

BXA Annual Report - FY 1999

Chapter 1. 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 1999 Highlights

Export Controls in the 21st Century

BXA's export control agenda for the 21st century is focused on maintaining our national security by reducing the proliferation of weapons of mass destruction while seeking to facilitate U.S. competitiveness in the global marketplace. BXA recognizes that U.S. industry cannot successfully compete internationally if its export control system is significantly misaligned with the systems of competing nations. It also recognizes that economic globalization and the end of the Cold War have changed the nature of U.S. Defense procurement and increased the role of the civilian high-technology sector in defense and intelligence research, development and acquisition. More than ever before, our ability to stay ahead of our adversaries technologically rests on our ability to keep our high-technology companies healthy. This increasingly means facilitating more exports, which in turn, support additional research and development and the creation of new products and technologies that enhance our national security.

The Administration continues to take important actions to remove unnecessary obstacles to exporting and strengthening multilateral regimes. The Administration has actively involved industry as part of its public-private partnership effort.

Export Licensing Streamlining

The Clinton Administration continues to make progress in eliminating unnecessary and ineffective export controls and streamlining the export control process. It has 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 99. It published a rule that raised the performance level of microprocessors that may be exported under a license exception to civil end-users in former East Bloc countries and the People's Republic of China. It also published a rule liberalizing controls on exports of High Performance Computers (HPCs), raising the performance level of HPCs that may be exported under a license exception. Another published rule implemented the Wassenaar Arrangement's revisions to its control list. This eased controls on many telecommunications products. BXA also published a rule relaxing controls on

commercial products containing small amounts of controlled explosives, such as automotive air bag activators.

Other regulatory actions included imposition of broad restrictions on exports to Serbia, and the retransfer of commercial communications satellites from the Commerce Control List to the State Department's Munitions List.

Electronic Security Interests

In December 1998, the Wassenaar members agreed to move encryption items from the Sensitive List to the Basic List and make other revisions to encryption controls. This agreement was the result of a two-year effort to modernize and improve multilateral export controls on encryption. Wassenaar member countries also agreed that the General Software Note (GSN) should not apply to encryption and replaced it with a new cryptography note that, among other things, closed loopholes that allowed the uncontrolled export of encryption with unlimited key length.

On September 16, 1999, the Administration announced a new approach to encryption policy that simplified export controls. This approach comprises three elements: information security and privacy, a new framework for export controls, and updated tools for law enforcement. The encryption export controls element rests on three principles: a one-time technical review in advance of sale; a streamlined post export reporting system; and a process that permits the government to review the exports of strong encryption to foreign government and military organizations and to nations of concern. The White House has directed that a regulation implementing the changes be published by December 15, 1999.

The Chemical Weapons Convention

On October 21, 1998, the Congress passed Chemical Weapons Convention (CWC) implementing legislation that the President subsequently signed into law. BXA is implementing the Commerce Department's lead agency responsibilities for compiling data declaration forms 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 publishing the final regulations in the first quarter of FY 2000. BXA has completed the creation of an information management system to comply with the treaty's reporting requirements, and has begun industry outreach activities. It will manage international inspections at U.S. commercial facilities which will begin in FY 2000.

Sanctions

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

On April 28, 1999, the President announced that the United States would exempt commercial sales of food, medicine, and medical equipment from future unilateral economic sanctions regimes where it had the authority to do so and would apply that policy immediately, with appropriate safeguards, to currently embargoed countries. BXA assisted in developing the list of items that could be exported under the new policy. On August 2, 1999, the Department of The Treasury's Office of Foreign Assets Control issued regulations amending the sanctions regimes for Iran, Libya, and Sudan to implement this policy change. Existing BXA regulations already

authorized approval of such exports to Cuba, North Korea, and Syria. The U.N. "Oil for Food" program authorized approval of such exports to Iraq.

In November 1998, BXA participated in a U.S. delegation to India and Pakistan, whose goal was to urge India and Pakistan to adopt the multilateral non-proliferation guidelines and export control lists of the various international nonproliferation regimes. The meetings were largely informational with the United States explaining the various regime controls. Both countries expressed their commitment to nonproliferation, but stated that their governments were not anxious to join the international regimes, which they consider discriminatory. In March 1999, BXA again participated in export control talks with Indian and Pakistani officials. The U.S. goal was to determine what steps each country had taken to strengthen its export controls; to encourage the adoption of the multilateral control lists; and to urge each country to adopt controls on intangible exports of technology. Pakistan clarified certain aspects of its missile controls and agreed to consider U.S. recommendations on controlling production equipment and technology. India planned to review its export control policies for nuclear and missile-related items.

In May, the United States published a rule in the Federal Register that added Macau to the Export Administration Regulations (EAR) as a distinct destination on the Commerce Country Chart for export licensing purposes in preparation for the colony's return to the sovereignty of the People's Republic of China on December 20, 1999.

In September, the President announced his decision to ease sanctions against North Korea administered under the Trading with the Enemy Act and other authorities. This decision will permit the export and re-export of many nonsensitive goods and services and the transport of approved cargoes to and from North Korea by U.S. commercial ships and aircraft, subject to normal regulatory requirements. Nonproliferation restrictions associated with North Korea's designation as a terrorist-supporting state will remain in place.

High Performance Computers (HPCs)

On July 1, 1999, President Clinton unveiled new export controls on HPCs and semiconductors. This new policy includes changes critical to maintaining the strong, vibrant high technology industry which is critical to America's national security interests. The revised controls announced by the President maintain the four country groups announced in 1995, but amend the countries in, and control levels for, three of those groups. At the same time, the President committed the Administration to review HPC export control policy every six months in order to ensure a realistic export control regime in this rapidly changing high technology industry. Following this announcement, on July 23, 1999, the President notified Congress, pursuant to the National Defense Authorization Act for Fiscal Year 1998, of his decision to establish a new performance level to which the notification procedure for computers will apply.

On August 3, 1999, the regulation implementing the President's announcement was published. It moved Brazil, the Czech Republic, Hungary, and Poland from Country Tier II to Tier I, thus allowing a license exception for all computer exports to those countries. It raised the control level for Tier II countries from 10,000 to 20,000 MTOPS (Million Theoretical Operations Per Second) with the expectation that it will be raised again in six months to the 32,000-36,000 MTOPS range. It maintained the distinction between civilian and military end-users in Tier III countries. License levels for Tier III civilian end-users were immediately raised from 7,000 to 12,300 MTOPS. License levels for Tier III military end-users were retained at 2,000 MTOPS until the conclusion of the six-month Congressional review mandated by the NDAA, at which time it will be raised to 6,500 MTOPS. Proliferation end-users will still require a license for any HPC export. The denial policy for Tier IV remains unchanged.

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 considers release of controlled technology or software to a foreign national to be a "deemed export" to the home country of the foreign national. 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 employee.

During FY98, there was a substantial increase in "deemed export" license applications, with BXA processing approximately 800 "deemed export" cases. During that year, the average license processing time was about 54 days. In FY99, the licensing workload remained constant with BXA again reviewing approximately 800 applications while managing to further reduce the average processing time from 54 days to 48 days.

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 1999 the Wassenaar Arrangement's Initial Elements called for the first time for Participating States to assess the overall functioning of this arrangement. This review process provides an opportunity to focus on how the arrangement is meeting its objectives. In 1999, four assessment meetings were held. The U.S. objectives for the 1999 Assessment include: (1) Expanded reporting of conventional arms; (2) Strengthening the Wassenaar Arrangement by adopting a denial notification policy similar to that of the nonproliferation regimes, and (3) Implementing controls on man-portable defense systems (MANPADS). The Wassenaar Arrangement also continues annual reviews of its control lists.

In February 1999, BXA added to its website a web page dedicated to the Wassenaar Arrangement and related BXA developments, intended to serve as a resource for exporters. In July 1999, BXA also published changes to the Export Administration Regulations to implement in the Commerce Control List (CCL) 1998 agreed changes to the Wassenaar Arrangement's List of Dual-Use Goods and Technologies. Changes contained in the July 1999 regulation streamlined controls for telecommunications equipment and technology, consistent with the agreed relaxations in Wassenaar's list.

BXA continued its efforts to establish a "level playing field" for U.S. exporters by proposing that the Nuclear Suppliers Group (NSG) adopt parts and components rules. Under the proposal, certain NSG Dual Use Annex entries will identify the individual parts and components of the controlled items that will also be controlled. The proposal, currently under review in the NSG, will not result in placing a significant number of new items under U.S. control; many are already subject to U.S. controls pursuant to other multilateral control regimes. This proposal will enable U.S. exporters to compete equitably in the international marketplace with their foreign competitors.

The NSG held its annual Plenary Session in Florence, Italy, on May 5-6. Agreement was reached at the Plenary to continue NSG outreach and transparency initiatives; to consider establishing an Internet Web site; to enhance the usefulness of its electronic information sharing efforts among all NSG members; to establish working groups to clarify component controls (in response to the U.S. proposal noted above) and to study improvements in the effectiveness of the regime.

The Missile Technology Control Regime (MTCR) held its annual Reinforced Point-of-Contact meeting where representatives from MTCR member countries met to discuss a limited agenda of issues derived from the monthly MTCR Point-of-Contact meetings. The monthly Point-of-Contact meetings are attended by the MTCR member countries' embassy personnel stationed in Paris, France. This year's annual Reinforced Point-of-Contact meeting was held in Paris on June

3-4, and focused on national approaches to counter regional missile proliferation in South Asia, North Asia and the Middle East.

The MTCR also held an export control workshop on intangible technology transfers in Munich, Germany on June 21-23. The workshop focused on such issues as industrial visits and the employment of foreign nationals, and technology transfers via electronic means, i.e., E-mail and the Internet. BXA gave presentations on U.S. policies and procedures on intangible technology exports, and the applicability of intangible technology controls on scientific, academic, technical and industrial organizations. The U.S.-U.K. proposal to reformat the MTCR Annex -- to conform it with the control lists of the other multilateral regimes and thereby enhance overall compliance with and enforcement of all nonproliferation export controls -- was agreed to by all MTCR members in February 1999. However, a hold on final approval was imposed by one MTCR member pending resolution of a definitional issue. BXA successfully negotiated an acceptable compromise, and the hold was finally lifted effective July 21, 1999. The reformatted Annex has now been fully entered into force by all MTCR members.

Offsets in Defense Trade

During FY99, BXA submitted the fourth annual report of Offsets in Defense Trade 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. This fourth annual report reviews offset agreements and offset data for the five-year period from 1993 to 1997. BXA also addressed offsets as a trade concern for the first time 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. Notable progress was also made in the area of international consultations. Negotiations have been pursued on both a multilateral and bilateral basis. Important steps have been taken to address the issue with our European allies, since they are the largest defense trade partners and demand the highest offsets, and preliminary interagency discussions were held with the Canadian and Dutch Governments.

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 FY99, BXA defense advocacy efforts supported industry-led sales of approximately \$4.2 billion which included the \$2 billion F-16 fighter aircraft and \$1 billion Patriot missile system sales to Greece, and the \$1.2 million sale of AH 64 Apache Longbow helicopters to Singapore.

Enhanced Proliferation Control Initiative

In December 1996, BXA implemented guidelines issued by the National Security Council to streamline the export licensing review process for entities of proliferation concern. The development of a list of entities through the "Is Informed" process arose from the Enhanced Proliferation Control Initiative (EPCI) begun in 1991 to stem the spread of missile technology as well as nuclear, chemical, and biological weapons. This improved process has injected

accountability, transparency, and timeliness into the "Is Informed" process. Since February 1997, BXA has published several Commerce Department rules that added names to the "Entity List." Publishing the Entity List allows the U.S. Government to identify for U.S. businesses some of the organizations and companies that may be involved in proliferation activities. Under EPCI, BXA has the authority to inform exporters individually or through published notices that a license is required for exports and reexports of goods and technology that normally do not require an export license to an organization or company on the Entity List, when there is an unacceptable risk of use in or diversion to activities related to nuclear, chemical or biological weapons or missile proliferation by those organizations or companies.

Industry Outreach

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 FY99 BXA hosted 32 export compliance seminars with almost 4,000 participants, and participated in another 84 trade-related events. Through telephone calls, visits, and fax-on-demand requests, BXA provided guidance and information to more than 100,000 people.

Defense Industrial Base Assessment

During FY99, BXA was involved in four major industrial base projects. Three are projects that continued from the previous year. Research continued on a Navy-sponsored assessment of high performance explosives, a study scheduled for completion in FY 2000. BXA also 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 initiated a new assessment of the U.S. cartridge and propellant actuated device (CAD/PAD) industry at the request of the U.S. Navy. This study is a follow-on to a study conducted for the Navy in 1995. BXA is also conducting a new series of smaller assessments in cooperation with the Army Materiel Command, which entered into a partnership with BXA for industrial base support during FY99.

2. Export Administration Programs

BXA's Export Administration (EA) comprises five offices under the Office of the Assistant Secretary. Three 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 Nuclear and Missile Technology Controls (NMT) administers U.S. multilateral and unilateral export controls on dual-use nuclear and missile goods and technology to prevent the spread of weapons of mass destruction. The office is responsible for all export control policy issues relating to the Nuclear Suppliers Group (NSG) and Missile Technology Control Regime (MTCR) and represents the Department in international negotiations pertaining to the export controls that are shared by member-nations of these regimes. It also has the responsibility for reviewing many proposed exports of items subject to license requirements under the Enhanced Proliferation Control Initiative (EPCI).

The Office of Chemical and Biological Controls and Treaty Compliance has overall responsibility for administering export controls and policy development relating to the Australia Group (e.g., chemical weapons precursors and biological agents). This office will have a major role in overseeing compliance by U.S. industry with the requirements of the Chemical Weapons Convention, the Biological Weapons Convention, and other relevant treaties. 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

BXA's Export Enforcement (EE) arm comprises three offices: The Office of Export Enforcement (OEE), the Office of Enforcement Analysis (OEA), and the Office of Antiboycott Compliance (OAC). OEE has eight field offices located throughout the continental United States. Export Enforcement works to prevent the illegal export of dual-use items, which are controlled for national security and other reasons and investigates alleged illegal export transactions. Export Enforcement works with U.S. Attorneys and BXA's Office of Chief Counsel in seeking appropriate sanctions for violators.

