

BIS Annual Report [Formerly the Bureau of Export Administration]

BXA Overview

The Bureau of Export Administration (BXA) administers and enforces laws and regulations that govern exports of dual-use commodities, technology and software from the United States and its territories and reexports of such items to third countries. In addition, BXA regulates certain activities of U.S. persons related to proliferation concerns. BXA has the responsibility of implementing the U.S. encryption policy and is responsible for compliance by the U.S. business community with the Chemical Weapons Convention. BXA investigates violations of export controls and implements the antiboycott provisions of the Export Administration Act and Export Administration Regulations. BXA is responsible for a variety of programs related to maintaining a strong U.S. defense industrial base. BXA also participates in the efforts of the U.S. Government to assist many of the newly independent states of the former Soviet Union, the Baltics, and Central Europe in developing effective export control systems.

1. Fiscal Year 2000 Highlights

Export Licensing Streamlining

The Clinton Administration continued to make progress in eliminating unnecessary and ineffective export controls and streamlining the export control process. It simultaneously strengthened the implementation and enforcement of those export controls which are still required to combat proliferation and protect other U.S. national security and foreign policy interests while easing or eliminating unnecessary controls. These actions have greatly reduced obstacles for exporters while maintaining our security interests.

BXA made a number of regulatory changes during FY 2000. Rules were published which implemented the Administration's new approach to encryption export controls, removed 51 Indian entities from the Entity List and revised the license review policy for items classified as EAR99 to Indian and Pakistani entities from a presumption of denial to one of approval. BXA published other rules that liberalized controls on exports of High Performance Computers (HPCs) and implemented the President's announcement easing sanctions on North Korea.

Other regulatory actions included raising the performance level of microprocessors that can be exported under a license exception to civil end-users in the former East Bloc countries and the People's Republic of China, and expanding controls on restraint devices and other police equipment and modifying the review policy on crime control items to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights.

Electronic Security Interests

On January 14, 2000, BXA published regulations implementing the Administration's September 16, 1999, announcement to simplify the export of cryptography. The U.S. encryption policy rests on three tenets: a review of encryption products in advance of sale; a streamlined post-export reporting system; and a license process that preserves the United States government's ability to review the proposed sale of strong encryption to foreign governments, military organizations, and nations of concern. Just as the market for information security products has grown and changed, this policy continues to evolve, consistent with the national interest in areas such as electronic commerce, national security, and support to law enforcement.

On July 17, 2000, the Administration announced further modifications to U.S. encryption controls to track with regulations adopted by the European Union. The most significant change is that U.S. companies are now able to export encryption products and technology under license exception to any end user in the 15 nations of the European Union as well as Australia, the Czech Republic, Hungary, Japan, New Zealand, Norway, Poland, and Switzerland immediately upon notifying BXA of intent to export. Companies will no longer need to wait thirty days before exporting to these destinations.

U.S. encryption policy reflects active participation with other nations, such as members of the Wassenaar Arrangement. In December 1998, Wassenaar Arrangement members agreed to move encryption items from the Sensitive List to the Basic List, and to make other revisions to encryption controls. This agreement was the culmination of a two-year effort to modernize and improve multilateral export controls on encryption. The January and October 2000 U.S. regulations implement this agreement. For example, 64-bit mass market encryption products, which previously required a prior review, can now be exported immediately.

The Chemical Weapons Convention

On October 21, 1998, the United States enacted Chemical Weapons Convention (CWC) implementing legislation. BXA is implementing the Commerce Department's lead agency responsibilities for compiling data declarations and hosting Organization for the Prohibition of Chemical Weapons (OPCW) inspections at U.S. companies covered by the CWC. To fulfill its responsibilities under the treaty, BXA published proposed regulations and is published interim regulations on December 30, 1999. BXA completed the creation of an information management system to comply with the treaty's reporting requirements, and held a series of eight outreach seminars around the country. It received and verified 3,075 declarations and reports from 319 chemical companies representing more than 750 plant sites, and submitted this information to the OPCW.

BXA is also responsible for managing international inspections at U.S. commercial facilities, which are selected from the data submitted to the OPCW. The first OPCW inspection was held in May, followed by an additional 10 inspections in the remaining months of FY 2000.

Sanctions

The Administration continued to work with interested parties toward achieving meaningful sanctions reform. The Administration remained committed to a carefully targeted sanctions policy that advances U.S. foreign policy goals and avoids damaging other U.S. interests. BXA participated in Departmental and interagency working groups which reviewed sanction reforms and legislation and developed proposals to rationalize the process.

On March 17, 2000, BXA published implementing regulations that removed 51 Indian entities from the Entity List, and revised the licensing policy from a presumption of denial for EAR99 items to one of approval. On June 19, 2000, BXA issued a new regulation implementing the President's decision to ease sanctions on North Korea. Under this new policy, most items subject to the Export Administration Regulations designated as EAR99 may be exported or reexported to North Korea without a license.

On October 28, 2000, the President signed the Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act of 2001 which included Title IX, the Trade Sanctions Reform and Export Enhancement Act. In general, this Act requires the President to lift all U.S. unilateral sanctions on food and medicine to most destinations worldwide and to allow the export of food and medicine to certain designated terrorist supporting countries under license exception. This change reflects the desire of Congress to expand potential markets for

the U.S. agriculture industry and to stop the use of food and medicine as a sanction tool. Implementing regulations must be published by February 25, 2001.

High Performance Computers (HPCs)

As part of the President's commitment to review HPC export control policy every six months, on February 1, 2000, and again on August 3, 2000, President Clinton unveiled modified export controls on HPCs. These policy revisions include changes critical to maintaining the strong, vibrant high-technology industry, which is critical to America's national security interests. The changes ensure a realistic export control regime in this rapidly-changing high-technology industry.

Continuing this approach only serves to further handicap our industry's ability to maintain its global leadership at a time when foreign production capabilities are rapidly expanding. Keeping the U.S. industry at the cutting edge of technology developments in this sector is important not only for economic reasons but because it is essential if we are to maintain our military lead as weapons systems and defense strategies because increasingly depend on high performance computers.

Export controls on high performance computers (HPCs) will continue to be a high priority as improvements in computer technology continue to enhance system performance. In an effort to avoid the continuous review cycles the rapid pace of technology demands and capture only computers of true significance to our national security, the Administration is currently studying alternative control metrics to Composite Theoretical Performance (CTP.)

Deemed Exports

BXA requires U.S. companies and other organizations to obtain prior approval before foreign nationals from certain countries are allowed to work on projects involving controlled technology. An export license is required because the EAR treats any release of controlled technology or software source code to a foreign national as a "deemed export" to the home country. BXA reviews license applications under the licensing policies that apply to the actual export of the technology or software in question to the home country or countries of the foreign national. The "deemed export" rule is most often encountered in the employment context where a company will release controlled technology or software to a foreign national.

During FY 2000, BXA processed 971 "deemed export" cases, slightly less than the 1,000 cases processed during FY 1999. During this period, the license application processing time continued to be 55-60 days. In FY 2000, BXA established a pilot program to speed up the "deemed export" license process. Under this program, companies that hire a stream of foreign technical staff can obtain a one-time approval for the technology proposed for transfer. After the interagency community authorizes the technology for export, additional staff can be added to the Deemed Export License (DEL) by amendment, subject to referral to the intelligence community.

Harmonizing Multilateral Export Controls

BXA continues to work to harmonize multilateral lists and list interpretations to increase transparency and consistency and to maintain a level playing field for U.S. companies.

In April and September 2000, BXA representatives attended Expert Group Meetings to review the Wassenaar Arrangement's controls on conventional arms and dual-use goods and technologies. Nearly 70 proposals were discussed to modify and streamline Wassenaar's Dual-Use and Munitions Lists, approximately 30 of which were submitted by the United States. The majority of

the proposals were in the areas of electronics, computers, sensors and machine tools. Agreement was reached on a number of proposals for liberalization in the areas of electronics and sensors.

BXA representatives attended the Third Annual Licensing and Enforcement Officers Meeting (LEOM) in April 2000. The meeting was designed to exchange information on national practices of respective licensing and enforcement procedures. Discussions focused on fifteen Plenary Mandated agenda items, including intangible transfers of technology and software, catch-all controls, elements of effective enforcement and International Import Certificates. Further discussion of these issues will continue in FY 2001..

In May and October 2000, a BXA representative participated at the Wassenaar Arrangement's General Working Group Meetings. The General Working Group addressed ways of reinforcing the general information exchange, outreach activities and procedures, general information exchange regarding regions and projects of concern, specific information exchange on dual-use goods and technologies, and scope of dual-use notification procedures.

The Nuclear Suppliers Group (NSG) held its annual Plenary session in Paris, France, on June 19-24, 2000. Three new countries were welcomed -- Belarus, Turkey, and Cyprus -- as NSG members. It was proposed that the administrative structure of the NSG be streamlined, easing the application process for future new members. The NSG agreed that the United States will

host the 2001 Plenary in Aspen, Colorado, when the United States will take over the chairmanship of the NSG.

The annual Missile Technology Control Regime (MTCR) Plenary and Technical Experts Meeting (TEM) were held in Noordwijk, Netherlands, on October 11-15, 1999. In the information exchange portion of the Plenary, sixteen MTCR members actively participated in sharing information on non-MTCR partner missile programs that constitute serious missile proliferation threats. The information exchange highlighted the need for a global approach to missile nonproliferation, and gave impetus to consideration of an expansive outreach initiative to nonmember countries focused on missile nonproliferation.

At the TEM, the MTCR agreed to relax controls on aluminum powder and other metal powders used as fuel in solid rocket motors, reducing the number of license applications submitted to the Department for metal fuels. Special dual use items for chemical/biological weapons delivery systems were also identified that could be added to the MTCR Equipment and Technology Annex in the future.

The proposal first raised at the TEM meeting in September, to reformat the MTCR Equipment Annex into larger categories based on the newly reformatted Annex structure, was reviewed and action on the proposal tabled for further discussion.

An MTCR seminar was held in Munich, Germany on May 24-26, 2000, to discuss possible measures to reduce the regional and global security risks involved with specific proliferation cases, the further elimination of existing missile stockpiles and the curtailment of indigenous missile development programs, and the establishment of norms to govern the production, testing, deployment and export of missiles and related technology. First raised at the Plenary in 1999, the proposed parameters of this "Global Action Plan" were briefly outlined.

The MTCR held an intercessional Technical Experts Meeting (TEM) in Berlin, Germany, on July 4-6. The TEM, at which proposals on technical changes to the MTCR Annex are reviewed and prepared for consideration by the full MTCR membership, considered a proposal tabled by the United States that would expand controls on small fuel efficient engines and integrated

navigation systems used in unmanned air vehicles that can become potential delivery vehicles for chemical and biological agents.

Regulations implementing the decisions reached at the Australia Group (AG) Plenary in October 1999 were published in FY 2000 as part of the EAR. The new regulations adjust the specifications of some controlled items to narrow controls that previously caught more than was necessary to accommodate nonproliferation concerns; clarify the application of the rule for mixtures containing AG chemicals that are also identified as Chemical Weapons Convention Schedule 1 chemicals; and add two new corrosion-resistant materials to the control list of substances used to construct heat exchangers that are also controlled by the AG. The U.S. delegation to the AG also took the opportunity offered by the Plenary to present U.S. positions in support of the strengthening of export controls on graphite composite chemical manufacturing equipment, centrifugal separators, and impermeable protective suits.

The AG maintains a denial notification procedure by which members agree to notify the group when a license for a controlled item is denied. This procedure is coupled with a "no undercut policy" whereby members agree not to approve an identical sale without first consulting the member issuing the denial notification. This process helps to prevent the undercutting of a member's denial.

The AG continues to consider potential new members. The group engages in a wide range of contacts to promote greater awareness and understanding of the important role that national export licensing measures play in preventing the proliferation of chemical and biological weapons. These activities include a program of regional seminars and briefings for nonparticipating countries on export licensing practices.

Offsets in Defense Trade

BXA is responsible for preparing an annual report to Congress on offsets in defense trade. Offsets are mandatory compensation required by foreign governments when purchasing U.S. defense systems; they include technology transfer, licensing coproduction agreements, and counter trade. In this report, BXA assesses the impact of offsets on the U.S. defense industrial base, in particular on small- and medium-sized subcontractors. BXA will submit its fifth report to Congress in early fiscal year 2001.

For the second time, BXA raised offsets as a trade concern in the U.S. Trade Representative's (USTR) Title VII Report on Unfair Foreign Government Procurement Practices. The report alerted governments around the world that the United States is seeking a way to conduct defense trade without offsets.

In the last fiscal year, BXA built on the steps taken in FY 1999 in the area of international consultations. BXA participates in a Department of Defense-led Interagency Offsets Working Group. The Group has continued negotiations on both a multilateral and bilateral basis. Important steps have been taken to address the issue with our European allies, since they are our largest defense trade partners and demand the highest offsets.

Defense Trade Advocacy

BXA continues its role as an advocate of certain international defense trade advocacy issues. The Department will consider supporting conventional arms transfers if the transfer is in the economic interests of the United States, and the U.S. Government has determined that the transfer will further U.S. national security and foreign policy objectives. In FY 2000, BXA defense advocacy efforts supported sales of approximately \$800 million, mainly through the sale of the AEGIS system to the Norwegian Navy. BXA worked with the U.S. Commercial Service to develop

the first trade mission for the U.S. defense industry to Belgium, Netherlands and Luxembourg. In addition, BXA assisted in the creation of the France - U.S. Defense Industry Business Forum, an event that brought small- and medium-size U.S. and French firms together in an effort to facilitate transatlantic industrial links.

Customer Service

BXA continues its commitment to provide the business community with information regarding the constant changes in export policy and licensing procedures, through counseling, seminars, and workshops. In FY 2000 BXA hosted 43 export compliance seminars and held its 13th annual Update Conference on Export Controls and Licensing that attracted 815 representatives from the exporting community around the globe.

The popularity of the on-line Simplified Network Application Process (SNAP) system grew substantially in FY 2000. SNAP is a Web-based system that allows exporters to submit export and re-export license applications, high performance computer notices, and commodity classification requests directly to BXA through a secure environment via the Internet. As more and more exporters gravitate to SNAP, we have seen a gradual decrease in the number of applications submitted electronically using the Export License Application and Information Network (ELAIN). We have also experienced a marked decline in the receipt of paper applications. SNAP submissions represented 77 percent of all received electronic submissions and 61 percent of all received applications (paper and electronic) during the fiscal year.

Defense Industrial Base Assessment

During FY 2000, BXA was involved in four major industrial base projects. All four will be completed by the end of calendar year 2000 or in early 2001. BXA completed its research on a Navy-sponsored assessment of high performance explosives. It continued its assessments of the U.S. maritime industry, requested by the U.S. Navy, and of assistive technologies (technologies that enable persons with disabilities to function more fully), a study requested by the Department of Education and the Federal Laboratory Consortium. BXA also neared completion of its assessment of the U.S. cartridge and propellant actuated device (CAD/PAD) industry at the request of the U.S. Navy.

2. Export Administration Programs

BXA's Export Administration (EA) comprises four offices under the Office of the Assistant Secretary. Two EA offices have responsibility for addressing a wide range of export control policy and licensing activities, including dual-use nuclear and missile goods and technologies; dual-use chemical and biological goods and technologies; and commercial encryption policy, dual-use goods and technologies related to conventional arms, certain other sensitive dual-use goods and technologies, and foreign policy controls. EA also has an office that focuses on strategic industries and economic security issues, and an office that focuses on EA's administrative, education, and compliance responsibilities. This organizational structure allows BXA to formulate and implement timely policy changes, undertake quality analysis of licensing decisions, focus on issues of international competitiveness, and provide increased customer service.

The Office of Strategic Trade and Foreign Policy Controls (STFPC) is responsible for implementing multilateral export controls under the Wassenaar Arrangement, which deals with conventional arms and related dual-use goods and technology. The office is responsible for policy pertaining to and licensing of encryption and high performance computer exports. STFPC also has the lead for policy issues involving countries like China and India, for unilateral and UN sanctions, and for export controls maintained for antiterrorism, regional stability, and crime control reasons.

The Office of Nonproliferation and Treaty Compliance (NPTC) was created during FY 2000. It consists of two former offices, the Office of Nuclear and Missile Technology Controls (NMT), and the Office of Chemical and Biological Controls and Treaty Compliance (CBCTC), that were merged. NPTC has overall responsibility for administering export controls and policy development relating to the Australia Group (e.g., chemical weapons precursors and biological agents), the Nuclear Suppliers Group, and the Missile Technology Control Regime. The office has the major role of overseeing compliance by U.S. industry with the requirements of the Chemical Weapons Convention. The office also carries out the provisions governing deemed exports and executes BXA responsibilities in furtherance of its controls on exports for short supply reasons.

The Office of Strategic Industries and Economic Security (SIES) is the focal point within the Commerce Department for issues relating to the health and competitiveness of the U.S. defense industrial base. As such, SIES plays a leadership role in a wide range of issues that relate to both the national and economic security of the United States. Its efforts include assisting American companies to diversify from defense to commercial production and markets, promoting the sale of U.S. weapons systems to our allies, analyzing the impact of export controls on key industrial sectors, and conducting primary research and analysis on critical technologies and defense-related sectors.

The Office of Exporter Services (OEXS) is responsible for counseling exporters, conducting export control seminars; and developing, drafting, and publishing changes to the EAR. It develops brochures and other written guidance to educate and train exporters, and to ensure compliance with the EAR. It is also responsible for compliance actions relating to the special comprehensive license, for administering the processing of license applications, commodity classifications, and advisory opinions, and for implementing the End-User Verification process through which U.S. exporters are informed of foreign entities of proliferation concern.

3. Export Enforcement Programs

In FY 2000, BXA's Office of Export Enforcement (OEE) and the Office of Enforcement Analysis (OEA) continued their programs to prevent and investigate dual-use export control violations and thereby protect important national security and foreign policy interests safeguarded by the Export Administration Act (EAA) and Export Administration Regulations (EAR). Additionally, Export Enforcement's Office of Antiboycott Compliance continued to administer and implement the antiboycott policy and program articulated in Section 8 of the EAA.

During FY 2000, \$1,107,500 in civil penalties and \$694,300 in criminal fines were imposed for export control violations of the EAA and EAR. A total of \$164,000 in civil penalties for antiboycott violations of the EAA and EAR was imposed.

OEE conducted numerous investigations, some of which led to both criminal and administrative sanctions. It also issued 192 warning letters in cases of minor violations, informing the recipients that OEE had reason to believe they had violated the EAR, and that increased compliance efforts were warranted.

The Office of Antiboycott Compliance (OAC) is responsible for implementing the antiboycott provisions of the Export Administration Act (EAA) and the Export Administration Regulations (EAR). The Office performs three main functions: enforcing the antiboycott provisions of the EAR, assisting the public in complying with the antiboycott provisions of the EAR, and compiling and analyzing information regarding international boycotts. Ten enforcement actions were completed in FY 2000. All 10 were settlement agreements. Additionally, eight investigative cases were closed because violations were not found.

4. Nonproliferation and Export Control Cooperation Programs

BXA established the Nonproliferation and Export Control (NEC) International Cooperation team in early 1994 to coordinate BXA's activities in support of U.S. export control cooperative programs with Russia, Ukraine, Kazakhstan and Belarus, and the Central Asian, Caucasian, Baltic, and Central European states.

During FY 2000, the NEC team, in conjunction with BXA organizations and other representatives from the U.S. government, hosted, coordinated, sponsored or participated in 47 technical exchange workshops, multilateral events, and related activities. These activities included cooperative bilateral workshops with Armenia, Azerbaijan, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Poland, Russia, Slovakia, Slovenia, Tajikistan, Ukraine, and Uzbekistan. The NEC team conducted two major multilateral regional conferences, one for the nations of Central Asia and the Caucasus region, and the other for the nations of Europe and North America, participated in a third, for South Central Europe, and presented a forum on legal and enforcement transshipment issues for Cyprus and Malta.

Note

In April of 2002 the Bureau of Export Administration (BXA) changed its name to the Bureau of Industry and Security (BIS). For historical purposes we have not changed the references to BXA in the legacy documents found in the Archived Press and Public Information.

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Office of Exporter Services

The Office of Exporter Services (OEXS) is responsible for providing education and compliance seminar programs and implementing general export control policy within BXA's Export Administration organization. In this capacity, OEXS develops BXA's outreach seminar program to educate the exporting community on controls, regulations, and licensing. OEXS also provides advice on a broad range of export issues, including licensing and documentation requirements for export transactions and special country policies. OEXS helps implement the Enhanced Proliferation Control Initiative (EPCI) End-User Verification process through which U.S. exporters are informed of proliferation concerns. It develops Internal Control Program Guidelines and Export Management System Guidelines that companies use to ensure exports are consistent with the Export Administration Regulations (EAR). Finally, OEXS administers International Cooperative Licenses to facilitate the export of items needed to fulfill U.S. obligations in international cooperative programs and organizations.

Export Licensing Liberalizations

- OEXS is responsible for implementing policy revisions and changes in the EAR (15 CFR parts 300 to 799), revising the current regulations, drafting new regulations, and coordinating the clearance of all regulatory changes to the EAR.
- On January 14, 2000, BXA published a rule implementing the Administration's new approach to encryption export controls, as announced on September 16, 1999. The new controls allow for exports and reexports of any encryption commodity or software to individuals, commercial firms, and other non-government end-users in all destinations; exports and reexports of retail encryption commodities and software to all end-users in all destinations; and the streamlining of post-export reporting requirements.
- On March 17, 2000, BXA published a rule that removed 51 Indian entities from the Entity List and revised the license review policy for items classified as EAR99 to Indian and Pakistani government, private and parastatal entities from a presumption of denial to a presumption of approval.
- On June 13, 2000, BXA published a rule that raised the performance level of microprocessors that can be exported under a license exception to civil end-users in former Eastern Bloc countries and the People's Republic of China.
- On June 19, 2000, BXA published a rule that implemented the President's statement of September 17, 1999, easing sanctions against North Korea.
- On July 10, 2000, BXA published a rule that reformed the export clearance section of the EAR. A 50 percent reduction in words was achieved by clarifying the responsibilities of parties to export and reexport transactions, streamlining the rules regarding the filing and use of Shipper's Export Declarations, and purging the outdated export clearance regulations.

- On July 12, 2000, BXA published a rule implementing the Wassenaar Arrangement's revisions to its control list. The most significant revisions include liberalization in national security thresholds for microprocessors.
- On July 27, 2000, BXA published a rule in support of the European Union's six month suspension of its ban on flights to Serbia. The rule reinstated provisions of License Exception AVS for temporary reexports to Serbia of foreign registered aircraft subject to the EAR.
- On September 13, 2000, BXA published a rule to expand controls on restraint devices, distinguish between restraint devices and other police equipment, improve the control list grouping for crime control commodities, and modify the license review policy for these items to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights.

Customer Service

Industry counseling remains an essential component of BXA's mission. Through a variety of outreach programs, BXA promotes an understanding of U.S. export control laws that enhance compliance and facilitates U.S. international competitiveness. OEXS accomplishes its outreach and counseling activity through its headquarters in Washington, D.C., and its Western Regional Office in Orange County and Silicon Valley, California. The regional offices are located in the fastest growing, high-technology regions in the United States, and are within commuting distance of more than 10 percent of the total U.S. population.

In FY 2001, the resources of the Exporter Counseling Division and the Export Seminar Staff will be combined into a new office called the Outreach and Educational Services Division. This merger enhances training and educational services by integrating a large portion of BXA's outreach functions into one office. Also effective at the beginning of FY 2001, the Special Licensing and Compliance Division will become the Export Management and Compliance Division (EMCD), a title more accurately describing the office's current and planned responsibilities.

Export Compliance Seminar Program

BXA is committed to providing the business community with information regarding changes in export policy and licensing procedures by offering a program of seminars and workshops that educate and inform. An important aspect of this program is its alliance with a variety of industry trade associations, universities and colleges, state and local governments, and nonprofit international business related organizations. This alliance furthers BXA's goal of maintaining a cooperative relationship with industry.

OEXS' outreach program to the domestic and international business communities encourages compliance with the EAR and increased government-industry interaction on export licensing policy. During FY 2000, through a variety of programs offered in various locations around the United States, we continued to instruct and assist both new and seasoned exporters. In addition to providing basic and advanced level courses, we also provided specialized workshops on topics of specific interest, e.g., in commercial encryption licensing, chemical weapons regulations export management systems and freight forwarder programs.

In FY 2000, OEXS conducted 43 export compliance seminars and participated in numerous trade-related events. Through our overseas program, we continue to instruct foreign exporters and governments on U.S. export controls. No overseas seminars were held in FY 2000 but several are scheduled for FY 2001.

Update 2000

BXA's thirteenth annual Update Conference on Export Controls and Licensing attracted 815 representatives from the exporting community from around the globe. The annual conference is BXA's premiere event and the Commerce Department's largest event in the Washington, D.C. area. The conference brings high-level government officials and industry representatives together to discuss the significant changes in export control policies that have taken place.

BXA's Update West conference in California attracted more than 500 industry participants. During the program, Commerce Department officials and representatives from the interagency community discussed major developments, including encryption export control liberalizations, technical data and software controls, export management systems, proliferation controls, and other pertinent export issues.

One-on-One Counseling

As BXA's front line unit in providing exporter services, OEXS plays a major role in guiding exporters through complex licensing transactions. Our regulatory specialists provide one-on-one counseling 11 hours a day through meetings, telephone counseling sessions, responses to e-mail and fax inquiries. In addition, the BXA web site provides exporters continual access to timely information and services.

OEXS enhances its customer service initiatives through the development of brochures and export control-related publications. To support our diverse customer base, some of these publications have been translated and published into other languages. In FY 2000, the English version of the "Introduction to Export Controls" brochure was revised in an easy-to-read format as part of the Administration's "Plain English" initiative. The "Helpful Hints for Completing the Multipurpose Application Form BXA-748P" was also updated to include information related to electronic license submission through the Simplified Network Application Process (SNAP) system.

