinating periods in the history of the Soviet–American confrontation. Historians primarily contextualize it within political, military, and strategic issues (Batyuk 2018; Kremeniuk 2015; Bange, Villaume 2017; Gaddis 1987; Garthoff 1994; Saul 2001). In doing so, they omit those features that imply that the détente involved developing commercial, economic, scientific, technological, and cultural ties between the West and the East in general, and between the United States and the Soviet in particular, and such an omission appears to be rather undeserved.

Research that touches upon the economic dimension of the détente typically focuses on the tactic of linkage as an essential element in Washington's updated policy towards Moscow, a policy that was spearheaded by President Richard Nixon (1969–1974) and his national security advisor Henry Kissinger (Hanhimäki 2013: Ch. 4). The latter described this policy in his memoirs a few years later: “Our strategy was to use trade concessions as a political instrument, withholding them when Soviet conduct was adventurous and granting them in measured doses when the Soviets behaved cooperatively” (Kissinger: 840).

Several researchers agree that the linkage policy continued during James Carter's term as president (1977–1981), the difference being that the Democrats expected the USSR, in exchange for some liberalization in the trade and economic realm, to make concession in both its foreign and domestic policies, such as human rights and the persecution of dissidents. At the same time, the Carter administration believed that the Soviet Union was interested in bilateral commercial, scientific and technological contacts because of the real needs of the stagnating Soviet economy, and not because Soviet leaders were staking their own political claims to prestige and a status equal to that of the United States (Mastanduno 1992: 154; Funigiello 1988: 191).

Such was the basic layout of the U.S. policy towards the Soviet Union in the 1970s, “economic concessions in exchange for political cooperation.” This policy is confirmed both by memoirs and by published documents.<sup>2</sup> At the same time, it is rather one-dimensional and does not reflect many aspects of American foreign policy, in which the beliefs and strategic paradigms of U.S. presidents, secretaries of state, and national security advisors intertwined with inter-agency contradictions between the executive branches, senators and members of the House, as well as with public opinion and lobbying pressure from the business community and other foreign political actors.

<sup>2</sup> This dimension of the history of Soviet–American relations is addressed in the joint 2007 publication of Russia's Ministry of Foreign Affairs and the U.S. Department of State: *Sovetsko-amerikanskii otnosheniia. God razriadki. 1969–1976: Sbornik dokumentov. T. 1: 1969 – mai 1972: V 2 kn. Kn. 1: 1969–1971. Kn. 2: yanvar' – mai 1972 g.* [Soviet–U.S. Relations. The Years of the Détente. 1969–1976: Collected Documents Vol. 1: 1969 – May 1972. In 20 books. Book 1: 1969–1971. Book 2: January–May 1972]. Moscow: Mezhdunarodnye otnosheniia. 2007. P. 472. Henry Kissinger writes about “linkage” in the preface to the edition [XIX–XX]. The topic of “linkage” runs through the entire collection.

This article considers the transformation of U.S. foreign trade legislation amid Soviet–American détente in order to include this dimension in the overall picture of Washington’s policy towards Moscow in the late 1906s–1970s. The analysis concentrates on the Export Administration Acts of 1969 and 1979.<sup>3</sup>

### The Soviet–American Détente as a Problem of Historiography

In the history of international relations, any periodization is generally relative. Particular combinations of qualitative and quantitative criteria that separate different eras are frequently approximate. Moreover, when selecting the key events, historians are likely to rely on their subjective assessments and their chosen research strategies. The case of the international détente is additionally complicated by the large number of parties involved and by its inter-systemic nature.

The genesis of the Cold War produced two socio-political systems grouped around their leaders (the Soviet Union and the United States) that had from the outset been locked in a confrontation. Nevertheless, throughout the era of the superpower rivalry, the level of hostility had been kept to measured doses. The prominent German historian Wilfried Loth notes that “there were chances to reduce the confrontation insofar as East and West – unlike the metaphor of the Cold War would have it – actually did not threaten each other’s existence” (Loth 2002: 8). This statement is notable for using the expression Cold War as a metaphor that allows for it to be interpreted as a special form of rivalry that had from the outset ruled out a direct confrontation between its two poles. Escalations were controlled, and mechanisms for defusing the tensions, i.e. the mechanisms of détente, were regularly inserted into the structure of Soviet–American and inter-system relations (Loth 2003: 17–26). It is no accident that Loth titled his magnum opus *Overcoming the Cold War: A History of Détente, 1950–1991*. Chronologically, such an approach treats détente and confrontation as simultaneous events, while the history of international relations in 1945–1991 is interpreted as a sequence of changing states, from flare-ups of hostilities to searching for compromises.

Such peaks and valleys of tensions had been noted as early as in the 1950s. Natalya I. Yegorova rightly points out that “when applied to the latest stage of the international relations system, the term ‘détente’ was taken to mean different things depending on the trends that influenced the course and outcome of the confrontation for the western and eastern blocs” (Yegorova 2003: 64). Just like Cold War, this concept has frequently been used as a metaphor. Nevertheless, historiographically, this approach is an exception rather than a rule (Bange, Villaum 2017: 1).

<sup>3</sup> The U.S. export legislation went beyond these two acts. In the 1950s–1970s, the United States passed a series of acts that directly or indirectly regulated exports of specific goods: the Arms Export Control Act of 1976, the Atomic Energy Act of 1954, and the Nuclear Non-Proliferation Act of 1978. This article mostly concentrates on “framework” legislation that pertained, among other matters, to dual-purpose commodities.

Scholars tend to see the *détente* as a special period in the history of interactions between the two systems and their leading superpowers, a period that had both quantitative (reduced levels of hostility, increased trust, etc.) and qualitative (military and strategic parity, the creation of permanent negotiation platforms and control mechanisms, coordination of actions, management of joint programs, etc.) characteristics. The two blocs also adjusted their strategic goals and tactical paradigms in their continuing competition and went from seeking an unquestionable victory to the rhetoric of “*rapprochement*,” “convergence,” “overcoming the Cold War,” or even “*exiting*” it, even if this meant calling it draw (Saul 2001: 6–30; Bange, Villaum 2017: 19–52; Pechatnov 2021: 61; Pechatnov 2022: 361). This adjustment could also be seen as a periodization criterion. At the same time, as regards the ultimate goals, the *détente* never went beyond the Cold War framework. Both Moscow and Washington (and other capitals as well) asked the question: What path will civilization follow in the next few decades? Each superpower planned to become with time the only leader of this march into the future.

The *détente* emerged in the mid-1960s as a stable trend for defusing the tensions in the relations between the Soviet Union and its Warsaw Pact allies, on the one hand, and the Western European states, on the other. By the turn of the 1970s, the *détente* slowly (at the “second wave” pace) extended to the relations between the two superpowers. Mikhail Lipkin rightly noted that by that time, “each side (the United States and the Soviet Union) was trying to achieve the greatest possible successes by the start of the talks and to rally to its side as many supporters as possible” (Lipkin 2016: 437).

It was not until the early 1970s that Soviet–American relations finally normalized. The bilateral *détente* peaked in 1972–1975 due to a series of summits where American presidents (Richard Nixon, Gerald Ford) and the Soviet Secretary-General Leonid Brezhnev formed an extensive and diverse agenda for inter-governmental and inter-bloc interactions. This agenda was enshrined in treaties on strategic arms reduction, arms control, foreign trade cooperation, research, space exploration, scientific and technological exchanges, joint cultural programmes, sporting events, etc. The Soviet–American *rapprochement* dipped somewhat in 1975–1979.