OEE and OEA personnel perform a variety of checks on export transactions that raise proliferation concerns. Special agents spot-check shipments, audit exporters' records, detain or seize suspect shipments, seek temporary denial orders, and carry out pre-license and post-shipment verifications. In cases of suspected or alleged violations, OEE special agents often work with the U.S. Customs Service, the Federal Bureau of Investigation, and the Treasury Department's Office of Foreign Assets Control. OEE, in conjunction with the Department of Justice and the Commerce Department's Office of Chief Counsel, pursues criminal and administrative prosecution of cases.

OEE's mission also involves educating export control personnel and businesses about compliance with U.S. export control regulations, the proliferation threat from rogue nations, and the need for businesses to be more fully aware of their responsibilities under the U.S. export control system. OEE provides export control technical assistance to Foreign Commercial Service personnel and foreign export control officials.

OAC enforces the antiboycott provisions of the EAR, provides advice to the public, and issues reports on foreign boycotts. The EAR prohibits U.S. persons from complying with certain aspects of unsanctioned foreign boycotts against countries friendly to the United States. OAC conducts investigations of alleged violations, prepares cases for settlement, and provides support in criminal prosecution or administrative litigation of cases. OAC also monitors international boycott developments.

4. Nonproliferation and Export Control Cooperation Programs

The Nonproliferation and Export Control Cooperation (NEC) office coordinates BXA's activities in support of U.S. export control cooperation programs with Russia and the other republics of the former Soviet Union in the Central Asian, Eastern European, and Caucasus regions, and the Baltic and Central European states. NEC's industry-government relations program with Russia significantly expanded the capability of Russian industry to comply with the new Russian export control law. Working with Russian NGO's, BXA assisted in the installation of internal compliance programs in over 207 Russian enterprises, many in the sensitive nuclear and aero space industry sector. NEC technical exchanges supported legal and regulatory activities in six former soviet countries (Bulgaria, Moldova, Romania, Tajikistan, Ukraine and Uzbekistan) in efforts ranging from drafting original export control laws to amending existing laws and drafting implementing regulations.

The technical exchanges make use of the expertise of Export Administration, Export Enforcement, and office of Chief Counsel personnel as well as representatives from other federal agencies (e.g., Departments of State, Defense, and Energy and the Customs Service) and U.S. exporting companies. As a result of NEC License Processing/Control List technical exchanges, four former soviet republics (Georgia, Kazakhstan, Moldova and Ukraine) have agreed to require licenses for items listed on the four nonproliferation regime control lists.

5. Critical Infrastructure Protection

The Critical Infrastructure Assurance Office (CIAO) was created by Presidential Decision Directive 63 (PDD-63) on May 22, 1998 and attached to the Bureau of Export Administration on October 1, 1998. This directive reflected many of the recommendations of the President's Commission on Critical Infrastructure Protection (PCCIP), which recognized and underscored the national security implications of critical infrastructure protection. A major effort of the CIAO during FY99 was the coordination of the National Plan for Information Systems Protection. Even while dependencies on our cyber resources increase, the growing threat of highly organized, systematic cyberattack by hostile powers or terrorist organizations creates new risks for every segment of our Nation. The Plan outlines steps to reduce these risks to a level acceptable to the American people.

Go to [Chapter Two](#)

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.

BXA Annual Report - FY 1999

Chapter 10. Critical Infrastructure Assurance Office

The Critical Infrastructure Assurance Office (CIAO) was created by Presidential Decision Directive 63 (PDD-63) on May 22, 1998. This directive reflected many of the recommendations of the President's Commission on Critical Infrastructure Protection (PCCIP), which recognized and underscored the national security implications of critical infrastructure protection. One of the PCCIP's principal recommendations was the creation of a government office to coordinate the full range of public-private partnership issues related to critical infrastructure protection. The Commission recommended placement of this office in the Commerce Department based on the importance of developing with industry mechanisms to collect and share information about critical infrastructure issues. In response to this recommendation, the CIAO was created in the Department of Commerce Bureau of Export Administration, on October 1, 1998.

The CIAO is the National Plan coordinating office defined by PDD-63, with the following missions: to coordinate and prepare the National Plan for Infrastructure Protection, coordinate analyses of the U.S. Government's own dependencies on critical infrastructures, coordinate national education and awareness programs, include outreach efforts to the private sector aimed at assisting the construction of a public-private partnership, and to conduct legislative and public affairs in support of the PDD-63 charter. During FY99, the CIAO was organized into an operational unit and began to carry out its PDD-63 missions, as described below.

National Plan Coordination

A major effort of the CIAO during FY 99 was the coordination of the National Plan for Information Systems Protection. Version 1.0 of the plan is due out in the first quarter of FY00, and is the first attempt by any national government to design a comprehensive plan to protect its cyberspace. Even while dependencies on our cyber resources increase, the growing threat of highly organized, systematic cyberattack by hostile powers or terrorist organizations creates new risks for every segment of our Nation.

The Plan outlines steps to reduce these risks to a level acceptable to the American people. In PDD-63, the President established a national goal that the United States would achieve and maintain the ability to protect our Nation's critical infrastructures from intentional acts that would significantly diminish the abilities of:

- The private sector to ensure the orderly functioning of the economy and the delivery of essential telecommunications, energy, financial, and transportation services;
- State and local governments to maintain order and to deliver minimum essential public service; and
- The federal government to perform essential national security missions and to ensure the general public health and safety.

The CIAO coordinated the Plan's development throughout FY99, working closely with Federal agencies and departments responsible for writing and reviewing the Plan. Several drafts were circulated for comments and changes were made to the Plan as needed to ensure the consensus of all reviewers.

While the initial version of the Plan addresses only cyber threats, the CIAO began, in August 1999, to address physical threats and it is currently coordinating the preparation of a physical protection plan. Future versions of the National Plan will address both cyber and physical threats.

Expert Review Team

PDD-63 provides that each department and agency shall develop a plan for protecting its own critical infrastructure by November 18, 1998, and that the Critical Infrastructure Coordination Group (CICG) shall sponsor an expert review process for each plan. This Expert Review Team (ERT) was housed in the CIAO and worked in conjunction with the NSC, OMB, and GSA.

The role of the ERT was to assist the departments and agencies in achieving initial operating capability by May 22, 2000, and, in achieving and maintaining the ability to protect their critical infrastructures from attacks that would significantly diminish the ability to perform essential public services.

Plans were filed by the 13 agencies specifically addressed by the PDD, and accordingly classified as Phase One agencies. The ERT reviewed and commented on the plans filed by the Phase One agencies, and requested that the plans be revised in accord with the comments and re-filed within 90 days. This was done.

In order to expand the effort to protect critical infrastructures, the National Coordinator and the OMB Deputy Director, in a joint letter dated October 30, 1998, requested that eight additional agencies be classified as Phase Two agencies, and that they file their plans by February 1, 1999. Six of these agencies submitted plans. The ERT reviewed and commented on them and requested that the plans be revised in accordance with the comments and re-filed within 90 days.

Follow-up efforts continued through the end of FY99 with the Phase One and Two agencies. The ERT stands ready to provide consultation to these agencies, as they move from the planning stage to the implementation process, by assisting them in assembling technical support from other agencies and contractors.

The ERT also completed development of a primer on cyber security to provide guidance to federal agencies in the following areas:

- Establishing information security policy
- Conducting a vulnerability assessment
- Identifying tools and practices for critical infrastructure protection
- Planning for security incident response
- Identifying cryptography deployment issues
- Identifying low and no-cost computer security measures
- Identifying available training opportunities
- Identifying points of contact for technical support
- Outreach

During January 1999, the CIAO sponsored a conference to address issues associated with and models for Information Sharing and Analysis Centers (ISACs); it was attended by 70 representatives of government and industry. Issues such as antitrust, liability, freedom of information, privacy, unwanted criminal investigations, etc., are dependent upon the nature of the partnership and methods of sharing information. The CIAO included a discussion of these issues during the January 1999 conference.

The CIAO made every effort to provide assistance to federal lead agencies in their outreach to industry sectors. Following the January conference, banking and finance industries established subgroups to examine the creation of a CEO council, vulnerability/risk assessments, Information Sharing and Analysis Centers (ISACs), and research and development. The first result of these efforts was the establishment of a privately sponsored laboratory to examine and endorse technology implementation for financial services. The second accomplishment of the group was the recently announced creation of a Financial Services ISAC (FS-ISAC), which is the first information-sharing entity PDD-63 specifies is to be formed. The CIAO continues to provide the Department of the Treasury with support in response to the needs of the sector industries.

The Department of Energy was very active as a sector liaison with the electric power industries. The North American Electric Reliability Council (NERC) has held conferences and private discussions to consider developing a business case for action, determining what information can be shared to better secure critical services, and the forming ISAC(s). The CIAO continues to support these efforts and to assist the DOE in finding ways to involve the gas and petroleum segments of the energy sector.

During July 1999, the CIAO supported a Department Of Justice workshop to determine the problems posed by Freedom of Information Act requests for issue as it pertains to private industry information that has been shared with the federal government. A government working group was formed that will develop possible remedies and coordinate with representatives from private industry.

In addition to supporting Federal lead agency efforts to establish partnerships with industry, the CIAO worked with self-regulating offices such as the Securities and Exchange Commission (SEC). This organization implemented methods to address Year 2000 readiness and is examining ways to include "operational capabilities." Private industry indicated that the latter proposal was too vague but has offered to assist the SEC in refining the concept and examining whether further regulation is needed.

During February 1999, the CIAO developed an action plan for outreach to the audit community. The practices of this community extend across the industry sectors identified by the PCCIP and adopted in PDD-63. The internal auditing community had the responsibility to examine industry practices and make recommendation to corporate boards and CEOs to ensure business survivability. During the last three quarters of FY99, the CIAO has been invited to give presentations to audit community conferences and private discussions with various audit associations. The response of these communities has been very positive. The CIAO is currently supporting an industry project to raise awareness within the risk management community, develop a business case for action, and begin the process of examining best practices and standards. A parallel outreach effort has been initiated with the federal government offices of Inspector General with similar interest from that community.

In addition to private sector outreach, CIAO also contacted state and local governments. Initial interaction with New Mexico's Critical Infrastructure Assurance Council (NMCIAC) and with Virginia's new Secretary of Technology demonstrated the need to recognize the involvement of state and local governments in the overall CIP effort.

Similarly, CIAO interacted with the National League of Cities' Public Safety and Crime Prevention Committee (PSCP) to coordinate how best to approach municipal governments on CIP issues, and to determine the issues of highest priority at the municipal level. Given that local governments are most likely to be the "first responders" to any terrorist or infrastructure event, municipal representatives placed their highest priority on initiatives that aid their cities' and towns' response(s) to terrorism (cyber-, bio- or chem-), or on other public safety events.

Research, Development, and Technical Accomplishments

The CIAO played a key role in efforts to systematically establish research requirements and priorities needed to implement the National Plan, ensure their funding, and create a system to ensure that our information security technology stays abreast of changes in the threat and in overall information systems.

The interagency Critical Infrastructure Coordination Group (CICG) created a process to identify technology requirements in support of the Plan. CIAO is represented on the Research and Development Sub-Group, chaired by the Office of Science and Technology Policy (OSTP), that worked with government agencies and the private sector to:

- Gain agreement on requirements and priorities for information security research and development
- - Coordinate between federal departments and agencies to ensure the requirements are met within departmental research budgets and to prevent waste or duplication among departmental efforts; and
- Communicate with private sector and academic researchers to prevent federally-funded research and development from duplicating prior, ongoing, or planned programs in the private sector or academia; and identify areas where market forces are not creating sufficient or adequate research efforts in information security technology

Another major effort of a technical nature undertaken in FY99 is the Federal Intrusion Detection Network (FIDNet). CIAO worked closely with the National Infrastructure Protection Center (NIPC) and the General Services Administration (GSA) to develop the original design concept for (FIDNet). This included an Initial Concept of Operations document prepared in May 1999 by a contractor to NIPC.

The CIAO coordinated an interagency legal review of issues raised by the FIDNet concept to ensure that FIDNet's design and implementation, as well as the overall FIDNet concept, protect the privacy rights of American citizens and are consistent with the Electronic Communications Privacy Act (ECPA) and other law. A preliminary legal review by the Department of Justice found that the FIDNet concept complied with the stringent privacy provisions of ECPA. The interagency legal review, which includes the Office of Management and Budget and other federal agencies, is ongoing.

As a key member of the Detection & Warning Interagency Working Group, CIAO, with GSA, NIPC and others, studied a variety of responses to the problem of computer intrusions. This joint group began exploration of possible intrusion detection schemes that would be most effective at the Federal level while minimizing both their financial cost and their operational intrusiveness into the internal computer networks of departments and agencies. This Interagency Working Group also formed the nucleus of a program office for FIDNet. As a member of the IWG, CIAO supported the establishment of this program office, housed within GSA's Office of Information Security.

CIAO also assessed vulnerabilities to attack of the Public Switched Network. In close coordination with the National Communications System and its National Coordination Center, CIAO used this input to better assess alternative communications systems -- those not directly connected to the Public Switched Network, such as new satellite communications systems -- which is or may be available to the federal government to assure its communications connectivity during and after an attack on infrastructures or other catastrophic events.

In furtherance of public-private partnerships, CIAO began dialogues with key vendors in the Internet economy. CIAO explored the viability of biometric solution sets as components of the CIP agenda. These solutions specifically reduce if not remove the vulnerabilities associated with lost or compromised computer passwords by requiring user authentication, e.g., by reading fingerprints or conducting retinal scans (in those cases requiring even higher levels of security).

CIAO also began dialogues with the Department Of Energy's Sandia National Laboratory to assess the vulnerabilities of common telemetry systems in the energy sector -- supervisory control and data acquisition (SCADA) systems. Participation in the DARPA-sponsored Counter CyberTerrorism Conference led to detailed discussions of software engineering techniques and solutions that will better protect CIP systems.