SNAP is a Web-based system that allows exporters to submit export and re-export license applications, high performance computer notices, and commodity classification requests directly to BXA through a secure environment via the Internet. As more and more exporters gravitate to SNAP, we have seen a gradual decrease in the number of applications submitted electronically using the Export License Application and Information Network (ELAIN). We have also experienced a marked decline in the receipt of paper applications. SNAP submissions represented 77 percent of all received electronic submissions and 61 percent of all received applications (paper and electronic).

In FY 2000, BXA developed a new prototype to allow the electronic submission of technical specifications and supporting documentation. BXA hopes to complete testing and have this system fully operational by July 2001. Currently, technical specifications and other forms of supporting documentation can only be submitted by telefax or express mail.

Export License Processing

In FY 2000, BXA received 10,701 license applications. This 15 percent decrease from the 12,650 applications received in FY 99 was a direct result of BXA and the Administration's streamlining

intended to refocus controls on the most critical items. During the year, liberalizations and decontrols for encryption products and computers decreased the licensing requirements for these items and thereby helped these industries maintain their global technological lead. As a result of these liberalizations and decontrols, applications for encryption products declined 56 percent between FY 1999 and FY 2000. Equally significant was the removal of 51 Indian entities from the Entities List, thereby allowing more normal trade relations with those parties which is reflected in the large decline in rejected applications for exports to India and Pakistan in comparison to FY 1999. (See Chart 1 and Chart 2 on page 18)

In FY 2000, BXA completed review of 11,039 applications (this includes cases received before FY 2000 but completed during the fiscal year). The greatest number-of-approvals in FY 2000 under one commodity classification was for EAR99 items with 1,019 approvals. Overall, we approved 8,861 applications, returned 1,779 applications without action, and denied 398 applications. This decrease in denied applications (down from 1,160 denials in FY 1999) is a direct result of the changes on the Entities List for Indian and Pakistani entities. (See Chart 3 on page 19.)

By the end of FY 2000, we had reduced the quarterly average processing time for non-referred cases from 23 days in the first quarter to 11 days in the fourth. The yearly average processing time for non-referred applications was 15 days.

A challenge remains to reduce the average processing time for cases that undergo interagency review. In FY 2000, 83 percent of all completed licensing decisions were referred, with an average processing time of 43 days. BXA continues to work with other agencies to negotiate delegations of authority which increase the number of applications we can review without referral. At the same time, we continue to work on developing standard conditions on specific categories of cases (e.g., deemed exports, night vision, etc.) that are acceptable to all agencies. With more than 99 percent of all approved applications being approved with conditions, having pre-approved conditions across-the-board will significantly reduce the time to craft an agreement acceptable to the exporter, BXA, and other reviewing agencies. (See Chart 4 on page 19. Also see Chart 5, Chart 6 and Chart 7 on page 20.)

Export License Referral Process

The Department of Commerce, both by executive order and existing agency practice, refers certain applications, based on their level of technology, the appropriateness of the items for the stated end-use, and the country of destination, to other agencies for review and recommendation. The principal referral agencies are the Departments of Defense, Energy, and State. Since the transfer of jurisdiction of commercial encryption products to Commerce, the Department of Justice and the National Security Agency (NSA) have had a role in the license review process for encryption license applications.

Under Executive Order 12981, applications that are in dispute among the agencies are referred to the Operating Committee (OC), which includes representatives of the Departments of Defense, Energy, State, and is chaired by the Department of Commerce. Prior to such dispute resolution, certain license applications can be discussed on a consultative basis at State Department-chaired working-level, interagency groups that review cases subject to specific concerns. Nuclear nonproliferation cases are reviewed by the Subgroup on Nuclear Export Controls; missile technology cases are reviewed at the Missile Technology Export Controls interagency group, and chemical/biological weapons control cases are reviewed at the SHIELD.

Under Executive Order 12981, the role of the OC was expanded to include the review of all license applications for which reviewing departments and agencies are not in agreement. The Commerce Chair considers the recommendations of the reviewing agencies and informs them of the Chair's decision within 14 days after receipt of the agency recommendations. Agency

recommendations are required to be submitted within 30 days of receipt of the original referral from Commerce. Any reviewing agency may appeal the decision of the Chair of the OC to the Chair of the Advisory Committee on Export Policy (ACEP), which is an Assistant Secretary-level body chaired by Commerce's Assistant Secretary for Export Administration. Its principal members come from the agencies listed above. In the absence of a timely appeal, the Chair's decision will be final.

An agency must appeal a matter to the ACEP within five days of the OC's final decision. Appeals must be in writing from an official appointed by the President with consent of the Senate, or an officer properly acting in such capacity, and must cite both the statutory and regulatory bases for the appeal. Decisions of the ACEP are based on a majority vote. Any dissenting agency may appeal the decision to the Export Administration Review Board (EARB), a Cabinet-level group composed of the Secretaries of Defense, Energy and State with the Secretary of Commerce as the Chair, by submitting a letter from the head of the agency. In the absence of a timely appeal, the majority vote decision of the ACEP is final.

The Chair of the Joint Chiefs of Staff and the Director of Central Intelligence have non-voting rights as members of the EARB. Export applications considered by the EARB are resolved by a majority vote, and any agency may appeal the decision to the President. In the absence of a timely appeal, the decision of the EARB is final.

Executive Order 12981 reduced the time permitted to process a license application to 90 calendar days from the day it is submitted. After that time, final action is taken on the application or it is escalated to the President for a decision.

"Is Informed" Process

The development of a list of entities of concern through the "Is Informed" process arose from the Enhanced Proliferation Control Initiative (EPCI) announced in 1990 to stem the spread of missile technology and nuclear, chemical, and biological weapons. Under EPCI, BXA can impose licensing requirements on exports and re-exports of goods and technology that normally do not require an export license when there is an unacceptable risk of use in or diversion to activities related to nuclear, chemical, or biological weapons or missile proliferation, even if the end-user is not primarily weapons-related.

Before an entity is added to the "Entity List," all proliferation activities are extensively evaluated by a BXA-chaired interagency group. This group has 14 days to determine if exports to a particular entity present an unacceptable risk of use in or diversion to missile, chemical, and biological weapons and nuclear-related proliferation activities. If a positive determination is made, the committee then decides if a licensing requirement should be imposed for otherwise "uncontrolled" items being exported to that entity. Decisions are made by a majority vote. Agencies that disagree with the majority vote may escalate the decision to the ACEP.

The major revision to the Entities List in FY 2000, was the removal of 51 Indian entities from the List, and the modification of the licensing policy for EAR99 items to Indian and Pakistani government, private and parastatal entities from a presumption of denial to a presumption of approval.

Special Licensing and Export Compliance

Special Comprehensive License

OEXS offers an alternative licensing mechanism for exporters who routinely make high volume shipments of pre-approved items to pre-approved destinations, end-uses, and end-users. A special license was established for these exporters to use in lieu of submitting individual applications. The increased flexibility and reduced paperwork burden on exporters and re-exporters allow U.S. firms to improve delivery timing, which gives them an edge in the new global economy.

This licensing option, titled the Special Comprehensive License (SCL), is available to experienced exporters who are reliable and have a strong corporate commitment to the development and maintenance of an Internal Control Program (ICP). Because BXA does not review each individual transaction authorized by an SCL, parties to the SCL must have the mechanisms in place to ensure that each export and re-export made under an SCL meets all the terms and conditions of the license and are in accordance with all applicable provisions of the EAR.

The SCL may authorize a number of activities, i.e., servicing, export and re-export of capital equipment, and/or exporting items for the purpose of resale and re-export. Currently, BXA has authorized 13 companies to facilitate exports and re-exports through the SCL.

International Cooperative Licenses

The Commerce Department has established licenses that assist in the effective and efficient implementation of the Export Administration Act (EAA), as described under section 4(a)(4) of the EAA. BXA has established three U.S. agency-held licenses to fulfill U.S. government roles in international cooperative projects. These licenses are crafted after the SCL structure and paperwork requirements and require an Internal Control Program.

Internal Control Programs

An Internal Control Program (ICP) is a mandatory requirement of the SCL and International Cooperative License. Each license holder crafts its ICP to ensure that its export and reexport procedures comply with the requirements of the license and the EAR. Elements of the ICP include customer screening, auditing, training, and record keeping. OEXS revises and distributes ICP Guidelines as well as other tools that can be used by the SCL holders in the implementation of their programs. One such tool is the SCL Holder Review Module that can be used by the companies to audit their own programs. This Module was used as the basis for development of the EMS Review Module to be used by companies that do not hold SCLs. The Review Modules are available to exporters for download from the Export Management System Compliance portion of the BXA Web site (www.bxa.doc.gov).

OEXS counsels exporters and consignees who participate in this procedure to develop and refine their ICP on an ongoing basis. The ICP has been the standard model for use by multinational companies worldwide since its implementation in 1985 and is now being requested by other countries to use as a model for establishing similar programs.

Systems Reviews

Consistent with the provisions of Section 4 of the EAA, BXA conducts periodic reviews of all active Special Comprehensive Licenses. The purpose of these reviews is to evaluate the adequacy of the mandatory ICPs implemented by SCL holders and consignees, and to ensure compliance with the EAR and the terms of the license. Systems Reviews are viewed not only as a compliance activity but also as an educational opportunity, since guidance is provided to the SCL holder and consignees at the time of the reviews. (See Chart 8 on page 21.)

Export Management System Guidelines

An Export Management System (EMS) is an optional compliance program that companies may implement, in order to ensure compliance with the EAR and to prevent sales to end-users of concern. Establishing an EMS can greatly reduce the risk of inadvertently exporting to a prohibited end-use/user. BXA published the first EMS Guidelines in September 1992.

The EMS Guidelines include both Administrative and Screening Elements that are beneficial in developing a foundation for a compliance program within an individual firm. Through the various screening elements and checklists within the Guidelines, companies can develop ways to know their customers. The Guidelines provide suggestions for how exporters can comply with the General Prohibitions described in Part 736 of the EAR.

OEXS counsels firms on the development of EMS programs that are customized to their specific business activities. One-on-one counseling and review of draft programs have taken place at the Department of Commerce. OEXS also conducts EMS workshops and seminars to educate the export community on the various tools available that can assist them in complying with the EAR.

Note

In April of 2002 the Bureau of Export Administration (BXA) changed its name to the Bureau of Industry and Security (BIS). For historical purposes we have not changed the references to BXA in the legacy documents found in the Archived Press and Public Information.

BIS Annual Report [Formerly the Bureau of Export Administration]

Office of Strategic Trade and Foreign Policy Controls

The Office of Strategic Trade and Foreign Policy Controls (STFPC) is composed of three divisions: Strategic Trade; Information Technology Controls; and Foreign Policy. STFPC implements multilateral export controls for national security reasons to comply with the Wassenaar Arrangement to control the spread of dual-use goods and related technologies. STFPC is also responsible for U.S. compliance with the bilateral agreement with Japan prescribing export controls for high performance computers. In addition, the office implements U.S. foreign policy controls to ensure that exports are consistent with our national goals relating to human rights, crime control, antiterrorism, and regional stability, and the office is responsible for all consequent policy actions, export licenses, commodity classifications, and advisory opinions for affected commodities. STFPC also represents the Department in international negotiations on export controls and control list development.

National Security Controls

The United States maintains national security controls on the export and re-export of strategic commodities and technical data worldwide to prevent the diversion of such strategic items to certain destinations. To achieve this objective, the United States attempts to pursue a multilateral approach and imposes controls in cooperation with other nations participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

Wassenaar Arrangement

The Wassenaar Arrangement is a multilateral regime currently consisting of 33 member countries. It contributes to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations of these commodities. The agreement obligates member countries to exchange information on certain dual-use transfer approvals and denials. The members share this information to enhance international security and regional stability.

The United States continues to participate in submissions of export data made by member countries in the regime since the November 1996 implementation in Wassenaar. Wassenaar members make dual-use data submissions on a semiannual basis in April and October.

The Wassenaar Arrangement continues annual reviews of its control lists. Specifically, in April and September 2000, BXA representatives attended Expert Group Meetings to review the Wassenaar Arrangement's controls on conventional arms and dual-use goods and technologies. Nearly 70 proposals were discussed to streamline Wassenaar's dual-use list. The majority of the proposals were in the areas of electronics, computers, sensors and machine tools. Agreement was reached on a number of proposals for liberalization in the areas of electronics and sensors. However, no agreement was reached on proposals regarding controls on microprocessors and computers. Several countries advocate a complete decontrol of general purpose microprocessors accompanied with drastic liberalization of computer controls, based on rapid technology advances and controllability factors.

Also in April 2000, BXA representatives attended the Third Annual Licensing and Enforcement Officers Meeting (LEOM) designed to exchange information on national practices of respective licensing and enforcement procedures. Discussions focused on 15 Plenary mandated agenda items, including intangible transfers of technology and software, catch-all controls, elements of effective enforcement and International Import Certificates. Further discussion of these issues will continue next year.

In May and October 2000, a BXA representative participated at the Arrangement's General Working Group Meetings. The General Working Group addressed ways of reinforcing the general information exchange, outreach activities and procedures, general information exchange regarding regions and projects of concern, specific information exchange on dual-use goods and technologies, and scope of dual-use notification procedures. The U.S. proposal to strengthen dual-use notification procedures by establishing a denial consultation procedure, similar to that of the non-proliferation regimes for sensitive list and very sensitive list items, is still being studied by member countries and will continue to be discussed next year. The United States is committed to working with interested countries in an attempt to bridge the gap between dual-use and arms in order to increase transparency and reduce divergences in licensing practices.

Jurisdictional Review of "Space Qualified" Items

During the past year, an interagency group chaired by the National Security Council and including the Departments of Commerce, Defense, and State reviewed 16 categories of items on the Commerce Control List that contain "space qualified" items. The purpose of the review is to determine whether any of those items should be transferred to the Department of State from the export licensing jurisdiction of the Department of Commerce. To date, the National Security Council has failed to resolve the jurisdictional issues associated with these "space qualified" items. Licensing jurisdiction for these 16 items in question remains with the Department of Commerce until a final decision is made.

Jurisdictional Review of Night Vision Equipment

Over the past year, considerable discord has developed with regard to the licensing jurisdiction of dual-use night vision equipment (e.g., image intensifiers, camera modules, and focal plane arrays). At issue is whether this commercial equipment should be licensed by the Department of Commerce or whether it should be considered munitions and licensed by the Department of State. The Department of Commerce is working with the Departments of State and Defense to discuss night vision products and capabilities and to attempt to define a distinction between commercial and munitions items in order to determine appropriate licensing jurisdiction.

National Security Export Control Changes

In July 2000, BXA published changes to the EAR to implement changes in the Commerce Control List (CCL) agreed to in 1999 to the Wassenaar Arrangement's List of Dual-Use Goods and Technologies. The most significant changes streamlined controls for electronics consistent with relaxations agreed to in Wassenaar.

Microprocessors and Graphic Accelerators

In June 2000, to reflect technological advances, BXA raised License Exception CIV's eligibility level for microprocessors from 3,500 MTOPS to 4,500 MTOPS. In addition, BXA also expanded License Exception CIV eligibility level for graphic accelerators by raising the control threshold from 75 million vectors per second to 100 million vectors per second.

Encryption

On January 14, 2000, BXA published regulations implementing the Administration's September 16, 1999, announcement to simplify the export of cryptography. The U.S. encryption policy rests on three tenets: a review of encryption products in advance of sale a streamlined post-export reporting system and a license process that preserves the United States government's ability to review the sale of strong encryption to foreign governments, military organizations, and nations of concern. Just as the market for information security products has grown and changed, this policy continues to evolve, consistent with the national interest in areas such as electronic commerce, national security, and support to law enforcement.

Under the January 14 regulations, any encryption commodity or software, regardless of key length, can now be exported under a license exception after a technical review to any non-government end-user worldwide, except for sanctioned or embargoed countries. To ensure streamlined exports to non-government end users, companies may export products under this provision 30 days after submitting the products for technical review. Moreover, a new category of products called "retail encryption commodities and software" may now be exported after technical review to any end user, including government end users, under this same license exception. Retail encryption commodities and software are those generally available to the public, easy to install, and which implement cryptography that cannot be easily changed, modified, or customized by the customer. Certain restrictions apply to telecommunications and Internet service providers, and network infrastructure products such as high end routers and switches may not be exported under these retail provisions. Previous liberalizations for banks, financial institutions and other approved sectors are subsumed under this license exception. The licensing of commercial encryption source code, toolkits, and technology continues to be considered on a case-by-case basis. Foreign nationals working for U.S. companies in the United States no longer need an export license to work on encryption.

Post-export reporting under this encryption license exception ensures compliance with U.S. regulations, and has allowed the Administration to reduce licensing requirements for non-embargoed and terrorist destinations. This streamlined export policy assures the continuing competitiveness of U.S. companies in international markets, while maintaining the balance between national security, public safety, commercial and privacy interests.

On July 17, 2000, the Administration announced further updates to U.S. encryption to track with regulations adopted by the European Union. The most significant change is that U.S. companies are now able to export encryption products and technology under license exception to any end user in the 15 nations of the European Union as well as Australia, the Czech Republic, Hungary, Japan, New Zealand, Norway, Poland, and Switzerland immediately upon notifying BXA of intent to export. Companies will no longer need to wait 30 days before exporting to these destinations. Even sophisticated encryption items such as source code, general purpose toolkits, and high-end routers and switches will be exported under these new procedures. To facilitate next generation development and market flexibility, products that enable U.S. and non-U.S. sourced products to operate together may also be immediately exported. Licenses will only be required for "cryptanalytic items," which are a specialized class of tools not normally used in commercial environments. The regulation implementing these changes was published in October 2000.

Other policy initiatives implemented in these new regulations include streamlined export provisions for beta test software, products which are compiled from "open" source, and products which implement short-range wireless encryption technologies such as HomeRF and Bluetooth. Post-export reporting is also further streamlined under the new regulations. Reporting is no longer required for products exported by U.S.-owned subsidiaries overseas, or for retail operating systems or desktop applications (such as e-mail programs and browsers) designed for, bundled with, or pre-loaded on single CPU devices such as personal computers, laptops, or hand held devices.

U.S. encryption policy reflects active participation with other nations, such as members of the Wassenaar Arrangement. In December 1998, Wassenaar Arrangement members agreed to move encryption items from the Sensitive List to the Basic List, and to make other revisions to encryption controls. This agreement was the culmination of a two-year effort to modernize and improve multilateral export controls on encryption. The January and October U.S. regulations implement this agreement. For example, 64-bit mass market encryption products, which previously required a review, can now be exported immediately.

The Administration continues to engage in valuable ongoing dialogue with various industry, privacy advocacy, and technical advisory groups. The President's Export Council Subcommittee on Encryption (PECSENC), established in April 1997, met during FY 2000 to advise the President, through the President's Export Council and the Secretary of Commerce, on matters pertinent to implementing an encryption policy that will support the growth of electronic commerce while protecting public safety, foreign policy and national security. The PECSENC consists of 30 members from the exporting community, manufacturers, privacy groups and law enforcement officials with an interest in encryption policy. U.S. policy and regulations also reflect consultation with groups such as the Regulations and Procedures Technical Advisory Committee (RPTAC), Alliance for Network Security (ANS), Americans for Computer Privacy (ACP), and the Computer Systems Policy Project (CSPP).

High Performance Computers (HPCs)

As part of the President's commitment to review HPC export control policy every six months, on February 1, 2000, and again on August 3, 2000, President Clinton unveiled new export controls on HPCs. These policy revisions include changes critical to maintaining the strong, vibrant high-technology industry, which is critical to America's national security interests. In addition, the changes ensure a realistic export control regime in this rapidly changing high technology industry.

The revised controls announced by the President maintain the four country groups announced in 1995, but amend the list of countries in, and control levels applying to, three of those groups.

In the February HPC policy revision, Romania was moved from Tier III to Tier II. The control level for Tier II countries was raised from 20,000 to 33,000 MTOPS. The individual license level for civilian end users was raised from 12,300 to 20,000 MTOPS. The NDAA notification level was raised from 6,500 to 12,500 MTOPS. On February 16, the President sent a report to Congress justifying the changes to the Tier III country list and NDAA notification level. Commerce published a regulation in the Federal Register implementing the President's announcement on March 10, 2000. However, as stipulated in the FY 1998 National Defense Authorization Act, the movement of Romania from Tier III to Tier II went into effect 120 days from the date the President's Report went to Congress (June 14), and the update of the NDAA notification level went into effect 180 days from the date the President's Report was delivered to Congress (August 14).

On August 3, 2000, the Administration once again announced an update to computer controls. The revision announced raised the Tier II licensing level to 45,000 MTOPS, the Tier III licensing level to 28,000 MTOPS, and the NDAA notification limit to 28,000 MTOPS. Argentina was moved from Tier II to Tier I and Estonia was moved from Tier III to Tier II. Additionally, the prior distinction between military and civilian end-users in Tier III was dropped. Export of any computer to proliferation-related end users still requires a license. The President sent a report to Congress justifying the changes to the Tier III country group and NDAA notification level on August 31, 2000. Commerce published a regulation implementing the Administration's announcement in the Federal Register on October 13, 2000. Again, as stipulated in the FY 1998 National Defense Authorization Act, the movement of Estonia from Tier III to Tier II will go into

effect 120 days from the date the President's Report went to Congress (December 29), and the update of the NDAA notification level will go into effect 180 days from the date the President's Report was delivered to Congress (February 27, 2001).

The denial policy for all end-users in Tier IV countries remains unchanged by either the February or August revisions.

Export controls on high performance computers (HPCs) will continue to be a high priority as improvements in computer technology continue to enhance system performance. In an effort to avoid the continuous review cycles the rapid pace of technology demands and capture only computers of true significance to our national security, the Administration is currently studying alternative control metrics to Composite Theoretical Performance (CTP).

Policy Toward Individual Countries

Section 5(b) of the Export Administration Act of 1979, as amended (the Act), requires the President to establish a list of controlled countries for national security purposes. Executive Order 12214 (May 2, 1980) delegated this authority to the Secretary of Commerce. Initially, this list comprised those countries named in Section 620(f) of the Foreign Assistance Act of 1961 (FAA) (22 U.S.C. sec. 2370 (f)) at the time of the enactment of the Export Administration Act in 1979. The Secretary of Commerce, however, may add to or remove countries from the list of controlled countries under criteria provided in Section 5(b). Since 1980, the Secretary has removed from the list of controlled countries the former Federal Republic of Yugoslavia in 1985, Hungary in 1992, and the Czech Republic, Poland, and the Slovak Republic in 1994. Public Law 102-511 (October 24, 1992) amended Section 620(f) of the FAA to delete the former Soviet Bloc countries and certain other nations from the list of Communist countries. Under Section 5(b) of the Act, the United States, however, continues to control exports to some of the countries deleted from the list in Section 620(f) of the FAA.

The countries currently controlled under Section 5(b) are: Albania; Bulgaria; Cuba; Estonia; Latvia; Lithuania; Mongolia; the Newly Independent States of the former Soviet Union; North Korea; the People's Republic of China; Romania, Tibet; and Vietnam. The Department, along with other agencies, provides technical export control development assistance to many of these countries with a view to removing additional nations from the list of Section 5 (b) controlled countries under section 5 (b).

Bilateral Cooperation/Country Policy

China

Based on agreements reached in Beijing in October 1997, during the eleventh annual meeting of the Joint Commission on Commerce and Trade (JCCT), U.S. and Chinese representatives initiated export control technical exchanges, two of which were held in 1998, with more planned in 1999. These were postponed by the Chinese as a result of the bombing of the Chinese Embassy in Belgrade in May 1999, and none were held during FY 2000. Cooperative exchanges were scheduled to resume in late 2000.

Cuba

The United States has maintained an embargo toward Cuba since 1962. Consequently, the export and re-export of virtually all U.S.-origin commodities, technology and software to Cuba require a specific license, coupled with a general license review policy of denial. There are exceptions to the embargo, however, primarily in the field of humanitarian goods. In recent

years, a number of steps have been taken to expand the flow of humanitarian assistance to the Cuban people to strengthen civil society there. In May 1998, the United States lifted a two-year ban on direct humanitarian flights to Cuba, streamlined procedures for the sale of medicines and medical equipment to Cuba and allowed an increase in family remittances to close relatives in Cuba. The new provisions for the sale of medical items to Cuba resulted in a notable increase of sales of U.S. products. A U.S. health care goods exhibition was held in Havana in January 2000. BXA issued licenses to more than 60 American firms to display their products during the exhibition.

In May 1999, a new policy on food sales to Cuba was initiated. The policy change has not resulted in a significant increase in sales because the policy restricted sales to only the Cuban private sector. In April 1999, the President announced that the United States would lift restrictions on food and medicines to embargoed countries. This allowed the sale of food and medicines to other embargoed countries such as Libya and Iran. As the fiscal year drew to a close, the U.S. Congress was actively working on legislation that would allow food sales to private and government recipients in Cuba.

Federal Republic of Yugoslavia (FRY) (Serbia and Montenegro)

In 1998, the Department imposed new foreign policy controls on the Federal Republic of Yugoslavia, also known as the FRY (Serbia/Montenegro), in concert with the Department of State. Implementing United Nations Security Council Resolution 1160 of March 31, 1998, these controls prohibit the sale or supply of arms and arms-related items and the transport by U.S.-registered aircraft and vessels of such items to the FRY.

On April 30, 1999, the President issued Executive Order 13121, which embargoed all trade with the FRY. On May 4, 1999, the United States published in the Federal Register an amendment to the EAR requiring a license for all exports and re-exports to Serbia, including petroleum products, with a presumption that all license applications would be denied except those for basic humanitarian items and other items covered under a limited number of license exceptions for Serbia. With the end of the NATO bombing campaign in June 1999, the United States modified its Serbia sanctions to exempt the province of Kosovo from the comprehensive economic sanctions imposed on Serbia.

