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January 30, 1984

TO: The Secretary
THRU: P - Lawrence S. Eagleburger
- William Schneider, Jr.
FROM: NEA - David T. Schneider, Acting
PM - Jonathan T. Howe
SUBJECT: Easing Restrictions on Exports to Iraq

ISSUES FOR DECISION

1. Whether to permit export to Iraq of "dual use" heavy trucks subject to regional stability controls but not subject to Munitions Control licenses.
2. Whether to make more consistent our practice of selectively discouraging export to Iraq of militarily useful equipment not currently subject to foreign policy export controls.
3. Whether to change our practice of denying all applications for Munitions Control licenses to permit instead case-by-case consideration of certain non-lethal exports to Iraq and, possibly, in principle to Iran.

ESSENTIAL FACTORS

Easing restrictions on certain less sensitive exports to Iraq would increase our flexibility in dealing with Iraq and Iran (and perhaps Syria), support efforts to redress and maintain a strategic balance among them, and be well received by Iraq and its Arab supporters. However, relaxing restrictions on militarily useful equipment for Iraq, and other actions we have taken to deal with Iran and to deter escalation of fighting in the Gulf, will add to the perception that we are "tilting" toward Iraq.

NEA, PM, and ER need your guidance on these questions to properly handle important recurrent questions affecting relations with regional states, the U.S. economy, and U.S. jobs. Ambassador Fairbanks believes decisions on these

Declassified By: Frank Machak
Director, Office of FOI, Privacy,
and Classification Review

June 1, 1992

DECL:OADR

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questions are not urgent, with the possible exception of the first (truck exports). No cautions that Iraqi escalation, should it come soon and result in Iranian retaliation, could add to public and Congressional opposition. II, NEA, and PM concur, but note that the depth of anti-Iranian and anti-Syrian public and Congressional sentiment has mitigated even some hard-liners' reactions to our recent alleged "tilt."

Commerce-controlled items trucks: Under the authority of the regional stability controls of the Export Administration Regulations, we currently deny applications for four categories of items (heavy trucks and three types of machinery specially designed to manufacture military equipment) to Iraq and Iran on the ground that "there is evidence that the export would contribute significantly to the destabilization of the region." The Department of State makes a case by case recommendation of approval or denial to the Department of Commerce, which has followed State's recommendations. In blocking the truck exports to Iraq, apart from dissatisfying Iraq and the exporters, we have sacrificed U.S. employment opportunities and foreign earnings amounting to several hundred million dollars over the past three years in order to maintain a strict and inactive neutrality. Lack of the trucks probably has had a negligible effect on Iraq's military capabilities.

Since mid-1982, when Iraq turned to defensive operations and its forces substantially left Iran, wartime circumstances have changed so that Iraq is now unlikely to use the trucks to "contribute significantly to the destabilization of the region"--the criterion for denial. Licensing a pending \$224 million export of 2,000 heavy trucks (and potential future similar truck exports) to Iraq would require no regulatory changes but would have significant commercial and political benefits. This export likely would attract Congressional attention, but Congressional criticism of Iraq, even by those who might still wish to restore it to the terrorism list, has been muted as members are becoming defensive about appearing to support Iran. Moreover, several members whose constituents stand to gain employment had questioned our denial of the sale in 1982, and would strongly support it now. We do not now advocate permitting exports to Iraq of the three categories of machinery designed to manufacture weapons because they could be a direct, substantial and durable contribution to Iraq's military capabilities.

Reversing our 1982 denial to license the same truck export to Iraq, without being prepared to license similar exports to Iran, could call into question our neutral posture. It could also make it more difficult to pressure allies to curtail their

non-weapons exports to Iran, should we choose later to enlarge our requests for restraint on arms sales to include their substantial non-weapons military exports. However, we believe that any such reactions are manageable, especially since the public impression already is that we are accommodating Iraq to this extent.

Non-Controlled exports: We need your approval to make more consistent our present practice of selectively discouraging exports to Iraq of militarily useful equipment not subject to controls. We are giving manufacturers ambiguous policy signals by various "jawboning" techniques, including threatening to extend regional stability controls to other items. We have discouraged some, but not all, exports of non-licensable militarily useful equipment such as certain light helicopters and airplanes. The aircraft export approvals benefited our relations with Iraq and commercial and employment interests, but raised questions about our neutrality and provoked Congressional opposition, which we eventually overcame. The aircraft export approvals constitute precedent for ceasing to discourage any non-controlled exports to Iraq, including those with military implications. If we do so, we would continue to urge prospective exporters of sensitive items to inform interested members of Congress.