Administrative and Logistics Support

The CIAO grew out of the PCCIP, which was administratively housed in DOD; planning for the CIAO began in the summer of 1998 under DOD. This required the CIAO to coordinate and establish organization and staffing plans and actions; implement Cooperation Of Operations Plan activities; coordinate a staffing process for new employees and for utilizing temporary contracting procedures where appropriate to meet shorter-term personnel needs; acquire key new staff to facilitate CIAO program operations; and coordinate budget-related activities. The CIAO commenced operations on October 1, 1998 as a Commerce Department organization.

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.

BXA Annual Report - FY 1999

Chapter 2. 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 issues. OEXS also provides advice on a broad range of export issues, including licensing and documentation requirements for export transactions and special country policies. OEXS implements 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. partnership obligations in international cooperative efforts.

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 July 8, 1999, 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 East Bloc countries and the People's Republic of China.
- On July 23, 1999, BXA published a rule implementing the Wassenaar Arrangement's revisions to its control list. This rule eased controls on many telecommunications products.
- On August 3, 1999, BXA published a rule liberalizing controls on exports of High Performance Computers (HPCs), raising the performance level of HPCs that may be exported under a license exception.
- On September 1, 1999, BXA published a rule relaxing controls on commercial products containing small amounts of controlled explosives, such as automotive air bag activators.

Other regulatory actions included imposition of broad restrictions on exports to Serbia on May 4, 1999, and retransfer of jurisdiction of the export of commercial communications satellites from the Commerce Control List to the State Department's Munitions List effective March 15, 1999.

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 (WRO) 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. To assist exporters in all areas, OEXS introduced the [Simplified Network Application Process \(SNAP\)](#), a Web-based system that enables exporters to submit export and re-export license applications, high performance computer notices and commodity classification requests directly to BXA via the Internet in a secure environment.

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.

In FY99, OEXS conducted 32 export compliance seminars with more than 3,957 participants. In addition to its own programs, OEXS participated in more than 84 trade-related events, reaching nearly 4,000 business representatives. Much of the feedback from the business community was reviewed and evaluated for consideration in developing future programs.

In FY 99, OEXS continued an export licensing program that includes an extended format and increased government-industry interaction on export licensing policy. The Census Bureau, Office of Foreign Assets Control, and Export Enforcement participated in this program, which continued to provide specialized workshops in commercial encryption licensing, export management systems and freight forwarder programs. In FY00, OEXS will include programs that focus on the new Chemical Weapons Convention.

Update 1999

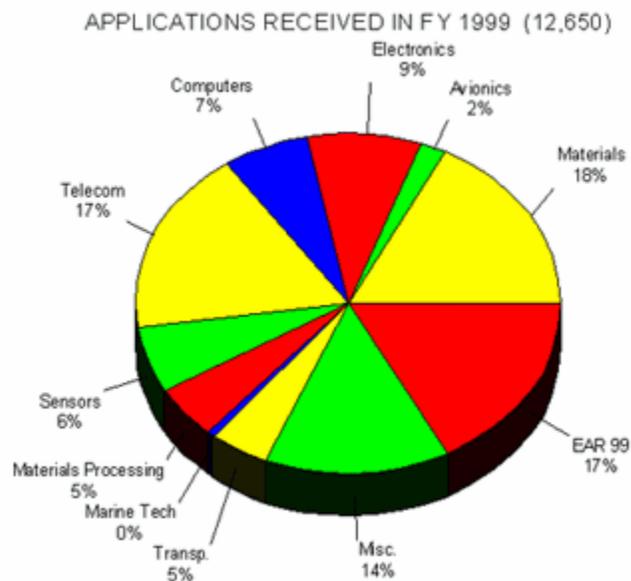
BXA's twelfth annual Update Conference on Export Controls and Licensing attracted more than 825 exporters. The annual conference is BXA's premiere event and the Commerce Department's largest event in the Washington, D.C. area. The conference brings high-level government officials and industry representatives together to discuss any significant changes in export control policies. BXA's Update West conference in California attracted more than 600 industry participants. During the program, Commerce Department officials and representatives from the interagency community discussed major developments including the newly released encryption export control liberalizations, technical data and software controls, export management systems, proliferation controls, and other pertinent export issues.

One-on-One Counseling

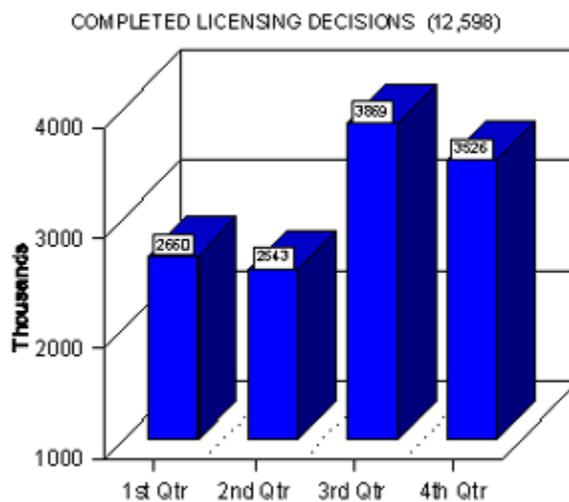
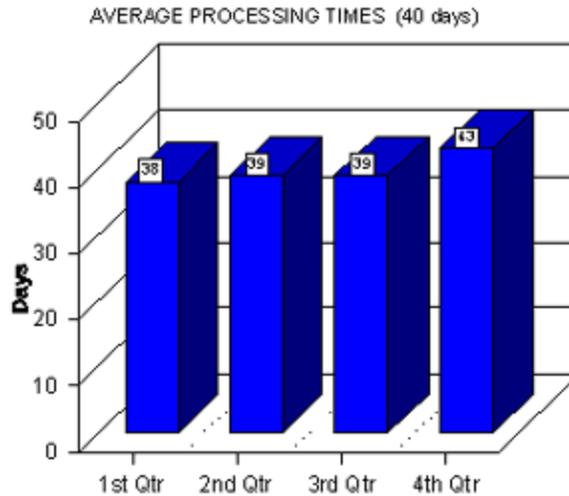
A company's ability to compete in the global marketplace often depends on a timely and efficient export licensing process. To this end, our regulatory specialists provide accurate and in-depth information in one-on-one counseling sessions, 11 hours a day. In addition, we maintain a broadcast e-mail and fax system known as "netFacts" and "FastFax" that issues timely updates to more than 3,300 subscribers. In addition, there is a document fax-on-demand system available free-of-charge, 24-hours a day, and BXA's Web site is maintained with licensing information. In FY99, we successfully assisted more than 100,000 people and experienced only one delay in service due to a malfunctioning phone system in Washington, which was quickly replaced with a more efficient one. OEXS enhances its customer service initiatives through the distribution of brochures and export control-related publications. In FY99, OEXS published the brochures "BXA" and "Forms for Exporters." In addition, two popular brochures, "Introduction to Export Controls" and "How to Obtain an Export Commodity Control Number" were published in Spanish and the "Introduction to Export Controls" is available in Chinese.

Export License Processing

In FY99, BXA received 12,650 license applications, the greatest number received since FY93 when 26,126 applications were submitted. This 18 percent increase over FY98 (when 10,693 applications were received) is a result of rapid technological advances, additions to the entities list, the easing of restrictions on humanitarian items, and the continued demand for "deemed export" applications for foreign nationals working on research and development projects in the United States. The March 15 retransfer of satellites and related items from the Department of Commerce Control List to the Department of State's United States Munitions List had very little effect on the number of applications received. The following chart provides the percentage of applications received in each category of the Commerce Control List (CCL).



In FY99, BXA completed review of 12,598 applications (this includes cases received before FY99 but completed during the fiscal year). The greatest number-of-approvals in FY99 under one commodity classification was for information security software -- 973. The greatest number of denials under one commodity classification was for EAR 99 items -- 818. Overall, we approved 9,311 applications, returned 2,124 applications without action, and denied 1,160. The high rate of denials (9 percent) was primarily due to sanctions on India and Pakistan. The following charts provide the number of applications completed in each quarter and the average processing time for that quarter.

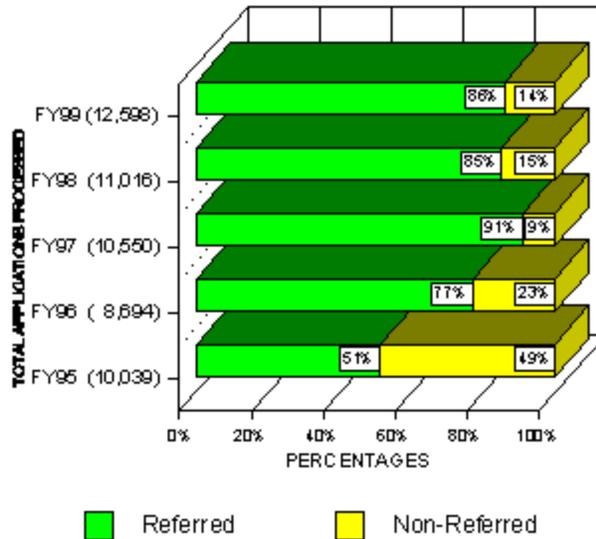


In FY99, there was an increase in processing times of both referred and non-referred applications. The processing time for non-referred applications (14 percent of all completed applications) rose from 15 days in FY98 to 20 days in FY99; while the processing time for referred applications (86 percent of all completed applications) jumped to 43 days in FY99, up from 36 days in FY98. The average processing time for all applications was 40 days in FY99, an increase from 33 days in FY98.

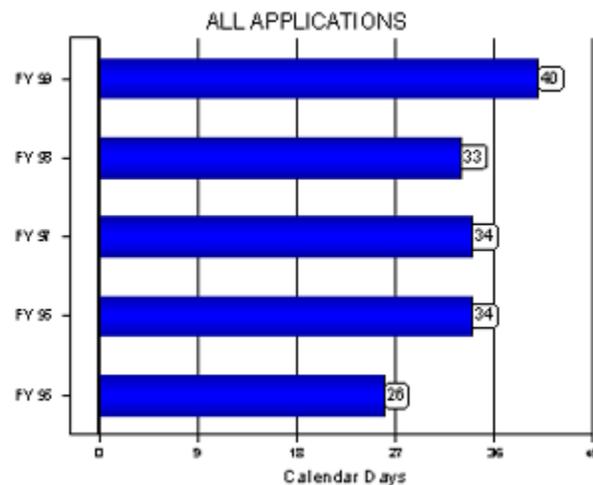
While the rise in license applications certainly contributed to the overall processing time increase, BXA's participation in numerous Congressional investigations, Freedom of Information Act inquiries, and related court-ordered document searches consumed significant staff resources that otherwise would have reduced licensing processing time.

The charts below provide a five-year comparison of the percentage of referred and non-referred cases and average processing times for all cases.

PERCENTAGE OF REFERRALS



AVERAGE PROCESSING TIMES



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. The Arms Control and Disarmament Agency (ACDA) was a referral agency until April 1, 1999, when it merged with State. Since the transfer of jurisdiction of commercial encryption products to Commerce, the Department of Justice and the National Security Agency (NSA) have 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), comprised of representatives of the Departments of Defense, Energy, State, and which is chaired by the Department of Commerce's representative. Prior to such dispute, certain license applications can be discussed, on a consultative basis, at State

Department-chaired working-level, interagency groups that review cases subject to nuclear nonproliferation, missile technology, and chemical/biological weapons controls.

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, which is chaired by Commerce with its principal members coming 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 applications or escalated to the President for decision.

Electronic Licensing

In FY 99, BXA introduced the [Simplified Network Application Process \(SNAP\)](#), 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.

Currently, technical specifications, import certificates, and other supporting documentation are submitted by telefax or express mail for all forms of submission. BXA currently is developing the capability to accept supporting documentation electronically.

"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 concern 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. In FY99, several entities in Russia, Pakistan, India, and the People's Republic of China were added to the List.

Special Licensing and Export Compliance

Special Comprehensive License

OEXS offers an efficient 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 allows 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 14 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 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. Three such licenses currently exist.

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. Although this Module was developed for the SCL ICP review, it is also used by companies that do not hold SCLs. The ICP Guidelines and the Review Module are available to exporters for download from the Export Management System Compliance portion of the BXA Web site.

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 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.

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 now offers on-site EMS reviews of companies' written and operational programs. 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.

The following chart provides a summary of System Reviews. In the 1984-1995 period, system reviews were completed under separate Special Licensing Distribution License procedures. Other Special, Project, Service Supply and Service Facility Licenses did not require ICP or system reviews. In FY96, the various "special licenses" were consolidated under the Special Comprehensive License.

Summary Of Systems Reviews						
By Fiscal Year						
	1984-95	1996	1997	1998	1999	Total
Domestic:	664	3	1	4	10	680
Foreign:	347	0	0	0	4	353
Mini:	6	0	0	0	0	6
Desk:	29	1	19	10	4	64
Total:	1,046	4	20	14	18	1,102

Definitions:

Domestic: 1 or 2 day on-site visit to Special License Holder

Foreign: 1 or 2 day on-site visit to the Special License Consignee

Desk: Special License Holder, Special License Consignee, and Export Management System reviews conducted by written correspondence

Mini: Half day on-site visit to Special License Holder

License and Enforcement Action Program (LEAP)

BXA has implemented a new domestic compliance program called LEAP, the License and Enforcement Action Program. This program is designed to assist the business community in understanding both its obligations and rights under the export control system. As a first step, BXA is standardizing the conditions applied to licenses. These conditions are sometimes necessary to ensure that approved items are in the correct location and used as designated in the license application. When a license carries conditions, exporters are required to notify other parties to the transaction of those conditions and to obtain a written acknowledgment from the end user overseas that they have been so informed. Other activities planned under LEAP include expanded end use visits, reviews and spot checks of license exceptions, broader information sharing with the intelligence community, and expanded outreach efforts.