The ousting of Slobodan Milosevic and the victory of Vojislav Kostunica in the democratic elections in October 2000 paved the way for the easing of U.S. sanctions on Serbia. The Department of Commerce is presently drafting a regulation to eliminate the broad general economic sanctions on Serbia. This sanctions-easing initiative includes a revision of the export licensing policy for Serbia to allow most commercial goods to be shipped without a license. Multilaterally controlled items on the CCL will remain subject to a licensing requirement but will be treated according to the licensing policy in effect for most other countries. Comprehensive controls will remain on shipments to Milosevic and his close associates.

Hong Kong

Under the Hong Kong Policy Act of 1992, the United States Government will continue its export licensing treatment that was in effect before China regained control, for so long as Hong Kong maintains an effective and autonomous export control program. The Bureau of Export Administration aggressively monitors the status of Hong Kong's post-reversion export control program to ensure that it continues to be effective and autonomous from that of the People's Republic of China. By openly and vigilantly observing Hong Kong's program, BXA supports Hong Kong's efforts to maintain the separation of its export control system from that of the rest of China.

Under an Agreed Minute on Strategic Commodities Trade Controls signed by former Secretary of Commerce William Daley and his Hong Kong counterpart in October 1997, the two agencies hold semiannual meetings to exchange information and enhance cooperation. BXA officials led an inter-agency delegation to Hong Kong March 14-16, 2000, the fifth such round of talks since the signing of the Agreed Minute. U.S. officials briefed their Hong Kong counterparts on developments in the multilateral control regimes; both sides provided updates on licensing and enforcement issues in their respective systems. The U.S. delegation also visited the Hong Kong-China border control point, the Hong Kong Observatory, the Hong Kong airport, and a container terminal. Officials the Departments of State and Defense accompanied Assistant Secretary Majak on the trip. These semiannual meetings assist BXA in monitoring Hong Kong's export controls to determine whether its system continues to be effective and autonomous.

India/Pakistan

Under a regulation published on November 19, 1998, the United States implemented economic sanctions on India by imposing a policy of denial for the export or re-export of United States origin items controlled for nuclear non-proliferation and missile technology reasons to India and Pakistan as stated in part 742 of the EAR. Prior to the sanctions, the United States reviewed applications for these items on a case-by-case basis with a presumption of approval.

In March 2000, BXA participated in a delegation visit to Delhi, India. The goal of the trip was to advance U.S. commercial interests prior to a visit by President Clinton to the region immediately following the conclusion of the delegation's visit. While in India, the delegation met with numerous cabinet ministers and the prime minister's assistant, as well as U.S. and Indian business associations. During the visit, Indian and U.S. industry representatives expressed dissatisfaction with the dual-use sanctions and estimated millions of dollars in sales have been lost to non-U.S. suppliers. On March 17, the United States removed 51 Indian entities from the Entity List and changed the license review policy for non-sensitive items to a "presumption of approval." This revision freed up some trade and the approval rate for license applications increased from 26 percent before March 17 to 62 percent at the end of the fiscal year. The March revision was driven largely by language in the Defense Appropriations Act of 2000, which urged refinement of the list and by progress in bilateral consultations with the Indian Government on non-proliferation issues.

In April 2000, the United States hosted a delegation from India for expert-level export control talks. Both countries agreed to initiate a series of export control cooperation and technical assistance exchange programs. The United States and India agreed that the programs would initially focus on licensing, internal checks and enforcement, with special emphasis on "training the trainers."

Following on the foundation laid during the April visit, BXA officials concluded successful bilateral talks with the Government of India in New Delhi during the week of August 7 - 11. During the talks, the Indian Government indicated its interest in participating in several of the export control workshops that the U.S. Government proposed. The first of these programs -- an export licensing workshop in Washington, D.C. -- took place in October 2000.

North Korea

On September 17, 1999, the President announced his decision to ease sanctions against North Korea administered under the Trading with the Enemy Act, the Defense Production Act, and the EAR. On June 19, 2000, the Department of Commerce issued a new regulation implementing this policy change.

Under this new policy, most items subject to the EAR designated as EAR99 may be exported or re-exported to North Korea without a license. In addition, BXA changed the licensing policy for certain items on the Commerce Control List (CCL) destined to North Korean civil end-users from a policy of denial to case-by-case review.

This regulation adds certain categories of items to the CCL for which a license will be required to North Korea. Consequently, this regulation creates certain new Export Control Classification Numbers (ECCNs) that are controlled for antiterrorism (AT) reasons to North Korea only. These new ECCNs do not refer to any column on the Country Chart and therefore exporters are not required to consult the Country Chart in Supplement No. 1 to part 738 to determine licensing requirements for these entries.

This easing of sanctions does not affect U.S. antiterrorism or nonproliferation export controls on North Korea, including end-user and end-use controls maintained under the Enhanced Proliferation Control Initiative.

In late October BXA held an Export Control Seminar in Seoul, South Korea, at which BXA representatives met with a number of firms that expressed interest in marketing in North Korea. BXA representatives also consulted with the South Korean Government on the need to coordinate on trade with North Korea.

Multilateral Cooperation

In March 2000, BXA officials attended the Asian Export Control Seminar in Tokyo. The conference was sponsored by Japan, the United States, the United Kingdom, and Australia. Among the attendees were representatives from 14 Asian governments and two autonomous regions (Hong Kong and Macau). The purpose of the annual seminar is to provide information on export controls to Asian governments, some of which have just begun to develop comprehensive systems. Seminar participants were particularly interested in transshipment issues and in the development of internal compliance programs for industry.

In September 2000, BXA led a United States delegation to the second Conference on Export Controls in Oxford, England. Delegations representing approximately 30 countries participated in the conference and considered the status of the global export control system, assessed efforts to assist the nations of the former Soviet Union and Central Europe to establish and strengthen national export control programs, and developed recommendations for strengthening the global export control system. Attendees were interested in a number of issues, particularly the transfer of intangible technology and "catch-all" provisions to prevent the export of commodities not controlled on control lists.

On September 17 - 21, BXA participated in a visit to Israel to review bilateral cooperation on export control issues. The delegation was co-hosted by Commerce Assistant Secretary for Export Administration Roger Majak and State Deputy Assistant Secretary for Nonproliferation John Barker. Members of the delegation met with senior officials from the Ministries of Defense and Industry and Trade, and with representatives from Israeli and U.S. defense and high-technology companies. BXA officials conducted a seminar on U.S. export control issues for Israeli industry. During the visit, the Israelis pledged to toughen their own export control practices and to continue to adhere to the principles of multilateral export control regimes.

Sanctions Reform

The Administration continued to work with interested parties toward achieving meaningful sanctions reform. The Administration remains committed to a sanctions policy that is carefully targeted, truly advances our foreign policy goals, and avoids damaging other United States

interests. BXA has participated in Departmental and interagency working groups looking at sanction reforms, reviewing legislation and developing proposals to rationalize the sanctions process.

On October 28, 2000, the President signed the Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act of 2001 which included Title IX, the FAM Act. In general, this Act requires the President to lift all U.S. unilateral sanctions on agricultural and medical commodities while restricting the export of such items to terrorist supporting countries. This change reflects the desire of Congress to expand potential markets for the U.S. agriculture industry and to stop the use of food and medicine export sanctions as a tool of U.S. foreign policy. For terrorist designated countries and entities, however, the Commerce Department is required to establish a licensing system that would allow the denial of agricultural and medical items to terrorist entities, but would not be more burdensome than a license exception for other entities. There are other criteria and certain financial limitations on such exports. The United States Government has 120 days from the enactment of the law to publish the regulations implementing certain provisions of the Act (February 25, 2001). Agency discussions are underway, and we will publish the regulations within the statutory requirement. This legislation impacts U.S. export controls on agricultural exports to Cuba, and on agricultural and medical exports to Iran, Iraq, Libya, North Korea, Sudan and Syria. The legislation also requires termination of controls on such items maintained on the other foreign countries and entities, such as Serbia and the Taliban.

Crime Control/Human Rights

The United States controls a number of items, ranging from shotguns and stun guns, to fingerprint inks and mobile crime science labs, under the category of Crime Control for human rights purposes. In September 2000, the United States made three revisions to the Crime Control category. The first revision imposed a global license requirement, excluding only Canada, on restraint type items such as stun guns, shock batons and handcuffs. The second revision created new CCL entries for saps, police helmets and shields, fingerprint inks and dyes and technology for the restraint type items. The third revision modified the license review policy for all Crime Control items to include a determination of the extent of civil disorder in a given country or region before issuing a license to export to such areas. These revisions make the Crime Control category more transparent and export license activity in this area easier to track.

Note

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BIS Annual Report

[Formerly the Bureau of Export Administration]

The Office of Nonproliferation Controls and Treaty Compliance

The Office of Nonproliferation Controls and Treaty Compliance (NPTC) administers U.S. multilateral and unilateral export controls on nuclear and missile technology, and chemical and biological items controlled for nonproliferation reasons; ensures compliance with U.S. obligations under the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC); controls the export of materials in short supply; and administers requirements related to technology transfers to foreign nationals in the United States. The United States is a member of the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), and the Australia Group (AG), international groups whose focus is to prevent the spread of weapons of mass destruction and their delivery systems. NPTC represents the Department in international negotiations on the export controls that are shared by member-nations of the NSG, MTCR, and AG, and represents the Department on U.S. delegations to the administrative and policy meetings of the CWC, and the negotiating sessions on issues related to the establishment of an administrative and policy framework for the BWC. NPTC is also responsible for all policy actions, export licenses, commodity classifications, and advisory opinions pertaining to items subject to nuclear, missile technology, chemical and biological, and short supply controls, as well as the control of technology transfers to foreign nationals known as "deemed exports."

Overview of The Nuclear Suppliers Group

Following the 1974 explosion of a nuclear device by India, the United States proposed the formation of the NSG, and initially approached six other major supplier states -- Canada, Germany, France, Japan, the United Kingdom, and the Soviet Union -- to create an informal group of nations concerned with the proliferation of nuclear weapons. The NSG was formally constituted in 1992; its membership now totals 39 member-countries.

Two documents guide NSG members in establishing national controls: the Guidelines and the Annex. The NSG Guidelines establish the underlying precepts of the regime, and provide a degree of order and predictability among suppliers, ensuring harmonized standards and interpretations of NSG controls. The Guidelines also call for consultations among members on sensitive cases to ensure that transfers do not contribute to risks of conflict and instability.

The Annex contains the actual list of 70 categories of dual use items subject to NSG controls. The Annex also contains a General Technology Note, which ensures that exports of technology directly associated with listed items will be subject to the same degree of scrutiny and control as the items themselves. NSG members are required to establish national licensing procedures for the transfer of Annex items. Overall responsibility for NSG activities lies with the member states; the NSG proceeds on consensus basis.

Since the early 1990's, formal annual plenary meetings have been held to provide the opportunity for multilateral consultations. The Plenary also provides the opportunity for members to review the Annex and the Guidelines to ensure that NSG controls are focused on truly sensitive nuclear technology, and that they provide the means to meet evolving nuclear proliferation challenges.

Recent Actions

The NSG held its annual Plenary session in Paris, France on June 19-24. Three new countries were welcomed as NSG members: Belarus, Turkey, and Cyprus. It was proposed that the administrative structure of the NSG be streamlined, easing the application process for future new members. A working group was established to look at possible options for simplifying the NSG's institutional arrangement.

With the support of the United States, NSG decided that no further action was needed to control parts and components, although individual recommendations for the control of spare parts could be taken up during normal list review activities. It was the consensus of NSG members that the "catch all" controls of most member countries are sufficient to control the parts and components of controlled items.

The final action of the NSG at the Paris Plenary was to agree that the United States will host the 2001 Plenary in Aspen, Colorado, the week of May 7, 2001, when the United States will take over the chairmanship of the NSG.

As in prior years, BXA continues to issue license denials for NSG dual use controlled items as part of the "no undercut" policy. Under this policy, a denial notification received from an NSG member country precludes other member countries from approving similar transactions, thereby assuring that the earlier denial is not undercut. There are procedures for member countries to consult on specific denials if they wish to disagree with the original denial decision. BXA has continued its active role in reporting "catch all" denials for uncontrolled items destined to end users of proliferation concern.

Overview of the Missile Technology Control Regime

On April 16, 1987, the United States and its G-7 trading partners created the Missile Technology Control Regime (MTCR), whose focus is to limit the proliferation of missiles capable of delivering weapons of mass destruction. The MTCR is not a treaty-based regime, but rather an informal group of 32 countries that have agreed to coordinate their national export controls to help prevent missile proliferation.

The MTCR Guidelines and the Equipment and Technology Annex form the basis for U.S. missile technology controls. The Guidelines provide licensing policy, procedures, review factors, and standard assurances on missile technology exports. The Annex is the list of items of missile-related commodities subject to control, and is divided into two categories. Category I items include missile subsystems, production facilities, and production equipment for missile systems capable of delivering a 500 kg payload to a range of at least 300 km. Category II items include missiles with a 300 km range, regardless of payload, and the major subsystems, production facilities, production and test equipment, materials, and components of missile delivery systems.

NPTC is responsible for administering controls on exports of dual use manufacturing equipment for Category I items and on all dual use items in Category II. A considerable portion of the license applications reviewed for missile-related concerns are for commercial aviation exports, including avionics, navigation, telemetry, composite materials, and test equipment.

Recent Actions

The annual Missile Technology Control Regime (MTCR) Plenary and Technical Experts Meeting (TEM) were held in Noordwijk, Netherlands, on October 11-15, 1999. In the information exchange portion of the Plenary, sixteen MTCR members actively participated in sharing information on non-MTCR partner missile programs that constitute serious missile proliferation threats. The information exchange highlighted the need for a global approach to missile

nonproliferation, and gave impetus to consideration of an expansive outreach initiative to nonmember countries focused on missile nonproliferation.

At the TEM, the MTCR agreed to relax controls on aluminum powder and other metal powders used as fuel in solid rocket motors, reducing the number of license applications submitted to the Department for metal fuels. State Department licenses for metal fuels will not be affected by this change. Special dual use items for chemical/biological weapons delivery systems were also identified that could be added to the MTCR Equipment and Technology Annex in the future.

The proposal first raised at the TEM meeting in September, to reformat the MTCR Equipment Annex into larger categories based on the newly reformatted Annex structure, was reviewed and action on the proposal tabled for further discussion.

An MTCR seminar was held in Munich, Germany on May 24-26 to discuss possible measures to reduce regional and global security risks, further eliminate existing missile stockpiles, and curtail indigenous missile development programs. Topics of discussion included possible measures to reduce the regional and global security risks involved with specific proliferation cases, the further elimination of existing missile stockpiles and the curtailment of indigenous missile development programs, and the establishment of norms to govern the production, testing, deployment and export of missiles and related technology.

The MTCR held an intercessional Technical Experts Meeting (TEM) in Berlin, Germany on July 4-6. The TEM, at which proposals on technical changes to the MTCR Annex are reviewed and prepared for consideration by the full MTCR membership, considered a proposal tabled by the United States that would expand controls on small fuel efficient engines and integrated navigation systems used in unmanned air vehicles that can become potential delivery vehicles for chemical and biological agents.

Overview of the Australia Group

The Australia Group (AG) is an informal multilateral forum that cooperates to impede the proliferation of chemical and biological weapons through the harmonization of export controls, the exchange of information, and other diplomatic means. The group was formed in 1985 when, in response to the use of chemical weapons during the Iran-Iraq war, Australia called for a meeting of like-minded countries to consider harmonizing export controls on chemical weapons precursor chemicals. The AG later expanded its focus to include chemical production equipment and technologies. In 1990, the scope was expanded further to include measures to prevent the proliferation of biological weapons. Today, the AG remains a viable, effective mechanism through which participating governments demonstrate their commitment to international nonproliferation objectives.

Thirty-two countries currently participate in the AG. The group's primary focus is the coordination of export controls on an agreed list of dual use items that can be used in the production of chemical and biological weapons. In accordance with the AG control list, BXA maintains export licensing requirements on relevant precursor chemicals, microorganisms and toxins, equipment, and technology.

Recent Actions

Regulations implementing the decisions reached at the Australia Group Plenary in October 1999 were published in FY 2000 as part of the Export Administration Regulations (EAR). The new regulations adjust the specifications of some controlled items to narrow controls that caught more than was necessary to accommodate nonproliferation concerns; clarify the application of the rule for mixtures containing AG chemicals that are also identified as Chemical Weapons

Convention Schedule 1 chemicals; and add two new corrosion-resistant materials to the control list of substances used to construct heat exchangers that are also controlled by the AG. The U.S. delegation to the AG also took the opportunity offered by the Plenary to present U.S. positions in support of the strengthening of export controls on graphite composite chemical manufacturing equipment, centrifugal separators, and impermeable protective suits.

The AG maintains a denial notification procedure by which members agree to notify the group when a license for a controlled item is denied. This procedure is coupled with a "no undercut policy" whereby members agree not to approve an identical sale without first consulting the member issuing the denial notification. This process helps to prevent the undercutting of a member's denial.

The AG continues to consider potential new members. The group engages in a wide range of contacts to promote greater awareness and understanding of the important role that national export licensing measures play in preventing the proliferation of chemical and biological weapons. These activities include a program of regional seminars and briefings for nonparticipating countries on export licensing practices.

The Enhanced Proliferation Control Initiative

When the U.S. government became aware that Iraq, on the eve of the Persian Gulf War, had enhanced its weapons of mass destruction capability by obtaining imported goods that were exempt from a license requirement, President Bush launched the Enhanced Proliferation Control Initiative (EPCI) in December 1990. EPCI led to the imposition of chemical, biological, and missile end use and end user-based controls that were similar to the nuclear end use and end user-based controls already in effect. The EAR requires that exporters obtain a validated license for the export of an item, even if one is not normally required, if they know or are informed by BXA that the export is for use in nuclear, chemical or biological weapons or missiles, or facilities engaged in such activities. U.S. persons are also restricted from activities in support of nuclear, chemical or biological weapons, or missile-related projects. These regulations are designed to prevent exports that could make a material contribution to proliferation projects of concern, but are not intended to affect legitimate commercial trade.

EPCI began as a unilateral control, but with U.S. leadership, virtually all of the NSG and MTCR member countries have some form of catchall controls, and the United States continues to encourage other countries to adopt similar measures. Information exchanges on EPCI export denials have also enhanced multilateral awareness of proliferation projects of concern.

BXA publishes an EPCI "Entity List" as part of the EAR (Supplement No. 4 to Part 744). Initiated as part of the EPCI clarification project mandated by the Trade Promotion Coordinating Committee chaired by the late Commerce Secretary Ronald Brown, publication of the names of the entities involved in proliferation activities in the EAR provides exporters with better information on which to base international business.

International Agreements

Chemical Weapons Convention

The Chemical Weapons Convention (CWC), signed by more than 150 countries, bans the development, production, acquisition, stockpiling, retention, use and direct or indirect transfer of chemical weapons, and provides for an extensive verification regime. The Convention entered into force on April 29, 1997.

Implemented through the establishment of a CWC Annex, specified chemicals are grouped into three schedules based on their toxicity and other properties enabling their use in chemical weapons. The toxic chemicals and precursors on Schedule 1 pose the highest risk and have few commercial applications; the chemicals and precursors on Schedule 2 pose a significant risk and have certain commercial applications; and Schedule 3 chemicals, while they pose a risk to the purpose of the Convention, also have wide commercial applications. Chemical warfare agents deemed to have direct military applications are controlled by the State Department under the International Traffic in Arms Regulations.

The CWC, which is administered by the Organization for the Prohibition of Chemical Weapons (OPCW), is the first major arms control treaty to have a significant impact on the private sector. The Treaty requires certain commercial chemical production, consumption, and processing facilities to submit data declarations and to permit international inspections. U.S. implementing legislation was enacted to compel domestic industry compliance with the Convention on

October 21, 1998; implementing the regulations were published on December 30, 1999. Effective immediately, the regulations set forth U.S. industry's data declaration and reporting requirements and inspection procedures. Companies exceeding certain production, processing, consumption, export or import thresholds are required to submit the appropriate declarations or reports to BXA.

Recent Actions

BXA is the agency responsible for collecting data declarations and hosting OPCW inspections at U.S. companies engaged in chemical activities covered by the CWC. In meeting its CWC responsibilities in FY 2000, BXA (1) designed a secure computer system to receive and process declarations; (2) trained staff to perform chemical determinations; (3) maintained a dedicated CWC web site with the necessary forms and information on CWC requirements; (4) hired, trained, and certified staff to host inspections; (5) conducted mock inspections; and (6) conducted site assistance visits to prepare facilities for OPCW inspections.

Beginning in January 2000, BXA held a series of eight outreach seminars on the CWC regulations with the cooperation of the American Chemistry Council and the Synthetic Organic Chemical Manufacturers Association, and with the assistance of the Federal Bureau of Investigation, the Department of State, and the Defense Department's Defense Threat Reduction Agency. These seminars were designed to educate U.S. chemical industry representatives on the requirements of the regulations.

On April 19-20, BXA representatives conducted their first Site Assistance Visit (SAV) at a company subject to inspection under the CWC. In total, BXA conducted ten SAVs at ten different plant sites in FY 2000 to assist industry personnel in the preparation of pre-inspection briefings, draft facility agreements, methods of identifying and handling confidential business information, and other key elements of CWC industry inspections.

Three thousand seventy-five declarations and reports from 319 chemical companies representing more than 750 plant sites were received and verified by BXA staff and forwarded to the OPCW as required by the CWC regulations. On April 30, 2000, a BXA delegation met with officials of the OPCW, the administrative arm of the CWC, to present the first U.S. national industry declaration. Shortly before the return of the BXA team from The Hague, Netherlands, the first notification of a U.S. industry inspection arrived in the United States on May 4. This first inspection was successfully completed on May 12, followed by an additional 10 inspections in the remaining months of FY 2000.

The Executive Council of the OPCW met on May 16 and took two actions modifying the CWC controls. The first decision was to limit the requirement for declarations for chemical mixtures to those containing 30% or more of Schedule 2B precursor chemicals and Schedule 3 chemicals. The second action was to permit the transfer of consumer goods containing low concentrations of Schedule 2 chemicals to non-State Parties. As of April 29, 2000, all other transfers of Schedule 2 chemicals were, and continue to be, prohibited.

Biological Weapons Convention

The Biological Weapons Convention (BWC) entered into force in 1975 to prohibit the development, production, and stockpiling of biological agents or toxins that do not have peaceful uses. The Third Review Conference of State Parties to the BWC agreed in 1991 to consider ways to strengthen the implementation and effectiveness of the Convention.

BXA is cooperating with other U.S. Government agencies in the development of a protocol to the BWC. U.S. industry's concern about the protection of confidential business information is a significant consideration in crafting the protocol. In FY 2000, BXA worked with industry organizations to coordinate and promote cooperation with government in addressing BWC issues. BXA continued to provide representation for multilateral and bilateral discussions relevant to the BWC, including an Ad Hoc Group working to develop the BWC Protocol, in FY 2000.

Industry Interaction and International Consultations

Beyond the routine contacts that are a necessary part of the export licensing process, NPTC's staff participated at many industry briefings, trade association seminars, and one-on-one consultations with exporters to clarify the scope of U.S. nuclear and missile technology controls, explain the responsibilities of U.S. industry under the CWC, and clarify the actions taken to control chemical and biological commodities. These efforts support U.S. industry by reassuring buyer and seller alike of the legitimacy of proposed export sales, advise the participants in the transactions of their export control obligations, and explain and reaffirm the rights and obligations of the U.S. chemical industry in their compliance with the CWC.

NPTC's staff also actively engages in bilateral and multilateral consultations with our trading partners who share our nonproliferation goals, and with countries who do not yet have export control systems in place. In the last year, NPTC participated in numerous consultations under the auspices of the multilateral control regimes and international treaty organizations, and in support of BXA's overall international outreach effort to educate non-participatory countries about the benefits and obligations of export control cooperation.

Transfer of Technology to Foreign Nationals in The United States

The Department of Commerce requires U.S. companies and other organizations to obtain prior approval from BXA before foreign nationals from certain countries are allowed to work on projects involving controlled technology. An export license is required because the EAR treats any release of controlled technology or software to a foreign national as a "deemed export" to the home country. BXA reviews license applications under the licensing policies that apply to the actual export of the technology or software in question to the home country or countries of the foreign national. The "deemed export" rule is most often encountered in the employment context where a company will release controlled technology or software to a foreign national.

During FY 2000, BXA processed 971 "deemed export" cases, slightly less than the one thousand cases processed during FY 1999. During this period, the license application processing time

continued to be 55-60 days. In FY 2000, BXA established a pilot program to speed up the "deemed export" license process. Under this program, companies that hire a stream of foreign technical staff can obtain a one-time approval for the technology proposed for transfer. After the interagency community authorizes the technology for export, additional staff can be added to the Deemed Export License by amendment, subject to referral to the intelligence community.

Short Supply Controls

Sections 3(2)(c) and 7 of the Export Administration Act of 1979, as amended (the Act), authorize the President to restrict the export of goods "where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand." In support of this objective, Section 7(b)(1) also authorizes the President to monitor exports of certain goods to determine the impact of such exports on the domestic supply, and whether this impact has an adverse effect on the U.S. economy.

BXA also administers export controls under the Energy Policy and Conservation Act, the Mineral Leasing Act, the Naval Petroleum Reserves Production Act, the Outer Continental Shelf Lands Act, and the Forest Resources Conservations and Shortage Relief Act (FRCSRA) of 1990, as amended. BXA continued to conduct economic, regulatory, and technical analyses of Congressionally mandated controls for domestically produced petroleum and unprocessed timber.

