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## THE TARIFF ACT OF 1930: TAKING A STAND AGAINST SLAVE LABOR

### INTRODUCTION

The West long has known that the Soviet Union has had a policy to use slave labor. More than a half century ago, Congress passed a law to prevent Americans from being Moscow's accomplice in benefiting from slave labor. Section 307 of the Smoot-Hawley Tariff Act of 1930 (19 U.S.C. 1307) states: "All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or forced labor...shall not be entitled to entry at any of the ports of the U.S., and the importation thereof is prohibited." The law is unambiguous: products made through slave labor cannot be imported into the U.S.

Many in Congress have begun insisting that this law be enforced. On October 27, 1983, Representative Eldon Rudd (R-Ariz.) decided it was time "to insure or to urge that the administration does enforce [the Trade Act]," recognizing however that "it would be redundant to put any amendment in here to urge that the law be enforced."<sup>1</sup> On November 9, an amendment to the stop-gap funding bill for FY 1984, demanding enforcement, passed unanimously. It specifically asks the Secretary of the Treasury to "submit a report to Congress of the articles from the Soviet Union for which entry documents have been filed."<sup>2</sup>

Treasury has yet to respond to Congress. A high-level Treasury official explains that Treasury Secretary Donald Regan probably will refer the matter to the National Security Council.

<sup>1</sup> Congressional Record-House, October 27, 1983, p. H8710.

<sup>2</sup> Amendment No. 2526 to S.J. Res. 194; Congressional Record-Senate, November 9, 1983, p. S15775.

This simply is a buck-passing and stalling tactic. The Reagan Administration should enforce a law of such enormous moral dimensions. Its economic implications for the U.S. are negligible. If the law is not enforced, high-level officials may be subject to legal action.

## THE EVIDENCE

Section 307 of the 1930 Tariff Act was by no means dormant. It currently is being enforced against certain areas of Mexico, prohibiting the importation of some furniture items, clothes hampers, and palmleaf bags.<sup>3</sup> Treasury has evidently concluded that these items were produced by workers under detention; yet there is little question that "slave labor" does not exist in Mexico as it does in the USSR. In general, the Act's provision has been applied to imports of small, handmade objects. In 1964, for example, the Customs Commissioner found that some plastic tanks made in Austrian prisons would be subject to the law unless the importer established otherwise (T.D. 56126). Yet the Soviet Union, with a convict population of at least 4 million and an ideological commitment to the use of forced labor, was subjected to the 1930 Tariff Act only once for a brief period from 1951 to 1961, when canned crab meat was banned.

Evidence is available today as to which Soviet industries use forced labor. On May 19, 1983, CIA director William Casey sent Senator William L. Armstrong (R-Colo.) a list of industries and products "in which forced labor is used extensively." The list includes:<sup>4</sup>

- 1) Wood products: lumber, furniture, casings for clocks, cabinets for radio and TV sets, wooden chess pieces, wooden souvenirs, wooden crates for fruit and vegetables, and cardboard containers.
- 2) Electronics: cathode ray tube components and resistors.
- 3) Glass: camera lenses, glassware, and chandeliers.
- 4) Automotive: auto parts, wheel rims, and parts for agricultural machinery.
- 5) Mining/ore processing: gold, iron, aluminum, coal and peat, uranium, asbestos, limestone, and construction stone and gravel.

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<sup>3</sup> See the study by Jeanne M. Jagelski, legislative attorney with the American Law Division, Congressional Research Service, Library of Congress. Reprinted in Congressional Record-Senate, September 15, 1983, p. S12292.

<sup>4</sup> Reprinted in Congressional Record-Senate, September 15, 1983, p. S12293.

- 6) Clothing: coats, gloves, boots, buttons, and zippers.
- 7) Petroleum products and chemicals.
- 8) Food: tea.
- 9) Miscellaneous: brick and tile, watch parts, wire fences, mattresses, screens, steel drums and barrels, lids for glass jars, plumbing equipment, storage battery cases, concrete products, electric plugs/cords, electric heaters, electric motors, pumps, and woven bags.

The list of items imported by the U.S. is as follows:

<u>Commodity</u>	<u>Value (in millions)</u>
1. Platinum metals group	\$30.706
2. Unwrought nickel	10.563
3. Gold bullion, ore and precipitates sweepings, waste, and scraps	4.081
4. Numismatic coins	6.104
5. Furskins, sable, whale, raw or undressed	7.164
6. Alcoholic beverages	9.579
7. Gasoline and other motor fuels	10.341
8. Ammonia (anhydrous and liquid) and and aqua	88.765
9. Potassium chloride or muriate potash	4.6
10. Urea, NSPF	10.434
11. Radioactive isotopes	0.107
12. Inorganic bases and metallic oxides	1.674
13. Miscellaneous	43.465
Total:	\$227.583

(Source: Foreign Trade Division, Bureau of the Census, Suitland, Maryland 20233.)

