H. Changes in Export Control Act and Battle Act

In view of the above analysis, I would recommend that the Export Control Act be modified so that the United States could reduce its strategic controls to the level of other COCOM countries. This would require that the law be amended to limit strategic controls to goods and technologies of a clear military and military-industrial nature. The requirements that goods that make a significant contribution to the economic potential of the Soviet Union and other Eastern European countries be controlled should be eliminated from the law. Furthermore, the administration of the act should be considerably streamlined and simplified.

In my judgment, the Battle Act, the other major law dealing with strategic controls, should also be modified. The act passed in 1951 at the height of tensions with the Soviet Union is clearly a Cold War document. Its stated purpose is "To provide for the control by the United States and cooperating foreign nations of exports to any nation or combinations of nations threatening the security of the United States including the Soviet Socialist Republics and all countries under its domination * * *." The law provides for the mandatory termination of United States assistance, military, economic, and financial, to any country that knowingly ships military goods (Title I, Category A), including arms, ammunitions, implements of war, and atomic energy materials to Communist countries. It also provides for termination of all foreign assistance to any country that ships Category B goods, those of basic strategic importance in the production of military supplies to Communist nations unless the President finds that the cessation of such assistance is clearly detrimental to U.S. national security. Furthermore, the act provides for strengthening strategic controls in conjunction with other countries in Title II goods, those of secondary strategic importance. These are goods which if exported in large quantities, would contribute to the military-industrial potential, but usually have significant non-military uses.

The basic philosophy of the Battle Act to use the threat of withdrawing foreign aid to coerce non-Communist countries to accept strategic controls on exports of goods specified by the United States is a highly questionable one. This procedure has led to antagonisms with other non-Communist nations. This is a condition that sovereign nations do not like to accept in return for foreign assistance. Fortunately, the President has had some discretionary authority in administering the law. All in all, the act in its present form does not appear best suited to advance U.S. foreign policy interests in this rapidly changing world.

The Battle Act would be either repealed or substantially modified. One way to amend the act would be to change its emphasis to cooperation with other non-Communist nations on strategic controls. The specific mentioning of the Soviet Union and its bloc should be eliminated, as other countries may pose threats to our national security in the future. The President could be given more discretionary authority on ways to obtain the cooperation of other nations on strategic controls. For example, when the President determined that any nation was clearly a major threat to this country's national security, he could negotiate with other Free World countries on termination of exports clearly of military significance to that country. In other words in my judgement, the largely negative aspects and the Cold War emphasis of the Battle Act should be changed and the President should be given more discretionary authority in obtaining the cooperation of other countries.

I. The Export-Import Bank, the FCIA, and Export Financing

U.S. laws and regulations also limit trade by various discriminatory restrictions on financial transactions and credits to Eastern European countries. Of special importance are the limitations on Export-Import Bank financing. Since 1962 the Eximbank has been prohibited from financing or guaranteeing export credits unless the President finds it to be in the national interest to do so. However, in the extension of the program in 1968, the Eximbank was prohibited from financing exports to any nation which by direct government action furnishes assistance to North Vietnam. This in effect prohibits the Bank's assistance to all COMECON countries. Thus, under present conditions medium term and long term credit which are vital for exports of capital goods are practically not available in this country for exports to Eastern European nations.

All in all, the Export-Import Bank has been relatively inactive in financing East-West trade. During fiscal years 1963 to 1967, it extended about 66 million dollars of guarantees to finance exports to COMECON countries. This represents about .6% of total Eximbank authorizations during this period. The Bank has made somewhat larger credit guarantees amounting to about 76 million dollars