Already at the peak of the *détente*, many experts were asking what exactly it was (Arbatov 1991: 215–217; Cherkasov 2016: Ch. 8; *Encounters with Kennan* 1979; Pipes 1981). Was it an attempt to “overcome the Cold War,” an attempt that could take the world out of the confrontation regime, or should it be treated as a breather, a truce required for the parties to consolidate their achievements, structure risks, adjust strategic approaches, and thus prepare for a future battle? The answer to this question largely depended on whether Washington and Moscow would succeed in basing the *détente* on a solid material foundation. Great hopes in that respect were pinned on developing economic, scientific and technological cooperation and bilateral trade. Other conditions for transforming the *détente* from a trend into the mainstream state of bilateral

relations were the readiness of the elites to continue with the *détente* and the creation of the requisite legal framework. The legislature played an important role in meeting these conditions in the United States.

### **The Legislative Context of the Cold War**

Even when the bipolar confrontation between Moscow and Washington was just emerging, the Export Control Act adopted by Congress in February 1949<sup>4</sup> became the key piece of U.S. legislation, introducing restrictions and prohibitions in trading with socialist countries. The Act instituted a state policy of harsh restrictions on selling any commodities, manufacturing equipment, or resources (including technical data) to Soviet bloc countries. The President was empowered to veto any export transactions if there were grounds to believe that such exports could bolster the military potential of states that posed a threat to U.S. national security. Vague wordings made it possible to extend the Act to any commodities, even those that had no direct connection with the military area. Theoretically, that Act could be extended to any country, but while obtaining licenses from the Office of Export Control (a specifically established subdivision of the Department of Commerce) for trade transactions with western states was, as a rule, fairly easy, trading with the Soviet Union and its allies was something of a privilege granted to American firms as a rare exception (Technology and East-West trade 1979: 112).

To improve interactions among NATO partners in implementing the Act of 1949, the western bloc established the Coordinating Committee of Multilateral Export Controls (COCOM) in the autumn of 1949. Throughout the Cold War, COCOM performed the function of “watchdog” in trade, similar to the function NATO performed in the military and political area. In the early 1950s, export restrictions were extended to the People’s Republic of China – trade with China was now regulated by CHINCOM, a committee for multilateral control over export to China, created in the image and likeness of COCOM (Jackson 2001: 148–151).

From the very outset, Washington viewed economic containment of communism as an integral part of its overall strategy towards the Soviet Union and its allies. Consequently, the United States aligned its commercial legislation with its political actions and programs (Jackson 2001: 128–134). In the autumn of 1951, the United States denounced its 1937 agreement with the Soviet Union that established the most favored nation (hereinafter the MFN) regime between the two states. In 1951, the United States passed the Mutual Defense Assistance Control Act, also known as the Battle

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<sup>4</sup> Notably, neither this act nor the subsequent acts of 1969 and 1979 provided a clear definition of “export control.” Several overarching concepts can be identified among the range of different approaches found in legislation: 1) export control was used to ensure U.S. national security interests; 2) export transactions involved preliminary licensing by governmental bodies; and 3) control entailed compiling and changing restrictive lists that prohibited selling specific types of goods.

Act, which enshrined the President's right to end any type of U.S. aid to countries that violated Washington's embargo on selling commodities to so-called dangerous states (Funigiello 1988: 54, 68). At the height of the Vietnam War (in February 1968), the US Export Import Reauthorization Act was amended to prohibit extending loans and banking guarantees to countries in a state of an armed conflict with the United States (i.e. North Vietnam). This prohibition also applied to those states whose governmental institutions supplied goods and other aid to countries in a state of war (that is, a large part of the socialist camp, including the Soviet Union).<sup>5</sup>

By the late 1960s, a significant change had occurred in the military, strategic, political, and economic circumstances in which the United States shaped and implemented its foreign policy, prompting the Washington establishment to work on the issue of a possible adjustment of its foreign trade legislation. Back in 1968, a special sub-committee of the Senate Committee on Banking and Currency led by Walter Mondale started analyzing the current export legislation with a view to its liberalization.<sup>6</sup> In 1969, the Export Control Act was expiring again, making the senators' work a practical affair, and not merely an exercise in hypotheticals. With President Nixon coming to power and announcing a transition from confrontation to a new "era of negotiation"<sup>7</sup> in Soviet–American relations, the sub-committee was working in entirely new circumstances.

### **Business pressure on the Legislative Process**

In September 1968, at the height of the U.S. presidential campaign, Georgy Arbatov, Director of the Institute for US Studies at the Academy of Sciences of the Soviet Union, sent a report to the Central Committee of the Communist Party on the effect that the scientific and technological revolution was having on Washington's foreign political strategy. The eight-page document contained a detailed analysis of contemporary trends in economic development and cautiously mentioned that the Soviet Union was lagging noticeably behind the United States in economic development. "We even believe now," Arbatov wrote, "that the crucial element in the economic competition with the United States lies in the pace of industrial growth. Americans believe that the course of the competition will be determined by the pace of the scientific and technological revolution. The 'New Directions in the Soviet Economy' report prepared some time ago for the U.S. Congress concludes that 'the Soviet economy will [...] succeed in reducing a little its technological gap, but its relative gap in overall productivity will remain the same as it was in 1950, and even slightly larger than in 1940.' No wonder that Washington is searching for ways to use these positions in its global foreign policy."

<sup>5</sup> Congressional Record (hereinafter the CR). Vol. 114. Washington, D.C.: US GPO, 1968. P. 2303–2304, 2309–2311.

<sup>6</sup> CR. Vol.115. Washington, D.C.: US GPO, 1969. P. 30998.

<sup>7</sup> Nixon R. Inaugural Address. January 20, 1969. URL: <https://www.presidency.ucsb.edu/documents/inaugural-address-1> (accessed: 02.08.2023)



At the same time, Arbatov reported a piece of good news, “the United States still has influential forces that believe their key task lies in ensuring U.S. security and national interests and normalizing relations with the USSR.”<sup>8</sup>

Nevertheless, with the Nixon administration coming to the White House in January 1969, there was nothing to suggest that those “influential forces” mentioned by Arbatov had the ability to significantly change the policy towards the Soviet Union and reduce tensions. The new president did not instil any optimism in the Soviet leadership. He was believed to be a conservative and a staunch opponent of socialism. Up until the first Moscow Summit in May 1972, Leonid Brezhnev at meetings between members of the inner circle invariably called him “a political windbag,” and “the greatest demagogue among U.S. presidents.”<sup>9</sup> At the same time, he noted that Nixon’s actions manifested “a forced inclination to engage in contacts and talks.”<sup>10</sup>

The German historian Stephan Kieninger claims, not without reason that, unlike Lyndon Johnson (1963–1969), who had taken the *détente* to be a process involving mostly European states, the Republicans viewed it mostly in the categories of the balance of power and “focused on structure” (Kieninger 2016: 85). In practice, this meant that Washington formed the agenda of the bilateral Soviet–American relations hierarchically in accordance with its own scale of priorities. The top place was allocated to the desire of the United States to exit from the Vietnam War with as few losses as possible and to stabilize the strategic arms race. Nixon and Kissinger put trading with the East, primarily with the Soviet Union, on the agenda, but this was treated mostly as an ace up their sleeve at the upcoming talks. They believed that, because of its serious economic lag, the Soviet Union was far more interested in American goods and technologies than the United States was in Soviet goods and technologies. This is why Nixon instructed his Secretary of Commerce Maurice Stans to approach talks with the Soviet Union as a “shrewd Yankee trader” (Kieninger 2016: 89–91).