[Go to Chapter Three](#)

Note

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BXA Annual Report - FY 1999

3. Office of Strategic Trade and Foreign Policy Controls

The Office of Strategic Trade & Foreign Policy Controls (STFPC) is composed of three divisions: Strategic Trade; Foreign Policy; and Information Technology Controls. 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.

In February 1999, BXA added to its Web site a Web page dedicated to the Wassenaar Arrangement and related BXA developments, intended to serve as a resource to exporters.

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

The Wassenaar Arrangement's Initial Elements called for Participating States to assess the overall functioning of this arrangement. The first review process, in 1999, provided an opportunity to focus on how the arrangement is meeting its objectives. Two assessment meetings were held in February and May. The U.S. objectives for the 1999 Assessment included: (1) Expanded reporting of conventional arms; (2) Strengthening the Wassenaar Arrangement rule by adopting a denial notification policy similar to the nonproliferation regimes; and (3) Implementing controls on man-portable defense systems (MANPADS). The Wassenaar Arrangement also continues annual reviews of its control lists.

In July 1999, BXA participated in an informal meeting among 25 Wassenaar Arrangement countries to discuss enhancing controls for intangible transfers of technology and software. Further discussion on establishing effective controls for intangible transfers among all Wassenaar members will continue in the fall.

National Security Export Control Changes

In July 1999, BXA published changes to the EAR to implement in the Commerce Control List (CCL) changes agreed to in 1998 to the Wassenaar Arrangement's List of Dual-Use Goods and Technologies. Changes in the July 1999 regulation streamlined controls for telecommunications equipment and technology, consistent with the agreed relaxations in Wassenaar. This July 1999 rule also liberalized controls for ion implanters and relaxed controls on the minimum resolvable feature size of lithography equipment from 0.7 to 0.5 microns.

Microprocessors

In 1999, to reflect technological advances, BXA raised License Exception CIV's eligibility level for microprocessors from 500 MTOPS to 1,200 MTOPS in January and to 1,900 MTOPS in July.

Encryption

In December 1998, the Wassenaar members agreed to move encryption items from the Sensitive List to the Basic List and make other revisions to encryption controls. Wassenaar's December 3 agreement was the result of a two-year effort to modernize and improve multilateral export controls on encryption. That agreement simplified export controls on many encryption products. For example, the December 3 agreement created a positive list of controlled encryption. In the past, the Wassenaar Arrangement required participating countries to control all encryption products without regard to encryption strength. Now, the new list clearly states that products with an encryption key length of 56 bits or less are no longer controlled.

Wassenaar member countries also agreed that the General Software Note (GSN) should not apply to encryption. It was replaced with a new cryptography note. The GSN allowed countries to export mass-market encryption software without limits on the key length. It was essential to close loopholes that permitted the uncontrolled export of encryption with unlimited key length; accordingly, the agreement established a key length of 64-bits or less as an appropriate threshold. The agreement also extended liberalized mass-market treatment to hardware encryption products. Previously, only mass-market software enjoyed this liberalized treatment.

The December 3 agreement also eliminated requirements to report exports of encryption products, and removed controls on certain consumer electronic items such as DVD products and cordless telephone systems designed for home or office use.

The United States also updated its own export controls on encryption. On December 31, 1998, the Commerce Department amended the EAR to implement the encryption policy changes the Administration announced on September 16, 1998.

On September 16, 1999, the Administration announced a new approach to encryption policy that simplified export controls. This approach comprises three elements: information security and privacy, a new framework for export controls, and updated tools for law enforcement. The element of encryption export control rests on three principles: a one-time technical review in advance of sale; a streamlined post-export reporting system; and a process that permits the government to review the exports of strong encryption to foreign government and military organizations and to nations of concern. The regulations implementing the changes are expected to be published by January 14, 2000.

The new guidelines will allow U.S. companies to export encryption hardware or software products to non-government end-users anywhere in the world except the terrorist and embargoed states, following classification by BXA. The new guidelines will relax controls on encryption products sold through retail outlets or over the Internet for consumer use. These "retail" products will be eligible for export worldwide to any end user except in the embargoed and terrorist states, including foreign governments. Internet service providers and telecommunication companies may provide services for any products to the appropriate customers.

The announcement also permits encryption technology to be eligible for export to foreign nationals working for U.S. firms under a license exception after classification. This extends the policy adopted last year, which allowed the export of encryption technology to foreign nationals working at foreign subsidiaries of United States firms under a license exception. Finally, as part of this announcement, the U.S. will harmonize encryption controls with those of other Wassenaar members by implementing the proposals agreed to in December 1998. This includes decontrolling 56-bit products, including chips, components, and toolkits, and raising the mass market threshold to 64-bit products that meet the new Wassenaar cryptographic note. Licenses will still be required to export encryption technology and to export most encryption to foreign government entities. Additionally, reporting on certain encryption exports, whether authorized under a license or license exception, will be required.

High Performance Computers (HPCs)

On July 1, 1999, President Clinton unveiled new export controls on HPCs and semiconductors. This new policy includes changes critical to maintaining the strong, vibrant high-technology industry, which is critical to America's national security interests. The revised controls announced by the President maintain the four country groups announced in 1995, but amend the the list of countries in, and control levels applying to three of those groups. At the same time, the President committed the Administration to review HPC export control policy every six months in order to ensure a realistic export control regime in this rapidly changing high-technology industry. Following this announcement, on July 23, 1999, the President notified Congress, pursuant to the National Defense Authorization Act for Fiscal Year 1998, of his decision to establish a new threshold performance level to which the notification procedure for computers will apply.

On August 3, 1999, the regulation implementing the President's announcement was published. It moved Brazil, the Czech Republic, Hungary, and Poland from Country Tier II to Tier I, thus allowing a license exception for all computer exports to those countries. It raised the control level for Tier II countries from 10,000 to 20,000 MTOPS with the expectation that it will be raised again in six months to the 32,000-36,000 MTOPS range. It maintained the distinction between civilian and military end-users in Tier III countries. The license level for Tier III civilian end-users was immediately raised from 7,000 to 12,300 MTOPS. The license level for Tier III military end-users was retained at 2,000 MTOPS until the conclusion of the six-month Congressional review mandated by the NDAA, at which time it will be raised to 6,500 MTOPS. Proliferation end-users will still require a license for any HPC export. The denial policy for Tier IV countries remains unchanged.

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, Vietnam, and Tibet. 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

Afghanistan

On July 4, 1999, the President issued Executive Order 13129, which prohibits all exports from the United States and by U.S. persons to the territory of Afghanistan controlled by Taliban. The Department of The Treasury's Office of Foreign Assets Control is implementing the Order. Commerce has export licensing authority for all of Afghanistan. Commerce coordinates actions with other agencies regarding the Taliban and has sole licensing responsibility for areas of Afghanistan not controlled by the Taliban.

Angola

On August 12, 1999, the United States implemented the 1997 and 1998 United Nations sanctions that expanded export controls and other sanctions against the National Union for the Total Independence of Angola (UNITA) and the territory of Angola controlled by UNITA. The Department of The Treasury's Office of Foreign Assets Control has the licensing responsibility for the specific categories of items such as arms, aircraft, petroleum, mining equipment and certain vehicles controlled to UNITA and the rest of Angola.

China

At the 12th annual Joint (U.S. and China) Commission on Commerce and Trade meeting in Washington, D.C., in December 1998, the United States and China agreed to procedures for end-use visits, to the expansion of Chinese end-user certificates for nonproliferation-controlled items, and to technical exchanges in 1999. The first technical exchange seminar took place in September 1999 in Washington, D.C. The Chinese participants met with BXA licensing officials to review and discuss licensing processes and policies. They also met with representatives from the Departments of Defense, Energy, and State.

Cuba

Because the United States has maintained an embargo on Cuba since 1962, the export and re-export of virtually all U.S.-origin commodities, technology, and software to Cuba requires a license. On March 20, 1998, however, the President announced that the United States would take a number of steps to expand the flow of humanitarian assistance to the Cuban people to help strengthen its civil society. On May 13, 1998, the United States implemented the measures by lifting the 1996 ban on direct humanitarian flights to Cuba, streamlining procedures for the

sale of medicines and medical equipment to Cuba, and allowing family remittances of specified amounts to close relatives in Cuba.

On January 5, 1999, the President announced the authorization of licensed sales to Cuba of food and certain other agricultural items (seeds, fertilizer, pesticides). The President authorized sales to individuals and organizations independent of the Cuban government. By focusing on the private farming sector, this new program was consistent with the United State's objective to promote a transition to a free and independent 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 or Serbia/Montenegro), in concert with the Department of State. Implementing the United Nations Security Council Resolution 1160 of March 31, 1998, these controls prohibit the sale or supply of certain 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. With the end of the NATO bombing campaign, the United States has modified its Serbia sanctions to exempt the province of Kosovo from the comprehensive economic sanctions imposed on Serbia. The "carve out" is intended to aid NATO forces in Kosovo and make the widest possible range of goods available to the Kosovars without undue delay.

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 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 Secretary Daley and his Hong Kong counterpart in October 1997, the two agencies hold semiannual meetings to exchange information and enhance cooperation. These meetings assist BXA in monitoring Hong Kong's export controls to determine whether its system continues to be effective and autonomous. In February 1999, BXA led an interagency delegation to Hong Kong to discuss export control and enforcement issues with Hong Kong officials. In July 1999, Hong Kong Department of Trade Deputy Director-General Edward Yau led a Hong Kong delegation to Washington for a reciprocal visit. During the meeting, BXA informed Hong Kong officials of U.S. concerns regarding border crossings by People's Liberation Army (PLA) vehicles and the results of post-shipment checks conducted in Hong Kong. Hong Kong officials explained their Customs procedures for border crossings by PLA vehicles and agreed to review their controls on items imported to Hong Kong that the United States controls unilaterally.

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 November 1998, BXA participated in a United States delegation to India and Pakistan, whose goal was to urge India and Pakistan to adopt the multilateral non-proliferation guidelines and export control lists of the various international nonproliferation regimes. The meetings were largely informational with the United States explaining the various regime controls. Both countries expressed their commitment to nonproliferation, but stated that their governments were not anxious to join the international regimes, which they consider discriminatory. In March 1999, BXA again participated in export control talks with Indian and Pakistani officials. The U.S. goal was to determine what steps each country had taken to strengthen its export control; to encourage the adoption of the multilateral control lists; and to urge each country to adopt controls on intangible exports of technology. Pakistan clarified certain aspects of its missile controls and agreed to consider U.S. recommendations on controlling production equipment and technology. India planned to review its export control policies for nuclear and missile-related items.

Macau

On May 28, the United States published a rule in the Federal Register that added Macau to the EAR as a distinct destination on the Commerce Country Chart for export licensing purposes in preparation for the colony's return to the sovereignty of the People's Republic of China on December 20, 1999. The new regulation imposed treatment on Macau similar to that the United States accords China, but it will allow the United States to treat Macau differently from the way the PRC as conditions and circumstances warrant.

North Korea

Although the United States has an embargo against North Korea, BXA, in cooperation with the Department of State, has authorized certain exports of humanitarian aid to famine and flood victims in North Korea. A 300,000 metric ton donation from the United States was the first United States Government food shipment to North Korea in 1998, fulfilling the first part of the U.S. goal to support humanitarian efforts for famine relief.

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. The United States plans to permit the export and re-export of many nonsensitive goods and services and the transport of approved cargoes to and from North Korea by U.S. commercial ships and aircraft, subject to normal regulatory requirements. Nonproliferation restrictions associated with North Korea's designation as a terrorist-supporting state will remain in place.

Syria

On September 16, 1999, BXA revised the EAR to reflect the license review policy for the export and reexport of certain aircraft parts and components to Syria to ensure safety of flight for civilian passenger aircraft. The United States reviews license applications on a case-by-case basis with a presumption of approval, consistent with the United States Government's commitment to safety of civil aviation. We will continue to maintain the general policy of denial for the export or re-export of aircraft parts and components to Syria destined for non-civilian end-uses or end-users.

Libya

On September 13, 1999, BXA reinstated provisions of license exception AVS for temporary reexports to Libya of foreign registered aircraft subject to the EAR. This action was taken in response to the suspension of sanctions on Libya by the United Nations Security Council on April 5, 1999. Foreign registered aircraft meeting all the temporary sojourn requirements of license exception AVS may fly from foreign countries to Libya without prior written authorization from BXA.

Multilateral Cooperation

In March 1999, BXA officials attended the Asian Export Control Seminar in Tokyo. Sponsored by Japan, the United States, and Australia, the conference was attended by representatives of 14 Asian governments. Laos and Burma participated for the first time. 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 1999, BXA led a United States delegation to a Conference on Export Controls in Oxford, England. Participants met to consider the status of the global export control system, assess efforts to assist the nations of the former Soviet Union and Central Europe to establish and strengthen national export control programs, and develop recommendations for strengthening the global export control system.

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 April 28, 1999, the President announced that the United States would exempt commercial sales of food, medicine, and medical equipment from future unilateral economic sanctions regimes where it had the authority to do so and would apply that policy immediately, with appropriate safeguards, to currently embargoed countries. BXA assisted in developing the list of items that may be approved under this policy. On August 2, 1999, the Department of Treasury's Office of Foreign Assets Control issued regulations amending the sanctions regimes for Iran, Libya, and Sudan to implement this policy change. Existing BXA regulations already permit approval of such exports to Cuba, North Korea, and Syria. The U.N. "Oil for Food" program permits approval of such exports to Iraq.

Firearms Procedural Change

In 1999, the United States modified its controls on certain Crime Control items to prevent and combat the illicit transnational traffic in firearms and ammunition. On April 13, 1999, BXA imposed an import certificate (IC) requirement for the export or re-export of shotguns and for shells, and optical sighting devices for shotguns to member countries of the Organization of American States, including Canada. In 1998, the President announced at the Santiago Summit that the United States would promulgate these regulations based on the OAS Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition. The OAS members agreed to impose an import and export license requirement to effectively combat illicit manufacturing of and trafficking in firearms.