During FY 2000, the Department of Commerce controlled certain domestically produced crude oil and unprocessed Western Red Cedar timber harvested from Federal and state lands. Section 7(k) of the Act specifies that for purposes of export controls imposed under this Act, the shipment of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities should not be considered as exports. Section 14(a)(13) of the Act requires a report on any monitoring program conducted pursuant to the Act or Section 812 of the Agricultural Act of 1970. This chapter includes a report by the U.S. Department of Agriculture (USDA) on its monitoring activities during FY 2000. (Please see charts beginning on page 45.)

Crude Oil and Refined Petroleum Products

- Exports of most domestically produced crude oil continued to be subject to statutory restrictions in FY 2000. Four separate statutes require the Department to administer various restrictions on the export of domestically produced crude oil.
- The Energy Policy and Conservation Act (EPCA) requires the President to restrict the export of domestically produced crude oil (Section 103).
- The Mineral Leasing Act (MLA) restricts exports of domestic crude oil transported by pipeline over Federal rights-of-way granted under Section 28(u).
- The Naval Petroleum Reserves Production Act (NPRPA) of 1976 restricts exports of petroleum (crude or refined products) produced from the Naval Petroleum Reserves.
- The Outer Continental Shelf Lands Act (OCSLA) restricts exports of crude oil or natural gas produced from Federally owned submerged lands of the Outer Continental Shelf.

Licensing Actions

All of the statutes establish various stringent tests (e.g., consumer savings through lower prices for replacement oils) a license applicant must meet before BXA can authorize crude oil exports. BXA can authorize exports only by a national interest finding issued by the President or his delegated representative. The President has retained the authority to make national interest findings under three of the statutes but has delegated to the Secretary of Commerce the authority to make findings under EPCA.

Since the legislation came into effect, there have been only five national interest findings providing exemptions from the statutory prohibitions: 1) as of 1985, the export to Canada of crude oil produced in the lower 48 states; 2) as of 1989, the export of 50,000 barrels per day (B/D) of Alaskan North Slope (ANS) crude pursuant to the U.S.- Canadian Free Trade Agreement; 3) in 1985, the export of Alaskan Cook Inlet crude oil to Pacific Rim energy markets was permitted; 4) in 1992, the export of 25,000 B/D of California heavy crude oil having a gravity (i.e., weight) of 20 degrees API or lower was authorized; and 5) in 1996, exports of ANS crude oil, when transported on U.S.-flag tankers, were determined to be in the national interest.

During FY 2000, exports of domestically produced crude oil consisting of exports to Canada, exports of ANS crude oil pursuant to license exception based on the Trans-Alaska Pipeline Authorization Act (TAPS), and exports of California heavy crude oil pursuant to a Presidential determination totaled \$16.5 million barrels or 45,294 B/D. The discussion below reviews exports from the lower 48 states and Alaska.

Exports of Crude Oil from the Lower 48 States

- During FY 2000, BXA approved 15 licenses for exports of crude oil originating from the lower 48 states. These licenses involved a total of 34.6 million barrels of crude oil or approximately 94,876 B/D. This included:
- Exports to Canada: During FY 2000, BXA issued three licenses totaling 29 million barrels for shipment to Canada of crude oil produced in the lower 48 states.
- Crude Oil for Testing Purposes: The Department can authorize the export of small quantities of domestically produced crude oil for testing purposes under a license. In FY 2000, no licenses were issued.
- Temporary Exports for Convenience or Efficiency of Transportation: Pursuant to Section 7(d) of the Act, the Department permits Alaskan North Slope (ANS) crude oil to be shipped to the U.S. East Coast, Gulf Coast, and Caribbean ports through approved non-U.S. transshipment terminals and approved temporary non-U.S. storage facilities. Participating companies report monthly to BXA on the quantities of ANS crude oil leaving Valdez, Alaska; the quantities entering, leaving, or in temporary storage at transshipment terminals; and the quantities en route and discharged at various U.S. terminals. During FY 2000, there was no activity under this authority. The Department also authorizes temporary exports to Canada and Mexico for convenience and efficiency of transportation. During FY 2000, there was no activity under this authority.
- Exports of California Heavy Crude Oil: During FY 2000, BXA issued 12 licenses pursuant to the California rulemaking to export 25,000 B/D of California heavy crude oil. The 12 licenses were for 5.63 million barrels of crude. The bulk of

the heavy crude oil exported was for use as bunker fuel for vessels in foreign trade.

Exports from Alaska

Alaskan North Slope Crude Oil: On May 31, 1996, BXA amended the short supply provisions of the EAR by establishing License Exception TAPS authorizing such exports with certain conditions. The License Exception TAPS was based on: 1) Public Law 104-58, which permits the export of crude oil transported by pipeline over right-of-way granted pursuant to Section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS); 2) the President's April 28, 1996, determination that such exports are in the national interest; and 3) the President's direction to the Secretary of Commerce to issue a license exception with conditions for the export of TAPS crude oil. During FY 2000, U.S. firms exported 10 cargoes of ANS crude oil totaling approximately 10.9 million barrels (29,900 B/D), pursuant to license exception TAPS. These exports to Japan, China, South Korea, and Singapore had a market value of \$232 million.

Crude Oil from Cook Inlet: The Department authorizes the export of crude oil derived from state-owned submerged lands in Alaska's Cook Inlet under an individual validated license unless the oil has been or will be transported by a pipeline over a Federal right-of-way granted pursuant to the Mineral Leasing Act or the Trans-Alaska Pipeline Authorization Act. In FY 2000, there was no activity under this program.

Wood Products

BXA administers short supply export controls on Western Red Cedar, as mandated by Section 7(i) of the Act. BXA also administers the ban on exports of unprocessed timber originating from public lands in all or parts of 17 Western states pursuant to FRCSRA.

Western Red Cedar: Section 7(i) of the Act prohibits the export of unprocessed Western Red Cedar (WRC) harvested from state or Federal lands. This prohibition applies to those contracts entered into after September 30, 1979. However, exports of unprocessed WRC harvested from state or Federal lands under contracts entered into before October 1, 1979, are permitted under an export license. During FY 2000, BXA did not issue any export licenses for WRC.

FRCSRA: Under FRCSRA, the Department of Commerce is responsible for administering the ban on the export of unprocessed timber originating from public lands in 17 Western continental states, (or in the alternative, the affected states can request the Secretary of Commerce to authorize them to administer their own programs.) The last log export order remaining in effect was issued under Title VI of the Department of the Interior and Related Agencies Appropriations Act of 1998 (Public Law 105-83), which required the Secretary of Commerce to make permanent the total prohibition on the export of unprocessed timber from public (state) lands contained in the FRCSRA. Specifically, Public Law 105-83 prohibits the export of unprocessed timber originating from state lands in states west of the 100th meridian in the contiguous 48 states with more than 400 million board feet of annual sales volume of such timber. As the Secretary of Commerce has delegated the authority for carrying out the policies and programs necessary to administer laws regarding the control of U.S. exports to the Under Secretary of BXA, the Under Secretary issued the order required under PL 105-83 on January 9, 1998. The practical effect of the order is to make permanent the ban on the export of unprocessed timber originating from Washington state public lands. This order remained in effect during FY 2000.

Note

In April of 2002 the Bureau of Export Administration (BXA) changed its name to the Bureau of Industry and Security(BIS). For historical purposes we have not changed the references to BXA in the legacy documents found in the Archived Press and Public Information.

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BIS Annual Report [Formerly the Bureau of Export Administration]

Office of Strategic Industries and Economic Security

BXA's Office of Strategic Industries and Economic Security (SIES) plays a leadership role in a wide range of issues that relate to both the national and economic security of the United States. SIES is the focal point within the Department of Commerce for issues related to the competitiveness of the U.S. defense industrial base. Its efforts include assisting American companies to diversify their product lines, adding commercial production and markets to their defense-related business; promoting the sale of U.S. weapons systems to our allies; analyzing the impact of export controls on key industrial sectors; and conducting primary research and analysis on critical technologies and defense-related sectors. The office has two divisions: the Defense Programs Division and the Strategic Analysis Division. SIES also provides staff support for BXA's Technical Advisory Committees. For a detailed description of the office programs and functions, consult the [SIES web site](#).

Analytic Support Activities

During fiscal year 2000, SIES continued to provide research and analytic support to other BXA offices and BXA management on a variety of export control-related issues. For example, SIES prepared a thorough analysis of the nuclear heavy water industry worldwide in support of an export licensing decision. In addition, SIES completed an evaluation of the reasons behind the decline since the early 1990s in the number of suppliers to manufacturers of precursor chemicals for chemical and biological weapons.

Committee on National Security

SIES provides staff support to the Under Secretary for Export Administration in his role as a member of the interagency Committee on National Security (CNS). The CNS advises and assists the White House National Science and Technology Council on increasing the overall effectiveness and productivity of our national security efforts, specifically focusing on critical infrastructure protection research and development, international technology transfer, nonproliferation, and arms control. SIES serves as primary liaison to one of the several CNS working groups, the International Technology Transfer Working Group (ITTTWG). SIES also brings the Commerce Department perspective to the larger interagency review of science and technology expenditures. This review seeks to ensure U.S. national security while meeting the policy challenge of strengthening economic security.

In fiscal year 2000, BXA prepared two case studies concerning international aspects of federal laboratory technology transfer, and coproduction of the M109 howitzer gun. The purpose of these case studies is to examine the government interagency process and to consider the immediate and long-term implications of globalization and international transfers of technology. These studies permit the CNS to concentrate on the lessons learned in the decision making processes and then develop a mechanism to evaluate individual technology transfer cases as they develop.

During fiscal year 2001, SIES will continue its important role in providing economic and industrial considerations to the only interagency forum that works to increase the overall effectiveness and productivity of federal efforts in areas of international technology transfer, nonproliferation and arms control.

Defense Memoranda of Understanding

SIES reviews the Department of Defense's (DOD) proposed Memoranda of Understanding and other types of international agreements for commercial implications and potential effects on the international competitive position of U.S. industry in accordance with the provisions of title 10 U.S.C. 2531 (2000), which addresses defense memoranda of understanding and related agreements. These domestic and international agreements provide the framework for research and development cooperation and cooperative production between the United States and other countries.

In fiscal year 2000, SIES reviewed 126 proposed international agreements with 39 countries. Since 1990, SIES has reviewed more than 970 proposed agreements. SIES has developed a comprehensive database of proposed agreements, and in fiscal year 2001 will complete a multi-year study reviewing the technology transfer implications of these agreements.

During fiscal year 2000, SIES agreed on a Statement of Principles with the Department of Defense to more precisely explain the interagency coordination process for DOD's international cooperative agreements. This statement provides sound guidance to harmonize the promotion of American economic and security interests, while also supporting the goal of fostering defense cooperation with our allies.

SIES also continued to serve on the interagency team overseeing Japan's development and production of the FS-X/F-2 weapon system (derived under a licensing agreement from the U.S. F-16). Each phase of the program is governed by the terms of a separate MOU. SIES represents U.S. industry interests in the ongoing U.S. and Japanese government discussions regarding the implementation of the MOUs and adherence to their provisions.

Defense Priorities and Allocations System

Under Title I of the Defense Production Act (DPA), the President is authorized to require the preferential acceptance and performance of defense contracts or orders over other contracts or orders to meet approved defense and energy program requirements and to allocate materials, facilities, and services as needed to meet those requirements. Authority for establishing priorities and allocations of industrial resources under the Defense Priorities and Allocations System (DPAS) is delegated to the Department of Commerce and, within Commerce, to SIES.

In fiscal year 2000, SIES staff continued to work closely with Boeing, a key Boeing subcontractor, and that subcontractor's lower tier suppliers of electronic components to ensure the timely delivery to the U.S. Air Force of the Joint Direct Attack Munition (JDAM). This was a high priority activity to replenish stocks of the weapon used during the 1999 coalition action in Serbia and Kosovo. SIES staff also worked on behalf of another Boeing subcontractor with the Department of State to expedite resolution of a defense export license violation that threatened to cause JDAM production delays. In another critical matter, SIES staff worked closely with Department of Defense officials and two U.S. companies to maintain domestic production capacity of active matrix liquid crystal displays (AMLCD) used in combat aircraft, such as the AH-64 Apache Longbow helicopter, the F-15, F-16, F-18, F-22, V-22 aircraft, and in the President's Air Force 1.

SIES staff continued to ensure timely U.S. industrial base support for NATO's ongoing peacekeeping effort in Bosnia and the deployment of troops from the U.S. and other Alliance nations, as well as helping to meet Allied nation defense requirements. Items at issue included engine seals and gears for the U.K. CH-47 Chinook helicopters and SATCOM radio equipment for deployed U.K. forces; communication equipment, including encryption modules, electronic components, and positional beacons, for deployed U.S. forces; transponders for U.K. Apache

Longbow, and U.K. and Canadian EH-101 helicopters; and Hellfire missile launchers for the U.K. Apache Longbow helicopter.

SIES staff also continued to work with representatives to the NATO Industrial Planning Committee to implement a North Atlantic Council recommendation to Alliance nation members concerning implementation of multilateral Alliance-wide "security of supply" (priorities and allocations) plans and procedures. This effort will help ensure international industrial base defense cooperation in the event of future NATO defense emergencies. Other international efforts included working with Department of Defense officials to implement a bilateral agreement on security of supply with the U.K. Ministry of Defense and U.K. defense industry.

The DPAS handbook, which contains the recently revised DPAS regulation (15 CFR Part 700, 1999), statutory authority, and a series of questions and answers about the DPAS, continues to be readily accessible in hard copy, or electronically from the BXA web site. Presentation files on DPAS for use by public or private sector individuals in giving DPAS training are also available electronically.

Defense Trade Advocacy

SIES is the lead organization in the Department on international defense trade advocacy issues. The Department will consider formally supporting a conventional arms transfer if the transfer is in the economic interests of the United States, and after the U.S. Government determines that the transfer will further U.S. national security and foreign policy objectives.

In fiscal year 2000, SIES defense advocacy efforts supported sales of approximately \$800 million, which comprised of the sale of the AEGIS system to the Norwegian Navy. SIES worked with the U.S. Commercial Service to develop the first trade mission for the U.S. defense industry to Belgium, Netherlands and Luxembourg. In addition, SIES assisted in the creation of the France - U.S. Defense Industry Business Forum, an event that brought small and medium-sized U.S. and French firms together in an effort to facilitate transatlantic industrial links. During fiscal year 2001, SIES will continue outreach activities at major defense-related trade shows in an effort to increase awareness among small and medium-sized U.S. defense firms of the important advocacy role that SIES and the Department play in this highly competitive industry sector.

Diversification Programs

SIES's capabilities and effectiveness are enhanced through partnerships with a wide range of defense and civilian federal agencies. Through an alliance with the Federal Laboratory Consortium, which represents more than 700 federal labs nationwide, the competitive enhancement and defense diversification needs of small and medium-sized businesses are matched with federal resources. A unique partnership between SIES, the Navy Department, and the University of Maryland promotes the sharing of exceptional manufacturing practices being used in industry, government, and academia. The goal of this partnership program is to provide low cost opportunities to small businesses to help them achieve competitiveness in manufacturing.

Federal Resource Access Partnership (FRAP) Needs Assessment Survey

In keeping with its mission, SIES continually works with small- and medium-sized businesses nationwide to help them gain access to government resources that could improve their competitiveness. SIES has formed a partnership with the Federal Laboratory Consortium (FLC) to assist businesses in the United States. SIES collects information about each company through a Needs Assessment Survey. The survey asks a wide variety of questions, designed to determine what kind of assistance would be most useful to the respondents. Topics covered in the survey

include manufacturing technology deployment, product/service development, research and development programs, and exporting.

During fiscal year 2000 SIES received more than 100 completed surveys from companies located in the western United States. After analyzing the surveys, SIES forwards report summaries to twelve government response team members who will provide those businesses with assistance designed to help them maintain competitiveness in the marketplace. The response team includes the Commerce Department, the 700 laboratories that are part of the FLC, the Department of Labor, and the Small Business Administration. SIES has formed a partnership with the California Small Business Development Centers to serve more firms in the western region. In addition, preliminary discussions with the Small Business and Technology Development Center in North Carolina were held to initiate a pilot program to expand activities to reach businesses throughout North Carolina and other eastern coastal states.

Best Manufacturing Practices Program Partnership

SIES continues to be a contributing partner to the U.S. Navy's Best Manufacturing Practices (BMP) Program, which identifies, documents, and disseminates best practices through paper reports and the Internet. BMP also provides software tools to companies that mitigate risk in engineering and production programs. SIES is encouraging the BMP Program to include more small- and medium-sized companies in its activities in the coming years. SIES promotes the BMP Program to members of the U.S. industrial base and the federal government through private meetings and industry shows.

In addition to its promotion of the BMP Program in the United States, SIES helped the BMP Program expand its reach by meeting with Australian defense officials to promote establishing a similar program in Australia. This initiative was in response to the United States Department of Defense and Australian Department of Defense Statement of Principles for Enhanced Cooperation in Matters of Defense Equipment and Industry, which was signed in the summer of 2000. A Memorandum of Understanding regarding an Australian version of the BMP Program between the Departments of Commerce and Navy and the Australian government is expected later in fiscal year 2001.

Emergency Preparedness

SIES's National Security Emergency Preparedness (NSEP) program is the Department's focal point to ensure that the Nation's industrial/technology base can respond effectively to the requirements of national emergencies. Accordingly, during fiscal year 2000, SIES staff participated in several interagency NSEP activities such as planning for, and U.S. civil agency involvement in, the NATO CMX-2000 mobilization exercise, and planning for and Department of Commerce involvement in the joint U.S. military-civilian Positive Force 01 exercise to be held in April 2001. NSEP efforts in the first quarter of fiscal year 2000 also included working closely with representatives of the President's Council on Y2K and the Department's Critical Infrastructure Assurance Office to ensure industrial base responsiveness to a catastrophic Y2K emergency. Commerce continues to be the lead Federal agency responsible for industrial emergency preparedness planning and implementation of a variety of NSEP programs, and SIES continues to be a major interagency contributor to ongoing reviews and assessments of the industrial/technology base.

Excess Defense Articles

SIES reviews the proposed transfer of defense equipment to foreign buyers as Excess Defense Articles (EDA) to ensure that any proposed transfer does not interfere with ongoing sales or marketing by the U.S. defense industry. SIES reviewed 149 proposed EDA transfers in fiscal year

2000, valued at \$315.3 million. SIES determines whether the transfer will have an adverse impact on the defense industrial base and, if so, can recommend to the Department of Defense that the transfer not be made.

Foreign Investment

Section 5021, the "Exon-Florio" provision, of the Omnibus Trade and Competitiveness Act of 1988 (which amended Section 721 of the Defense Production Act of 1950) provides authority for the President to review the effects on national security of certain mergers, acquisitions, and takeovers of U.S. companies by foreign interests. The interagency Committee on Foreign Investment in the United States (CFIUS) and the Department of The Treasury have authority to implement the law in consultation with other CFIUS members. SIES represents BXA on the CFIUS.

SIES conducts Exon-Florio national security reviews in coordination with other relevant offices within the Department. In fiscal year 2000, the Department reviewed 76 investment notifications; one case went to the 45-day investigation period. SIES, as a participant in CFIUS, works to ensure that the U.S. defense industrial base will not be compromised by foreign acquisitions. This is consistent both with the confines of the law and the Administration's open investment policy.

Impact of Imports

At the request of industry, Congress, and other agencies, SIES conducts investigations of the effects of imports on national security. These studies conducted under the authority of Section 232 of the Trade Expansion Act of 1962, provide recommendations to the President, who may, if necessary, use Section 232 authorities to adjust imports. During fiscal year 1999, the Department of Commerce initiated an investigation of the impact of imports on crude oil and refined petroleum products. The Department self-initiated this investigation because of strong Congressional interest on the impact that oil import levels have on the financial viability of non-integrated independent producers. These producers allege that growing imports of oil at below market prices threaten to force them out of business, resulting in lower U.S. domestic production and higher levels of imports from unreliable suppliers. The final report was released in fiscal year 2000.

Industry Assessments

SIES conducts primary market research and analysis on critical technology developments and industrial base capabilities of key sectors of the economy. The office uses industry-specific surveys to provide essential data. The final reports provide recommendations to government policy makers and industry leaders. The studies are conducted in cooperation with experts from the private sector and other government agencies. The result of this collaboration is detailed data that are unavailable from other sources. The goal is to maintain and enhance economic security and to enable the private sector to monitor trends in their respective sectors. Customers for these reports include the Armed Services, Congress, and industry associations.

National Security Assessment of the U.S. Maritime Industry

SIES is conducting a national security assessment of the U.S. maritime industry in partnership with the U.S. Navy's Naval Surface Warfare Center, Carderock, Maryland and other public and private entities. The study is being conducted to identify opportunities for increased sharing of maritime technologies between public and private entities and to expand the use of public maritime capabilities in order to increase private industry competitiveness. This will require SIES to conduct several maritime sub-sector surveys as part of the assessment. The first of the

surveys was sent to approximately 330 companies in the shipbuilding and repair industry during fiscal year 2000. Subsequently, three additional surveys were sent to approximately 800 companies and academic institutions; two surveys were used to collect information on research and development, and the third was sent to major subcontractors to the shipbuilding sector. The first in a series of reports, a National Security Assessment of the Shipbuilding and Repair Industry, is anticipated for public release early in fiscal year 2001.

CAD/PAD Follow-on Study

A follow-on national security assessment of the U.S. cartridge and propellant actuated device (CAD/PAD) industry for the Navy Department is near completion. CAD/PADs (small energetic devices) are vital to many weapons systems such as aircraft anti-missile defense and pilot and aircrew ejection seats. The request was made by the Indian Head Division of the Naval Surface Weapons Center in view of the decline in combat aircraft production and the overall reduction in defense procurement. The assessment will reevaluate the health and competitiveness of the industry and recommend appropriate actions that can be taken to assure its long-term ability to support defense needs. SIES conducted the original assessment in 1995.

Survey data collected from 35 CAD/Pad firms located throughout the U.S. revealed several positive trends indicating a relatively strong industry. Since the initial study was published in October 1995, shipments of automobile airbag initiators and inflators were up an average of 38 percent per year (\$25 million to 339 million) for the five-year period 1991-1995. This evidence of commercial diversification reveals an added source of revenue apart from defense contracts.

CAD/PAD shipments have increased 36% since 1995; employment is also up 13% in the same time period, including manufacturing as well as management and technical workers. New investments in plant, machining and equipment are strong with \$ 45 million invested in the last five years. CAD/PAD research and development, was also a strong industry indicator, with \$40 million in defense and commercial. The final report with complete findings and recommendations will be delivered to the Navy Department by December 2000.

High-Performance Explosives and Explosive Components

In June 1997, the U.S. Navy's Naval Surface Warfare Center, Indian Head Division requested that SIES conduct a study of the U.S. high performance explosive and explosive component (HPE and HPE component) industry. This request followed the 1995 publication of a cartridge- and propellant-actuated device industry assessment, which was also conducted for the Navy.

The Naval Surface Warfare Center requested the study because of significant declines in the budget for military grade explosives and explosive components. According to the Department of Defense, procurement spending for munitions fell 81 percent from its high point in 1986 to its low point in 1998. In addition, research and development funding has fallen significantly since the mid 1980s and is projected to continue falling to the year 2005.

As a result, the number of firms in the industry has decreased due to firms leaving the field and through mergers and consolidations. Many within the HPE and HPE component industry are concerned that industry contraction will cause a loss of critical skills within the remaining organizations.

In early fiscal year 2001, SIES completed a draft report that included data from 33 organizations competing in the HPE and HPE component industry. The final report for the Navy is expected in December 2000.

Assistive Technologies

This technology study, initiated in late fiscal year 1998, is an outgrowth of previous cooperative efforts between SIES and other agencies and associations in our defense diversification efforts. SIES initiated this study at the request of the Department of Education National Institute on Disability and Rehabilitation Research and the Federal Laboratory Consortium. Assistive technology devices enable persons with disabilities to function more fully in the workplace and in society as a whole. The purpose of the study is to identify the industry's technology needs and match these with the defense-related technologies that are available in federal laboratories. An industry-unique survey was mailed to more than 1,700 firms in the industry; the results will be used to make such matches. This effort is expected to be completed in early fiscal year 2001.

International Diversification and Defense Market Assessments

SIES developed its Diversification and Defense Market Assessments program to assist small and medium-sized U.S. companies in their efforts to diversify and/or expand into overseas commercial and defense markets. This program is structured to provide market information for dual-use and defense products and is implemented through publication of a series of international diversification and defense market assessment guides. These guides provide information to U.S. manufacturers regarding dual-use and defense markets in specific regions: Europe; the Middle East; the Pacific Rim; and the Western Hemisphere. Each chapter within the guides provides comprehensive information on how to do business in a specific country. This information includes details on specific upcoming commercial and defense trade opportunities open to U.S. firms in these markets, as well as a listing of key points of contact, both in the United States and in the host country, who can provide additional information and assistance to U.S. firms.

In fiscal year 2000, BXA added the existing defense market assessment guides to BXA's Web site in an effort to increase access by small and medium-sized companies. Updates of all the editions, including the Middle East and Western Hemisphere Guides, are underway and will be completed in late fiscal year 2001. These guides are also available in printed format.

National Defense Stockpile

SIES staff, on behalf of the Department of Commerce, and the Department of State are statutory co-chairs the Interagency National Defense Stockpile Market Impact Committee (MIC) which provides expert interagency advice to the Department of Defense (DOD) on Stockpile acquisitions and disposals. The MIC is responsible for helping DOD avoid undue market impact and protecting the government from avoidable loss. In fiscal year 2000, the MIC continued to monitor closely the price fluctuations in several major commodity markets and has encouraged DOD to limit proposed stockpile sales of these commodities where undue market impact appeared probable. The MIC also supported DOD increases in proposed stockpile sale quantities to take advantage of high prices and favorable market conditions in other major commodity markets.

