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AIRGRAM

Department of State

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FROM COMMERCE

Despatch 325. In the administration of control over export of technical data, Commerce does not (repeat not) consider the export of technical data be limited to actual mailing or shipment of data in physical form, such as specifications or blueprints, but to include the transmission of data in other forms, such as by word of mouth and through instruction or operation of equipment in Bloc countries by technicians utilizing U.S. technical data. Observation by Bloc technicians of Western equipment also constitutes transmission of technical data. To the extent the visits proposed by Mr. Lowe involve the transmission to Bloc personnel of U.S. data in any form, his visits fall under the licensing provisions of the Comprehensive Export Schedule.

With respect to your question as to "how precisely should Mr. Lawe proceed administratively to put himself in compliance with the regulations when no actual mailing or shipment of technical data is contemplated," Mr. Lawe should be informed that in view of the foregoing he must obtain, through the American firm which supplied the data in the first instance, the approval of the U.S. Government to the transmittal of specific data.

As to the probable decision in the two cases, the following will be of significance. Pursuant to London Airgram G-10 dated July 8, BFC approached Mr. Frank Christensen, Vice President of Christensen Diamond Products Co., Salt Lake City, Utah, and advised him of Commerce's technical data regulations (See Dept CA-492 to London).

Christensen on August 3 filed export license application with BFC showing "Dept. of Research for Drilling Techniques, Moscow" as the consignee for "Technical data, engineers' services, to instruct in the use of diamond bits in conjunction with hydraulic or electrical down hole motors for oil well drilling." Export license was denied on August 14 because (1) the technical data related directly and significantly to an item (diamond drill bits) that would be denied to the Bloc and (2) the drill bit in the turbo drill operation is the principal operational "bottleneck." The proper selection of drill bits for a given drilling condition is the key to an efficient turbo drill operation. It did not appear advisable to permit use U.S. technology

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Drafted by: R. H. Meyer, Director
Industrial, Scientific & Technical Div.

Airgram transmission and
classification approved by:

OPR:DG/L:PSCooney:agh

Clearances: RCTompos/vs 9/21/59- Cleared with:

FDHockermith, Export Policy Staff. Stan Summerfield, Treas.

To be cleared with Mr. Breaux, State Dept.

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to aid the Soviets in the overcoming of this technological deficiency.

The U. S. Government cannot object to the French subsidiary sending a technician into the Bloc to provide normal field service, so long as no unpublished U.S. technology is transmitted during contact with Bloc nationals. It should be noted in this regard, however, that in applying to Commerce for a license, the company indicated that the servicing arrangement involved the furnishing of engineers not only "to instruct in the proper use of bits in conjunction with these down-hole motors," but also to "advise and recommend various bit designs as dictated by formations to be drilled ...". Although the particular designs were described by Christensen as being "for the most part developments of the French company," U.S. design data were involved. The transmittal by a French or American field service engineer of essentially the same data for which a license was denied by Commerce, would frustrate this licensing action and violate U.S. regulations. Similarly, with respect to the sending of a manufacturing expert such as Mr. Marcel Ritter to the U.S.S.R., the U.S. Government cannot concur, since it is apparent from your despatch that the sole purpose behind the invitation to Mr. Ritter is to obtain data relating to the manufacture of diamond drill bits.

The Foreign Assets Control, U. S. Treasury Department, intends to contact the U.S. firm and advise them of the "Foreign Assets Control and Transaction Control Regulations."

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