Go to [Chapter Four](#)

Note

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BXA Annual Report - FY 1999

Chapter 4. Office of Nuclear and Missile Technology Controls

The Office of Nuclear and Missile Technology Controls (NMT) administers U.S. multilateral and unilateral export controls on items related to nuclear and missile technology. The United States is a member of both the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR), international groups whose focus is to prevent the spread of weapons of mass destruction. NMT represents the Department in international negotiations on the export controls that are shared by member-nations of the NSG and MTCR. NMT is also responsible for all policy actions, export licenses, commodity classifications, and advisory opinions pertaining to items subject to nuclear and missile technology controls.

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 established in 1992; its membership now totals 35 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 is the actual list of 70 categories of 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. The NSG proceeds on the basis of consensus.

Since the early 1990s, 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

BXA Under Secretary Reinsch delivered the keynote address at the 2nd International NSG Transparency Seminar, entitled "The Role of Export Controls in Nuclear Nonproliferation," at the United Nations in New York City on April 8-9, 1999. The seminar was one in a series that will demonstrate the openness and transparency of the NSG. The seminar provided an opportunity for states and non-governmental organizations, both within and outside the NSG, to pose questions, raise topics, and exchange views on nuclear export controls.

BXA continued in its efforts to establish a level playing field for U.S. exporters by proposing that the NSG adopt parts and components rules. Under the proposal, certain NSG Dual Use Annex entries will identify the individual parts and components of the controlled items that will also be controlled. The proposal, currently under review in the NSG, will not result in placing a significant number of new items under U.S. control; many are already subject to U.S. controls pursuant to

other multilateral control regimes. What this proposal will do is enable U.S. exporters to compete equitably in the international marketplace with their foreign competitors.

The NSG held its annual Plenary Session in Florence, Italy, on May 5-6. Agreement was reached at the plenary to continue NSG outreach and transparency initiatives; to consider establishing an Internet Website; to enhance the usefulness of its electronic information sharing efforts among all NSG members; to establish working groups to clarify component controls (in response to the U.S. proposal noted above), and to study improvements in the effectiveness of the regime. The NSG also collectively agreed on the importance of keeping pace with technological change, noting that intangible technology transfers were an area of concern deserving intensified consultation among members. It was also agreed that contacts with Turkey, Belarus, Cyprus, Kazakhstan, and Slovenia should be pursued regarding future NSG membership.

BXA continues to report 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 should be honored by other member countries, thereby assuring that the earlier denial is not undercut by approvals of similar transactions. There are procedures for member countries to consult on specific denials if they wish to disagree with the original denial decision. BXA has also been active 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 controls, 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.

NMT 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 MTCR holds a Reinforced Point-of-Contact meeting each year where representatives from MTCR member countries are invited to meet to discuss a limited agenda of issues derived from the monthly MTCR Point-of-Contact meetings. The monthly Point-of-Contact meetings are attended by the MTCR member countries' embassy personnel stationed in Paris, France. This year's annual Reinforced Point-of-Contact meeting was held in Paris on June 3-4, and focused on national approaches to counter regional missile proliferation in South Asia, North Asia, and the Middle East.

The MTCR also held an export control workshop on intangible technology transfers in Munich, Germany, on June 21-23. The workshop focused on such issues as industrial visits and the employment of foreign nationals, and technology transfers via electronic means, i.e., e-mail and the Internet. BXA gave presentations on U.S. policies and procedures on intangible technology exports and the applicability of intangible technology controls on scientific, academic, technical, and industrial organizations.

The U.S.-U.K. proposal to reformat the MTCR Annex -- to conform it with the control lists of the other multilateral regimes and thereby enhance overall compliance with and enforcement of all nonproliferation export controls -- was agreed to by all MTCR members in February 1999. However, a hold on final approval was imposed by one MTCR member pending resolution of a definitional issue. BXA successfully negotiated an acceptable compromise, and the hold was finally lifted effective July 21, 1999. The reformatted Annex is now fully entered into force by all MTCR members.

The Enhanced Proliferation Control Initiative (EPCI)

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 licensing requirement, President Bush announced 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 license for export of an item, even if one is not normally required, if the exporter knows or is informed by BXA that the export will be used 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 U.S. unilateral control, but with U.S. leadership, a large majority of our nonproliferation regime partners have also incorporated so-called "catch-all" export controls. At present, virtually all of the NSG and MTCR member countries have some form of catch-all 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. Initiated as part of the EPCI clarification project recommended 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 with on the basis of which to conduct international business.

Industry Interaction and International Consultations

Beyond the routine contacts that are a necessary part of the export licensing process, NMT'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. These efforts promote U.S. exports by reassuring buyer and seller alike of the legitimacy of proposed export sales, and advise the participants in the transaction of their export control obligations.

NMT'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, NMT participated in numerous consultations under the auspices of the multilateral control regimes and in support of BXA's overall international outreach effort to educate non-participatory countries about the benefits and obligations of export control cooperation.

Go to [Chapter Five](#)

Note

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BXA Annual Report - FY 1999

Chapter 5. 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 Commerce Department 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 comprises three divisions, which include Defense Programs, Strategic Analysis, and Economic Analysis. For a detailed description of the office programs and functions, consult the SIES web site.

Analysis of U.S. Technology Transfers

Commercial Technology Transfer to China

In FY99, SIES developed a comprehensive, searchable data base detailing U.S. and foreign technology cooperation with China in the aerospace/aviation and telecommunications industry sectors. The data base covers technology cooperation with China between January 1996 and April 1999 and deals exclusively with cooperative ventures in the aerospace/aviation subsectors of airframes, avionics, and engines, and the telecommunications subsectors of fiber optics, switches, and wireless base stations. The data base will enable further analysis of the potential short and long-term implications of these technology transfers for both the U.S. and Chinese economies. In January 1999, SIES released a study that highlighted the dynamics faced by U.S. and other western firms that conduct business with China, with an emphasis on the formal and informal ways in which Chinese officials use the leverage of their vast market potential to obtain industrial, technological, and economic benefits from foreign investors.

Analytic Support Activities

During FY99, SIES provided research and analytic support to other BXA offices and BXA management on a variety of export control issues. For example, SIES prepared a paper that examined how recent advances in the performance levels of microprocessors, coupled with gains in both the performance and affordability of computer network equipment and software, justified a reassessment of U.S. foreign policy-based export control reporting and licensing requirements for certain computers and microprocessors. The paper noted that the widespread availability of microprocessors, the increased use of multiprocessor computer workstations and servers, and the existence of large distribution networks have combined to limit the effectiveness of export controls on computers and computer components, especially those at the lower end of the performance spectrum.

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 (ITTWG).

During FY99, BXA conducted three case studies as part of its work with the ITTWG: (1) international participation in SEMATECH; (2) rocket motor casing manufacturing; and (3) co-production of the M109 howitzer. These studies examined how the Federal interagency process worked in each of these cases, with an emphasis on what the role of the government should be as industries globalize, resulting in more international transfers of technology.

BXA also assisted the ITTWG in developing a work plan for FY 2000 which includes: (1) examining emerging trends and considering what changes in U.S. policy might be necessary to harmonize the promotion of American economic and security interests; (2) examining the feasibility of interagency review of export control issues and addressing current practices and authority to make agreements; (3) exploring the desirability of using checklists to track key issues and as an administrative tool to monitor progress; and (4) improving interagency coordination of the management of issues involving foreign participation in Cooperative Research and Development Agreements and Intellectual Property Licensing.

Defense Memoranda of Understanding

The review of The Defense Memoranda of Understanding (MOU) is an ongoing SIES activity. MOUs are international agreements between the United States and its allies for various types of cooperation in the defense industrial and defense technological fields. SIES's role is to determine whether these agreements will result in an adverse impact on the U.S. industrial base and competitiveness of U.S. industry.

In FY99, SIES reviewed 89 MOUs with 22 countries. Since 1990, SIES has reviewed almost 600 of these agreements. A comprehensive database of the MOUs was developed and a multi-year study is currently underway to review the technology transfer implications of these agreements.

SIES also continued its monitoring role with the Department of Defense in both the development and production phases of the Japanese FSX/F-2 aircraft, a derivative of the U.S. F-16 fighter aircraft. Each phase 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 is delegated to the Department of Commerce and, within Commerce, to SIES.

In FY99, SIES staff worked closely with Boeing, its subcontractors, and lower tier vendors and suppliers, to meet a critical mid-August accelerated U.S. Air Force delivery requirement of 1,320 Joint Direct Attack Munitions (JDAM) to replace stocks of the weapon used during the air war in Serbia and Kosovo. SIES also spearheaded a Department of Defense effort to maintain production by Optical Imaging Systems (OIS) of active matrix liquid crystal displays (AMLCD) used in combat aircraft, such as the AH-64 Apache Longbow helicopter, and the F-15, F-16, and

F-18 aircraft. OIS was the sole source qualified producer of these displays.

SIES continued to ensure timely U.S. industrial base support for NATO's ongoing peacekeeping effort in Bosnia and the deployment troops from the U.S. and other Alliance nations to the area. SIES also continued to work with representatives to the NATO Industrial Planning Committee on the North Atlantic Council recommendation to Alliance nation members concerning implementation of priorities and allocations plans and procedures. This effort will help ensure international industrial base defense cooperation in the event of future NATO defense emergencies.

The newly revised DPAS handbook, which contains the regulation (15 CFR Part 700), statutory authority, and a series of questions and answers about the DPAS, was made more accessible early in FY99 by placing it on the BXA Website.

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 FY99, SIES defense advocacy efforts supported sales of approximately

\$4.2 billion, which included the \$2 billion F-16 fighter aircraft and \$1 billion Patriot missile system sales to Greece, and the \$1.2 million sale of AH 64 Apache Longbow helicopters to Singapore. During FY00, SIES will continue outreach activities at major defense-related trade shows in an effort to increase awareness among small and medium-size 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 Lab 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 Needs Assessment Survey

For the last five years, SIES has worked with small businesses nationwide to help them gain access to government resources that could improve their competitiveness. In FY99, SIES formed a partnership with the Federal Laboratory Consortium (FLC) to assist businesses in the western region of the United States. SIES gathers basic information about each of the companies and asks what type of assistance would be of benefit to it, such as manufacturing technology deployment, product/service development, reasearch and development programs, and exporting.

After analyzing completed surveys, SIES forwards summary information to appropriate members of an interagency response team who follow up directly with the firms, providing them information about the assistance programs that their organizations offer. The team includes the Commerce Department, the 700 laboratories who are part of the FLC, the Department of Labor, and the Small Business Administration.

BMP Partnership

SIES has expanded its role as one of six regional satellite centers for the U.S. Navy's Best Manufacturing Practices (BMP) program which aims to increase the quality, reliability and maintainability of goods produced by American firms. In March 1999, SIES announced full partnership in the BMP program, which allows SIES to participate in decisions about the program's focus and overall goals as well as promote awareness of BMP among government and industry representatives.

Economic Analysis of U.S. Export Controls

Since late 1994, SIES has the expanded responsibility for analyzing the economic impact of U.S. export control policies and export licensing decisions. During FY99, SIES performed a wide array of economic impact studies on a number of critical export control issues.

Dual-use Export Controls

SIES prepared a report designed to assist the U.S. International Trade Commission (ITC) in its investigation of the economic impact of sanctions that the U.S. imposed on India and Pakistan following nuclear tests by these countries in May 1998. The report contained an analysis of BXA licensing data on India and Pakistan that showed how the U.S. unilateral foreign policy-based export controls based on these sanctions had significantly reduced the ability of domestic companies to export non-strategic items to affected Indian and Pakistani entities. The report estimated that U.S. companies lost more than \$150 million in exports to India as a result of the U.S. sanctions. SIES prepared a similar report on the impact of the India/Pakistan sanctions in response to a Congressional request.

SIES also conducts annual reviews of the economic impact on U.S. industry of U.S. foreign policy-based export controls, the results of which are included in BXA's annual foreign policy report to the Congress.

In addition to analyzing the effects of existing export controls, SIES has provided the Administration with analyses of how proposed changes in unilateral U.S. export controls could impact the competitiveness of U.S. industries. For example, SIES conducted a review of the potential impact on U.S. industries of proposed changes in unilateral foreign policy-based export controls on Cuba.

Export License Reviews

SIES also prepared economic impact assessments to assist other offices in BXA (and sometimes other agencies as well) in reviewing export license applications. These applications generally consist of transactions that do not clearly fall within the scope of certain export controls or licensing policies and where failure to complete the transaction would probably have serious economic consequences for the exporting company. The economic impact assessments introduce a broader industry perspective into the licensing process by addressing such factors as the extent to which denials of individual export license applications could have a long term adverse impact on the overall competitiveness of U.S. exporters in various foreign markets.

Control List Reviews

SIES regularly provides data to BXA's offices responsible for administering export controls on goods subject to control under the Wassenaar Arrangement, Nuclear Suppliers Group, Australia Group, and Missile Technology Control Regime. SIES provides economic impact data that address issues such as the appropriate level of export controls for various goods and technologies. The

information provided by SIES often consists of data on the international markets for specific goods, as well as major U.S. and foreign producers of such goods (e.g., semiconductor manufacturing equipment, encryption products).

Emergency Preparedness

The National Security Emergency Preparedness (NSEP) program has been the Department's focal point to ensure that the Nation's industrial/technology base can respond effectively to the requirements of national emergencies. In FY99, SIES continued to participate with the interagency community in NSEP activities. We participated in NSEP exercises to ensure government continuity of operations and in planning activities to ensure adequate government response to catastrophic natural disasters (e.g., the NOAA-led intra-agency "Out of Harm's Way Program"), as well as the threat of Y2K disruption. 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. In FY99, SIES reviewed 155 proposed EDA transfers valued at almost \$450 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 FY99, the Department reviewed 69 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 FY99, 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 will be released in FY00.

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 major national security assessment of the U.S. maritime industry in partnership with the Department of the Navy 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 involved in building and repairing ships, boats, and other marine platforms. It is anticipated that preliminary findings will be available in January 2000.

CAD/PAD Follow-on Study

SIES is conducting a follow-on national security assessment of the U.S. cartridge and propellant actuated device (CAD/PAD) industry for the Navy Department. 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.