Items 8, 9, and 10 undoubtedly apply to Armand Hammer's Occidental Petroleum Corporation's 20-year, \$20 billion fertilizer agreement.<sup>5</sup> Despite the information available from the CIA, Assistant Commissioner for Commercial Operations Robert P. Schaffer of the Treasury Department, in a letter to Senator Armstrong dated March 31, 1983, admitted that his agency "has not undertaken independent action to determine that the goods were produced in whole or in part by forced labor."

There is no excuse for that action not to be undertaken immediately. For the facilities of the CIA, which include satellite photos and intelligence, together with the evidence available from Soviet witnesses, letters from Gulag inmates, and other primary sources, have permitted educated estimates that up to \$138 million of U.S. imports from the USSR could well fall under the ban of the 1930 Tariff Act. For example, several Soviet chemical plants are an integral part of the industrial prison compounds; the U.S. imports some \$118 million worth of chemicals from the USSR. Uranium, of which the U.S. imports \$10 million worth, is mined by forced labor at Zhelttye Vody and Novaya Borovaya in the Ukraine, several Siberian camps at Krasnoyarsk, and a camp in Central Asia at Uchkuduk.<sup>6</sup> The CIA reports that forced labor mines gold at Zeravshan in Central Asia. Logging and wood processing is carried on in some 350 camps in the Urals, the Northwest, the Volga-Vyatka, and Siberia. Women fell trees around Kirov and Lake Baikal; children make shipping cases at Novaya Lyalya in the Sverdlovsk region. The U.S. imports \$3.5 million worth of wood products from the USSR. According to congressional sources, the U.S. Customs Service is drawing up a list of such Soviet products but it will include less than half of current imports. A senior Treasury official indicates, however, that the list is not in its final form.

#### THE SOVIET SYSTEM OF FORCED LABOR

The framers of the 1930 Smoot-Hawley Tariff Act hardly could have anticipated the dreadful conditions that the term "forced labor" would come to describe. All societies, of course, try to employ prisoners in some gainful activity. Experts on penal systems even point to the beneficial results of a properly, humanely coordinated program of rehabilitation through work.

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<sup>5</sup> An anhydrous ammonia plant was built by Armand Hammer's Occidental Petroleum in the Soviet Union with the help of a 1974 Eximbank loan for \$180 million at 6 percent interest--significantly lower than most government loans to Americans. Alarming, the terminals that Occidental eventually built to store and ship the ammonia at Soviet seaports were adaptable for the docking of nuclear submarines. (See Joseph Funder, Red Carpet (New York: A New Republic Book/Holt Rinehart and Winston), pp. 278-279.

<sup>6</sup> Joseph A. Harris, "Made in USSR--By Forced Labor," Reader's Digest, September 1983, pp. 99-105. Harris adds that "persistent rumors tell of uranium death camps where workers without protection from radiation last only a few months."

Soviet penal authorities, in fact, have been known to regard corrective labor as an essential element in the penal system, which is seen as both rehabilitative and deterrent.<sup>7</sup>

Yet the Soviet system far exceeds any reasonable definition of rehabilitation. Professor Peter Reddaway of the London School of Economics, currently a fellow at the Woodrow Wilson International Center for Scholars, calls it "an unrecognized example of modern inhumanity." A State Department report of February 9, 1983, concludes that "the vast Soviet forced labor system...is distinguished by its large scale and its harshness." And Undersecretary of State Lawrence Eagleburger points out in his letter accompanying the report that "forced labor in the Soviet Union is a longstanding and grave human rights issue. The Soviet forced labor system, the largest in the world, comprises a network of some 1,100 forced labor camps, which cover most areas of the USSR. The system includes an estimated 4 million forced laborers, of whom at least 10,000 are considered to be political and religious prisoners."<sup>8</sup>

The enormity and nature of that system has been documented by such groups as the International Committee for the Defense of Human Rights in the USSR based in Brussels, by the International Society for Human Rights based in Frankfurt, and by the International Sakharov Committee based in Copenhagen.<sup>9</sup>

An unclassified CIA study entitled "The Soviet forced labor system" was sent to Congress in November 1982. It noted that an extensive system of forced labor without confinement had begun in the early 1960s and has grown rapidly since then. The number of nonconfined forced laborers--who are not in prison but who are compelled to do specific tasks--now more than equals the number of those confined, and it is continuing to rise. The CIA estimates, moreover, that "given the worsening labor shortage in parts of the Soviet Union, this relatively efficient, flexible method of deriving some economic benefit from an increasing crime rate is likely to grow."

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<sup>7</sup> Soviet policy on the use of corrective labor as punishment imposed by court sentence is set forth in the Soviet law entitled "Principles for Corrective Labor Legislation of the USSR and Union Republics," approved by the Supreme Soviet on July 11, 1969, amended in 1977, 1981, 1982.

<sup>8</sup> The State Department report also contains a section on "Vietnamese 'Export' of Workers to the USSR and Eastern Europe" which states that "reports have been received that some of the [thousands of] Vietnamese working in the USSR are employed under harsh--and, in some cases, involuntary--conditions."