Munitions List Items: The Office of Munitions Control effectively denies by returning without action all applications for licenses to export Munitions List items to Iraq and Iran. (The only exception was for a 1982 export to Iraq of communications equipment.) Our blanket denial is the exception among the NATO allies, most of whom at least nominally share our policy of not licensing arms sales to either Iran and Iraq. For example, the British consider each application for military exports to Iran and Iraq, and have licensed exports of such "non-lethal" equipment as Centurion tank parts and a naval fleet-tending ship to Iran, and Nimrod aircraft to Iraq. The Swiss also bar arms sales to countries at war, but train both Iranian and Iraqi military pilots, and sell Iran "trainer" aircraft designed for adaptation to combat use.

An alternative to the present policy would be to accept license applications for Munitions Control exports for case-by-case review, either for Iraq only or, in principle, for both Iraq and Iran. I believe that to revise this policy for Iraq but not Iran could weaken our defense to Iran's allegations that we have violated the Algiers Accords by not releasing several million dollars' worth of Iran-owned Munitions List items. The Tribunal could order us to transfer these to Iran or pay damages. Our defense has been based in

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part on our denial of Munitions List licenses to both countries to maintain a policy of neutrality. To diminish problems at The Hague, we could license no items for export to Iraq which we refuse to release to Iran.

A case by case approach would permit us to consider whether U.S. interests would best be served by permitting certain selected non-lethal Munitions List exports to Iraq (and in principle to Iran, if circumstances should change). U.S. firms are interested in exporting to Iraq such Munitions List items as an electronic device to protect VIP aircraft from missiles; armored ambulances; and communications, navigation, and surveillance systems. This proposal is particularly controversial and has both advantages and disadvantages.

Advantages:

- Would earn political credit with Iraq:
- Would be welcomed by Iraq's Arab supporters, and might allow Egypt to take sufficient credit for influencing this policy to add to the momentum in Iraqi-Egyptian relations:
- Would build the first U.S. ties to the Iraqi military, which probably will be a key in a succession to the present regime, helping to counter Soviet influence:
- Could signal Syria and Iran that we have, and are prepared to use, other options to thwart their goals:
- Would allow U.S. firms to compete with European, Japanese, and other suppliers in the potentially large Iraqi market, gaining immediate employment and commercial benefits as well as improving the post-war U.S. competitive position:
- Would be a compromise to DOD's preference to license outright arms sales to Iraq, at least through third parties.

Disadvantages:

- Would seriously undercut our present active neutrality by removing the most objective and legally definitive standard for rejecting military exports to Iraq. However articulate the explanation of a case-by-case policy, it could be perceived as permitting at least some arms sales to Iraq. It could provide others a rationale for less restraint in Iran/Iraq arms exports:
- Would not contribute significantly to Iraq's military effectiveness, which does not suffer from a lack of equipment, and could provide a rallying point for the war-weary Iranians:

- Could induce Iran to establish a security relationship with the Soviet Union out of frustration and isolation, despite the Khomeini regime's antipathy toward the USSR;
- Would concern Israel; possibly provoking Israeli counteractions contrary to U.S. interests and objectives;
- Would weaken our defense against Iranian allegations of U.S. violations of the Algiers Accords;
- Would be onerous to administer and, because judgments would necessarily be subjective (and subject to influence through various political and intra-governmental relationships), difficult to contain over time;
- Probably would be controversial in the Congress;
- Could raise questions under Section 502B of the Foreign Assistance Act of 1961, which places limits on Munitions List exports to gross and consistent human rights violators, absent certification that extraordinary circumstances exist.

RECOMMENDATIONS

(1) Regional Stability: That you approve the export to Iraq of heavy trucks subject to regional stability export controls. (All support.)

Approve 405 Disapprove _____
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(2) Non-Controlled: That you approve a policy of consistently posing no objection to exports to Iraq of items not controlled for foreign policy purposes, including those with possible military applications. (Ambassador Fairbanks prefers deferring approval; others prefer early approval.)

Approve _____ Disapprove 405

(3) Munitions Control: That you confirm a policy of continuing to reject all applications for the export to Iran and Iraq of items on the Munitions Control List. (All support.)

Approve 405 Disapprove _____

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ALTERNATIVELY, that you authorize a new policy of case-by-case review of Munitions Control export license applications for exports to Iraq, and in principle Iran, to permit approval of certain non-lethal items. We would brief this new policy in advance of implementation to appropriate members and committees of the Congress and their staffs.

Approve _____ Disapprove _____

Approve, but for Iraq only _____

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