The first steps of the U.S. administration confirmed Arbatov’s prediction that Washington would seek to use its economic supremacy in its global foreign policy. In mid-January 1969, Dartmouth Conference V was held in the city of Rye, New York. David Rockefeller, head of the U.S. delegation, said that the United States could expand trading with the Soviet Union in those goods that had no strategic purpose. As for trading in strategic goods and granting Moscow long-term loans, the U.S. stance would remain unchanged. Rockefeller was believed to have been among the principal sponsors of the Republican Party, and the statement by a high-ranking member of this family at a regular bilateral forum a few days before Nixon’s inauguration sounded like a preliminary declaration of the administration’s intentions concerning trading

<sup>8</sup> Russian State Archive of Contemporary History (RGANI). Coll. 5. Holdings 60. Doc. 468. P. 36–37.

<sup>9</sup> Ibid. Coll. 80. Holdings 1. Doc. 90. P. 25.

<sup>10</sup> Ibid. Coll. 2. Holdings 3. Doc. 168. P. 81.

with the Soviet Union. This expectation was soon confirmed: on January 30, 1969, Paul McCracken, Chairman of Richard Nixon's Council of Economic Advisors (by that time, Nixon had already taken office) met with the *Pravda's* political columnist Georgy A. Zhukov and confirmed that David Rockefeller's opinion stated in Rye did indeed represent the official U.S. stance.<sup>11</sup> Essentially, that statement meant that the change in the U.S. administration would not entail changes in trade relations between the two states.

It soon transpired that "influential forces" calling for the normalization of relations with the Soviet Union did indeed exist in the United States. In late July–early August (between July 30 and August 9, 1969), Charles Thornton, Chairman of the Board of Litton Industries, visited the Soviet Union. It was not a routine business visit: Thornton led one of the most dynamically developing corporations working in innovative segments, including the military and space sectors. The company had solid bipartisan political ties, its leader was part of Nixon's entourage, and the President had approved the programme of his visit to the Soviet Union.

In the course of his meetings with Soviet representatives, the visitor from the United States repeatedly stressed the need to develop economic, scientific, and technological ties: all restrictions were coming from the American side. He was quite uncomplimentary about his government's course of action, claiming, however, that the situation was starting to change for the better and that Nixon would play a major positive part in this process. As for his plans, Thornton said he was not going to speak to the press and give interview to journalists upon his return to the United States (they were going to twist everything beyond recognition anyway). Instead, he was going to tell his government about his impressions of his journey and speak at several meetings of entrepreneurs, including a "business congress" (one of the most influential organizations of American entrepreneurs whose congresses are regularly attended by American Presidents and other leading government figures).<sup>12</sup>

At the talks, Thornton repeatedly called the current volume of trade between Washington and Moscow shameful and ridiculous. He called the exports of \$50 million and imports of \$50 million a pathetic figure considering the fact that the two countries were economic giants. He further noted that expanding economic ties between the two countries would have major economic significance for both. He also claimed there were many people in U.S. business circles who were of the same opinion.<sup>13</sup>

Thornton's claims were generally borne out by facts. In 1969, the Soviet Ministry of Foreign Trade saw an increased number of American firms expressing an interest in expanding business contacts in the Soviet Union. Business delegations from

<sup>11</sup> RGANI. Coll. 5. Holdings 61. Doc. 555. P. 18–19.

<sup>12</sup> Ibid. Doc. 558. P. 124–125.

<sup>13</sup> RGANI. Coll. 5. Holdings 61. Doc. 558. P. 135.



Michigan,<sup>14</sup> representatives of Industrial Machinery, Satra Corporation, and some other companies visited the Soviet Union.<sup>15</sup> Each time, the discussions focused on problems and difficulties in Soviet–American trade stemming from the U.S. legislation that blocked American commodities and technologies from reaching the Soviet market, the absence of the most favored nation regime, and archaic licensing and export control procedures. As a rule, American representatives did not deny that their government’s legislation was the main obstacle to making progress in this area, and expressed great interest in its liberalization.

The Soviet Union paid close attention to the mood of American entrepreneurs. In late 1969, Congress had to extend (or amend) the export control legislation, and the outcome of debates on the matter largely depended on the sentiments of major corporations interested in expanding trade with the East. The Soviet KGB reported on November 28, 1969 to the Central Committee of the Communist Party that “several members of industrial business circles in the United States are increasingly interested in developing extensive economic ties with the Soviet Union. Top managers of Ford, General Motors, and Litton Industries are willing to help organize exchange visits of influential Soviet and American economists and politicians, which could, in their opinion, serve as a foundation for setting up subsequent close business ties between the two countries. Many governmental experts, in particular, Chairman of the Board of EXIM Henry Kearns and Nixon’s Special Representative for Trade Negotiations Carl Gilbert, advocate developing trade with socialist countries, primarily the Soviet Union. These circles lobby U.S. Congress to pass a bill on trade control with socialist countries that would facilitate the export of American goods to socialist states (the Muskie Bill approved on November of this year by the conference committee of the Senate and the House of Representatives).”<sup>16</sup>

The same document stressed that “Nixon’s government has assumed a negative stance on the bill.” Citing the opinion of representatives of the Department of Commerce, the document claimed that “the government is expected to apply strong pressure to the members of the House” since the U.S. President “does not want to use his veto power with respect to this bill.”<sup>17</sup> Additionally, the document reported that Nixon had informed Thornton of his own stance – that “developing extensive economic ties between the United States and the Soviet Union is generally unlikely during the war in Vietnam with the Soviet Union supplying 80% of weapons to the Democratic Republic of Vietnam.”<sup>18</sup> And so emerged the outlines of one of the likeliest trade-offs of Nixon’s “era of negotiation”: the abandonment by the Soviet Union of its support for North

<sup>14</sup> Russian State Economic Archive (RGAE). Coll. 413. Holdings 31. Doc. 3015. P.16–17.

<sup>15</sup> Ibid. P. 3, 5, 6, 16.

<sup>16</sup> RGANI. Coll. 5. Holdings 61. Doc. 558. P. 175.

<sup>17</sup> Ibid. P. 175–176.

<sup>18</sup> RGANI. Coll. 5. Holdings 61. Doc. 558. P. 176.

Vietnam (ideally, putting pressure on North Vietnam to end the war on terms that would be most advantageous for the United States) in exchange for liberalizing trade with Moscow.

The KGB's analytical memo mentioned above also noted that the head of the country was "interested" in Thornton's proposal to establish a commission of members of the business community, the administration, and professional economists to research the possibilities of expanding trade with the Soviet Union. The memo also concluded that "this idea is supported by several influential entrepreneurs who believe it necessary to engage even today in business preparations for expanding Soviet–American economic ties."<sup>19</sup> The information from Soviet analysts and intelligence showed that large business played an important part in debates on export control. At the same time, the report did not mention that at the same time, the administration discussed the possibility of using trade liberalization with countries of the Warsaw Pact to fragment the communist bloc in Europe (Kieninger 2016: 85).

### **The Export Control Act of 1969: A Prologue to Détente**

At first, the legislative procedure around the export control act was routine and standard: in late January 1969, the bill was submitted to the House and underwent the first formal hearing. Bill H.R. 4293 would extend the Act of 1949 without any major amendments.<sup>20</sup> Nevertheless, both members of Congress and of the executive branch soon focused on liberalizing the trade legislation.