NATO Industrial Planning Committee

During fiscal year 2000, SIES continued to represent the United States on the NATO Industrial Planning Committee (IPC) which is responsible for coordinating industrial preparedness planning among the NATO allies for both NATO military defense and civil emergency preparedness response. SIES plays a leading role in the IPC's industrial analysis subgroup, which has been focusing on defense industry consolidation within the NATO Alliance nations and improvements in international industrial emergency supply protocols.

In fiscal year 2001, SIES will continue its leadership role in moving the Security of Supply effort forward through the NATO system. The Security of Supply initiative is based on the U.S. Defense Priorities and Allocation System (DPAS) which would ensure supply of critical components to NATO forces during a coalition action.

Offsets in Defense Trade

SIES is responsible for preparing an annual report on Offsets in Defense Trade report to the Congress under authority of section 309 of the Defense Production Act of 1950, as amended. Offsets are mandatory compensation required by foreign governments when purchasing U.S. defense systems; they include technology transfer, licensing coproduction agreements, and counter trade. In this report, SIES assesses the impact of offsets on the U.S. defense industrial base, in particular small- and medium-sized subcontractors. SIES will submit its fifth report to Congress in early fiscal year 2001.

For the second time, SIES raised offsets as a trade concern in the U.S. Trade Representative's (USTR) Title VII Report on Unfair Foreign Government Procurement Practices. The report alerted governments around the world that the United States is seeking a way to conduct defense trade without offsets.

In the last fiscal year, SIES improved upon the steps taken in fiscal year 1999 in the area of international consultations. SIES participates in a Department of Defense-led Interagency Offsets Working Group. The Group has continued negotiations on both a multilateral and bilateral basis. Important steps have been taken to address the issue with our European allies, since they are our largest defense trade partners and demand the highest offsets. The Group sent letters to all countries with which the United States has a memorandum of understanding, inviting these nations to meet with us to discuss possibilities for eliminating barriers to trade, including offsets. The Group met with representatives of the British, Canadian, Dutch, French, and Spanish governments, both to gain their perspective on offsets and to discuss the cost to governments of requiring and administering offset programs. The Group also published a notice in the Federal Register requesting input from all interested parties on the prevalence and impacts of defense offsets on the nation's economy and competitiveness; this information will be incorporated into a negotiating strategy for upcoming discussions.

Technical Advisory Committees

The Department of Commerce charters Technical Advisory Committees (TACs) to provide advice and assistance from U.S. industry regarding the formulation and implementation of export control policy. SIES manages the TACs. The TACs advise the Department of Commerce on proposed revisions to the U.S. and international export control lists, on worldwide availability and use of production technology, and on export control regulations and procedures. The Committees serve as a valuable source of information and advice on regulatory and policy matters.

Fiscal Year 2000 TAC Activities

The Information Systems Technical Advisory Committee (ISTAC) addressed issues relating to Control List Categories 3 (semiconductor section), 4, and 5. The ISTAC submitted a detailed proposal regarding the technical parameters for computer processing speed. It also prepared a paper that served as an initial examination of a paradigm shift for computer architectures.

The ISTAC prepared a draft proposal for an alternative to calculating Composite Theoretical Performance (CTP). The Committee also forwarded a proposal for control of low-power microprocessors that took into account mass-market controllability.

The Materials Technical Advisory Committee (MTAC) addressed export control issues regarding Control List Category 1. The Committee indicated that it favored adoption of the definition for the term "specially designed" currently in use by the Missile Technology Control Regime. The MTAC provided advice to the Chemical/Biological Controls Division of the Office of Nonproliferation Controls and Treaty Compliance on U.S. control proposals that were subsequently presented at the Plenary of the Australia Group. The Committee studied the capabilities and control status of downgraded prepreg machines, which are used in shaping composite materials.

The Materials Processing Equipment Technical Advisory Committee (MPETAC) made recommendations regarding current parameters for Control List Category 2. The MPETAC refined its "Reference Guide for Category 2 Machine Tools," a spreadsheet providing Commerce Control List paragraph references for each type of machine tool on the List. The MPETAC examined all entries in Category 2 using the term "specially designed." After reviewing the entries, the Committee recommended adoption of the Missile Technology Control Regime definition for the term.

The Regulations and Procedures Technical Advisory Committee (RPTAC) continued to advise the Department on policies and procedures pertaining to the Export Administration Regulations.

The Committee made recommendations on a wide range of issues, including the following: the Exporter of Record, deemed exports, license processing, compliance and enforcement, high performance computers and microprocessors, and implementation of the Wassenaar Arrangement.

The Sensors and Instrumentation Technical Advisory Committee (SITAC) advised the Department regarding commodities and data within Control List Category 3 (instrumentation section) and Category 6. In response to a request from a manufacturer of commercial underwater cameras, the SITAC agreed to investigate revisions to the Commerce Control List entry for that commodity. The SITAC continued its review of regulatory terms within the Export Administration Regulations and the Wassenaar Arrangement. It supported adoption of the Missile Technology Control Regime definition for "specially designed." The SITAC relayed to the Department the commercial implications of any changes to the commodity jurisdiction of night vision equipment.

The Transportation and Related Equipment Technical Advisory Committee (TransTAC) advised the Department on commodities and technical data within Control List Categories 7, 8, and 9. The TransTAC focused on changes to the listings for coatings, propulsion, and inertial equipment items that would correspond to changes in the Wassenaar Arrangement and the Missile Technology Control Regime. The TransTAC defined characteristics of concern for microelectromechanical systems (MEMS)-based angular accelerometers, supporting a control proposal for that item. The control was later adopted by the Wassenaar Arrangement.

Note

In April of 2002 the Bureau of Export Administration (BXA) changed its name to the Bureau of Industry and Security (BIS). For historical purposes we have not changed the references to BXA in the legacy documents found in the Archived Press and Public Information.

BIS Annual Report [Formerly the Bureau of Export Administration]

Export Enforcement

In FY 2000, BXA's Office of Export Enforcement (OEE) and the Office of Enforcement Analysis (OEA) continued their programs to prevent and investigate dual-use export control violations and thereby protect important national security and foreign policy interests safeguarded by the Export Administration Act (EAA) and Export Administration Regulations (EAR). Additionally, Export Enforcement's Office of Antiboycott Compliance continued to administer and implement the antiboycott policy and program articulated in Section 8 of the EAA.



BXA's Export Enforcement arm has 162 trained professionals, including 104 special agents, who enforce the EAA and the EAR, the Fastener Quality Act, and the Chemical Weapons Convention Implementation Act. Export Enforcement educates exporters, interdicts illegal exports, and prosecutes violators. Working closely with BXA's licensing officers and policy staff, BXA's export law enforcement officers apply their special skills and understanding of the export control system to minimize exports of potentially damaging dual use items to unreliable users.

When there is reason to believe that the EAA or EAR have been violated, Export Enforcement's special agents and compliance officers investigate and recommend the initiation of appropriate charges. During FY 2000, \$1,107,500 in civil penalties and \$689,300 in criminal fines were imposed for export control violations of the EAA and EAR. A total of \$164,000 in civil penalties for antiboycott violations of the EAA and EAR was imposed.

Export Control Enforcement

The Office of Export Enforcement (OEE) is headquartered in Washington, D.C. Its Investigations Division has eight field offices, located in Los Angeles; San Jose; Chicago; Dallas; Miami; Boston; New York; and Herndon, Virginia. Special agents are empowered to make arrests, carry firearms, execute search warrants, issue subpoenas, and seize items about to be illegally exported.

OEE's Intelligence and Field Support Division, located at headquarters, is staffed by special agents and analysts. This staff serves as a conduit between the intelligence community and OEE's field offices.

OEA assists OEE's field offices and BXA's licensing offices by receiving and disseminating export control-related information. OEA also makes recommendations to BXA's licensing officers concerning pending license applications based on intelligence and investigative information.

OEE and OEA routinely review all incoming license applications. During FY00, BXA enforcement personnel examined 6,118 export license applications in considerable detail to assess diversion risks, identify potential violations, and determine the reliability of proposed consignees as recipients of controlled U.S.-origin items. Based on this review, EE recommended that 148 license applications either be rejected or returned without action because of diversion risks or other enforcement concerns. Together, these applications represented \$86,888,379 in potential illegal trade.

In addition, as part of BXA's ongoing responsibility for preventing illegal exports before they occur, 281 pre-license checks (PLCs) were completed in FY00, and enforcement staff recommended that 32 license applications be rejected or returned without action. Together,

these applications represented \$14,434,832 of trade in situations in which violations of the EAA and EAR may have occurred had the transactions been completed. As a result of unfavorable PLC replies, eleven referrals were forwarded to OEE's field offices for further investigation.

Post-shipment verifications (PSVs) are performed to ensure that the commodities exported under certain export license authorizations are in fact received at the location designated on the export license and are being used in accordance with the stated and authorized end-use and in compliance with imposed license conditions. In 2000, EE agents conducted 684 PSVs. Four hundred seventy three of these were conducted by OEE special agents as part of the Safeguards program, while the other 211 were conducted by Foreign Commercial Service or other personnel assigned by American embassies. Forty-five PSVs produced information that required further enforcement action such as the initiation of investigations, license application screening, and license revocations.

During FY 2000, OEE conducted numerous investigations, some of which led to both criminal and administrative sanctions. It also issued 192 warning letters in cases of minor violations, informing the recipients that OEE had reason to believe they had violated the EAR, and that increased compliance efforts were warranted.

Export Enforcement Initiatives

Chemical Weapons Convention<

Under the Chemical Weapons Convention (CWC) Implementation Act of 1998, certain commercial chemical production and processing facilities are required to submit data declarations and to permit international inspections. In preparation for fulfilling its responsibilities under this legislation, OEE participated in host team training for CWC inspections, as well as a mock inspection exercise with BXA's Export Administration and the Office of Chief Counsel for Export Administration at a chemical production and processing facility. OEE worked with the State Department and other government agencies to clarify OEE's enforcement roles under the CWC implementing legislation and regulations.

OEE worked with other BXA offices and Office of Chief Counsel for Export Administration on drafting an administrative warrant to be served on commercial facilities that refuse to grant consent for inspections. OEE also worked with other BXA officials to review inspection reports and declarations for possible record-keeping violations.

National Defense Authorization Act of 1998

The National Defense Authorization Act (NDAA) enacted on November 18, 1997, contains provisions requiring regulation and careful scrutiny of sales of high-performance computers (HPCs) to certain countries of concern. The NDAA requires those who wish to export high-performance computers to these countries to notify the Department at least ten days prior to export. During the ten-day period, relevant Government agencies review the pre-export notification. If any agency has an objection, a license is required. The NDAA also requires the exporters to submit a post-shipment report to the Department, and requires that the Department conduct post-shipment verifications (PSVs) on-site at the end user's location to verify the installation and the end use of each HPC.

EE maintains a high-performance computer division in OEA to coordinate and supervise all enforcement responsibilities under the NDAA. EE conducted the mandated PSVs and submitted the second NDAA Annual Report to the designated Congressional Committees on December 13, 1999. The report examined exports of HPCs to countries of the greatest proliferation concern, and the results of EE's PSVs for the reporting period of November 18, 1998, through November

17, 1999. As part of continuing training for all EE agents, EE also included special training sessions on the NDAA and high-performance computers.

Project Outreach

As part of its public education efforts, OEE special agents participated in numerous seminars and trade shows across the country. They also developed contacts with private sector firms through Project Outreach, a program which provides firms with specific export guidance, gives OEE a better understanding of the private sector's needs, and provides valuable investigative leads. OEE conducted 1,025 Project Outreach visits during the fiscal year.

Safeguards Verification Program

OEE's Safeguards Verification Program was developed in 1990 to ensure the legitimate use of strategic U.S. goods and technology by the newly emerging democracies of Central Europe, traditional points of diversion to the former Soviet Union. OEE's Safeguards Verification Program has expanded worldwide to conduct on-site pre-license and post-shipment checks using Export Enforcement personnel instead of officers from Commerce's U.S. and Foreign Commercial Service. The Safeguards Verification Teams travel overseas to determine the disposition of licensed or otherwise controlled U.S.-origin commodities, particularly those of proliferation concern. These Safeguards Verification Teams also assess the suitability of foreign firms to receive U.S.-origin licensed goods and technology and conduct educational visits to foreign firms, often in cooperation with host government officials.

International Law Enforcement Cooperation

In FY 2000, Export Enforcement (EE) expanded its international cooperative efforts. Working with its BXA and interagency counterparts, EE had a number of significant achievements.

Senior export enforcement officials, including the Assistant Secretary, spent much of the year working with other countries on "best practices" for effective export enforcement. As a result of these efforts, the Wassenaar Arrangement's General Working Group adopted the best practices drafted by EE.

This past year, EE's export control attache at the U.S. Embassy in Beijing conducted numerous post shipment visits in the People's Republic of China. Secretary Mineta made a public announcement when the number of checks reached 100 in September 2000. EE conducted these visits under the End-Use Visit Arrangement, which it successfully negotiated with its counterparts at China's Ministry of Foreign Trade and Economic Cooperation. In addition, EE helped organize the first-ever U.S. - China export control seminar designed for businesses from those two countries, held in October 2000.

EE worked with Hong Kong to increase its cooperation with the United States on enforcement matters. The October 1997 Agreed Minute, signed by Secretary Daley with his Hong Kong counterpart, continued to form the basis for U.S.-Hong Kong export control cooperation. Throughout the year, both in Hong Kong and Washington, officials worked together to ensure that U.S. products destined for Hong Kong were not illegally diverted to China. EE worked with Hong Kong Customs officials on a significant enforcement case -- ASL Limited, involving diversions of high-performance computers to China via Hong Kong.

EE also headed delegations to a number of enforcement seminars and workshops with other countries, including the first export enforcement workshops held with officials in Tashkent,

Uzbekistan and Tblisi, Georgia. These meetings advanced the understanding of those countries of important export enforcement techniques.

EE also participated in U.S. export control seminars and workshops with more than 50 countries in the Newly Independent States (NIS), Central/Eastern Europe, the Baltic States, the Central Asian republics, and all significant countries in Asia. In all of these discussions, EE provided in-depth information on the practical methods to enforce export control laws and regulations.

This past year, EE continued to work with foreign counterparts as part of the DOD-FBI Counter Proliferation Program for Newly Independent States of the former Soviet Union and Central/Eastern European Countries. EE special agents were part of the U.S. government enforcement cadre which provided extensive training to enforcement authorities at the Budapest-based International Law Enforcement Academy.

EE also took part in discussions with the international nonproliferation regimes, including enforcement seminars of the Wassenaar Arrangement and the Missile Technology Control Regime and the plenary sessions of the Nuclear Suppliers Group. EE participated in the February 2000 Asian Export Control Seminar involving 19 Pacific Rim countries and chaired the seminar's enforcement panel.

Throughout the year, EE continued its enforcement assistance to the four nuclear NIS, as well as Baltic, Central European, Central Asian, and Caucasus states. The Assistant Secretary for Export Enforcement and other senior EE officials met with many Central European and NIS export control delegations in Washington, D.C. to provide perspectives on EE's investigative and preventive enforcement techniques.

As a result of these efforts, the governments of these countries have either implemented or initiated export control programs that incorporate effective enforcement concepts, including development of watch lists, end-use checks, a professionally trained investigative force, interagency and international law enforcement cooperation, and use of administrative and criminal sanctions and penalties.

Shipper's Export Declaration Review Program

As the volume of export licenses has decreased, EE has increased the number of Shipper's Export Declarations (SEDs) that it reviews. Under the SED Review Program, on-site reviews of selected SEDs are conducted by OEE Special Agents at U.S. ports. OEE Special Agents review numerous transactions before selecting a smaller target group for closer scrutiny.

A systematic review of SEDs at EE Headquarters is also conducted after shipments have occurred. These reviews focus primarily on licensed and license exception shipments, shipments bound for destinations of concern, and shipments of strategic commodities of proliferation concern. OEA receives microfilm copies of the actual SEDs and a computerized index of key data fields for every SED from the Census Bureau. OEA uses the index to produce a list of SEDs targeted for closer review. Following this review, OEA identifies SEDs that may indicate violations of the EAR and refers them to OEE. Over the past year, OEA referred 115 SEDs to OEE on the basis of these SED reviews.

Visa Application Review Program

EE initiated the Visa Application Review Program in 1990 to prevent unauthorized access to controlled technology or technical data by foreign nationals visiting the United States. Section 734.2(b)(1) of the EAR defines an "export" to include the release of technology or software to a

foreign national in the United States (other than persons lawfully admitted for permanent residence in the United States). A release of technology to a foreign national is deemed to be an export to the home country of that person.

In FY 2000, EE restructured its Visa Application Review Program, developing new criteria and thresholds for evaluating incoming visa applications for targeting purposes. EE has narrowed its focus and is concentrating on specific products most often used in weapons of mass destruction projects. OEA's evaluation and analysis of visa application cable traffic involves preventive enforcement efforts such as recommending denial of certain visas, intelligence gathering, and the referral of enforcement leads to OEE's field offices for possible case development.

During FY 2000, OEA reviewed information on thousands of visa applications to detect and prevent possible EAR violations. Of these, 259 visa applications were referred to OEE's field offices for further investigation. In some instances, OEE special agents uncovered possible visa fraud on the part of the foreign applicant. These findings were forwarded to OEA and submitted to the State Department's Visa Fraud Unit for further investigation and action.

Significant Commerce Export Enforcement Cases

Macosia International Denied Export Privileges

On November 29, 1999, Commerce Department's Under Secretary for Export Administration issued an order affirming the recommended decision of the administrative law judge (ALJ) that imposed a seven-year denial of all export privileges against Macosia International, of Laredo, Texas. The ALJ found that Macosia had exported handcuffs and leg irons to Mexico without obtaining the validated export license required by the EAR. The investigation was conducted by OEE's Boston Field Office.

Lafayette Instrument Company, Inc. Penalized \$10,000 to Settle Charges for Illegal Exports to the People's Republic of China

On December 8, 1999, the Commerce Department imposed a \$10,000 civil penalty on Lafayette Instrument Company, Inc. (Lafayette), of Lafayette, Indiana, to settle allegations that it violated the terms of an export license. The Department alleged that, Lafayette, as licensee on a validated license, which authorized the export of U.S.-origin Factfinder polygraph machines to Hong Kong, but which prohibited the resale, transfer, or reexport of the polygraph machines without prior authorization from the U.S. Government, was responsible for contravention of the license provisions because the polygraph machines were transferred or reexported from Hong Kong to the People's Republic of China. The investigation was conducted by OEE's Chicago Field Office.

Gold Valley Technology Company Penalized \$20,000 for Illegal Export to the People's Republic of China

On December 21, 1999, the Commerce Department imposed a \$20,000 civil penalty on Gold Valley Technology Company (Gold Valley) to settle allegations that it violated a term of an export license involving a shipment of computers to the People's Republic of China. The Department alleged that, in September 1993, Gold Valley, located in Hong Kong, arranged for a shipment of computers to the People's Republic of China although it knew or had reason to know that it would violate a condition on the validated BXA license issued for the export. A portion of the penalty, \$10,000, will be suspended for one year, then waived provided that as Gold Valley commits no violations during that time. The investigation was conducted by OEE's Herndon Field Office.

Two Hong Kong Companies and a New Jersey Company Penalized to Settle Charges of Export Violations

On December 22, 1999, the Department of Commerce imposed a \$174,000 civil penalty and a five-year period of denial of export privileges on Hua Ko Electronics Co., Ltd., a Hong Kong company which had been denied export privileges, for ordering and receiving U.S.-origin goods in violation of its denial order. The Department alleged that, Hua Ko Electronics, a company denied all U.S. export privileges by Order dated November 29, 1989, ordered and received commodities exported from the United States, contrary to the terms of the Order. A portion of the civil penalty, \$87,000, and the five-year denial period, will be suspended for five years, then waived provided that Hua Ko Electronics commits no violations of the EAR during the suspension period.

In a related matter, on the same date, the Department imposed a \$38,500 civil penalty on Nanshing Color & Chemical Co., Ltd., also a Hong Kong company, for transferring U.S.-origin goods to Hua Ko Electronics Co. Ltd. The lesser civil penalty imposed was due in large part to Nanshing's cooperation in the investigation. A third company, General Chemical Corporation, of New Jersey, agreed to a \$77,000 civil penalty to settle allegations that it exported U.S.-origin goods to Nanshing while knowing or having reason to know that Nanshing would transfer the goods to Hua Ko Electronics Co. Ltd. The investigation was conducted by OEE's Herndon Field Office.

Houghton International, Inc. Penalized \$150,000 to Settle Charges of Unlawful Exports of Chemicals

On February 28, 2000, the Commerce Department imposed a \$150,000 civil penalty on Houghton International, Inc., of Valley Forge, Pennsylvania, to settle allegations that the company illegally exported chemicals in violation of the EAR. The Department alleged that, on 20 separate occasions between August 1994 and August 1996, Houghton International, Inc. a manufacturer of specialty chemical products, exported chemicals to South Korea without the required export licenses. The investigation was conducted by OEE's New York Field Office.

Bayer Corporation Penalized \$200,000 to Settle Charges for Unlicensed Exports

On March 1, 2000, the Commerce Department imposed a \$200,000 civil penalty on Bayer Corporation, of Tarrytown, New York, to settle allegations that the company's Diagnostics Division exported U.S.-origin glucose and other reagents to various destinations. The Department alleged that, on 57 occasions between October 1994 and January 1997, Bayer Corporation exported glucose and other reagents from the United States to Hong Kong, Malaysia, Mexico, Singapore, South Africa, South Korea, and Taiwan, without obtaining the required export licenses. The Department also alleged that Bayer made false or misleading representations of material fact on an export control document. The U.S. government controls glucose and other reagents because of concerns that they may be used for chemical or biological weapons. The investigation was conducted by OEE's Herndon Field Office.

Ronald O. Brown Penalized to Settle Charges of Unlawful Exports to Russia

On March 2, 2000, the Department of Commerce imposed an \$18,000 civil penalty and a three-year denial of export privileges on Ronald O. Brown, of Seattle, Washington, in connection with the unauthorized exports and attempted export of U.S.-origin shotguns to Russia. The Department alleged that Brown, individually and formerly doing business as Mirazh Limited, aided and abetted, on six occasions in 1994, in the export of shotguns to Russia without obtaining the required export licenses. The Department also alleged that Brown aided and abetted in the attempted export of one shotgun to Russia and, on two occasions, made false and

misleading statements of material fact to a federal government agency. A portion of the civil penalty, \$9,000, and the three-year denial period, will be suspended for three years, then waived provided that Brown commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's San Jose Field Office.

LTX Corporation Penalized \$15,000 for Allegedly Exporting to a Denied Person

On March 8, 2000, the Commerce Department imposed a \$15,000 civil penalty on LTX Corporation, of Westwood, Massachusetts, to settle alleged violations of the EAR. The Department alleged that, in two separate shipments, one in 1995 and the other in 1996, LTX Corporation exported semiconductor test equipment to a Denied Person, Realtek Semiconductor Co., Ltd., Taipei, Taiwan, in violation of the EAR. Denied Persons are specific individuals or businesses that are prohibited from exporting or receiving exports of U.S.-origin goods. The investigation was conducted by OEE's Boston Field Office.

Guilty Plea for Illegal Exports to Libya and Sudan

On March 9, 2000, International High Tech Marketing (IHTM), a Miami-based computer exporting company, pled guilty in the U.S. District Court, Southern District of Florida, Miami Division, to a criminal information charging the firm with five counts of violating IEEPA. The charges related to the illegal export of U.S.-origin computer equipment to Libya and Sudan, and making unlawful misrepresentations on export documents. The Court ordered the firm to pay a \$250,000 criminal fine. The criminal information charged IHTM, a wholly-owned subsidiary of CHS Electronics, Inc., with two felony counts for illegally exporting computers and related items to Libya and Sudan, and three felony counts charging that the firm under-declared the value of export shipments thereby evading reporting requirements to the U.S. Government. The investigation was conducted by OEE's Miami Field Office.

California Freight Forwarder Penalized \$20,000 to Settle Charges of Illegal Exports to the People's Republic of China

On March 20, 2000, the Commerce Department imposed a \$20,000 civil penalty on U-Freight, Inc., a freight forwarder in South San Francisco, California, to settle allegations that the company arranged for a shipment of computers to the People's Republic of China (PRC), in violation of a condition on the Commerce export license. The Department alleged that, in September 1993,

U-Freight arranged for a shipment of Sun Microsystems computers to the PRC when it knew or had reason to know that the shipment was contrary to a condition on the export license. A portion of the penalty, \$10,000, will be suspended for one year, then waived provided that U-Freight commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's Herndon Field Office.

Haneflex Sales and Services Ltd, Penalized \$20,000 to Settle Charges of Illegal Transfer

On April 11, 2000, the Commerce Department imposed a \$20,000 civil penalty and a five-year period of denial on Haneflex Sales and Services Co. Ltd., a Hong Kong trading and distribution company, for alleged violations of the EAR. The Department alleged that, in January 1995, Haneflex sold and transferred U.S.-origin diffusion pumps to Shun Fat Metal and Iron Works in Hong Kong in violation of conditions of a license issued by BXA authorizing the export of the pumps to Haneflex in Hong Kong. The five-year denial period will be suspended for five years, then waived provided that Haneflex commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's San Jose Field Office.

Illinois Tool Works, Inc. Penalized \$142,000 to Settle Charges of Unlawful Exports of Chemical

On May 2, 2000, the Commerce Department imposed a \$142,000 civil penalty on Illinois Tool Works, Inc. (ITW), of Glenview, Illinois, to settle allegations that the company illegally exported chemicals to Brazil in violation of the EAR. The Department alleged that, on seven separate occasions between March 1994 and October 1997, the Magnaflux Division of ITW exported U.S.-origin chemicals to Brazil without the required export licenses. The Department also alleged that Magnaflux made false or misleading statements on Shipper's Export Declarations (SEDs) or failed to prepare or maintain SEDs in connection with these exports. A portion of the civil penalty, \$37,000, will be suspended for one year, then waived provided that ITW commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's Chicago Field Office.