In July 1999 SIES forwarded CAD/PAD assessment surveys to 35 firms located throughout the United States. The firms are obligated to complete and return the survey under the provisions of the Defense Production Act of 1950, as amended. The data from the surveys will be analyzed and the aggregate information will be compiled into a report with a completion date in 2000.

High-Performance Explosives and Explosive Components

The U.S. Navy's Naval Surface Warfare Center, Indian Head Division requested that SIES perform an assessment of the high-performance explosives and explosive components industry. The Navy was concerned about the health and competitiveness of explosives manufacturers because of declining defense spending over the past ten years. With this decline, several firms have exited the explosives business. In addition to the loss of suppliers, the Navy was also concerned about the loss of manufacturing expertise at remaining facilities. The Navy feared that these trends could lead to a munitions availability crisis in a time of conflict.

In FY98, a survey was distributed and returned by firms in the explosives sector. The data are currently being analyzed. SIES also has conducted several visits to explosives manufacturing facilities (domestic and foreign) in FY99 and will make several more in FY00. The report will be written and finalized after the last round of site visits is complete.

Assistive Technologies

This new technology study, initiated in late FY98, 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 Education Department's National Institute on Disability and Rehabilitation Research (NIDRR) 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 FY00.

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 FY99, 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 FY00. These guides are also available in printed format.

National Defense Stockpile

SIES provides Department of Commerce input into policy development and ongoing operation of the National Defense Stockpile, including acquisition, disposal, and storage of stockpiled materials. The National Defense Stockpile, managed by the Department of Defense (DOD), is currently a \$5 billion holding of strategic and critical materials, which are unavailable in the United States in sufficient quantities to meet anticipated national security emergency requirements.

Representatives from SIES and the Department of State co-chair the Stockpile Interagency Market Impact Committee (MIC), which provides expert interagency advice to 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 FY99, the MIC continued to monitor closely the depressed prices in several major commodity markets and has encouraged DOD to limit proposed stockpile sales of these commodities.

NATO Industrial Planning Committee

During FY99, 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 October 1998, SIES hosted a meeting of the IPC during which these and other issues were discussed.

Other NATO related activities in FY99 included SIES participation, on behalf of the Department, with representatives from other U.S. departments and agencies in the NATO- sponsored CMX-99 civil-military readiness exercise and planning for the CMX-2000 exercise. These annual exercises are designed to test the civil emergency preparedness of NATO nations to support both military and catastrophic natural disaster requirements.

Offsets in Defense Trade

During FY99, SIES submitted the fourth annual report of 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 countertrade. SIES is responsible for preparing this report and assessing the impact of offsets on the U.S. defense industrial base, in particular small- and medium-sized subcontractors.

This fourth annual report reviews offset agreements and offset transactions data for the five-year period from 1993 to 1997. Based on data provided by U.S. prime contractors, these agreements have proliferated over the years both in terms of the number of countries demanding offsets and as a percentage of the export sales contract.

SIES also addressed offsets as a trade concern for the first time 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, notable progress was made in the area of international consultations. Negotiations have been pursued 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. A meeting with representatives of the Netherlands government was held with the objective of eliminating or reducing offsets in exchange for improved access to the U.S. market. Meetings were also held with Canadian representatives to see what progress can be achieved in reducing offsets. Because it is our largest trading partner, and because of its role in the North American defense industrial base, it is important to make progress with Canada. Very preliminary discussions were also held with the EU, the Swedes, the Danes, and the French, who may be interested in discussing alternatives to offsets as well.

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. 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.

FY99 TAC Activities

The Information Systems Technical Advisory Committee (ISTAC) addressed issues relating to Control List Categories 3 (semiconductor section), 4, and 5. The ISTAC forwarded to BXA comments and proposals on the following topics: aggregation and control issues for high-performance computers; graphics controls; microprocessors; 3D vector controls; indexing; radiation-hardened semiconductors; and proposed changes to The Wassenaar Arrangement, including those for control parameters on test equipment, cluster tools, and lithography. The ISTAC also provided a detailed response to country proposals on a definition for "specially designed."

The Materials Technical Advisory Committee (MTAC) reviewed proposals regarding Control List Category 1. The MTAC focused on the Biological Weapons Convention implementation protocol, addressing proposals on inspections, data declaration formats and triggers, and definitions of terms. The Committee provided input on implementation of the Chemical Weapons Convention and on the proceedings of the Australia Group. The MTAC alerted BXA to problems related to controls on hydroxy terminated butadiene materials and copolymer. The MTAC also reported on the market effects of adding controls for salts, esters, and hydrates of the 54 chemical precursors already controlled by ECCN 1C350.

The Materials Processing Equipment Technical Advisory Committee (MPETAC) made recommendations that would align current Control List Category 2 parameters with those of the Wassenaar Arrangement. The MPETAC Chairman continued to serve as a participating expert at Wassenaar negotiation. The Committee prepared a guide to controls on general purpose machine tools and other manufacturing equipment as referenced by the control regime in the Commerce Control List. The MPETAC recommended posting the guide on the BXA Web site as well as publishing it in the Federal Register and in the EAR.

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; the implementation and impact of specific unilateral economic sanctions; license practices, including country groups, electronic submission of supporting documents, license exceptions, and cycle times; deemed exports; the implementation of The Wassenaar Arrangement encryption rules; and various export enforcement initiatives.

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. The Committee selected the following topics for review: commodity jurisdiction and control of remote sensing equipment; Control List proposals regarding signal analyzers, synthesizers, amplifiers, and underwater acoustic sensors; and development of a standard form for submission of modifications to the Commodity Control List.

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 Committee submitted a comprehensive set of List Review proposals for Category 9 (Propulsion Systems, Space Vehicles, and Related Equipment). The TransTAC also examined controls on gas turbine items (ex., single crystal technology), focusing on the current foreign availability of those items.

Go to [Chapter Six](#)

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.

BXA Annual Report - FY 1999

Chapter 6. Office of Chemical and Biological Controls and Treaty Compliance

The Office of Chemical and Biological Controls and Treaty Compliance (CBTC) administers BXA's statutory and regulatory requirements governing the export of items controlled for chemical and biological warfare purposes. CBTC implements export controls to prevent the proliferation of chemical and biological weapons in accord with the 31-nation Australia Group. CBTC also has the major role of overseeing U.S. industry compliance with the Chemical Weapons Convention (CWC) and has developed programs to implement the provisions of the CWC pertaining to U.S. industry compliance, including: collecting, validating, and aggregating data declarations; educating industry on their treaty rights and obligations; escorting international inspectors on inspections of U.S. business facilities; and implementing CWC trade restrictions. In addition, CBTC administers requirements related to technology transfers to foreign nationals in the United States and materials subject to short supply restrictions. The Office consists of the Chemical and Biological Controls Division, the Treaty Compliance Division, and the Foreign Nationals and Short Supply Program.

Australia Group Regime

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-one 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 could be applicable to the production of chemical and biological weapons. In accordance with the AG agreed control list, BXA maintains export licensing requirements for relevant precursor chemicals, microorganisms and toxins, equipment, whole plants, and technology.

Multilateral Control Actions

BXA participated in the U.S. delegation to the annual AG meeting held October 4-8, 1999, in Paris. The annual discussions include technical consideration of specific items on the control list, the sharing of information on implementation and enforcement measures and reports of outreach activities and experiences. The October 1999 session continued discussion of several control list items, such as heat exchangers, protective suits, and genetically modified biological agents.

All AG participants are States Parties to the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). At the 1999 plenary session, members reaffirmed their support for the CWC. In conjunction with CWC obligations, members committed to review their national export licensing policies to ensure that they promote the object and purpose of the convention. They also welcomed the efforts of the Ad Hoc Group of States Parties to strengthen the effectiveness of the Biological and Toxin Weapons Convention (BTWC).

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.

Export Control Actions

At the October 1998 session, participants agreed to revise the control list entry for toxic gas monitoring systems and dedicated detectors, ECCN 2B351 on the Commerce Control List (CCL), to read as follows:

"a. Designed for continuous operation and usable for the detection of chemical warfare agents or chemicals controlled by 1C350 (AG-controlled precursors) at concentrations of less than 0.3mg/m³."

This change clarifies the scope of the entry. The previous text included the phrase "organic compounds containing phosphorus, sulphur, fluorine or chlorine." This phrase was removed because it did not specifically include inorganic compounds. Consequently, this CCL entry has been revised.

International Agreements

Chemical Weapons Convention

The Chemical Weapons Convention (CWC), open for signature and signed by more than 150 countries, bans the development, production, acquisition, stockpiling, retention, use, and direct or indirect transfer of chemical weapons. The Convention has been ratified by 126 states. The CWC entered into force on April 29, 1997.

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. Certain commercial chemical production, consumption, and processing facilities will be required to submit data declarations and to permit international inspections. On October 21, 1998, U.S. implementing legislation was enacted to compel domestic industry compliance with the Convention.

BXA will implement the Department of Commerce's lead agency responsibilities for compelling data declarations from and hosting OPCW inspections at U.S. companies engaged in chemical activities covered by the CWC. OPCW inspections are anticipated to begin in FY00. CBTC activities include: (1) designing secure hardware and software to receive and process declarations; (2) training staff to perform chemical determinations; (3) maintaining a dedicated CWC Web site that contains necessary forms and information on CWC requirements; (4) hiring, training, and certifying staff to host inspections; (5) conducting mock inspections; (6) conducting site assistance visits to prepare facilities for OPCW inspections; and (7) holding seminars in cooperation with the Chemical Manufacturers Association, the Synthetic Organic Chemical Manufacturers Association, BXA's Office of Exporter Services, the Federal Bureau of

Investigation, the Department of State, and the Defense Threat Reduction Agency, to inform industry of its CWC obligations.

CBTC cooperates with other U.S. Government agencies in participating in the various meetings and daily operations of the OPCW in The Hague. In FY99, CBTC participated in the Facilitator's, Executive Council, and Conference of States Parties meetings involving industry issues, such as model facility agreements, information security, and inspection procedures. Participation in these sessions affords BXA the opportunity to represent U.S. industry concerns in the inspection planning process as well as to interact with OPCW staff and foreign delegations.

Outreach

Over the course of FY99, CBTC engaged in a concentrated outreach effort to industry to maintain a dialogue about the impact of CWC requirements and to provide information on industry's rights and obligations, the completion of declarations, and on-site inspection protocols. With the publication of draft CWC regulations, CBTC began implementing a comprehensive outreach plan, which includes seminars, guidance materials, and maintaining a dedicated Web site (www.cwc.gov) to educate industry on its declaration and inspection requirements under the Convention.

Biological and Toxins Weapons Convention

The Biological and Toxins 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 States Parties to the BWC agreed in 1991 to consider ways to strengthen the implementation and effectiveness of the Convention.

CBTC is cooperating with other U.S. Government agencies in the development of a protocol to the BWC that can be supported by industry. Industry's concerns about the protection of confidential business information are a significant consideration in crafting the protocol. CBTC works with industry organizations to coordinate and promote cooperation with government in addressing BWC issues. CBTC provides representation for multilateral and bilateral discussions relevant to the BWC, including an Ad Hoc Group working to develop a protocol to strengthen the treaty. In November 1996, CBTC joined the U.S. Delegation to the Fourth BWC Review Conference (Revcon), which affirmed support for the basic principles of the convention and endorsed the work of the Ad Hoc Group. CBTC attended sessions of the Ad Hoc Group held in 1999 during which work progressed on the development of specific elements of a protocol. In addition, CBTC participated in discussions both bilaterally and multilaterally with small groups of like-minded countries throughout the year.

Convention on Biodiversity

The Convention on Biological Diversity (CBD) aims to conserve the world's biological diversity by stemming the loss of the earth's species, their habitats, and ecosystems. The United States has signed, but not ratified, the treaty, and, therefore, is not a party. However, as the largest exporter of biotechnology products, the United States actively participates in the development of a Biosafety Protocol.

Since 1995, an international Ad Hoc Working Group has attempted to develop a Biosafety Protocol. The original purpose of this Protocol was the regulation of the movement of any living modified organism that may adversely affect, or be threatening to, the environment of the importing country. The Protocol negotiations became highly controversial with the proposal to require an exporting country to obtain advanced informed agreement from the importing country

in order to export products derived from genetically modified organisms. Such a requirement would impact U.S. annual exports valued in excess of \$11 billion. The Protocol negotiations were suspended in February 1999 without agreement and are expected to recommence next year. CBTC staff will continue to participate in future interagency discussions and will report on the progress of the negotiations as BXA might receive the implementing responsibilities.

Transfers 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 considers any release of controlled technology or software to a foreign national to be 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 FY98, there was a substantial increase in "deemed export" license applications. During this time frame, BXA processed approximately 800 "deemed export" cases, up from 300 cases during FY97. At the same time, the license processing time dropped from approximately 70 days during FY97 to about 54 days last year. In FY99, the licensing workload remained constant with BXA again reviewing approximately 800 applications while managing to further reduce the average processing time from 54 days to 48 days.

Short Supply Controls

Sections 3(2)(c) and 7 of the Export Administration Act of 1979, as amended (the Act), authorize the President to prohibit or curtail 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 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 Conservation and Shortage Relief Act (FRCSRA) of 1990, as amended. BXA continued to conduct economic, policy, regulatory, and technical analyses of Congressionally mandated controls for domestically produced petroleum and unprocessed timber.

During FY99, 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 this Act or Section 812 of the Agricultural Act of 1970. Therefore, this chapter includes a report by the U.S. Department of Agriculture (USDA) on its monitoring activities during FY99.

Crude Oil and Refined Petroleum Products

Exports of most domestically produced crude oil continued to be subject to statutory restrictions in FY99. 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. The President issued two findings that allow: 1) as of 1985, the export to Canada of crude oil produced in the lower 48 states; and 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. In 1985, the Secretary of Commerce issued a finding allowing the export of Alaskan Cook Inlet crude oil to Pacific Rim energy markets. On October 23, 1992, the President authorized the export of 25,000 B/D of California heavy crude oil having a gravity (i.e., weight) of 20 degrees API or lower. On April 28, 1996, the President determined that exports of ANS crude oil when transported on U.S.-flag tankers are in the national interest.