In April, Secretary of Commerce Maurice Stans noted in a special memorandum for Nixon that was moderately optimistic about the importance of trade with socialist Eastern European states and pointed out that positive changes would be important for developing trade and because of its "leverage potential in [...] broader foreign policy negotiations." Of all the current legislative and administrative obstacles in the way of developing trade with Eastern Europe, Stans believed absence of the most favored nation regime and restrictions on EXIM's loans to be the most important, not export control. The Secretary believed that the administration should make a public political statement in support of developing trade between the West and the East and not confine itself to passively approving export transactions.<sup>21</sup>

The Department of State and the National Security Council agreed with the Secretary that the MFN and loans took precedence over export control.<sup>22</sup> The heads of the agencies concerned sent their findings on the issue to the White House by mid-May 1969 and were generally unanimous in their assessments of the current situation: they

<sup>19</sup> Ibid.

<sup>20</sup> CR, Vol.115. P. 1630.

<sup>21</sup> Foreign Relations of the United States (hereinafter FRUS), 1969–1976. Volume IV, Foreign Assistance, International Development, Trade Policies, 1969–1972. Washington, D.C.: US GPO, 2001. P. 748–751.

<sup>22</sup> FRUS, 1969–1976. Vol. IV. P. 754, 757–758.

admitted that the restrictive measures of the United States and COCOM did very little damage to the economies of communist countries while provoking frictions with the United States' allies and its own business community. On the other hand, developing trade may potentially improve political relations. Nevertheless, the key political agencies did not achieve a consensus on subsequent practical steps.

Secretary of Defense Melvin Laird assumed a particularly conservative stance, believing that the administration should not make any public statements or seek to have the legislation on extending the MFN and loans amended, while the Export Control Act of 1949 should simply be prolonged, thereby ensuring minimal subsequent revisions of control lists.<sup>23</sup> Secretary of the Treasury David M. Kennedy advocated minimal amendments to the Export Control Act, removing the most odious restrictions, paring down COCOM's lists, and authorizing the President to grant tariff preferences to communist countries; however, he did not believe it expedient to lift loan restrictions.<sup>24</sup> The Department of State, represented by Elliot Richardson, who was temporarily acting in lieu of Secretary of State William Rogers, proposed liberalizing the legislation in all three areas (export control, tariffs, and loans) and significantly paring down U.S. control lists.<sup>25</sup> The Department of Commerce assumed a more cautious stance, believing it best to confine trade liberalization to strictly administrative steps and not to try to amend the legislation in order to avoid complicating relations with Congress.<sup>26</sup>

As a rule, in making foreign policy decisions, National Security Advisor Henry Kissinger usually had the last word. And as early as May 1969, he had adopted a very moderate stance. He believed that a public statement in support of the West trading with the East should be as restrained as possible and should be made by the Secretary of Commerce and not by the White House. On the matter of export control and granting the MFN, Kissinger deemed it possible to support potential congressional initiatives, but he advocated against the executive branch making its own statements on the matter. He recommended aligning the United States' control lists with those of COCOM as much as possible (with the exception of such commodities as advanced computers, where Americans could single-handedly exercise effective control), and advised taking no legislative steps on commercial loans.<sup>27</sup>

The NSC's final decision, which Nixon signed on May 28 as National Security Decision Memorandum 15, was more conservative than Kissinger's suggestions. The President approved the idea of paring down control lists just as his advisor had proposed, but the memorandum generally did not envision any legislative amendments on export control and the MFN. Several specific matters on issuing export licenses

<sup>23</sup> FRUS, 1969–1976. Vol. IV. P. 773–774.

<sup>24</sup> Ibid. P. 770–771.

<sup>25</sup> Ibid. P. 767–768.

<sup>26</sup> Ibid. P. 780.

<sup>27</sup> Ibid. P. 780–782.

to sell industrial equipment to the Soviet Union were rejected. At the same time, the question of liberalizing trade relations with the Soviet Union and Eastern European countries was not rejected outright, but would be handled “in view of the status of our overall relations with them,”<sup>28</sup> which, as the President’s advisor wrote in his memoirs, reflected the stance of Nixon himself as he phrased it at an NSC meeting on May 21, “if our political relations improved, increased trade would follow.”<sup>29</sup>

The President’s decision faced Kissinger and other heads of governmental agencies with the problem of the policies to be followed should bills liberalizing trade with the East be submitted to Congress. Such bills had to be expected. On the one hand, NSDM 15 directly implied that the administration would oppose such bills. On the other hand, counteracting such legislation could potentially create additional complications in relations with the Capitol and cast the administration in a negative light in the eyes of the public. Subsequent events showed that the administration settled on a half-way option: toughening, as much as possible, liberal bills submitted both to the Senate (which was expected) and to the House.

The House began debating H.R. 4293 in mid-October 1969. The relevant committee considered the first draft of the bill that envisaged simply prolonging the Act of 1949 for the next four years, and the Act was amended, first, to limit the prolongation to only two years citing “possible change in the near future in or foreign policy vis-à-vis Eastern Europe, and in our foreign trade and balance of payment,” and, second, to introduce a requirement for the Department of Commerce to revise reporting requirements in such a way as to cut as much as possible related costs.<sup>30</sup> The key article of the old act was intended to be left virtually unchanged prohibiting export of goods “to any nation or combination of nations threatening the national security of the United States if the President shall determine that such export makes a significant contribution to the military or economic potential of such nation or nations which would prove detrimental to the national security of the United States.”<sup>31</sup>

Debates around H.R. 4293 were neither long nor heated. Thomas Ashley (D-Ohio) criticized the current export control system for its ineffectiveness that stemmed from the Soviet economy being self-reliant (“A bottleneck approach simply does not work with a nation of such natural endowments and technological level”) and from lack of proper coordination of restrictive measures between the United States and its allies allowing Western European states and Japan to gain major commercial profit from trading with the socialist camp. Ultimately, Ashley believed that the greatest harm was done to the U.S. economy, and not to the economy of communist nations.<sup>32</sup> Ashley’s

<sup>28</sup> Ibid. P. 784–785.

<sup>29</sup> Kissinger H. 1979. *White House Years*. Boston: Little Brown & Co. P. 154.

<sup>30</sup> CR, Vol. 115, P. 30404.

<sup>31</sup> Ibid. P. 30405.