NEC Technologies, Inc. Penalized \$25,000 to Settle Charges of Illegal Exports

On May 10, 2000, the Commerce Department imposed a \$25,000 civil penalty on NEC Technologies, Inc. (NEC), of Itasca, Illinois, to settle allegations that NEC illegally shipped automated finger print identification systems to several countries in violation of the EAR. The Department alleged that, on five separate occasions in 1996, NEC exported U.S.-origin automated finger print identification systems, to Argentina, Peru, Singapore, South Africa and Taiwan, without obtaining the required export licenses. The Department also alleged that the company made false and misleading statements in connection with the exports. A portion of the penalty, \$10,000, will be suspended for one year, then waived provided that the company commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's Boston Field Office.

David Sheldon Boone Denied Export Privileges Following Conviction Under the Espionage Act

On June 13, 2000, the Commerce Department denied David Sheldon Boone all export privileges until February 26, 2009, pursuant to Section 11(h) of the EAA, based on his conviction under the Espionage Act. On February 26, 1999, Boone was convicted in the U.S. District Court for the Eastern District of Virginia for combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the Komitet Gosudarstvennoy Bezopasnosty (KGB), to knowingly and unlawfully communicate, deliver, and transmit, and attempt to communicate, deliver and transmit, documents and information to representatives and agents of a foreign government, specifically the U.S.S.R. and the Russian Federation, directly and indirectly, relating to the national defense of the United States.

Agreements Reached with Los Alamos and Lawrence Livermore National Laboratories in Export Investigations

On June 26, 2000, the Commerce Department reached agreements with Los Alamos National Laboratory (LANL), Los Alamos, New Mexico, and Lawrence Livermore National Laboratory (LLNL), Livermore, California, concerning alleged shipments of various commodities without the required authorization. The Department of Energy discovered that the labs may have made the unauthorized exports and brought the matter to the attention of the Department.

The Department alleged that LANL, on four occasions from 1994 to 1996, and LLNL, on one occasion in 1994, shipped commodities to Russia without obtaining the export licenses required under the EAR. The exports by LANL occurred under the Department of Energy Material Protection, Control and Accounting Program, designed to reduce the threat to U.S. national security posed by unsecured Russian weapons-usable nuclear material. The commodities

consisted of devices for measuring nuclear material, a communications router, a 486 computer and a printer. The export by LLNL occurred under a separate lab-to-lab project.

The agreements require that LANL and LLNL conduct a joint teach-learn seminar with BXA on issues related to nuclear non-proliferation; conduct audits of past export transactions to certain countries and report the results to OEE; and insure continued training of National lab personnel on issues related to export controls in their strategic business planning. In addition, the Department of Energy agreed to assign personnel to BXA, on a temporary duty basis to provide basic technical support on nuclear matters and to provide high-level security clearances to OEE special agents. These investigations were conducted by OEE's Los Angeles and San Jose Field Offices.

EMC Corporation Penalized \$13,000 to Settle Charges of Export Control Violations

On August 3, 2000, the Commerce Department imposed a \$13,000 civil penalty on EMC Corporation on behalf of its Data General Division (formerly the Data General Corporation), Westboro, Massachusetts. The Department alleged that, Data General exported computer equipment to Israel in 1995 without the required authorization. The Department also alleged that Data General made a false statement on an export control document related to the shipment of computer equipment to Mexico. The investigation was conducted by OEE's Boston Field Office.

Expeditors International of Washington, Inc. Penalized to Settle Charges of Illegal Exports

On August 9, 2000, the Commerce Department imposed a \$5,000 civil penalty on Expeditors International of Washington, Inc., through its San Francisco office, for facilitating the export of U.S.-origin equipment to a Denied Person. The Department alleged that, Expeditors International, in 1995, facilitated the export of semiconductor test equipment from the United States to Taiwan. The export was destined to a Denied Person, Realtek Semiconductor Co., Ltd., of Taipei, Taiwan. It is a violation of the EAR for a person to take any action that facilitates the acquisition by a denied person, of any item subject to the Regulations. The investigation was conducted by OEE's Boston Field Office.

Federal Express Corporation Penalized \$15,000 to Settle Charges of Illegal Exports

On August 10, 2000, the Commerce Department imposed a \$15,000 civil penalty on Federal Express Corporation, of Memphis, Tennessee, to settle alleged violations of the EAR. The Department alleged that Federal Express, in 1996, facilitated the export of semiconductor equipment from the United States to Taiwan. The export was destined to a Denied Person, Realtek Semiconductor Co., Ltd., of Taipei, Taiwan. The Department also alleged that, Federal Express failed to maintain a proper record of the transaction. A person or company may not participate, directly, or indirectly, in an export-related transaction subject to the EAR with a Denied Person. The investigation was conducted by OEE's Boston Field Office.

S.R. Traffic Service, Inc. Penalized 10,000 to Settle Charges of Export Control Violations

On August 11, 2000, the Commerce Department imposed a \$10,000 civil penalty on S. R. Traffic Service, Inc., of Laredo, Texas, for alleged exports to Mexico in violation of the EAR. The Department alleged that, on two separate occasions between February 1995 and March 1995, S.R. Traffic Service, Inc. acted on behalf of a foreign buyer, PPG Industries de Mexico, S.A. de C.V., to export U.S.-origin potassium fluoride from the United States to Mexico without the required Commerce licenses. The investigation was conducted by OEE's Chicago Field Office.

Dexin International, Inc. Penalized for Illegal Exports to the People's Republic of China

On August 18, 2000, the Commerce Department imposed a \$50,000 civil penalty on Dexin International, Inc., of West Covina, California, to settle alleged violations of the EAR involving shipments to the People's Republic of China (PRC). The Department alleged that, on two separate occasions in 1994 and 1995, Dexin International, Inc., exported thermal video systems to the PRC without obtaining the export licenses it knew or had reason to know were required under the EAR. The Department also alleged that, the company made a false and misleading statement of material fact on an export control document filed with the U.S. government in connection with one export. A portion of the penalty, \$35,000, will be suspended for one year, then waived provided that the company commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's San Jose Field Office.

Guilty Plea for Illegal Exports to Iran

On August 23, 2000, a U.S. District Court judge in Atlanta sentenced two Georgia men each to imprisonment for six months, home confinement for 150 days, and supervised release for one year, and ordered their firm to pay a \$250,000 criminal fine for violating U.S. restrictions on exporting to Iran and making false statements. On May 8, Federal Parts International, Inc. located in Norcross, Georgia, pled guilty to conspiracy to violate the U.S. embargo to Iran. The firm's owner, Mehdi (Michael) Azarin, a resident of Atlanta, and the firm's manager, Farhad Azarin, of Norcross, Georgia, both pled guilty to charges of making false statements to federal investigators. After President Clinton imposed comprehensive sanctions on Iran in May 1995, Federal Parts conspired to export automobile and jeep parts valued at approximately \$600,000 to Iran using an intermediary in Germany. The exports to Iran stopped in April 1996 when Export Enforcement agents executed a search warrant at Federal Parts offices in Norcross, and initiated the seizure of two pending shipments valued at \$225,000. The investigation was conducted by OEE's Miami Field Office.

Earl Edwin Pitts Denied Export Privileges Following Conviction Under the Espionage Act

On August 29, 2000, the Commerce Department denied Earl Edwin Pitts all export privileges until June 23, 2007, pursuant to Section 11(h) of the EAA, based on his conviction under the Espionage Act. On June 23, 1997, Pitts was convicted in the U.S. District Court for the Eastern District of Virginia for combining, conspiring, confederating and agreeing with other persons, both known and unknown to the Grand Jury, including officers of the Komitet Gosudarstvennoy Bezopasnosty (KGB) and the Sluzhba Vneshney Rasvedi Rossi, to knowingly and unlawfully communicate, deliver, and transmit information to the then Union of Soviet Socialist Republic, and attempt to communicate, deliver and transmit, documents directly and indirectly to the Russian Federation relating to the national defense of the United States.

Peter H. Lee Denied Export Privileges Following Conviction Under the Espionage Act

On August 29, 2000, the Commerce Department denied Peter H. Lee all export privileges until March 26, 2006, pursuant to Section 11(h) of the EAA, based on his conviction under the Espionage Act. On March 26, 1998, Lee was convicted in the U.S. District Court for the Central District of California for attempting to communicate information relating to the national defense of the United States to a person not entitled to receive it, namely an agent of the People's Republic of China (PRC), with reason to believe the information could be used to the advantage of the PRC.

Hitech Lasers Ltd. Penalized \$10,000 to Settle Illegal Export Charge

On September 20, 2000, the Commerce Department imposed a \$10,000 civil penalty on Hitech Lasers Ltd., of Pretoria, South Africa, to settle allegations that the company violated a condition imposed under an export license involving a U.S.-origin laser system. The Department alleged that Hitech, contrary to a condition on the export license that authorized the export of the laser system to it in South Africa, installed the laser system in a nuclear facility in South Africa. A portion of the penalty, \$5,000, will be suspended for one year, then waived provided that Hitech commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's San Jose Field Office.

Trijicon, Inc. Penalized \$64,000 for Charges of Illegal Export

On September 29, 2000, the Commerce Department imposed a \$64,000 civil penalty on Trijicon, Inc., of Wixom, Michigan, to settle allegations that it illegally exported U.S.-origin optical sighting devices for firearms in violation of the EAR. The Department alleged that, on three separate occasions between October 1994 and January 1995, Trijicon, Inc. exported U.S.-origin optical sighting devices for firearms from the United States to Argentina and South Africa without the licenses that it knew were required by the EAR. A portion of the penalty, \$19,500, will be suspended for one year, then waived provided that Trijicon, Inc. commits no violations of the EAR during the suspension period. The investigation was conducted by OEE's Chicago Field Office.

Significant Joint Commerce-Customs Cases

McDonnell Douglas, China National Aero Technology Import and Export Corporation and others Indicted on Federal Charges for Making False and Misleading Statements in Connection with the Export of Machining Equipment to the People's Republic of China

On October 19, 1999, a federal grand jury in the District of Columbia returned a 16-count indictment against McDonnell Douglas Corporation and the China National Aero Technology Import and Export Corporation (CATIC), a People's Republic of China government-formed corporation in Beijing, China, for making false and misleading statements and material omissions in connection with McDonnell Douglas' export to CATIC in 1994 and 1995 of machining equipment used to build aircraft parts. Also charged in the indictment were three of CATIC's affiliates, CATIC/Supply, located in Beijing, and CATIC (USA), Inc., and TAL Industries, Inc., both located in El Monte, California; two Chinese nationals employed by CATIC, Hu Boru, and Yan Liren; Douglas Aircraft Company, a subsidiary of McDonnell Douglas Corporation, and Robert J. Hitt, who was the Director of the China Program Office at Douglas Aircraft Company. The indictment charges the corporate defendants with making false and misleading statements and material omissions to the Commerce Department in connection with export license applications in 1994 for the shipment to the People's Republic of China of 13 pieces of sophisticated machining equipment used in McDonnell Douglas' Columbus, Ohio plant. The indictment alleged that CATIC and its affiliates caused six of the 13 pieces of machinery to be diverted to an unauthorized factory in Nanchang, People's Republic of China. The grand jury also charged McDonnell Douglas with failing to inform the Commerce Department of, among other things, the military nature of CATIC's initial inquiry and the inspection of the equipment at the Columbus plant by Nanchang Aircraft Manufacturing Company officials. If convicted of the charges, the corporate defendants face an aggregate maximum criminal fine of approximately \$10 million. The individuals face a maximum of five years of imprisonment and a \$250,000 fine. The investigation was conducted jointly by OEE's Intelligence and Field Support Division and the U.S. Customs Service under the direction of the U.S. Attorney's Office for the District of Columbia.

Florida Businessman Sentenced for Illegal Export of Crime Control Equipment

On October 29, 1999, a U.S. District Court judge in Miami, Florida, sentenced Peter L. Appelbaum, president of the Miami firm Pacorp, Inc., to probation for five years and a \$10,000 criminal fine for violating the Arms Export Control Act and IEEPA. Appelbaum pled guilty on August 17 to charges that he illegally exported crime control equipment to Honduras without the required Commerce and State Department licenses. The items exported by Appelbaum included night vision equipment controlled under the International Traffic in Arms Regulations; and handcuffs, shackles, fingerprint powders and dyes controlled under the EAR. The investigation was conducted jointly by OEE's Miami Field Office and the U.S. Customs Service.

Abdulmir Mahdi Sentenced for Illegal Exports to Iran and Iraq

On November 19, 1999, a U.S. District Court judge in Orlando, Florida, sentenced Abdulmir Mahdi, a Canadian businessman, to imprisonment for 51 months, supervised release for three years and a \$7,500 criminal fine for violating U.S. export controls restricting trade with Iran and Iraq. Mahdi, an Iraqi national, pled guilty on August 24, 1999, to an indictment charging him with conspiracy to violate IEEPA and the EAR. Mahdi used two Toronto companies, OTS Refining Equipment Corporation and Tech-Link Development Corporation, to buy U.S.-origin oil-field and industrial equipment for diversion to Iran and Iraq. The investigation was conducted by OEE's Miami Field Office and the U.S. Customs Service.

Collin Xu, Yi Yao and Lion Photonics Indicted on Charges in Connection with Illegal Export to the People's Republic of China

On December 14, 1999, a federal grand jury in the U.S. District Court of Massachusetts in Boston returned a superseding indictment charging Collin Xu, also known as Collin Shu and Zhihong Xu, Yi Yao, also known as Yao Yi, Lion Photonics, Canada, Inc., of Montreal, Canada, and Lion Photonics, Inc., of Beijing, People's Republic of China (PRC), with knowingly and willfully making a false statement and representation to the U.S. government in connection with the export of fiber optic gyroscopes to the PRC. Xu, Yao, Lion Photonics, Canada, Inc. and Lion Photonics, Inc. were indicted on March 9, 1999, for conspiring to illegally export U.S.-origin fiber optic gyroscopes to the PRC via Canada without the required U.S. government authorization. Yao and Xu have been arrested on charges related to the indictment and are currently in custody pending trial. The investigation was conducted by OEE's Boston Field Office, the Royal Canadian Mounted Police and the U.S. Customs Service.

Three Sentenced and Denied Export Privileges for Illegal Export of Military Vehicles Parts to Vietnam

On October 20, 1999, the U.S. District Court for the Western District of Louisiana in Lafayette, sentenced Son Kim Nguyen to three months home confinement, two years probation, and a \$100 special assessment fee for violating the EAR. On January 26, 2000, the court sentenced Dien Duc Huynh to imprisonment for 41 months, supervised release for three years and a \$550 special assessment fee. On the same date, Huynh's corporation was sentenced to a \$3,000 criminal fine with a \$2,200 special assessment fee. A U.S. District Court jury found Huynh and Dien's Auto Salvage, Inc. guilty of violating the EAA, the Trading with the Enemy Act, and of conspiracy to commit theft of government property in connection with the illegal export of military surplus vehicles and vehicle parts to Vietnam. Following his conviction, Huynh agreed to plead guilty to two forfeiture counts, and to pay the government \$250,000 in lieu of forfeiting his property to the government. Nguyen, a co-conspirator charged in a related criminal action, pled guilty to charges of exporting military vehicles and vehicle parts to Vietnam without the required Commerce Department authorization. In related administrative actions, the Commerce Department denied the export privileges of Huynh and Dien's Auto Salvage, Inc. until January 2010 and Nguyen until October 20, 2004, pursuant to Section 11(h) of the EAA. The vehicles are controlled for national security, antiterrorism, and regional stability reasons. The investigation

was conducted jointly by OEE's Dallas Field Office, the U.S. Customs Service and the Department of Defense.

Immunostics, Inc. Sentenced for Making False Statements

On February 14, 2000, a U.S. District Court judge in Newark, New Jersey, sentenced Immunostics Inc. to probation for five years and a \$60,000 criminal fine for knowingly and willfully making false statements and representations to the U.S. government on export control documents. Immunostics, a manufacturer and exporter of medical test equipment, had pled guilty to charges that, between January 1993 and June 1997, the company prepared and submitted false export control documents in connection with its exports to foreign customers. The investigation was conducted jointly by OEE's New York Field Office and the U.S. Customs Service.

A & C International Trade, Inc. and Yufeng Wang Penalized in Connection with Illegal Export of Riot Control Vehicle with a Pressurized Pepper Gas System to the People's Republic of China

On March 10, 2000, A & C International Trade, Inc., of New York, New York and Yufeng Wang, also known as Alan Wang, the company's president, pled guilty in the U.S. District Court for the District of Columbia to violating U.S. export control laws and making a false statement related to the shipment of a riot control vehicle equipped with a pressurized pepper gas system to the People's Republic of China. A & C International entered a plea of guilty to an information charging it with a violation for the export and Wang entered a plea of guilty to a separate count of the information charging him with filing a false document in connection with the export. The court ordered the company to pay a \$5,000 criminal fine and was placed on probation for a three-year period. Wang was sentenced to a prison term of time already served, supervised release for one year and 250 hours of community service. In a related administrative action, the Commerce Department ordered A & C International to pay a \$20,000 civil penalty and denied its export privileges for three years. The denial period will be suspended for three years, then waived provided that the company commits no violation of the EAR for the suspension period. The investigation was conducted jointly by OEE's Boston Field Office and the U.S. Customs Service.

Texas Company, Officers and Affiliates Indicted and Denied Export Privileges for Exports to Libya

On April 26, 2000, a federal grand jury in the U.S. District Court of the Southern District of Texas, Houston Division, returned a thirty-nine-count indictment charging Jerry Vernon Ford, Preston John Engebretson, Thane-Coat, Inc., Thane-Coat International Company, Limited also known as TIC, Limited, also known as TIC, Ltd., TAM, Limited, and Eshbach, Limited, with conspiracy, unauthorized exports to Libya, false statements, money laundering and criminal forfeiture for their involvement in illegal shipments of U.S.-origin goods to Libya.

On October 13, 1999, April 10, 2000, and September 21, 2000, BXA's Assistant Secretary for Export Enforcement renewed for additional 180 days a temporary denial order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson. The denial order revokes all export privileges for items exported or to be exported from the U.S. to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran and any other country or countries that may subject in the future to a general trade embargo. In addition, at least 14 days in advance of any export that any of the denied persons intend to make of any item from the United States to any destination worldwide, the denied person will provide to BXA notice of the intended export, copies of all documents reasonably related to subject transactions, and the opportunity during the 14-day notice period to physically inspect the item at issue.

The original temporary denial order was issued in May 1997 and was subsequently renewed, based on the Department's reason to believe that, between 1994 and 1996, the respondents employed a scheme to export U.S.-origin products from the United States, through the United Kingdom or Italy, to Libya, a country subject to a comprehensive economic sanctions program, without the required authorization. The investigation is being conducted jointly by OEE's Dallas Field Office and the U.S. Customs Service.

Andrew E. Pietkiewicz Pleads Guilty to Making False Statements

On June 26, 2000, Andrew E. Pietkiewicz, also known as Andrzej E. Pietkiewicz, pled guilty in the U.S. District Court for the District of Columbia to knowingly and willfully making a false statement and representation to the U.S. government on a U.S. Customs Service Customs Declaration. Commerce agents had arrested Pietkiewicz in March 2000 for defaulting on a portion of a \$25,000 civil penalty imposed against him in an Order dated November 4, 1993, issued under the EAA. On September 21, 2000, the court sentenced Pietkiewicz to probation for a two-year period and a \$5,000 criminal fine. To resolve the administrative matter, on the same date, the Department ordered Pietkiewicz to pay a \$11,000 civil penalty and denied his export privileges for a period of ten years, to be suspended, provided he pays the \$18,500 still due under the November 4, 1993 Order within one year and not commit any other violations of the EAR. The investigation was conducted jointly by OEE's Boston Field Office and the U.S. Customs Service.

Microtek International Development Systems Division, Inc. and Joe-Pin Ouyang Penalized for Attempted Illegal Export of Computer Emulators to Iran

On June 22, 2000, the U.S. District Court in Portland, Oregon, sentenced Microtek International Inc., Development Systems Division, Inc., of Hillsboro, Oregon, to probation for five years and a \$100,000 criminal fine and its president, Joe-Pin Ouyang, to imprisonment for five months, home detention for five months, supervised release for three years and a \$3,000 criminal fine for the attempted illegal export of computer emulators to Iran. Microtek and Ouyang also forfeited \$75,125 and emulators with component parts to the United States. On December 14, 1999, Microtek pled guilty to attempting an illegal export to Iran. On the same date, Ouyang pled guilty to making false statements to a federal agency. The investigation was conducted jointly by OEE's San Jose Field Office and the U.S. Customs Service.

Summit United Industries, Inc. Denied Export Privileges following Conviction for Illegal Export to Libya

On August 29, 2000, the Commerce Department denied the export privileges of Summit United Industries, Inc. (Summit), of Houston, Texas, until August 18, 2004, pursuant to Section 11(h) of the EAA. On August 18, 1999, Summit was convicted in the U.S. District Court in the Southern District of Texas, Houston Division, for aiding and abetting United States persons and others known and unknown to the United States Attorney of knowingly and willfully exporting, and causing to be exported oilfield equipment to Waha, located in Tripoli, Libya, in violation of IEEPA. The investigation was conducted jointly by OEE's Dallas Field Office and the U.S. Customs Service.

Denial of Export Privileges Following Conviction in Cuba Embargo Case

On September 11, 2000, the Commerce Department denied Miami businessman Oscar Osman, president of Antilliana Trading Corporation, all export privileges until September 23, 2006, pursuant to Section 11(h) of the EAA. On September 23, 1999, Osman was convicted in the U.S. District Court for the Southern District of Florida for violating the EAA by exporting and causing

to be exported U.S.-origin goods to Cuba. The investigation was conducted by OEE's Miami Field Office and the U.S. Customs Service.

Yuri Montgomery Denied Export Privileges Following Conviction for Illegal Exports of U.S.-Origin Commodities to Macedonia and Slovenia

On September 11, 2000, the Commerce Department denied Yuri Montgomery, also known as Yuri I. Malinkovski, of Olympia, Washington, all export privileges until January 22, 2009, pursuant to Section 11(h) of the EAA. On January 22, 1999, Montgomery was convicted in the U.S. District Court for the District of Columbia of violating IEEPA by knowingly and willfully exporting and causing to be exported various U.S.-origin crime control items to Macedonia and Slovenia without the required export licenses. The investigation was conducted by OEE's Boston Field Office and the U.S. Customs Service.

Optical Associates, Inc. Pleads Guilty to Illegal Export to India

On September 20, 2000, Optical Associates, Inc., of Milpitas, California, pled guilty in the U.S. District Court in the Northern District of California to the charge that the company illegally exported a mask aligner and related parts, in violation of the EAR, to the State Bank of India with knowledge that the end-user would be Bhaba Atomic Research Center (BARC), a prohibited entity in India. The mask aligner is controlled by the Department for antiterrorism under the EAR. BARC is a division of the Department of Atomic Energy of the Government of India. Unlicensed exports to BARC have been prohibited since June 30, 1997. The plea was the result of a joint investigation conducted by OEE's San Jose Field Office and the U.S. Customs Service.

**TABLE II.6-1
FY 2000 Criminal Indictments/Information
For Export Administration Act or
International emergency Economic Powers Act Violations**

Indictment/ Information Date	Defendant	Charge(s)	Enforcement Organi- zation(s)	Sanction
10/19/99	China National Aero-Technology Import and Export Corporation (CATIC), CATIC National Supply Company, CATIC (USA), Inc., TAL Industries, Inc, Yan Liren, Hu Boru, McDonnell Douglas	False and misleading statements in connection with the export of various machining equipment to the People's Republic of China.	Commerce/ Customs	Trial pending.

	Corporation, Douglas Aircraft Company, and Robert J. Hitt			
12/14/99	Collin Xu, a.k.a. Collin Shu and Zhihong Xu, Yi Yao, a.k.a. Yao Yi, Lion Photonics, Inc., and Lion Photonics, Canada, Inc.	Knowingly and willfully making a false statement and representation to the U.S. government in connection with the export of fiber optic gyroscopes to the People's Republic of China.	Commerce/ Customs	Trial pending.
12/14/99	Microtek International Development Systems Division, Inc. and Joe-Pin Ouyang	Attempted illegal export of computer emulators to Iran and false statements in connection with the export.	Commerce/ Customs	Microtek received a \$100,000 fine and five years of probation. Ouyang received a \$3,000 fine, a five-month term of imprisonment, five months of home detention and three years of supervised release. Microtek and Ouyang forfeited \$75,125 and emulators with component parts.
1/14/00	A & C International Trade, Inc. and Yufeng Wang, a.k.a. Alan Wang	Illegal export of riot control vehicle equipped with a pressurized pepper gas system to the	Commerce/ Customs	A & C International and Wang were convicted on 3/10/00. A & C

		People's Republic of China and false statements in connection with the export.		International received a \$5,000 fine and three years of probation. Wang received a prison term of time already served, one year of supervised release and 250 hours of community service.
3/9/00	International High Tech Marketing, Inc.	Illegal exports of computers and related items to Libya and Sudan and false statements in connection with the exports.	Commerce	International High Tech was convicted on 3/27/00. International High Tech received a \$250,000 fine.
4/26/00	Jerry Vernon Ford, Preston John Engerbretson, Thane-Coat, Inc., Thane-Coat International Company, Limited, a.k.a. TIC, Limited and Tam, Limited, and Eshbach Limited	Conspiracy to illegally export pipe coating and related products to Libya and false statements in connection with the exports.	Commerce/ Customs	Trial pending.
6/15/00	Andrew E. Pietkiewicz, a.k.a. Andrzej E. Pietkiewicz	False statements	Commerce	Pietkiewicz was convicted on 6/26/00. He received a \$5,000 fine and two years of probation.
7/24/00	Optical Associates, Inc.	Illegal export of a mask aligner and related parts	Commerce/ Customs	Guilty plea on 9/20/00. Awaiting sentencing.

to prohibited
end-user in
India.