During FY99, exports of domestically produced crude oil resulting from exports to Canada, 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

74.35 million barrels or 203,700 barrels per day. The discussion below reviews exports from the lower 48 states and exports from Alaska.

Exports of Crude Oil From the Lower 48 States

During FY99, BXA approved 20 licenses for exports of crude oil originating from the lower 48 states. These licenses involved a total of 48.2 million barrels of crude oil or approximately 132,000 B/D. This included:

- Exports to Canada: During FY99, BXA issued seven licenses totaling approximately 41.3 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 FY99, 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 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 FY99, there was no activity under this authority.

The Department also authorizes temporary exports to Canada and Mexico for convenience and efficiency of transportation. During FY99, there was no activity under this authority.

Exports of California Heavy Crude Oil: During FY99, BXA issued 13 licenses pursuant to the California rule-making to export 25,000 B/D of California heavy crude oil. The 13 licenses were for 6.87 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 Export Administration Regulations by establishing License Exception TAPS authorizing such exports with certain conditions. The License Exception TAPS was based on: 1) Public Law 104-58, which allows for 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 FY99, U.S. firms exported 26 cargoes of ANS crude oil totaling approximately 26.2 million barrels (71,700 barrels per day), pursuant to license exemption TAPS. These exports to Japan, China, South Korea, and Taiwan had a market value well in excess of \$350 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 FY99, 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 EAA 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 FY98, 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. In the alternative, the affected states can request the Secretary of Commerce to authorize them to administer their own programs. BXA has undertaken the following actions implementing FRCSRA:

- **First Log Export Order:** On August 23, 1993, the Secretary of Commerce signed a General Order (Order) prohibiting the export of unprocessed timber originating from non-Federal public lands located west of the 100th meridian in the contiguous United States.
- **Notice of Proposed Rule making:** On June 7, 1995, BXA published in the Federal Register an advance notice of proposed rule making requesting comments on regulations the Department is considering to administer FRCSRA. A final rule making has not been made.
- **Second Log Export Order:** On September 29, 1995, the Secretary of Commerce issued a second Order, as required by Section 491(b)(2)(B) of FRCSRA. The Order applies to states with annual unprocessed timber sales greater than 400 million board feet. It prohibits the export of the lesser of

400 million board feet or that State's annual sales volume of any unprocessed timber originating from public lands. The Order became effective January 1, 1996. Washington State is currently the only state with more than 400 million board feet in annual timber sales.

- Third Log Export Order: On September 30, 1996, Congress passed and the President signed Public Law 104-208. Section 319 of Title III of Section 101(d) of Title I of P.L. 104-208 required the Secretary of Commerce to extend until September 30, 1997, the order issued under Section 491(b)(2)(A) of the FRCSRA prohibiting the export of non-Federal timber originating from public lands in states with annual sales greater than 400,000,000 board feet (i.e., Washington state). Section 319 also requires the Secretary of Commerce to make effective on October 1, 1997, the prohibition of section 491(b)(2)(B) of FRCSRA on the export of only the lesser of 400,000,000 board feet or the annual sales volume of unprocessed timber origination from public lands in states west of the 100th meridian in the contiguous 48 states with more than 400,000,000 board feet of annual sales volume of such timber. Effective October 1, 1997, therefore, the export of such timber that is in excess of 400,000,000 board feet is permitted, unless prohibited by any other provision of law. 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, the Under Secretary issued the order required under P.L. 104-208 on October 18, 1996.
- Fourth Log Export Order: Title VI of the Department of the Interior and Related Agencies Appropriations Act of 1998 (Public Law 105-83) required the Secretary of Commerce to make permanent the total prohibition on exports of unprocessed timber from public (state) lands contained in the Forest Resources Conservation and Shortage Relief Act of 1990, as amended. 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 400,000,000 million board feet of annual sales volume of such time.

No new Log Export Orders were issued in FY 99.

- 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, the Under Secretary issued the order required under P.L. 105-83 on January 9, 1998.

- The practical effect of the order was to make permanent the ban on the export of unprocessed timber originating from Washington state public lands.

Go to [Chapter Seven](#)

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.

BXA Annual Report - FY 1999

Chapter 7. Office of Chemical and Biological Controls and Treaty Compliance

In FY99, 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 implements the antiboycott policy and program articulated in Section 8 of the EAA.

BXA's Export Enforcement arm has 163 trained professionals, including 103 special agents, who enforce the EAA and the EAR, the Fastener Quality Act, and the Chemical Weapons Convention. Export Enforcement protects U.S. national security, foreign policy, and economic interests by educating exporters, interdicting illegal exports, and prosecuting violators, without impeding legitimate trade activities. 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 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 FY99, \$2,153,000 in civil penalties and \$1,001,000 in criminal fines were imposed for export control violations of the EAA and EAR. A total of \$79,000 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 and San Jose; Chicago; Dallas; Miami; Boston; New York; and Herndon. Special Agents are empowered to make arrests, carry firearms, execute search warrants, and seize items about to be illegally exported.

OEE's Intelligence and Field Support Division, also 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.

During FY99, OEE conducted numerous investigations, some of which led to both criminal and administrative sanctions. It also issued 263 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.

During FY99, BXA special agents worked with the Department of Justice to secure indictments and information against 11 individuals and five companies. (See Table II.6-1 for a list of FY99 criminal convictions for EAA violations.) Criminal fines imposed in cases investigated by Commerce or jointly by Commerce and The U.S. Customs Service ("Customs") totaled \$1,001,000.

In addition, administrative sanctions -- civil monetary penalties, denial of export privileges, or both -- were levied on individuals and/or businesses. Civil monetary penalties totaled \$2,153,000 in FY99. Under the EAA, the maximum civil penalty was \$10,000 per violation for items controlled for foreign policy reasons and \$100,000 per violation for items controlled for national security reasons. During FY99, because of congressional failure to reauthorize the EAA, provisions of the EAA and EAR were continued in effect by the President under authority granted to him by the International Emergency Economic Powers Act (IEEPA). The maximum civil penalty under IEEPA, regardless of the type of control, is \$11,000 per violation.

Administrative sanctions may also include a denial of export privileges. An order denying export privileges prohibits the denied person from participating in any export transaction involving any U.S.-origin good or technology subject to the EAR. It also prohibits other firms or individuals from engaging in transactions with, or on behalf of, the denied party when U.S.-origin goods or technologies are involved. Parties who violate this prohibition may also be fined, denied export privileges themselves, or subjected to other sanctions authorized by the EAA, IEEPA or EAR, including criminal penalties. In FY99, 26 parties were denied export privileges for EAA and EAR violations, or for criminal violations of certain other statutes as set forth in Section 11(h) of the EAA. (Administrative cases completed in FY99 are summarized in Table II.6-2.)

OEE and OEA routinely review all incoming license applications. During FY99, BXA enforcement personnel examined 7,566 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, OEE recommended that 274 license applications either be rejected or returned without action because of diversion risks or other enforcement concerns. Together, these applications represented \$176 million in potential illegal trade.

In addition, as part of BXA's ongoing responsibility for preventing illegal exports before they occur, 398 pre-license checks (PLCs) were completed in FY99 and enforcement staff recommended that 84 license applications be rejected or returned without action. Together, these applications represented more than \$115 million of trade in situations in which violations of the EAA and EAR may have occurred had the transactions been completed.

Export Enforcement also assessed the results of 497 post-shipment verifications (PSVs) completed during FY99. Of these PSVs, 330 were conducted by OEE special agents as part of the Safeguards program, while the other 167 were conducted by Foreign Commercial Service or other personnel assigned by American Embassies. Twenty-six PSVs produced information that required further enforcement action.

Export Enforcement Initiatives

Chemical Weapons Convention

Under the Chemical Weapons Convention (CWC) implementing legislation passed in the fall of 1998, certain commercial chemical production and processing facilities will be required to submit data declarations and to permit international inspections. In preparation for fulfilling its responsibilities under this legislation, EE participated in mock inspection exercises with BXA's Export Administration and the Office of Chief Counsel for Export Administration at chemical production and processing facilities. Export Enforcement also worked with the State Department and other government agencies to clarify enforcement roles under the CWC implementing legislation and proposed regulations. EE included special training sessions on the CWC treaty implementing legislation and CWC inspections as part of its continuing training for all EE agents.

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 to certain countries of concern. OEA maintains a high-performance computer division to coordinate and supervise all enforcement responsibilities under the NDAA. A provision of the NDAA requires those who wish to export high-performance computers to certain 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.

EE included special training sessions on high-performance computers and on the NDAA as part of continuing training for all EE agents, and conducted post-shipment verifications mandated by the NDAA. All of EE's FY99 safeguard trips involved NDAA-mandated PSVs. EE submitted the NDAA annual report to the designated Congressional committees in January 1999. The report covered exports of high-performance computer exports to countries of the greatest proliferation concern, and the results of EE's post shipment verifications for those exports for the period November 18, 1997, through November 17, 1998.

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 1,160 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. Since then, 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 FY99, EE continued and enhanced its international cooperative efforts. Working with its BXA and interagency counterparts, EE had a number of significant achievements. Its representative at the U.S. Embassy in Beijing conducted the first ever post-shipment visits in the People's Republic of China. EE conducted these visits under the new End-use Visit Arrangement, which it successfully negotiated with its counterparts at China's Ministry of Foreign Trade and Economic Cooperation. These end-use visits had been a goal of the United States for the last 15 years. In addition, EE helped organize two export control seminars -- in Beijing and in Washington -- to discuss with Chinese officials "best practices" for effective dual-use export controls.

This year, 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, continues 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 hosted a number of enforcement seminars and workshops with other countries, including the fourth in a series of enforcement exchanges with Russian enforcement officials. In September 1999, a U.S. interagency enforcement team, led by EE, met with Russian counterparts in Moscow. These meetings advanced U.S. understanding of how export enforcement is handled in Russia, and included the first discussions by Russian officials of specific export enforcement actions they have taken.

In April 1999, EE hosted an interagency enforcement team from the Ukraine in the third of a series of discussions that examined enforcement and preventive enforcement issues. The U.S. delegation, led by EE, was able to convince Ukraine to expand its export enforcement work to deter worldwide proliferation efforts.

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, Baltic States, Central Asian republics, and all significant Countries in the Far East. EE, often the only U.S. enforcement representatives, provided in-depth information on the practical methods to enforce export control laws and regulations.

This year EE continued to work with foreign counterparts as part of the DOD-FBI Counter Proliferation Program for NIS and Central/Eastern European Countries. EE special agents were part of the U.S. government enforcement cadre, which provided extensive training to Georgian, Slovenian and Moldovan 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 January 1999 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 Transcaucasian 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 EE's 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. OEA receives microfilm copies of the actual SEDs and a computerized index of key data fields of 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 221 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 Aexport@ 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 FY99, 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 FY99, OEA reviewed information on thousands of visa applications to detect and prevent possible EAR violations. Of these, 227 visa applications were referred to OEE's field offices for further investigation. In some instances, based upon OEA's recommendations, the State Department declined to issue visas due to the risk of transfer of sensitive technology. In a few cases, OEA analysts uncovered possible visa fraud on the part of the foreign applicant. These findings were forwarded to the State Department's Fraud Unit for further investigation and action.

Significant Commerce Export Enforcement Cases

Denial of Export Privileges Following Conviction for Illegal Reexport from Japan to Pakistan

On November 23, 1998, the Commerce Department issued an order pursuant to Section 11(h) of the EAA denying the U.S. export privileges of Japanese businessman Kiyoyuki Yasutomi until January 5, 2008. On January 5, 1998, Yasutomi pleaded guilty in U.S. District Court in Washington, D.C., to violating the EAA by illegally exporting U.S.-origin computer equipment from Japan to Pakistan without the required export license. The court sentenced Yasutomi to 18 months of imprisonment and a \$10,000 criminal fine. The investigation was conducted by the OEE's Miami Field Office.

ALCOA Penalized \$750,000 for Illegal Exports of Chemicals

On February 18, 1999, the Commerce Department's Under Secretary for Export Administration, William A. Reinsch, imposed a \$750,000 civil penalty on the Aluminum Company of America (ALCOA) for 100 violations of the EAR. Under Secretary Reinsch affirmed an administrative law judge's (ALJ) finding that ALCOA exported potassium fluoride and sodium fluoride from the United States to Jamaica and Suriname on 50 occasions, between June 1991 and December 1995, without obtaining the required export licenses. The ALJ also found that the company made false statements on export control documents in each shipment. Although these chemicals were added to the Department's control list in March 1991, ALCOA's export compliance program failed

to recognize and incorporate the change. The investigation was conducted by OEE's Dallas Field Office.

PPG Industries de Mexico, S.A. de C.V. Penalized \$60,000 for Chemical Exports

On February 26, 1999, the Commerce Department imposed a \$60,000 civil penalty on PPG Industries de Mexico, S.A. de C.V. (PPG Industries), a Mexican chemical company, to settle alleged violations of the EAR. The Department alleged that, on eight separate occasions between July 1993 and March 1995, PPG Industries was responsible for exporting potassium fluoride from the United States to Mexico without the required licenses. The Department also alleged that, on two of those occasions, PPG Industries knew that violations would occur. Potassium fluoride is controlled for export by a multilateral agreement with the 30-nation Australia Group of chemical producers because, in addition to its legitimate commercial uses, the chemical has the potential to serve as a precursor for some chemical weapons. A portion of the penalty, \$20,000, will be suspended for one year, then waived if PPG Industries commits no violations during that time. The investigation was conducted by OEE's Chicago Field Office.

Aldrich Ames Denied Export Privileges Following Conviction Under the Espionage Act

On March 23, 1999, the Commerce Department denied Aldrich Ames all export privileges until April 24, 2004, pursuant to Section 11(h) of the EAA, based upon his conviction under the Espionage Act for conspiring with other persons, including officers of the intelligence services of the Union of Soviet Socialist Republics and later The Russia Federation, to knowingly communicate, deliver, and transmit to a foreign government information relating to the national defense of the United States.