<sup>32</sup> Ibid.

amendment stipulated that Washington's goal and priority was to encourage trade in peaceful goods and technology with all countries with which the United States had diplomatic or trading relations, except to the extent that the President determined such trade to be against national interests. Ashley also stressed that it was necessary to keep the practice of control lists of military goods and dual-purpose goods.<sup>33</sup>

Several members of the House supported the initiative. Thomas Rees (D-California), for instance, pointed out that expanding trade with Eastern European states would increase the profits of U.S. manufacturers and make purchasers dependent on American technologies and supplies.<sup>34</sup> Yet Ashley's amendment was voted down by the House. The same fate befell the amendments put forward by Earl Landgrebe (R-Indiana), who proposed banning exports to countries trading with North Vietnam and aiding it by other means; Bertram Podell (D-New York), who proposed an embargo on trade with narcotic drug-making countries; Jonathan Bingham (D-New York), who proposed extensive reporting to Congress; and Benjamin Blackburn (R-Georgia), who proposed limiting the terms of an embargo imposed by the President.<sup>35</sup>

In addition to the amendments proposed by the Committee, only two further amendments were approved by the House, and both were proposed by Gary Brown (R-Michigan). The first provided that the decision on approving or denying an export transaction should be made "taking into consideration its availability from other nations with which the United States has defense treaty commitments." The second amendment introduced the general provision concerning possible adverse effect that "the unrestricted export of certain materials, information, and technology may" have on "the national security of the United States," which, Brown believed, would eliminate the division into military commodities and peaceful commodities that had become outdated by the late 1960s.<sup>36</sup>

The final vote in the House passed a moderately conservative version of the new bill that had few differences from the 1949 version. A total of 273 members of Congress voted in favor, while 7 voted against, and 151 abstained.<sup>37</sup>

Several days later, the Senate started considering its own version of the bill that had a different title (S. 2696), name ("to provide for continuation of authority for the expansion and regulation of exports, and for other purposes"), and several substantive provisions. This version saw the goal of the legislation as encouraging trade in peaceful goods while restricting exports of goods that have "significant military applications." Influence of the economic potential of foreign nations was excluded from the criteria for prohibiting exports, while the criterion of comparable goods being available from

<sup>33</sup> Ibid. P. 30413–30414.

<sup>34</sup> CR. Vol. 115. P. 30415.

<sup>35</sup> Ibid. P. 30416–30417, 30422–30423.

<sup>36</sup> Ibid. P. 30418.

<sup>37</sup> Ibid. P. 30424–30425.

alternative sources was added. The bill instituted mechanisms for consultations between government agencies and the business community on matters of standardizing and licensing exports. The bill also simplified the bureaucratic procedures for issuing licenses.<sup>38</sup>

The bill was co-sponsored by Walter Mondale (D-Minnesota) and Edmund Muskie (D-Maine). Like Thomas Ashley in the House, they mostly supported their bill with economic arguments. They called old export legislation outdated and claimed it prevented American entrepreneurs from effectively competing for Eastern European markets, while the effectiveness of restrictive measures against the Soviet economy was nearly zero. Both senators labelled the current situation absurd as approximately 1100 non-military commodities on the U.S. restrictive lists were absent from COCOM's lists and could be easily purchased by socialist countries from allies of the United States. However, the senators intended to preserve both COCOM itself, and control over strategic goods. Additionally, the senators viewed expanding trade as an important instrument for developing mutual understanding between the United States and socialist nations. Mondale even suggested using U.S. trade as an "offensive weapon," designed to influence the attitudes of those in communist countries.<sup>39</sup>

Their opponents supplied both political and economic and technological counterarguments. Harry Byrd Jr. (D-Virginia), John Tower (R-Texas), and Wallace Bennett (R-Utah) reminded their colleagues that the Soviet Union and its satellites provided aid to North Vietnam, thereby creating danger to U.S. national security, while the recent Prague events and the Cuban Missile Crisis of 1962, in Bennett's opinion, were convincing proof that Soviet policies and politics had not changed over the last 20 years.<sup>40</sup> Peter Dominick (R-Colorado) believed that expanding trade would be far more beneficial for the Soviet bloc as access to advanced Western technologies would free up the communists' material and human resources for developing new types of missiles and other complex weapons.<sup>41</sup>

Bennett also criticized the distinction made by the bill's co-sponsors between "military" and "non-military" commodities. He drew attention to the fact that the contemporary electronic equipment and computers that were formally "peaceful" goods could be used to manufacture all kinds of commodities, including military products.<sup>42</sup> Bennett proposed the only substantive amendment that duplicated the amendments by member of the House Gary Brown (see above). This amendment was not carried (44 "nays" and 34 "yeas").<sup>43</sup> After carrying the technical amendment proposed by Walter Mondale and assigning bill S.2696 the number of its twin considered by the House,

<sup>38</sup> Ibid. P. 30998–31000.

<sup>39</sup> CR, Vol. 115. P. 31001, 31004.

<sup>40</sup> Ibid. P. 31009–31013.

<sup>41</sup> Ibid. P. 31015.

<sup>42</sup> Ibid. P. 31010.

<sup>43</sup> Ibid. P. 31008, 31016–31017.



H.R. 4293 (which launched conciliatory procedures between the chambers), the Senate proceeded to take the final vote that carried the bill (49 “nays,” 24 “yeas”).<sup>44</sup> Thus, in the autumn of 1969, the Nixon administration faced two conflicting versions of the revised export control bill (the Senate’s more liberal version and the House’s more moderate version), while the programmatic document approved by the President in May of the same year did not envision any changes in that area at all.

Behind the scenes, those lawmakers who were loyal to the administration’s policies (senators Wallace Bennett and John Tower, and William Widnall, a Democrat member of the House from New Jersey) urged members of the administration to propose compromise amendments to the bill to prevent William Mondale and Edmund Muskie’s liberal version from being passed. The Department of Commerce developed a set of such amendments that envisaged keeping export controls only over such goods that influenced the military potential of other states, and setting equal protection to the U.S. economy and U.S. national security as the trade goal. Kissinger supported this idea, yet at the same time, he rejected the Department’s projects for liberalizing control lists.<sup>45</sup>

The draft developed in early November 1969 following the work of the conference committee was closer in both its letter and spirit to the Senate’s version than to the House’s more moderate bill. Some minor changes proposed by the administration were made to the text, but the provisions of the key section 4 listing the powers and obligations of the authorities determined the bill’s overall liberal nature. Article 4b stated that goods and technologies available for purchase in other states could be subjected to export controls *only pursuant to a direct decision by the President who deems exporting such articles a threat to national security and submits an appropriate report to Congress*. In other words, the new bill proposed replacing the basic principle of the old Act (exporting only those goods that are directly permitted to be exported) with the opposite principle of not exporting goods whose exports were directly prohibited. Article 4a *mandated that the Department of Commerce promptly review the export control lists, remove articles whose export did not significantly contribute to the military potential of other states and regularly report to Congress*.<sup>46</sup>

The Senate approved the compromise version of the bill without much ado, yet the House, upon considering the November version of the bill on December 10, 1969 voted it down. Republicans William Widnall, Gary Brown, Del Latta, and Benjamin Blackburn levelled sharp criticism at the new version of Article 4b and several other wordings for being too liberal which was unacceptable in matters of national security.<sup>47</sup> The House approved Gary Brown’s wording, which mitigated somewhat the radical nature of para. 4b mandating that the President make the decision on prohibiting

<sup>44</sup> Ibid. P. 31019.

<sup>45</sup> FRUS, 1969–1976. Vol. IV. P. 797–798.

<sup>46</sup> CR. Vol. 115. P. 34289–34290.

<sup>47</sup> Ibid. P. 38079–38080, 38100–38102.

exports in case of a threat to the national security of the United States “taking into consideration” their “availability from other nations with which the United States has defense treaty commitments.”<sup>48</sup> This version did not sit well with the Senate, and five days later they voted down the bill with Brown’s amendment.<sup>49</sup>

The situation was paradoxical: both the administration and lawmakers agreed that the new act should liberalize export controls (at least at the level of general goals and principles), ensure moving away from prior severe restrictions, and yet retain decisive powers of the President in the area; however, passing the bill was taking a long time. The disagreements were not fundamental, and a way out of the impasse was found fairly soon. As early as December 23, 1969 the conference committee submitted a revised bill to both the Senate and the House. The new wording of Article 4b would give the President the power to prohibit exports that were deemed a threat to national security on the condition that the relevant information was provided to Congress in quarterly reports, but the new article envisioned no account for commodities being available from other countries.