Microtek and Ouyang were both indicted in FY 2000 on 6/24/99. Microtek subsequently pled guilty on 12/14/00. Ouyang waived the indictment and consented to the filing of the information on 12/14/00.

Note

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BIS Annual Report [Formerly the Bureau of Export Administration]

Office of Antiboycott Compliance

The Office of Antiboycott Compliance (OAC) is responsible for implementing the antiboycott provisions of the Export Administration Act (EAA) and the Export Administration Regulations (EAR). The Office performs three main functions: enforcing the antiboycott provisions of the EAR, assisting the public in complying with the antiboycott provisions of the EAR, and compiling and analyzing information regarding international boycotts. Compliance officers enforce the antiboycott provisions of the EAR through investigations and audits. The Compliance Policy Division provides advice and guidance to the public concerning application of the antiboycott provisions of the EAR and analyzes information about boycotts.

Enforcement Division

The investigators of the Enforcement Division implement the investigative and enforcement functions of the Office, which include conducting compliance reviews, investigating potential violations, issuing pre-charging letters for alleged violations, and negotiating settlements when violations have been alleged. The Enforcement Division also prepares settlement documents or charging letters to initiate administrative proceedings and prepares cases for civil litigation through the Office of the Chief Counsel for Export Administration or for criminal prosecution through the Department of Justice.

Compliance Policy Division

The Compliance Policy Division is responsible for developing and coordinating policies and initiatives to promote compliance with the antiboycott policies and requirements of the EAA. This includes preparing amendments, interpretations, and clarifications of the antiboycott provisions of the EAR; reviewing international boycott activity through communication with diplomatic posts; analyzing reports received by OAC; reviewing information from other sources; preparing reports on boycott activity for use by U.S. embassies and others in efforts to bring an end to the boycott; developing public education programs to assist U.S. companies in complying with the antiboycott provisions of the EAR; counseling parties on requirements of the law and how to comply with it; processing all boycott reports filed with the Department; and supervising the informal telephone advice provided by OAC professionals to members of the public.

Policy Implementation

During FY 2000, the U.S. government continued to press for complete dismantlement of the Arab League's boycott of Israel. OAC continued to focus its efforts in four major areas: (1) enforcing the law against antiboycott violators, (2) continuing to provide information concerning the boycott to the State Department, (3) continuing the active educational and counseling program of the full time telephone advice line, which handled 1,139 calls during FY 2000, and (4) continuing the outreach program to increase public awareness and understanding of the antiboycott provisions of the EAR. During FY 2000, OAC officials spoke at 17 events sponsored by BXA, BXA's Office of Export Enforcement, banking groups, trade associations and local bar associations. Presentations included updates on OAC enforcement efforts and detailed reviews of the regulatory program. OAC also made significant improvements to its [Web site](#).

Summary of Boycott Reports

The antiboycott provisions of the EAA require U.S. persons to report to the Department of Commerce requests they receive to take actions that have the effect of furthering or supporting unsanctioned foreign boycotts. The reports filed by U.S. persons are to contain information concerning both the request and the transaction(s) to which the request relates. The transactions referred to in this context are specific business activities generally involving documents such as invitations to bid, contracts, export shipment documents, and letters of credit. U.S. persons are required to report if they receive one or more requests to take specific boycott-based action, such as responding to a boycott questionnaire, furnishing information about business relationships with a boycotted country, discriminating against U.S. persons on the basis of religion, or refusing to do business with a blacklisted firm or boycotted country.

In interpreting the data presented in the Tables 7-1 through 7-6, it is important to keep two factors in mind. First, the number of reported transactions may be fewer than the number of reported requests because a single transaction may involve more than one boycott request. Second, the number of both transactions and requests (as well as the value of the transactions) may be somewhat inflated because boycott reports involving the same reportable transaction are required to be filed by each party to a transaction for the same reportable transaction.

During FY 2000, 350 persons reported receipt of 1,177 documents containing boycott requests in 1,177 transactions, and 1,425 boycott requests. The corresponding figures for FY 1999 were 389 persons, 1,524 documents in 1,524 transactions, and 1,775 boycott requests. As is generally the case, exporters were the principal category of reporters, constituting approximately 62 percent of the reporting entities in FY 2000.

Prohibited boycott requests totaled 392 of the 1,425 boycott requests reported to OAC in FY 2000. A prohibited request is a request to take action that is prohibited by the antiboycott provisions of the EAR, for example a request to not to use suppliers blacklisted by a boycotting country.

The United Arab Emirates was the leading country from which prohibited boycott requests originated with a total of 105 requests. The next four countries originating boycott requests were Syria (74), Oman (48), Saudi Arabia (42), and Bahrain (34).

Enforcement Activities

During the fiscal year, OAC continued to pursue more serious violations of the antiboycott provisions of the EAR, such as discrimination based on religion, refusals to do business with other companies for boycott reasons, and furnishing prohibited information. Most of the settlements reached in FY 2000 involved alleged violations of the prohibition against furnishing information about business relationships with or in Israel or with companies on the boycott list of boycotting. Several involved failure to report receipt of requests to engage in restrictive trade practices or boycotts, as required by the regulations. The large majority of the settlements involved alleged violations of two or more sections of the regulations.

Cases Completed

Ten enforcement actions were completed in FY 2000. All 10 were settlement agreements. Additionally, eight investigative cases were closed because violations were not found.

Settlement Agreements and Penalties Imposed

All of the OAC investigations which involved allegations of serious violations were resolved through settlement. Settlement agreements are used as a vehicle for these dispositions.

Historically, an overwhelming majority of cases brought by the OAC have been settled in this way. These settlement agreements may provide for payment of civil penalties, for denial of export privileges and, occasionally, for the establishment of compliance programs.

Civil penalties imposed in the 10 settlement agreements totaled \$164,000 in FY 2000.

Major cases:

Kenclaire (West) Electrical Agencies, Inc.

The Department of Commerce imposed a \$104,000 civil penalty on Kenclaire (West) Electrical Agencies, Inc., a Fresno, California electrical supply company, to settle allegations that the company committed 30 violations of the antiboycott provisions of the EAR. The Department alleged that, in 11 transactions, Kenclaire (West) agreed to refuse to do business with other companies pursuant to a requirement of, or a request from or on behalf of a boycotting country. The Department also alleged that Kenclaire (West) failed to report its receipt of 19 boycott requests as required by the regulations.

Panalpina, Inc.

The Department of Commerce imposed a \$20,000 civil penalty on Panalpina, Inc., a Humble, Texas, freight forwarder, for ten alleged violations of the antiboycott provisions of the EAR when it furnished information about other companies' business relationships with Israel.

Charging Letters

Once allegations of violations are made to a respondent, OAC offers the respondent the opportunity to discuss the alleged violations. If the company and OAC cannot reach a mutually satisfactory resolution of the matter, a charging letter is issued. The case is then referred to an administrative law judge ("ALJ") for formal adjudication. The Office of the Chief Counsel for Export Administration represents OAC before the ALJ, who decides the case and may impose a civil penalty of not more than \$10,000 per violation or a period of denial of export privileges or both. Either party may appeal the decision of the ALJ to the Under Secretary for Export Administration. If neither party appeals, the decision of the ALJ becomes the final agency decision. The OAC did not issue any charging letters in FY 2000.

Previously Issued Charging Letters

On July 27, 2000, the U.S. Department of Justice entered into a consent agreement with Serfilco, Ltd. and Jack H. Berg, president of Serfilco, Ltd., to settle a collection action brought by the Justice Department to collect the civil penalties imposed by the Under Secretary of the Bureau of Export Administration for violations of the antiboycott provisions of the EAR. The penalties were pursuant to charging letters issued to the Northbrook, Illinois, manufacturer of commercial filtration and pumping equipment and its president on August 25, 1994. Under the terms of the consent agreement, Serfilco and Berg paid \$87,500 in civil penalties.

All of the final orders issued during FY 2000 imposing administrative sanctions, including civil penalties, resulting from OAC investigations are summarized in the following table:

Summary of Settlements and Charging Letters - FY 2000

Company Name and Location	Order Signed	Alleged Violations	Penalty Amount
Rosemount Inc. Eden Prairie, MN	11/29/99	10 violations of 769.6 or 760.5 Failed to report.	\$10,000
Rosemount GmbH & Co. (Wessling, Germany)	11/29/99	2 violations of 769.2(d) Furnished prohibited business information.	\$ 4,000
Brooks Instruments Division Hatfield, PA	11/29/99	1-769.2(d) Furnished prohibited business information; 6-769.6 Failed to report.	\$ 7,000
Panalpina, Inc. Humble, TX	3/2/2000	10 violations of 769.2(d) Furnished prohibited business information.	\$20,000
BDP International, Inc. Des Plaines, IL	3/22/2000	1-769.2(d) Furnished prohibited business information.	\$4000
Best Power Technology Limited Winchester, Hampshire, England	4/19/2000	2-769.2(d) Furnished prohibited business information.	\$4,000
ITOCHU Project Management Corp. Houston, TX	4/24/2000	1-769.2(d) Furnished prohibited business information.	\$4,000
Design Direction, Inc. Indianapolis, IN	4/24/2000	1-769.2(d) Furnished prohibited business information; 1-769.6 Failed to report.	\$3,000
Kenclair (West) Electrical Agencies, Inc. Fresno, CA.	6/15/2000	30 violations: 11- 769.2(a) Agreed to refuse to do business; 19-769.6 Failed to report.	\$104,000
Bailey International, Inc. Houston, TX	7/25/2000	4 violations: 1-769.2(d) Furnished prohibited business information; 3-769.6 Failed to report.	\$4,000

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BIS Annual Report [Formerly the Bureau of Export Administration]

Nonproliferation and Export Control Cooperation

BXA established the Nonproliferation and Export Control (NEC) International Cooperation team in early 1994 to coordinate BXA's activities in support of U.S. export control cooperative programs with Russia, Ukraine, Kazakhstan and Belarus, and the Central Asian, Caucasian, Baltic, and Central European states.

During FY 2000, the NEC team, in conjunction with BXA organizations and other representatives from the U.S. government, hosted, coordinated, sponsored or participated in 47 technical exchange workshops, multilateral events, and related activities. These activities included cooperative bilateral workshops with Armenia, Azerbaijan, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Poland, Russia, Slovakia, Slovenia, Tajikistan, Ukraine, and Uzbekistan. The NEC team conducted two major multilateral regional conferences, one for the nations of Central Asia and the Caucasus region, and the other for the nations of Europe and North America, participated in a third, for South Central Europe, and presented a forum on legal and enforcement transshipment issues for Cyprus, and Malta.

The technical exchange workshops sought to familiarize the countries with the elements that constitute an effective export control system and to assist them in developing and enhancing their own national systems. Legal authorities were described and analyzed, licensing procedures and processes were shared, preventive enforcement techniques were explained, the need for government and industry cooperation on export control matters was emphasized and demonstrated, and automation program techniques to simplify a country's national export control system and make it more reliable and accessible were presented.

In FY 2000, the BXA's Nonproliferation and Export Control International Cooperation program saw major strides in development of national export control systems by some of the Newly Independent States (NIS) of the former Soviet Union, and by some countries in Central Europe. The result has been to reduce the proliferation threat from goods and technologies originating in or transiting through the participating countries.

BXA plays a major role in the U.S. interagency program of cooperative export control exchange workshops and conferences. The NEC team coordinates the participation of export control experts from all areas of BXA and the Office of Chief Counsel for Export Administration (OCC). Because BXA and OCC hold responsibility in all technical areas of export controls, they take the lead in a wide range of technical exchange workshops.

These include workshops to address:

The Legal Basis And Framework of Export Controls

In these workshops, experts focus on the legal basis and framework necessary for an effective and comprehensive export control system, including statutory authorities, executive orders, implementing regulations, and interagency agreements.

Export Control Licensing Procedures and Practices

These workshops address licensing procedures and practices, which are the mechanisms by which individual export license decisions are made. They focus on dual-use license application processing, including the method of recording decisions electronically and tracking the status of license applications. Participants also review the purpose and guiding philosophy of the U.S. control list, its international development, the legal basis for controlling U.S. exports, the techniques and procedures for obtaining commodity classifications, and the procedure for resolving interagency disputes among U.S. Government agencies that have various export control responsibilities and authorities.

To demonstrate the need for a national control list and the interagency licensing process the United States uses, several fictitious case studies are presented to illustrate U.S. Government procedures. Participating foreign officials are also given the opportunity to explain their export licensing systems to BXA officials.

Export Enforcement

The emphasis of these workshops, presented by Export Enforcement officials with NEC staff support, is on export enforcement techniques. Participants discuss such mechanisms as pre-license checks, post-shipment verifications, "Safeguard" programs, preparation of materials for evidentiary purposes, and the use of criminal and administrative sanctions to deter illegal exports. Enforcement techniques are presented in the context of the global problem of proliferation of weapons of mass destruction, including, nuclear, chemical, and biological weapons and missile delivery systems.

Government-Industry Relations

In these workshops, the interlocking roles of industry and government in achieving export control cooperation are emphasized and addressed. BXA officials and industry representatives explain how government and business can together achieve common goals and objectives and how each can simplify the task of the other.

These technical exchanges provide a business perspective on export controls, explaining the importance of voluntary industry compliance with export controls, and why and how industry provides technical expertise via Technical Advisory Committees to U.S. Government agencies. Workshop sessions address why export controls are necessary; why industry support is essential; the role of industry-government cooperation in the formulation of laws and implementing regulations; the mechanisms that promote industry participation; voluntary compliance; and internal control programs instituted by industry and other organizations.

Export Control System Automation

In FY 2000, the NEC team assessed the potential of selected countries to receive automation support for their export licensing systems. Electronic processing of licensing applications not only reduces transaction delays but also enhances business confidentiality and works against internal corruption. BXA automation experts participate in system automation assessments and advise officials of the countries on automating their export control licensing functions. In cooperation with their senior export control officials, BXA representatives appraised the training requirements for countries receiving automation software in cooperation with a country's senior export control officials.

Technical Exchange Workshops

Armenia

- Parliamentary Forum on Export Controls, Washington, D.C., February 14-17, 2000

BXA hosted a delegation of three Armenian parliamentarians and two officials from the Armenian Foreign Ministry's Department of Arms Control and Security. In order to assist the Armenian government undertaking to draft an export control law, the forum addressed the legal basis necessary for a comprehensive and effective export control system and the essential authorities needed. An overview of the U.S. system provided a basis of discussion.

Azerbaijan

- Export Control Legal Assistance Follow-Up Workshop, Baku, Azerbaijan, November 18, 1999

BXA arranged the Export Control Legal Assistance Follow-Up Workshop in response to a request by Azerbaijan officials during the Tbilisi Regional Export Control Forum in November, 1999. The officials sought specific comments and additional consultations on Azerbaijan's draft export control law prior to its submission to the Parliament for consideration. The U.S. delegation, made up of State and Commerce Department/BXA senior export control specialists and attorneys from the Office of Chief Counsel for Export Administration, provided comments on the draft law to officials from the Azerbaijan Foreign Economic Relations Department and the Defense Industry Department of the Cabinet of Ministers, the State Customs Committee, and the Ministry of Foreign Affairs. The U.S. delegation also briefed and answered specific questions from members of Parliament from key committees during a consultation session at the Parliament. The Parliament is expected to consider the draft export control law during its 2001 schedule.

Estonia

- Industry-Government Export Licensing Forum, Tallinn, Estonia, March 27-28, 2000

A BXA team led a small U.S. delegation, including U.S. industry representatives, to Estonia for a conference that addressed licensing procedures and requirements, penalties that can be imposed on private industry for violating export control laws, and the importance of industry-government cooperation in preventing the spread of weapons of mass destruction.

Georgia

- Export Control Enforcement Workshop, Tbilisi, Georgia, June 12-16, 2000

The BXA team coordinated presentations by officials from BXA's Export Enforcement, OCC and the Defense Department to a U.S.-Georgia Export Enforcement Workshop in Tbilisi, Georgia. Participants from other U.S. agencies include the Department of Justice and the U.S. Customs Service. Funded by the DOD/FBI Counter-Proliferation Program, the workshop focused on enforcement of controls on exports and transit of arms, sensitive dual-use goods, and technology. Designed to provide the Georgian government participants with an understanding of the structures and functions needed for effective enforcement of export controls, the workshop was the next step in the interagency coordinated nonproliferation and export control program in Georgia. During the workshop, the Georgian delegation gave a short presentation on the current status of Georgia's export control system, with particular emphasis on the structure and operation of its export enforcement program.

Hungary

- Internal Control Program (ICP) Project, Budapest, Hungary, September 16-18, 2000

A BXA nonproliferation and export control delegation met on the Hungary Internal Control Program (ICP) Project with Hungarian government experts in the Ministry of Economic Affairs (MEA) in Budapest. The discussions addressed four issues: the establishment of a project plan timetable for the development and deployment of a Hungarian ICP to Hungarian industry with the cooperation of the Government of Hungary, drafting a memorandum of understanding outlining the ICP project, obtaining clarification of the role of non-government organizations in the project, and the exchange of views on a proposed industry-government export control ICP forum late in 2001. The head of the MEA Office of Export Control Licensing and Administration, the Department Director General, and senior officials of the Budapest Chamber of Commerce expressed strong interest in the ICP project.

Kazakhstan

- DOD/FBI Legal Assistance Workshop, Astana, Kazakhstan, December 9-10, 1999

A U.S. Department of Commerce delegation traveled to Astana, Kazakhstan, to provide comments to the Kazakhstan government on its proposed amendments to the export control law and on the proposed implementing regulations to that law. The consultations were held under the auspices of the U.S. Department of Defense/Federal Bureau of Investigation (DOD/FBI) Counterproliferation Program, and included export control specialists from the Commerce Department's Bureau of Export Administration and the Office of Chief Counsel.

- U.S.-European Union Control List Technical Workshop for Kazakhstan, Eschborn, Germany, March 20-24, 2000

BXA/NEC led a small interagency team of U.S. export control technical specialists to Eschborn, Germany, to conduct a workshop on the European Union (EU) Unified Control List for Kazakhstan export control experts. Jointly hosted with BXA by the German Ministry of Economics and Technology and held at the German Federal Export Control Agency (BAFA), the workshop also included experts from the United Kingdom's Department of Trade and Industry, the Netherlands' Ministry of Economics, and the U.S. Department of Energy. The European Union (EU) Unified Control List Technical Workshop assisted Kazakhstan export control organizations to use the EU Control List as a model for a National Control List for dual-use items controlled by the four major international control regimes. This joint workshop is an example of expanded participation by EU member countries, particularly technical experts, in export control cooperation programs.

- Central Asia Security Initiative U.S. Interagency Experts Team Visit, Kazakhstan, August 14-22, 2000

A BXA/NEC export control analyst participated in the visit to Kazakhstan by a U.S. interagency experts team from the Departments of State, Defense, and Commerce, and the U.S. Customs Service. The U.S. team joined with Kazakhstan working groups to assess and identify Kazakhstan border security needs and to establish consensus concerning the framework and priorities for the assistance programs proposed under the U.S. Central Asia Security Initiative (CASI). The objective of the CASI is to help the nations in the region combat terrorism and illicit trafficking in weapons of mass destruction, conventional arms, and narcotics. The assistance is to be provided through six U.S. export control, border security, law enforcement and other security programs in the form of equipment, training and services. During the visit, the U.S. experts split into four

groups, each of which then became part of joint U.S.-Kazakhstan teams that undertook site visits to the China border at Druzbha, the Kyrgyz and Uzbek borders, the maritime border on the Caspian Sea at Aktau, the Turkmenistan border, and the Russian border region of Ust Kamenegorsk/Maikapchagay. U.S. and Kazakhstan experts reached preliminary consensus on the most pressing Kazakhstani border security and export control cooperation needs. The programs will be implemented through the U.S. Embassy in Almaty as part of the U.S. Expanded Threat Reduction Initiative.

Kyrgyzstan

- Parliamentary Forum on Export Controls, Washington, D.C., December 15-17, 1999

During a Parliamentary Forum on Export Controls hosted by BXA, four visiting members of the Kyrgyz Parliament and the Chief, International Organizations and Security, Ministry of Foreign Affairs, met with U.S. export control experts from the Departments of Commerce, Defense, Energy, and the U.S. Customs Service (USCS) to explore the basic authorities needed in an export control law. The U.S. export control officials provided an overview of U.S. export control system laws and procedures, the responsibilities of ministries, and interagency coordination mechanisms. Attorneys from the Offices of Chief Counsel of both the Commerce Department and the USCS addressed legal elements affecting licensing practices, export enforcement concerns, and industry-government relations. The understanding gained by the Kyrgyz delegation proved of use to the delegation during the consideration of export control legislation by the Parliament of the Kyrgyz Republic in January, 2000, when the bill on export controls was passed and sent to the president of the Kyrgyz Republic for signature.

- Central Asia Security Initiative U.S. Interagency Experts Team Visit, Kyrgyzstan, May 22-25, 2000

A BXA/NEC export control analyst participated in the visit to Kyrgyzstan by a U.S. interagency experts team from the Departments of State, Defense, and Commerce, and the U.S. Customs Service. The U.S. team joined with Kyrgyzstan working groups in country to assess and identify Kyrgyzstan border security needs, and to establish consensus concerning the framework and priorities for the assistance programs proposed under the U.S. Central Asia Security Initiative (CASI). The objective of the CASI is to help Kyrgyzstan combat terrorism and illicit trafficking in weapons of mass destruction, conventional arms and narcotics. The assistance is to be provided through about six U.S. export control, border security, law enforcement and other security programs in the form of equipment, training and services. During the visit, the U.S. experts split into two groups, each of which then became part of joint U.S.-Kyrgyzstan teams that undertook site visits to the Osh and Batken regions. U.S. and Kyrgyzstan experts reached preliminary consensus on the most pressing border security and export control cooperation needs by agency. The programs will be implemented through the U.S. Embassy in Bishkek as part of the U.S. Expanded Threat Reduction Initiative.

Lithuania

- Industry-Government Export Licensing Forum, Vilnius, Lithuania, March 30-31, 2000

A BXA team led a small U.S. delegation, which included U.S. industry representatives, to Lithuania for a conference that addressed licensing procedures and requirements, penalties that can be imposed on private industry for violating export control laws, and the importance of industry-government partnership for effective export controls in preventing the spread of

weapons of mass destruction. The conference sought to foster national support for the concept of export control in both public and private sectors in Lithuania.

Moldova

- DOD/FBI Legal Assistance Program, Chisinau, Moldova, February 9-10, 2000

A U.S. delegation from the Departments of State and Commerce provided comments to Moldovan officials on their draft export control law before its transmittal to the Parliament. The workshop was held under the U.S. Department of Defense/Federal Bureau of Investigation (DOD/FBI) Counter-Proliferation Program. Moldova subsequently enacted an export control law that adhered to the U.S. comments.

Poland

- Internal Control Project (ICP) Discussions, Warsaw, Poland, September 21-25, 2000

A delegation of Commerce Department nonproliferation and export control experts met with Polish government export control officials in the Ministry of Economy (MOE) to discuss next steps for the Internal Control Project (ICP) for Polish industrial firms. The Polish government is revising its export control law to require ICP programs in all Polish companies exporting sensitive materials. The acting director of the MOE's Export Control Department noted that the Polish government's ICP project generated a number of new export control provisions in the law, including the creation of a denied parties list. The discussions with the Commerce Department delegation resulted in a plan for completing Polish ICP software development, a draft time-table for workshops to deploy the software to Polish industry during the upcoming year, customization of Polish ICP instructor training materials, and a plan for their deployment and use of these training materials in Polish industry.

Russia

- Licensing Procedures and Practices Workshop, Moscow, Russia, October 5-9, 1999

As part of the U.S.-Russia Export Control Technical Exchange program, BXA led an interagency delegation to Moscow to participate in a Licensing Procedures and Practices Workshop. The workshop discussed bilateral cooperation on export certificate processing, commodity classification, publication of denials, and the structure of an automated licensing system. While in Moscow, the NEC delegates also took part in a Dual-Use Licensing Sub-Working Group meeting.

- Internal Control Program (ICP) Workshops, Russia, October 11, 1999 through August 2, 2000

Small teams of BXA personnel and U.S. corporate representatives participated in a series of 15 Internal Control Program Workshops in selected Russian cities as part of the U.S.-Russian export control cooperation conducted initially under the Cooperative Threat Reduction Program and more recently under the Nonproliferation, Antiterrorism; Demining, and Related Activities (NADR) Program. The workshops helped the Russians deploy Internal Control Programs (ICPs) at 404 Russian industrial enterprises and institutes in 14 areas. Locations included Moscow, the Kaluga region, Dzerzhinsk, Ulyanovsk, Novouralsk-Ekaterinburg, Saratov, Rostov-on-Don, Krasnodar, Barnaul, St. Petersburg, Samara, Krasnoyarsk, and Vladivostok. The ICP is a

software-based learning/document development/reference tool. Its deployment is part of a Russian government initiative to improve industry compliance with national export control rules. The Regional Administrations (regional governments) hosted the deployment workshops. Among Russian government participants at various workshops in the series were representatives of the Russian Nongovernmental Organization (NGO) Center for Export Controls (CEC), the State Customs Committee, the Security Council of the Russian Federation, the Federal Service for Currency and Export Controls, and the Ministries of Foreign Affairs, Defense, Trade, and the Economy.