<sup>9</sup> Anatoly Marchenko's My Testimony (1967), Andrei Amalrik's Involuntary Journey to Siberia (1970), and the Gulag trilogy by Alexander Solzhenitsyn (published from 1973 to 1976), are only a few of the better known.

This is confirmed by recent reports: a new law added to the Criminal Code of the Russian Republic on October 1, 1983, gives labor camp directors the authority to add from one to five years to the terms of inmates found guilty of "malicious disobedience." This applies particularly to political prisoners.<sup>10</sup> Reddaway explains that this is only one of several recent attempts, particularly since 1979, to destroy dissent in the USSR.<sup>11</sup>

The USSR reaps substantial economic benefit from its system of forced labor. Dr. Kronid Lubarsky, a Soviet physicist who spent 1972-1977 in a Soviet labor camp and is currently editor of USSR News Briefs in Munich, points out that the labor of prisoners is an important part of the national economy of the USSR: "Essentially there is not a single significant area of the Soviet economy in which prison labor is not exploited."<sup>12</sup>

Yet the brutal character of Soviet labor camps has prompted such former inmates as the late Russian writer and human rights activist Andrei Amalrik to doubt that "the camp system is founded on economic needs. The economic rationale is really more of a rationalization of unconscious impulses."<sup>13</sup> He describes, for example, medical personnel, who treat the laborers more like animals than like people. Yet he notes that even if a camp doctor is humane his possibilities are limited:

He could not feed half-starved patients, because hunger was used as an 'educational measure.' He could not provide warmth for people suffering from the cold, because even when the temperature was far below zero, the only clothing allowed a prisoner was a cotton jacket, pants, and a quilted jacket. He could not exempt sick men from work, because there was a quota. He could not give his patients the kind of medical care needed, because equipment and medication were lacking.<sup>14</sup>

<sup>10</sup> Soviet East European Report, Radio Free Europe/Radio Liberty, Vol. I, No. 6, December 15, 1983.

<sup>11</sup> A rare document dated November 16, 1983, by writer Anatoly Marchenko, a political prisoner, records that other political prisoners--Ukrainian writer Stephen Khamara, Georgian journalist Zurab Gogiya, and Ivan Kovalev, a member of the Moscow Helsinki group, among many others--were punished in labor camp without regard for their physical condition "for nonfulfillment of quota." Marchenko also describes in vivid detail the substandard conditions in the camps. Reprinted in The Wall Street Journal, January 20, 1984.

<sup>12</sup> Kronid Lubarsky, "Forced Labor and the Soviet Economy," Swiss Review of World Affairs, April 1983.

<sup>13</sup> Andrei Amalrik, Notes of a Revolutionary (New York: Alfred A. Knopf, 1982), p. 222.

<sup>14</sup> Ibid., p. 193.

## ARGUMENTS AGAINST ENFORCING THE LAW

Because of its forced labor practices, the Soviet Union is violating the U.N. Charter, the 1926 Anti-Slavery convention, and the 1930 Forced Labor Convention, and has been under investigation by the International Labor Organization for nearly 30 years. While it is difficult for the U.S. to enforce those international agreements, this would not seem to be the case for the 1930 Tariff Act. Applying it to the USSR would at least demonstrate that the U.S. refuses to condone, by implication, the Soviet slave labor system. Yet there is opposition, at the highest levels, from the State Department, the office of the U.S. Trade Representative, some parts of the Treasury Department, and even the CIA, to measures that might be seen to "antagonize" the Soviet Union. While the reasons for such sensitivity to offending the USSR are undoubtedly complex, the attitude amounts to an excessive commitment to "normalizing" relations with the USSR, which some observers call "detentism."

Deputy Assistant Secretary of State of European Affairs Mark Palmer even told the House Subcommittee on Human Rights and International Organizations on November 9, 1983, that "economic warfare is not the policy of this administration," implying that the 1930 Tariff Act is an instance of such tactics. Yet the label "economic warfare" is not the point in this situation, since the value of all imports from the USSR in 1982, for example, were less than one-tenth of one percent of all U.S. imports. It is also a tiny share of all Soviet exports. Imposing an economic penalty on Moscow should not be the main goal of enforcement of the 1930 Tariff Act. The aim should be for the U.S. to refuse to profit from Soviet slave labor.

Some arguments against enforcement raise the specter of Soviet retaliation--against U.S. agricultural products, for example. But since Moscow benefits greatly from purchasing American grain, it is extremely unlikely that it would terminate its grain contracts in retaliation to U.S. enforcement of the 1930 Tariff Act.

## CONCLUSION

President Reagan often has protested the repressive nature of the Soviet regime and its routine violation of international human rights agreements and treaties. He thus could hardly fail to recognize the significance of enforcing Section 307 of the 1930 Tariff Act prohibiting the importation of products made by forced labor. Treasury Secretary Donald Regan should take those measures, urged by Congress, to prove to the world that the Reagan Administration is serious about defending human rights. In so doing, the Reagan Administration merely would be obeying the law of the land.

Julian Geran Pilon, Ph.D.  
Senior Policy Analyst