The final version proclaimed that the principal goals of the policy were “*to encourage trade with all countries with which we have diplomatic or trading relations*” and also “*to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.*” Additionally, the Department of Commerce retained its authority to regularly revise control lists. The bill also envisaged cutting licensing costs for exporters and mandatorily informing them of the reasons for refusing a request for a license.<sup>50</sup> On that day, the House and the Senate finally carried the bill, and on December 30, President Nixon signed the Export Administration Act of 1969, which was duly passed by Congress.

### Export Controls and “Linkage” Practices

The U.S. administration should be seen as the principal beneficiary of this legislative saga. The revised legislation did not grant and did not even promise the Soviet Union and its allies too much in the area of commerce, thereby giving Richard Nixon and Henry Kissinger room for manoeuvre within their “linkage” practices. The principal leverage in decision-making in exports remained in the hands of the president, which allowed him, even if sometimes indirectly, make sure that a favorable outcome of a particular contact between U.S. businesses and socialist countries hinged on the conduct required by the United States.

<sup>48</sup> Ibid. P. 38105.

<sup>49</sup> Ibid. P. 39205.

<sup>50</sup> CR. Vol. 115. P. 40982–40984.

The failed deal between the Soviet Union and Ford Motor Company is a stark example of the “linkage” tactics. Ford was to serve as a key contractor in building the Kama Automobile Plant. In the spring of 1970, Henry Ford Jr. announced the intention to join the Soviet project without having a signed agreement with the Soviet Union, yet almost immediately, the Nixon administration put pressure on him, and he was forced to abandon his plans (Mastanduno 1992: 145). The executive branch’s negative opinion of Ford’s plans stemmed from the overall state of Soviet–American relations. No breakthroughs had been achieved at the time, neither in terms of limiting strategic arms, nor in the talks on Vietnam. When, in October 1970, the Soviet Minister of Foreign Affairs Andrey Gromyko met with President Richard Nixon and stated that the bilateral trade constituted “almost a vacuum,” the U.S. President replied that “if our political relations improved, increased trade would follow.” On a separate note, he said that the United States was “prepared to explore ways in which trade between our two countries could be increased.”<sup>51</sup>

The breakthrough achieved in May 1971 in talks on the limitation of strategic offensive arms gave the U.S. leadership grounds to soften their stance on trade matters. On May 24, Henry Kissinger informed the Soviet Ambassador Anatoly Dobrynin that Richard Nixon had sanctioned the previously postponed deal for the supply by Gleason Gear of automotive equipment to the Soviet Union, the issuance of a permit to sell metalworking machines worth \$200 million, and consent for the United Kingdom to sell high-performance computers for Soviet physicists.<sup>52</sup> On June 10, Washington made an official statement with respect to easing restrictions on selling certain non-strategic commodities to China and also suspended the rule that Eastern European countries should ship no less than 50% of their grain by American ships.<sup>53</sup>

A new stage in liberalizing trade with the socialist camp applied to licensing, as well as loans for commercial transactions. Even though Nixon approved the Memorandum of the NSC (NSDM 99) in March 1971, whereby the administration deferred decisions on the subsequent liberalization of trade in the MFN regime and EXIM loans, the same document said that “Congressional initiatives in these areas should be opposed only in a very low key.”<sup>54</sup>

In April 1971, the Senate promptly considered and passed bill S.581 (67 “yeas,” 1 “nay”), which introduced several important amendments to the base act of 1945 on the EXIM bank (reauthorization until June 1976, increased assets, the federal budget limits no longer applied to the bank’s operations, etc.). They also removed the 1968 Fino amendment that prohibited extending credits to nations trading with North

<sup>51</sup> FRUS, 1969–1976. Vol. XIII. Soviet Union (October 1970 – October 1971). Washington, D.C.: US GPO, 2011. P. 90

<sup>52</sup> Ibid. P. 679; Soviet–American Relations. The Years of Détente. Vol.1. Book 1. 1969–1979. Mezhdunarodnye otnosheniya, 2007. P. 472.

<sup>53</sup> Department of State Bulletin. June 28, 1971. P. 815–817.

<sup>54</sup> FRUS, 1969–1976. Vol. IV. P. 840.

Vietnam. Unlike the purely financial and budgetary dimensions of the bill, this step did not produce heated discussions among senators or prompt them to introduce amendments.<sup>55</sup>

Three months later, the House considered the bill, and the process there went down a different route. At the peak of the debates, Chalmers Wylie (R-Ohio) proposed bringing back the Fino amendment. His arguments were not new: Wylie and like-minded Congress members pointed out that it would be impermissible to spend U.S. taxpayers' money on funding the trade of states who help North Vietnam, an enemy of the United States. Wylie's opponents, in turn, drew attention to the fact that the bill granted the president discretion to refuse to extend credit to countries that help Washington's adversaries. At the same time, most lawmakers were unsettled by the uncertainty and ambiguity of the speeches made by members of the administration and the bank's staffers on the matter of the Fino amendment at the hearings at the relevant committee, from which it was impossible to determine whether or not they supported dropping the amendment. Ultimately, Wylie's proposal carried: 207 voted "yea" and 153 voted "nay."<sup>56</sup>

The decision of the House did not formally contradict NSDM 99, but it did cause concern among those in governmental circles who supported further liberalization of the trade legislation. Consequently, Secretary of Commerce Maurice Stans even sent the president a special memorandum where he suggested that members of the conference committee and prominent Republicans in the House be privately notified that the administration supported dropping the Fino amendment from the bill.<sup>57</sup> Available sources offer no information on Nixon's and Kissinger's response to the Secretary's initiative, but the bill as reworked by the conference committee and forwarded a few days later to both chambers of Congress no longer featured the amendment. That was the version adopted by the Senate and the House and signed by the President in early September 1971.<sup>58</sup>

Following Richard Nixon's historic visit to Moscow in May 1972, which marked the détente moving to a qualitatively new level, there were now prerequisites in place for a deeper transformation of the legislative framework for developing trade and economic connections between the two superpowers. The months-long negotiations were crowned in October 1972 with the signing of two interconnected documents: a trade agreement envisioning the two countries granting each other the MFN status and an agreement on settling the lend-lease, mutual aid, and grievances that determined the final amount of Soviet lend-lease payments, as well as the payment procedure.<sup>59</sup>

<sup>55</sup> CR. Vol. 117. Washington, D.C.: US GPO, 1971. P. 9668–9716.

<sup>56</sup> Ibid.. P. 23936.

<sup>57</sup> FRUS, 1969–1976. Vol. IV. P. 867–868.

<sup>58</sup> CR. Vol. 117. P. 28809–28810, 28892–28895, 29795, 30889.

<sup>59</sup> Department of State Bulletin. November 20, 1972. P. 595, 604.

Per the U.S. commitments, the Nixon administration had to take appropriate legislative steps that were almost immediately endangered because of the amendment introduced into the trade agreement by Senator Henry Jackson. Supported by several dozen senators and duplicated in the House by Charles Vanik, this amendment prohibited granting the MFN status to states that restrict the right of their citizens to free emigration. The Jackson-Vanik amendment would extend to a broad range of states with a non-market economy, but its sponsors never concealed the fact that it was aimed against the Soviet Union that restricted the right of Jews to emigrate to Israel (Yungblyud, Ilyin 2020: 10–11).