- Train-the-Trainer, Moscow, Russia, September 12-15, 2000

A BXA delegation visited Moscow to prepare instructors from the government of Russia and the Center on Export Controls (CEC), a Russian non-government organization, to train others in the full curriculum of courses and tools developed for use within the government of Russia to train export control officials and licensing officers. Among the topics addressed were technical classification training and follow-up Internal Control Program (ICP) work with Russian industrial enterprises; CEC training material, software tools, and other material used in ICP training; and use of the European Union control list.

Slovakia

- Export Control Legal Technical Forum, Washington, D.C., January 25-28, 2000

The BXA/NEC team hosted a legal technical forum for Slovak export control officials which assisted them to determine whether revisions to the Slovak Republic's export control laws and decrees would be useful. The forum addressed the Slovak Republic authorities for dual-use and munitions controls; nuclear equipment, material and technology controls; embargoes; arms imports, defense authority and perspectives; and customs authority. Slovak participants included officials from the Ministry of Foreign Affairs, as well as the Ministry of Economy's Departments of Export Controls, Licensing, and Legislation. On the U.S. side participants included representatives from the Office of Chief Counsel for Export Administration, the Departments of Energy and Defense, the Treasury Department's Office of Chief Counsel for the Office of Foreign Assets Control, and the U.S. Customs Service.

Slovenia

- Technical Workshop on Control Lists, Washington, D.C., June 26-30, 2000

A BXA team hosted a U.S.-Slovenia Technical Workshop on Control Lists. Led by Slovenia's State Under Secretary in the Ministry of Economic Relations and Development, the delegation sought to understand the legal framework for export licensing and national control lists for dual-use goods and technologies, as well as control list implementation and application to enforcement and transit issues. To assist Slovenia in its effort to develop and strengthen its export control system, the BXA workshop provided an overview of the control list process from an international and national perspective. It incorporated visits to and briefings by key U.S. export control agencies, including the Defense Department and the U.S. Customs Service, and a round-table discussion addressing nuclear and missile technology controls. Industry interaction with the U.S. government export control system was explored during a visit to a U.S. high-tech firm.

Tajikistan

- U.S.-Tajikistan Export Control System Implementation Technical Workshop, Washington, D.C., April 24-28, 2000

The workshop provided comment on Tajikistan's draft export control regulations and examined the elements needed for the promulgation of a national control list that meets international standards. It presented information concerning national control lists, discussed the European Union (EU) Control List, and then demonstrated the application of a national control list to export licensing and commodity classification. The interaction between licensing and enforcement was analyzed. The workshop afforded to the Tajikistan delegation the opportunity for discussion with legal, licensing and enforcement experts. The Tajikistan delegation consisted of officials from the Administration of the President of Tajikistan, the Customs Committee, the Ministry of Foreign Affairs, the Department of Statistics and Analysis, and the Department of Counter-Smuggling. Their agencies are responsible for implementing Tajikistan's export control law and refining its export control regulations. Participating U.S. agencies included the Departments of State, Defense, Energy, and Commerce, and the U.S. Customs Service.

Ukraine

- Export Enforcement Technical Workshop, Kyiv and Odessa, Russia, October 11-15, 1999

BXA's Export Enforcement unit led an interagency enforcement delegation to Ukraine that included representatives from the Defense Department and the Federal Bureau of Investigation. Ukrainian participants worked with U.S. export control enforcement officials on issues including the role and responsibilities of Ukrainian agencies involved in enforcing export controls, enforcement mechanisms, the export license screening process, cooperation with industry, the role of brokers and freight forwarders, and domestic and international law enforcement cooperation.

- Internal Control Program (ICP) Development, Kyiv, Ukraine, October 25-26, 1999

BXA led a small delegation to Ukraine to review the current Ukrainian version of the Internal Control Program (ICP) software tool and to develop an implementation plan for its installation in several Ukrainian enterprises as the first phase of ICP deployment in Ukraine. The delegation met with officials from the Ukrainian State Service on Export Controls and from the Scientific and Technical Center.

- Internal Control Program (ICP) and Automation Workshop, Washington, D.C., January 10-13, 2000

BXA's NEC team hosted an ICP and Automation Workshop focused on the prototyping and deployment of internal control programs for Ukrainian industrial enterprises and other entities that produce controlled technology and equipment. The workshop developed a project plan for completing and deploying the ICP in Ukraine.

- Internal Control Program (ICP) Software Development, Kyiv, Ukraine, March 1 - June 1, 2000

BXA staff supported the Ukrainian customization and testing of ICP development software at three large Ukrainian aeronautics and electronics companies during the three-month period March 1 through June 1, 2000. The ICP software was later deployed in Ukrainian industrial enterprises.

- Internal Control Program (ICP) Deployment Training and Instructor Training Workshops, Washington, D.C., June 5-9, 2000

BXA hosted a delegation from Ukraine for ICP Deployment Training and Instructor Training which prepared the Ukraine officials for the initiation of ICP deployment workshops in Ukraine. The Nonproliferation Export Control program contractor provided the workshop materials, led the discussions and presentations, and provided facilitation for the training and instruction exercises. In addition, the contractor conducted a facilitated hand-off to the Ukraine officials of all training materials developed for use by the State Export Control Service of Ukraine.

- First Internal Control Program (ICP) Deployment Workshop for Ukraine, Lviv, Ukraine, September 20-21, 2000

BXA led a team of U.S. export control specialists assisted by the Scientific and Technical Center (STC), a Ukrainian non-governmental organization, in the deployment of an Internal Control Program (ICP) in Lviv for 18 high-tech electronics industrial enterprises in the western Ukraine region. The workshop is part of a Ukraine government (State Export Control Service) initiative to improve industry compliance with national export control laws and regulations, and the first of seven such deployments to be conducted in Ukraine during 2000-2001. The ICP workshop is part of the planned U.S.-Ukraine bilateral cooperation on export controls conducted initially under the Cooperative Threat Reduction Program, and more recently under the Nonproliferation, Anti-Terrorism, Demining, and Related Activities (NADR) Program. The workshop facilitated deployment of the ICP at Ukrainian industrial enterprises.

Uzbekistan

- Central Asia Security Initiative U.S. Interagency Experts Team Visit, Uzbekistan, May 29-June 2, 2000

A BXA/NEC export control analyst participated in the visit to Uzbekistan by a U.S. interagency experts team from the Departments of State, Defense, and Commerce, and the U.S. Customs Service. The U.S. team joined with Uzbekistan working groups in country to assess and identify Uzbekistan border security needs, and to establish consensus concerning the framework and priorities for the assistance programs proposed under the U.S. Central Asia Security Initiative (CASI). The objective of the CASI is to help the nations of that region combat terrorism and illicit trafficking in weapons of mass destruction, conventional arms and narcotics. The assistance is to be provided through about six U.S. export control, border security, law enforcement and other security programs in the form of equipment, training and services. During the visit, the U.S. experts split into three groups, each of which then became part of joint U.S.-Uzbekistan teams that undertook site visits to the Fergana Valley/Kokand area, southwest Uzbekistan, and Tashkent. U.S. and Uzbekistan experts reached preliminary consensus on the most pressing Uzbekistan border security and export control cooperation needs. The programs will be implemented through the U.S. Embassy in Tashkent as part of the U.S. Expanded Threat Reduction Initiative.

- DOD/FBI Export Control/Counterproliferation Enforcement Workshop, Tashkent, Uzbekistan, June 6-9, 2000

BXA and the U.S. Defense Department presented an export control workshop that focused on the enforcement of controls on exports and transit of arms, sensitive dual-use goods and technology. Funded by the U.S. Department of Defense/Federal Bureau of Investigation (DOD/FBI) Counterproliferation Program, and designed to provide Uzbekistan government participants with an understanding of the structures and functions needed for effective enforcement of export

controls, the workshop constituted the next step in the interagency coordinated counterproliferation and export control program in Uzbekistan. The Uzbek delegation briefly described the current status of Uzbekistan's export control system, with particular emphasis on the structure and operation of its export enforcement program. The Department of Justice and the U.S. Customs Service also participated.

- Export Control Legal Assistance Follow-Up Workshop, Tashkent, Uzbekistan, August 28-30, 2000

The Bureau of Export Administration arranged the Export Control Legal Assistance Follow-Up Workshop in response to a request by Uzbekistan government officials made during the Export Enforcement Workshop held in Tashkent in June. The officials sought additional consultations on Uzbekistan's draft export control law prior to its submission to the Parliament for consideration. The U.S. delegation, made up of export control specialists from the Commerce Department's Bureau of Export Administration and the Office of Chief Counsel for Export Administration, provided comments on the draft law to officials from the Uzbekistan Ministries of Foreign Economic Relations, Foreign Affairs, Defense and Emergency Situations, and from the National Security Service, the Institute of Nuclear Physics/Academy of Sciences, and the Customs Administration. The Parliament is scheduled to consider the draft export control law during its 2001-2002 schedule. The U.S. delegation then briefed the attendees on the principles for a regional transit agreement agreed to by the representatives of the Central Asian and Caucasus states who had attended the Regional Nonproliferation and Export Control Conference in Tbilisi, Georgia, in November 1999 (see below). Uzbekistan officials expressed interest in participating in a regional working group when one is established to address the subject.

Multilateral Conferences

Caucasus, Central Asia, and Turkey

- Fourth Regional Forum on Export Controls and Nonproliferation of Weapons of Mass Destruction (WMD), Tbilisi, Georgia, November 15-17, 1999

The United States and the Republic of Georgia co-hosted the forum. Attending countries were Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkey, and Uzbekistan. Moldova and Ukraine attended as observers. (Pakistan and Turkmenistan were also invited to observe but did not attend.) Senior officials from the participating countries discussed export control issues, particularly the problems of transshipment, and suggested numerous steps for future regional cooperation. The format was a mixture of plenary sessions and smaller expert group sessions, one of which produced an Agreement on the Principles of Regional Transshipment. The Tbilisi Forum had approximately 100 attendees, including over 40 from Georgian government agencies, 31 from other regional governments, and 16 in the U.S. delegation headed by the Commerce Department's Deputy Under Secretary for Export Administration. Participants described the forum as productive. There were calls to continue regional cooperation on export control and nonproliferation. In this light, representatives from the Kyrgyz Republic offered to host a similar forum in Bishkek.

Cyprus, Malta, and Hong Kong

- Legal/Enforcement Transshipment Forum for Cypriot and Maltese Customs Officials, Larnaca, Cyprus, December 14-15, 1999

A U.S. interagency team led by the Deputy Under Secretary of Commerce for Export Administration participated in the first in a proposed series of workshops in regions with significant transshipments of sensitive cargo and of proliferation concern. Cypriot and Maltese officials improved their understanding of the international standards for a national export control system, particularly the legal, regulatory, and enforcement elements of transshipment transactions. They also used workshop information to evaluate their own practices and consider areas for strengthening their export control regimes. Representatives from the Hong Kong Trade Department also took part in the workshop. The U.S. delegation included State Department and U.S. Customs Service officials in addition to BXA/NEC, Office of Chief Counsel for Export Administration, and BXA/Export Enforcement participants.

South Central Europe

- South Central Europe Regional Nonproliferation Conference, Sofia, Bulgaria, December 14-15, 1999

Under the auspices of the Stability Pact for South Eastern Europe, the United States and Bulgarian governments co-hosted the regional nonproliferation conference. Led on the U.S. side by the Department of State, the conference sought to increase cooperation and coordination among countries in the region in order to prevent illegal arms flows, as well as to develop effective arms and dual-use export control systems. Policy and export control officials from the countries of Central and Southeast Europe (Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, the former Yugoslav Republic of Macedonia, Moldova, Poland, Slovakia, Slovenia, and Turkey), as well as Canada, the Organization for Security and Co-operation in Europe (OSCE), the Wassenaar Arrangement, and the Stability Pact attended the conference. At the conclusion of the conference, the participants adopted a joint declaration on arms transfers and a statement on harmonized end-user/end-use certificates.

Oxford Conference

- Second Annual International Conference on Export Controls, Oxford, England, September 26-28, 2000

The Bureau of Export Administration organized and hosted the conference. T. Scott Bunton, Deputy Under Secretary for Export Administration, and John Barker, Deputy Assistant Secretary for Nonproliferation Controls, U.S. Department of State, led the U.S. interagency delegation to the conference for export control officials from nations of Europe and North America and from Japan and Hong Kong. The conference provided a forum in which leading experts on export controls could examine issues requiring refinements to both national export control systems and multilateral regimes, and recommend new forms of coordination among national systems, among multilateral regimes, and between national systems and multilateral regimes. Three specific topics explored at the conference were open source information, controlling intangible transfers of technology and software, and the "catch all" form of export regulation. In addition, each country assessed the progress it had made since the 1999 Oxford Conference in addressing the seven elements for referral to governments of conference participants: intangible transfers of technology and software, communication between/among national export control systems, control lists, relations of multilateral regimes with non-members, lack of secure information sharing among regime members, handling issues that cut across the purviews of the regimes, and coordination of export control cooperative exchanges.

Participating in the conference were export control officials from 32 countries in Central and Western Europe, the Baltics and the Balkans, Canada, Hong Kong, Japan, and Turkey, as well as representatives from the four multilateral export control regimes (Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, and the Wassenaar Arrangement), two

multilateral organizations (the European Union and the International Atomic Energy Agency), four private sector companies, and several academic and research institutions.

BXA Technical Exchange Activities for FY 2000

The following BXA/NEC technical exchanges (most of them bilateral) took place in FY 2000. The programs centered on the major elements that constitute an effective national export control system.

[\[Download a Section 508 accessible WordPerfect version of this table\]](#)

Country	Legal Foundation	Licensing Procedures and Practices	Export Control Administration	Export Enforcement Activities	Systems Automation	Govt. Industry Relations
Armenia	Feb. 2000					
Azerbaijan	November 1999					
Cyprus and Malta	December 1999			December 1999		
Estonia	..	March 2000				
Georgia				June 2000		
Hungary						September 2000
Kazakhstan	December 1999	March 2000	August 2000			
Kyrgyzstan	December 1999					
Lithuania	..	March 2000				
Moldova	February 2000					
Poland						September 2000
Russia		October 1999 September 2000				October 11, 1999 thru August 2, 2000
Slovakia	January 2000					
Slovenia	..	June 2000				
Tajikistan	April 24-28, 2000	April 24-28, 2000				
Ukraine				October 1999		October 1999;

						January, 2000; June, 2000; September, 2000
Uzbekistan	August 2000			June, 2000		

Special Activities

- BXA assisted the Monterey Institute's Center for Nonproliferation Studies in a Conference on Export Controls, Washington, D.C., April 5, 2000, for export control specialists from Kazakhstan, Russia, and Ukraine.

Note

In April of 2002 the Bureau of Export Administration (BXA) changed its name to the Bureau of Industry and Security (BIS). For historical purposes we have not changed the references to BXA in the legacy documents found in the Archived Press and Public Information.

BIS Annual Report [Formerly the Bureau of Export Administration]

The Critical Infrastructure Assurance Office

The Critical Infrastructure Assurance Office (CIAO) is an inter-agency organization established in 1998 by Presidential Decision Directive 63. Under PDD- 63, the Commerce Department is responsible for providing administrative support to the CIAO

The Secretary has delegated this responsibility to BXA.

The major functions of this Office are to provide administrative and planning support on critical infrastructure protection (CIP) issues to the National Security Council and the NSC's National Coordinator for Security, Infrastructure Protection and Counter-Terrorism, and to support the development of the National Plan for Infrastructure Assurance. The Office is also responsible for assisting Agencies in identifying their dependencies on critical infrastructures, and coordinating a national education and awareness program, legislative issues, and public affairs.

National Plan for Information Systems Protection

The CIAO had lead responsibility for developing version 1.0 of the National Plan for Infrastructure Assurance. This initial-version Plan, which was released in a White house ceremony by President Clinton in January, 2000, focused on the Federal government's efforts to improve information systems protection. Later versions of the Plan will expand its scope to discuss physical security issues involved in CIP, and will feature the private sector's role in infrastructure protection.

Public Outreach and the Development of Public-Private CIP Partnerships

Over the last year and a half, the CIAO has worked closely with Federal Lead Agencies responsible for fostering effective CIP practices in individual industry sectors, and with private industry as a whole, to improve the nation's planning in the CIP area.

These initiatives are garnering self-sustaining industry actions, as well as laying a foundation for future cooperative initiatives. Partnering efforts fall under two major categories: sector partnerships and cross-sector partnerships that support the individual sector efforts.

A part of CIAO's mission is to coordinate a national education and awareness program to promote critical infrastructure assurance. CIAO promotes activities that inform business and technology leaders across industry and public institutions of the need to manage the risks that come with the benefits associated with reliance on information systems. CIAO focuses on initiatives that cut across industry sectors and are not the existing responsibility of agencies. In these initiatives, CIAO focuses on the policy, strategy and investment decision-making leadership across industry.

Partnership for Critical Infrastructure Security (PCIS)

As industries began to organize themselves into partnerships with Federal Lead Agencies, they identified a need for cross-industry dialogue and sharing of experience to improve effectiveness

and efficiency of individual sector assurance efforts. The PCIS was convened in response to that expressed need.

The Partnership provides an awareness and participatory forum for government and owners and operators of critical infrastructures to address cross-industry issues of mutual interest and concern. It encourages opportunities for mutual support and action across the sectors. It also engages other stakeholders in CIP, including the risk management (audit and insurance), investment and mainstream business communities. It builds upon public private efforts underway between lead Federal Agencies and Sector Coordinators designated for each of the critical infrastructure sectors. The Partnership is organized by industry for industry, with the U.S. Government acting as a catalyst and a participant.

Major PCIS activities include:

- Interdependency Vulnerability Assessment and Risk Management
- Cross Information Sharing,
- General Industry Awareness and Outreach
- Common Legislative and Public Policy Issues
- Research and Development and Workforce Development
- Input into subsequent versions of the National Infrastructure Assurance Plan
- Outreach to state and local governments

An exploratory meeting with industry was convened on December 8, 1999, hosted by Department of Commerce Secretary in New York. The first industry organizing meeting was held on February 22, 2000 in Washington, D. C. at the U.S. Chamber of Commerce facilities, attended by over 135 company representatives. The Partnership held its midyear meeting in San Francisco on July 27, 2000, with representatives from industry, state and local and Federal governments attending. An agreement was reached by industry to work individually and together on providing input into the National Plan by end of March 2001. A governance structure was put in place in the form of a coordinating committee that included all the sector coordinators from each of the industry sectors listed in PDD63 with the government sector liaisons as ad hoc members. The Coordinating Committee of the Partnership has provided an interim status report of its accomplishments and activities to date, which is contained in Part VI of this report.

Business Risk Management Community

The business risk management community, consisting of auditors, financial security analysts, the insurance community, the legal community and financial reporting boards serve as unique channels of communication to senior leadership of industry. Their role and responsibility to senior leadership are to assess business risks, communicate noteworthy changes to those risks, and support the management of them. Starting in second quarter, 1999, an awareness and education partnership was implemented by CIAO

with a consortium consisting of The Institute of Internal Auditors (IIA), National Association of Corporate Directors (NACD), the American Institute of Certified Public Accountants (AICPA), and the Information Security Audit and Control Association (ISACA). This consortium brought the involvement of a number of noted insurance firms, risk management professionals, legal counsel with particular expertise in information systems, respected corporate Board members, audit experts and financial security analysts from Wall Street.

The consortium held a series of five regional conferences, called "Audit Summits", kicked off with a high profile event in Washington, D.C. on April 18, 2000. These meetings were hosted or sponsored by prominent corporations that included JC Penney's, Home Depot, New York Life Insurance, Oracle Corporation, Arthur Anderson, Deloitte & Touche, Price WaterHouse Coopers, and KPMG. The target audiences were directors of corporate Boards, chief auditors, and other corporate senior executives. The meetings rolled out a report, "A Call to Action for Corporate Governance: Information Security Management and Assurance". This report provided guidance for corporate Boards on managing information security risks. In addition, a report by a noted Wall Street analyst was distributed on the possible effect of disruptions of information systems on shareholder value, "Information Security Impact on Securities Valuation". Various discussions on corporate insurance, risk management and liability along with these two reports formed a "business case for action" relevant to Boards of Directors and corporate executives. Over 10,000 copies of the guide were distributed in the year 2000 to corporate directors across the U.S. IIA, who led and coordinated the "Audit Summits" for the consortium, rolled out a final report in October summarizing the conferences to over 300 of its chapters across the U.S. (including a videotape) as an education tool for auditors and also as support for tailored development and delivery of a "case for action" to their own corporate Boards. Press coverage for the Audit Summits ranged from the Wall Street Journal to Reuters to UPI to Computer World, as well as television such as CNN, local channels from CBS, NBC, and ABC.

As part of this initiative, CIAO staff also briefed financial security analysts in New York on the business issues related to information security. These briefings reinforced analysts' understanding of the importance of managing information technology properly, including the security of those information systems. The briefings also appeared to reinforce an emerging analysts' view that the information security segment of the information technology industry merits independent tracking and assessment. Salomon Smith Barney published an Equity Research Report in September on "Internet Security Software", laying out the landscape of the market for information security software (and services), describing the market drivers and scope, thereby "defining" information security as a noteworthy market segment in the financial security markets for probably the first time. This report was distributed to institutional investors across the United States.

Mainstream Business Channels

Mainstream Industry Leadership: As part of its "partnership" with CIAO, the U.S. Chamber of Commerce has agreed to help distribute the "Call to Action for Corporate

Governance: Information Security Management and Assurance" to its affiliate chapters (about 3000 of them) across the U.S. once CIAO completes tailoring the material for their use.

Corporate Boards of Directors: The National Association for Corporate Directors (NACD) held a panel on Information Security and Corporate Governance in its program for its annual membership meeting in October, 2000. The panel included a Chief Financial Officer, a corporate President and Chief Operating Officer, and a Senior Partner of a services firm. NACD has initiated of its own volition a survey and development of a "best practices" white paper for Board oversight of information security. It has asked that CIAO provide advice as a "partner" during the development process. As a result of its participation in the Audit Summits, NACD's leadership has identified information security as an emerging issue on which it will continue to educate and provide support for its membership (many of whom sit on Boards of corporations from the Fortune 5000).

CEOs and CIOs: As a result of a representative attending an Audit Summit, CXO Media, Inc., publishers of CIO Magazine (CIO audience) and Darwin (CEO audience) is cooperating with the CIAO in a "partnership" to raise awareness and understanding of the issue of information

security and management, targeting specifically CIOs and CEOs of Fortune 5000 companies. As part of this cooperation, CXO Media, Inc. and CIAO cosponsor two Internet Security Policy forums, specifically on information security related policies and strategies, and CXO Media will insert a session in each of its major annual conferences on CIP and information security.

The first Internet Security Policy Forum was held and web cast on September 27, 2000 in Washington, DC. Feedback from the audience indicated it was effective and successful. The entire event was archived and is available for reference on CIO Magazine's web site. Sessions on CIP and information security were inserted into CIO Magazine's annual conferences in September and October. An average of 400 CIOs and other corporate executives attend these prestigious, invitation only events. CIAO co-hosts these sessions. The next conference, scheduled for January 30, 2001 will include a prime time session on "Protecting Infrastructures Across Borders," that will include public speakers from the U.S., Canada, Europe, and the Pacific Rim. As a result of the education provided by these sessions, enough interest has been generated such that both Darwin and CIO Magazines have begun to publish editorials and articles regularly on the subject.

Support for Industry Sector/Federal Lead Agency Partnerships

Due to its experience with its own outreach program, CIAO also provides support for the Federal Lead Agencies and their counterparts in industry for outreach and awareness building, specifically through the sponsorship of workshops on common issues shared by many of the sectors, including risk management approaches, information sharing, legal obstacles, etc. It has also provided support for the building of industry specific "business case for action", since the business cases for senior leadership in industry tend to center around common concerns such as business operational survivability, customer relationships and confidence, and investor and public confidence.

Education and Awareness

The National Colloquium for Information Systems Security Education

Our nation needs an information-literate work force that is aware of its vulnerability, as well as a cadre of information professionals who are knowledgeable of the recognized "best practices" available in information security and information assurance, as called for in Presidential Decision Directive 63. The National Colloquium for Information Systems Security Education (the Colloquium) was established to serve as a forum to bring government, industry, and academia together to meet those challenges.

The Colloquium provides a forum to discuss and form needed direction in Information Security undergraduate and graduate curricula, common requirements, specific knowledge, skills and abilities, certification requirements, and establishment of professionalization boards. International participation began in 1999, and is predicted to continue in 2001.

Primary issues that were dealt with during the annual conference in 2000 included the outlook for information security from an industry perspective and the educational requirements for the year 2000+; the need for and the identification of Centers of Excellence in Information Assurance Education and the educational requirements that academia, government and industry perceive as an educational necessity. Working partnerships also continued to be strengthened among the participants with a commitment to expand more effective communications and to share information security resources; an agreement to continue the living body of the Colloquium and the annual conference; and, to further enhance its role as a forum for dialogue and collaboration among the three distinct constituencies represented.

Project Matrix

Project Matrix is a three-step process. Step 1 identifies and prioritizes Federal departmental assets in terms of their role in fulfilling national security, national economic stability, or public health or safety missions. In Step 2, a functional analysis identifies and evaluates the specific dependencies of the highly critical Federal assets identified in Step 1. Step 3 addresses the services provided by public utilities (including electrical power, telecommunications, oil and natural gas, water and sewage, and transportation networks), their assets and their functional support elements. This assessment will tie to efforts coordinated through the agencies acting as Sector Leads.

Current Status of Project Matrix Assignments	
Step 1 Completed:	Department of Commerce C (Proof of Concept - 1999) Social Security Administration Department of the Treasury Department of Health & Human Services
Step I Initiated:	Department of Energy
Step 2 Completed:	Department of Commerce C (Proof of Concept - 2000)
Step 2 Planned:	Social Security Administration Department of the Treasury Department of Health & Human Services