The Soviet Union took this amendment as interference into its domestic affairs. Nevertheless, it did make some concessions in matters of emigration. Behind-the-scenes bargaining involving Henry Kissinger, Soviet diplomats, and Henry Jackson and his supporters lasted for nearly two years. Still, in a somewhat mitigated form, the Jackson-Vanik amendment was adopted first by the House (December 1973) and then by the Senate (December 1974). At the same time, the EXIM legislation was amended to cap credits and guarantees extended by U.S. governmental organizations for trading with the Soviet Union at \$300 m. In response, Moscow denounced the agreements of October 1972 on trade and the lend-lease.

The Jackson-Vanik amendment cast a deep shadow over bilateral political relations, essentially marking the end of the “high détente” period, after which the relationship between the United States and the Soviet Union started to decline (Yungblyud, Ilyin 2020: 16–30, 34). A grave, but not fateful, blow was delivered to developing bilateral trade that had continued the previous momentum and demonstrated decent results by the mid-1970s (\$2.3 billion in trade turnover in 1976 vs. \$1.19 billion in 1973). At the same time, positive trends were largely based on the transactions concluded before Jackson and Vanik put forward their initiatives, and on the 1975 agreement on grain supplies (Funigiello 1988: 189).

The Jackson-Vanik amendment and its adoption showed that there were many opponents of the détente policy, and they were willing to do everything in their power to prevent the relations from normalizing based on the mutual recognition of the MFN status. In a 2009 interview, Kissinger commented on the circumstances on the trilateral talks on the subject and noted that even though the Soviet Union and the Nixon administration were generally willing to compromise, “Jackson people” were putting forward patently unacceptable and impossible demands throughout the negotiations, because in fact they “didn’t want an agreement, they wanted the issue.”<sup>60</sup>

Even though attempts to extend the MFN to the Soviet Union failed, the trend for liberalizing export control policies set in the fall of 1969 continued until the late 1970s. The base Act was extended several times and amended to further ease off export

<sup>60</sup> Gerald R. Ford Oral History Project. Henry Kissinger Interviewed by Richard Norton Smith // Gerald Ford Foundation. 08.04.2009. URL: <https://geraldrfordfoundation.org/centennial/oralhistory/henry-kissinger/> (accessed: 02.08.2023).

controls via changing wordings, procedures, or the scope of authority of government agencies. The version of the Act adopted in 1972 authorized the Department of Commerce to abolish unilateral export control of commodities “available ‘... without restrictions from sources outside the United States in significant quantities and comparable in quality to those produced in the United States.’” One 1974 amendment established a 90-day timeframe for considering license applications and stipulated that the violation of this deadline would result in the authorities informing the applicant of the causes for the delay and the approximate time the decision would be made (Technology and East-West trade 1979: 118, 119).

Some amendments reflect the concerns of certain members of Congress over possible risks for U.S. national security because trade with communist countries was considered too “liberal.” In particular, in 1974, the Secretary of Defense was authorized to review all the exports to communist countries and recommend to the President that a particular transaction be prohibited if it would significantly increase the military potential of states capable of causing damage to the national security of the United States (Technology and East-West Trade 1979: 120). It should be noted that, in this case, lawmakers would codify procedures in the legislation that had essentially been in use before. From Nixon’s very first weeks in the White House, the new administration established the practice of close interactions between the secretaries of defense and the President’s science advisors, discussing scientific and technical parameters of U.S. military R&D and all kinds of measures to protect classified information in this area, including foreign trade control.<sup>61</sup> This would become a regular practice in subsequent years.

The 1977 amendments further expanded the list of procedural rights of applicants: they could now submit additional written explanations and comments concerning information supplied in the application, view the paperwork involved in the inter-agency consideration of applications, and receive written explanations of refusals to grant a license. Additionally, in 1977, in order to make control over exports of goods and technologies more flexible, the “political” section of the act was expanded to include phrases that shifted the emphasis from the social system of purchasing states to the types of American goods and technologies, to the overall policies of certain states towards Washington, and to their re-export policies (Technology and East-West trade 1979: 120–121). Important innovations introduced in 1977 included a provision authorizing the Department of Defense to decide which export cases it would consider guided by the goal of ruling out the very possibility of selling or transferring products or technologies deemed to be critical for preserving the U.S. military supremacy. If the Department of Defense prohibited exporting specific knowledge-

<sup>61</sup> Oral history interview transcript with Lee DuBridge on 14 February 1986 // American Institute of Physics, Niels Bohr Library & Archives. URL: <https://www.aip.org/history-programs/niels-bohr-library/oral-histories/4582> (accessed: 02.08.2023).



intensive technologies, the President alone had sufficient authority to lift that prohibition, but he simultaneously had to explain this action to Congress. At the same time, the Department of State was mandated to establish the limits of acceptable openness for technologies and scientific information. Henceforth, U.S. export controls focused on unique characteristics of products and information, and not on their commercial specifications (Chapman 2013: 69–70, 109–111).

### **Export Administration Act of 1979**

With the arrival of the Carter administration in the White House in January 1977, the emphasis shifted noticeably both in the bilateral relations agenda and in the overall tenor of the Soviet–American dialogue. In November of that year, the President asked Congress to edit the Jackson–Vanik amendment so that the head of the executive branch would have the authority to annually make changes to the trade regimes with foreign states (allowing the President to steadily lift existing restrictions) based on current data on respect for human rights in those states, including freedom to leave the country. Congress did not support this initiative of the executive branch. Although by that time the number of Soviet Jews allowed to exit the country was nearly half of the number in the “peak” year of 1973, the new administration was criticized for its intention “to bury human rights in favor of Soviet–American trade” (Sheh 2008: 140).

Beyond the issue of human rights, the Democrats’ foreign economic programme did not significantly deviate from the previously established mainlines. Asked at a press conference in mid-December whether his administration was going to change the rules of trade with communist states, President Carter said that any changes in this area would depend on the overall political situation and added that “We [the U.S. government] are constantly assessing the advisability of maintaining administrative restraints,” but that they could not “assess trade itself completely separated from our overall relationships with [...] countries [...] who are potential adversaries of ours, like the Soviet Union.”<sup>62</sup> The return of the “potential adversary” to official political discourse was symptomatic, especially since three months prior, in his address on foreign economic problems, the President stressed the importance of bolstering export controls from the point of view of achieving the overall political goals, and stated that he had instructed the Department of Defense to constantly work on this problem in cooperation with the Department of State, Department of Commerce, Department of Agriculture, and the National Security Council.<sup>63</sup>

<sup>62</sup> Carter J. The President’s News Conference of December 12, 1978 // The American Presidency Project // URL: <https://www.presidency.ucsb.edu/documents/the-presidents-news-conference-1008> (accessed: 04.12.2022).

<sup>63</sup> Carter J. United States Export Policy. Statement by the President // The American Presidency Project. 26.09.1978. URL: <https://www.presidency.ucsb.edu/documents/united-states-export-policy-statement-the-president> (accessed: 04.12.2022).

In the late 1970s, amid the decline of the *détente* and the increased frequency of debates on Euromissiles, conservatives were generally advancing in both chambers of Congress. This development confirms Vladimir Batiuk's conclusion that Soviet–American cooperation in trade, science and technology depended on “shifts in the political atmosphere” (Batiuk 2018: 193). As contradictions in Soviet–American relations mounted, alarmist sentiments snowballed as well, manifesting in bills that proposed tightening export controls. In September 1978, Robert Dornan (R-California) submitted the “Technology Transfer Ban” bill (H.R. 14085) to the House, stating that the existing export procedures could not prevent the transfer of crucial technologies to the Soviet Union, China, and socialist countries of Eastern Europe, and consequently, he proposed significantly limiting the export of goods and technologies that could “make any contribution to the military or economic potential” of states that threaten U.S. national security. Such broad statements essentially presupposed going back to the US export policies of the late 1940s. Dornan's bill died in Committee, but as early as March 1979, he submitted the “Export Administration Reform” bill (H.R. 3216), co-sponsored by two dozen of his colleagues, which involved transferring many export control functions and powers from the Department of Commerce to the Department of Defense and banning exports of “any critical technology or critical good to any controlled nation.” Congress would be granted the power to overrule the President's decisions allowing export transactions for goods whose analogues were available from third countries (Technology and East-West trade 1979: 122).

Nevertheless, the bills proposed by Dornan and like-minded members of Congress did not turn into acts passed by Congress. The Senate Committee on Finance worked on and proposed for further debate bill S.737 submitted by Adlai Stevenson III (D-Illinois) and Henry Heinz (R-Pennsylvania) in March 1979. This document continued the ongoing trend towards seeking the optimal balance between the interests of foreign trade and national security priorities, and was largely a continuation of the 1969 text in its basic principles and goals. The bill proclaimed that its principal goals were “to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations.” It retained the key criterion of using export restrictions: “a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.” The President retained the discretion to impose export control on supplies of goods regardless of their availability from other states, but now the bill qualified that in such cases the President was to engage in talks with the governments of other states with a view to removing such availability.

<sup>64</sup> CR. Vol. 125, pp. 19176–19177. Consequently, one final provision abolished the “Battle Act” of 1951 as of October 1979 (CR. Vol. 125. P. 19182).

The bill enshrined the key role to be played in export controls by the Department of Commerce, as it was charged with compiling and editing control lists and issuing licenses. There were innovations as well: the bill mandated regular revisions of the lists (at least once every three years for COCOM lists and once a year for unilateral control lists). The bill also introduced a new kind of permit: a qualified general license (that could be issued not only for a separate kind of goods or technologies, but also for an entire class listing consignees and the purpose of using the exported goods). For the first time, the general export legislation interpreted the concept of “technology” and defined the consultative powers the Department of Defense had in editing the lists and in licensing.<sup>65</sup> Compared to the old version of the act, this one contained far more detailed descriptions of procedures, deadlines, required documents, and exceptions to general rules.

During the one-day debates of July 21, 1979, the Senate approved several minor and procedural amendments. For instance, a more specific definition was proposed for “*technologies and related products critical to military systems*” (preventing their transfer was a priority), and requirements for assessing the availability of goods and technologies from alternative sources were specified. The bill was carried by a large margin (74 “yeas” and 3 “nays”).<sup>66</sup>

The House discussed a similar bill (H.R. 4034) from late July to late September 1979. In the course of these debates, members of the House proposed several dozen very diverse amendments: from specifying different procedures to lobbying the interests of a given sector of the U.S. economy. The amendment proposed Richard Ichord (D-Missouri) in the autumn of 1979 was indicative of the overall sentiments of American lawmakers: instead of the vague wordings proposed by the Senate (see the above paragraph), Ichord introduced the concept of “*critical military technology*” and vested the Secretary of Defense with priority power to define a list of such technology. Ichord’s initiative, unlike many similar amendments, was supported by the majority of the members of the House (273 “yeas,” 145 “nays”).<sup>67</sup>

The version of the bill adopted by the House on September 25 was different from its Senatorial counterpart, which required a conference committee to be convened. The compromise version of the document was created on the basis of the Senate-approved version, but Ichord’s amendment was preserved unchanged.<sup>68</sup> The House considered the final version on September 28, 1979, and, without major debates, carried the bill by a huge margin (321 voting “yea,” 19 voting “nay”). The next day, President Carter signed the Export Administration Act of 1979.<sup>69</sup>

<sup>65</sup> CR. Vol. 125. P.19177–1978, 19182.

<sup>66</sup> Ibid. P. 20017–20027.

<sup>67</sup> Ibid. P. 24040–24041, 24046–24047.

<sup>68</sup> Ibid. P. 26594–26609.

<sup>69</sup> Ibid. P. 26817, 27267.

The Act of 1979 generally maintained the ten-year-long trend for easing regulatory restrictions on trading with socialist states, leaving the President with significant powers. These powers served as the legal foundation for a series of sanctions launched by the U.S. administration in early January 1980 in response to the Soviet Union sending a limited military contingent to Afghanistan. These sanctions included, in particular, an embargo on selling feeding grain and supplying high technologies (Garthoff 1994: 966–982).

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During the détente, the main trend in the U.S. foreign trade legislation was its partial liberalization: the United States significantly eased the procedure for exporting goods to socialist states and abolished the direct ban on using EXIM bank's funds for trading with the East. There was even an attempt to extend the most favored nation regime to socialist states that was legally neutralized as early as in 1974 with respect to the Soviet Union.

At the turn of the 1970s, Senators and members of the House, under the lobbying pressure of the business community that was seeking to expand their exports into new markets, were frequently more decisive in the matter of easing or lifting existing trade restrictions than the incumbent administration. At the same time, we should not overestimate the general scale of the liberalization trend. *First*, Nixon's, Ford's, and Carter's teams, to greater or lesser degree, proceeded from the *quid pro quo* principle and deliberately tried not to make too many concessions in the dialogue with Moscow in order not to lose all their instruments of influencing the Soviet Union's conduct. *Second*, the lawmakers' commercial impulse was balanced by national security considerations even when the détente policy was in ascendance. Moscow and its policies were still seen as a threat to U.S. interests, and consequently, developing trade and economic ties with the Soviet Union was never supposed to bolster the military potential of the United States' main rival. *Third*, the history of the Jackson-Vanik amendment is convincing proof that there were a number of opponents to the détente within Congress who, amid the presidential power temporarily weakening over Watergate, were capable of nullifying all liberal trade initiatives using the rhetoric of human rights violations that was so attractive for the American public.

Jonathan Bingham, who was actively involved in the law-making process in the 1970s, noted that when developing the revised regulations for foreign trade and export control, Congressmen and Senators had to make decisions regarding commercial transactions and high technology transfer without having sufficient reliable information to do this. They frequently used emotional arguments proposed in a heated polemic over Soviet dissidents and constantly felt the atmosphere of the official and media public discourse slowly devolving into the rhetoric of the Cold War (Bingham 1980: 89, 92). Bingham remained tight-lipped about the other side of the process. Congressional debates on foreign economic issues in the 1970s shaped a significant part of this discourse, and the Jackson-Vanik amendment formed an effective mechanism

for a selective approach to trade with the Soviet Union, ensuring the differentiated and highly rational use of restrictions to weaken the Soviet Union's position within the socialist system.

As contradictions in Soviet–American relations mounted, Congress was growing steadily more suspicious of the liberal procedures for trading with the East, and in 1978–1979 attempted to tighten the foreign trade legislation. The Export Administration Act of September 1979 served as a kind of a bridge between the détente era and a new stage of the Cold War. On the one hand, the Act continued the ten-year trend for rather liberal export procedures. On the other hand, it still provided the executive branch with room for manoeuvre and the possibility of using the economic cudgel if the Soviet Union misbehaved. Such an opportunity would present less than three months after the Act entered into force.

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#### **Conflict of interest:**

The authors declare the absence of conflicts of interest.

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