Harold Nicholson Denied Export Privileges Following Conviction Under the Espionage Act

On March 23, 1999, the Commerce Department denied Harold Nicholson all export privileges until June 5, 2007, pursuant to Section 11(h) of the EAA, based upon his conviction under the Espionage Act for conspiring with other persons, including officers of the intelligence services of the Russian Federation, to knowingly communicate, deliver, and transmit, and attempt to communicate, deliver, and transmit to representatives of a foreign government information relating to the national defense of the United States.

A.V.S. Armoured Vehicles' Systems, Inc./S.P.L. Spare Parts Logistics, Inc. Denied Export Privileges Following Conviction

On March 23, 1999, the Commerce Department denied A.V.S. Armoured Vehicles' Systems, Inc., now known as S.P.L. Spare Parts Logistics, Inc., all export privileges until April 10, 2000, pursuant to Section 11(h) of the EAA, based upon its conviction under the Arms Export Control Act for willfully making an untrue statement of a material fact on an export control document relating to the end-user of replacement parts for a AHawk@ anti-aircraft missile system.

CN Biosciences, Inc. and Its UK Subsidiary Penalized \$708,000 for Biological Toxin Exports and Reexports

On March 29, 1999, the Commerce Department imposed a \$708,000 civil penalty on CN Biosciences, Inc. of San Diego, California, and its subsidiary Calbiochem-Novabiochem (UK) Ltd., of the United Kingdom, for allegedly violating export control laws on biological agents by shipping various U.S.-origin biological toxins without the required export licenses. The

Department alleged that, on 171 separate occasions between July 1992 and January 1994, CN Biosciences, Inc. exported U.S.-origin biological toxins from the United States to various destinations without the required export licenses; and that, on six separate occasions between November 1992 and January 1994, Calbiochem-Novabiochem (UK) Ltd. reexported a U.S.-origin biological toxin from the United Kingdom to the Republic of Ireland without the required reexport authorization from BXA. Half of the penalty, \$354,000, is suspended for a one-year period, provided that the companies commit no violations of the EAR during that time. CN Biosciences Inc. voluntarily disclosed the shipments and cooperated with the investigation.

Export controls on biological agents are part of U.S. obligations to the 30-nation Australia Group, whose members are committed to curbing proliferation of chemical and biological weapons. The investigation was conducted by OEE's Los Angeles Field Office.

Khaled Khalil El-Awar Denied Export Privileges Following Conviction for Illegal Export

On April 12, 1999, the Commerce Department denied Khaled Khalil El-Awar of Houston, Texas, all export privileges until August 5, 2003, pursuant to Section 11(h) of the EAA. On August 5, 1995, Khaled El-Awar was convicted in the U.S. District Court for the Southern District of Texas of violating the IEEPA by exporting and causing to be exported steel pipe and oil field accessories from the United States to Rotterdam, Holland, for transshipment to Libya.

Schott Fiber Optics, Inc. Penalized \$50,000 to Settle Alleged Illegal Export Charges

On April 13, 1999, the Commerce Department imposed a \$50,000 civil penalty on Schott Fiber Optics, Inc. (Schott), of Southbridge, Massachusetts, to settle alleged violations of the EAR. The Department alleged that, on 20 separate occasions between November 1993 and April 1994, Schott exported U.S.-origin fiber optic image inverters to the Netherlands without obtaining the required export licenses. Fiber optic inverters are used in the manufacture of night vision equipment and are controlled for national security, foreign policy and missile technology reasons. A portion of the penalty, \$10,000, is suspended for one year and will be waived, provided that Schott does not violate the EAR during the suspension period. The investigation was conducted by OEE's Boston Field Office.

American Protection Corporation Denied Export Privileges

On April 27, 1999, the Commerce Department denied the export privileges of American Protection Corporation until August 8, 2001. The Department determined that American Protection Corporation is related to William F. McNeill, a person denied all U.S. export privileges until August 8, 2001, pursuant to Section 11(h) of the EAA, based on his criminal conviction for illegally exporting riot shields to Romania in violation of IEEPA. The investigation was conducted by OEE's Boston Field Office.

Kidde-Fenwal Inc. Penalized \$10,000 for Attempted Export to Iran

On June 2, 1999, the Commerce Department imposed a \$10,000 civil penalty on Kidde-Fenwal, Inc. of Ashland, Massachusetts, for allegedly attempting to export fire alarm control equipment to Iran through the United Arab Emirates (UAE). The Department alleged that, in 1995, Kidde-Fenwal falsely represented in shipping documents that the ultimate destination of the equipment was the UAE when it knew the goods were ultimately destined to Iran. A portion of the penalty, \$2,500, is suspended for one year and will be waived, provided that Kidde-Fenwal does not violate the EAR during the suspension period. The investigation was conducted by OEE's Boston Field Office.

Sun Microsystems of California Ltd. Penalized \$30,000 to Settle Charges of Illegal Exports of Computers to the People's Republic of China

On June 21, 1999, the Commerce Department imposed a \$30,000 civil penalty on Sun Microsystems of California, Ltd., a Hong Kong company, to settle allegations that it violated the EAR by arranging for shipments of computers to the People's Republic of China (PRC) that did not adhere to a condition of the export license. The Department alleged that, in September 1993, Sun Microsystems of California Ltd. arranged for a shipment of computers to the PRC that it knew or had reason to know was contrary to the condition on the export license. The Department also alleged that in October 1993, Sun Microsystems of California Ltd. arranged for a shipment of computers to the PRC, falsely representing that the shipment was authorized under a BXA license. The investigation was conducted by OEE's Washington Field Office.

SFT Advertising Agency and Dmitry Chernyshenko Denied Export Privileges for Illegal Export to Russia

On July 12, 1999, the Commerce Department's Under Secretary for Export Administration imposed ten-year denials of all U.S. export privileges on SFT Advertising Agency of Moscow, Russia (SFT), and its Director, Dmitry Chernyshenko, based on findings that they engaged in a scheme to cause the export of a U.S.-origin computer from the United States through Germany to Russia without obtaining the appropriate authorization that they knew or had reason to know was required by the EAR. The Under Secretary found that, in connection with the transaction, Chernyshenko, acting in his capacity as Director of SFT, falsified information to conceal material facts directly or indirectly from a United States agency for the purpose of or in connection with affecting an illegal export. The Department also alleged that, in connection with the transaction, both Chernyshenko and SFT caused, counseled or induced a third party to state on a Shipper's Export Declaration that the shipment of the computer was authorized for export from the United States to Germany under a general license. The investigation was conducted by OEE's Chicago Field Office.

Export Privileges Denied Following Convictions Under the Espionage Act

On July 19, 1999, the Commerce Department denied the export privileges of Kurt Alan Stand, Theresa Marie Squillacote and James Michael Clark, pursuant to Section 11(h) of the EAA, based upon their convictions under the Espionage Act. Stand, Squillacote and Clark were convicted for conspiring with other persons to illegally communicate information relating to the national defense of the United States, with intent and reason to believe that this information would be used to the injury of the United States and to the advantage of foreign governments. Stand and Squillacote were denied export privileges until January 22, 2009, and Clark was denied export privileges until December 4, 2008.

Hadi Shalchi and Continental A.P. Co. Inc. Sentenced for Illegal Export to Iran

On July 21, 1999, a U.S. District Court in the District of New Jersey sentenced Hadi Shalchi, a Staten Island, New York, businessman, to imprisonment for six months, a \$30,000 criminal fine, home confinement for four months, and supervised release for three years as a result of his pleading guilty to making false statements in connection with the illegal export of auto parts to Iran. In addition, Shalchi's business, Continental A.P. Co., Inc., of Hopelawn, New Jersey, was sentenced to a \$200,000 criminal fine and five years' probation after pleading guilty to charges that it had illegally exported auto parts to Iran. The investigation was conducted by OEE's New York Field Office.

Fadi Boutros Denied Export Privileges Following Conviction for Illegal Export to Iraq

On August 3, 1999, the Commerce Department denied the export privileges of Fadi Boutros, also known as Fadi E. Sitto, Fadi Jirjis, and Fred Boutros, until April 29, 2009, pursuant to Section 11(h) of the EAA, based upon his conviction under the Arms Export Control Act and IEEPA. Boutros was convicted in the U.S. District Court in New Haven, Connecticut for willfully attempting to export defense articles on the U.S. Munitions List from the United States to Iraq via Jordan without the required export license from the Department of State, and of willfully dealing and attempting to deal in defense articles on the U.S. Munitions List intended for exportation to Iraq via Jordan. Boutros was also convicted for engaging and attempting to engage in activity intended to promote such dealing without the required authorization from the Department of The Treasury, in violation of the embargo against Iraq contained in the Office of Foreign Assets Control's Iraqi Sanctions Regulations.

Starlite Technical Service, Inc. Penalized \$25,000 to Settle Charges in Connection with Exports of Chemicals to Lebanon and Columbia

On August 5, 1999, the Commerce Department imposed a \$25,000 civil penalty on Starlite Technical Service, Inc. of Chicago, Illinois (Starlite), to settle allegations in connection with the unauthorized exports of U.S.-origin chemicals to Lebanon and Colombia without the required export licenses. The Department alleged that, on five separate occasions between January 1994 and December 1996, Starlite exported U.S.-origin chemicals without obtaining the required export licenses. To implement a multilateral agreement with the 30-nation Australia Group of chemical producers, the Department controls certain U.S.-origin chemicals for export because, in addition to their legitimate commercial uses, these chemicals have the potential to serve as precursors in chemical weapons. The investigation was conducted by OEE's Chicago Field Office.

Gilbert & Jones, Inc. Penalized \$5,000 for Illegal Exports of Potassium Cyanide

On September 30, 1999, the Commerce Department imposed a \$5,000 civil penalty on Gilbert & Jones, Inc., of New Britain, Connecticut, to settle allegations that the company exported potassium cyanide to Taiwan on two occasions in 1994 and 1995 without obtaining the required export licenses. The without obtaining investigation was conducted by OEE's Boston Field Office.

Varlen Corporation Penalized \$10,000 to Settle Illegal Export Charges

On September 30, 1999, the Commerce Department imposed a \$10,000 civil penalty on Varlen Corporation, an Illinois-based company, for a false statement made by its former wholly-owned subsidiary, Precision Scientific, Inc., on an export control document in connection with a shipment to Iran. The Department alleged that Precision Scientific shipped a U.S.-origin incubator to Iran through its independent distributor in the Netherlands. Precision Scientific identified the Netherlands as the country of ultimate destination on the Shipper's Export Declaration when, in fact, the intended ultimate destination was Iran. Varlen self-disclosed the violation and agreed to accept responsibility for the actions of Precision Scientific. The investigation was conducted by OEE's Chicago Field Office.

American Type Culture Collection Penalized to Settle Charges of Illegal Exports

On September 30, 1999, the Commerce Department imposed a \$290,000 civil penalty on American Type Culture Collection (ATCC) of Manassas, Virginia, a nonprofit organization, to settle allegations that, on 58 separate occasions between 1993 and 1996, the company exported U.S.-origin microorganisms to various destinations without obtaining the required export licenses. ATCC voluntarily disclosed the activity to BXA, the \$290,000 civil penalty was suspended, and ATCC agreed to collaborate with BXA on educational efforts designed to improve industry compliance with export controls on biological agents. The investigation was conducted by OEE's Herndon Field Office.

Significant Joint Commerce-Customs Cases

Henry Joseph Trojack Sentenced for Conspiring to Illegally Export to Iran

On January 12, 1999, a U.S. District Judge in Portland, Oregon, sentenced Henry Joseph Trojack to imprisonment for seven years for his role in conspiracy to ship impregnated alumina and gas turbine parts to Iran in violation of U.S. conspiracy, export control and money laundering laws. Trojack will be subject to supervised release for three years when he finishes his prison term. Trojack had been convicted of conspiring with others to illegally export impregnated alumina, a chemical catalyst, to Iran. The investigation was conducted jointly by OEE's San Jose Field Office and the U.S. Customs Service.

Fortend USA and Yuri Montgomery Penalized for Illegal Exports of U.S.-Origin Commodities to Macedonia and Slovenia

On January 15, 1999, a U.S. district judge in Washington, D.C., sentenced Yuri Montgomery to three years of probation for violations of the EAA and IEEPA. Yuri Montgomery and Fortend USA had earlier pled guilty to exporting various U.S.-origin crime control items from the United States 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.

Denial of Export Privileges Following Convictions for Illegal Exports to Cuba

On January 25, and February 1 and 2, 1999, the Commerce Department issued orders pursuant to Section 11(h) of the EAA, denying the export privileges of, respectively, Francisco Javier Ferreiro-Parga, of Coruña, Spain, for ten years, Jose Luis Sesin, of Miami, Florida, for eight years, and Kenneth Broder, of the Dominican Republic, for nine years. Ferreiro-Parga, Sesin and Broder were convicted in the U.S. District Court for the Southern District of Florida of violating IEEPA by exporting goods to the Dominican Republic that were transshipped to Cuba without the required export licenses. Sesin was also convicted of exporting the shipments under a false bill of lading. On June 18, 1999, the Department amended the February 2 order against Broder to suspend its application to export EAR 99 items (items subject to the EAR, but not on the Commerce Control List) to the Dominican Republic by Broder or on his behalf for use or consumption. The investigation was conducted jointly by OEE's Miami Field Office and the Customs Service.

Indictment and arrest on Charges of Illegal Export of Riot Control Vehicle with a Pressurized Pepper Gas System to the People's Republic of China

On January 8, 1999, Yufeng Wang was indicted by a federal grand jury in Washington, D.C. on charges of violating U.S. export control laws and making a false statement to the U.S. government relating to the shipment of a 60-ton riot control vehicle equipped with a pressurized pepper gas dispensing system to the People's Republic of China. Wang was arrested in Detroit, Michigan on February 12, 1999, and is currently scheduled to stand trial in February 2000 in Washington, D.C. The investigation was conducted by OEE's Boston Field Office and the Customs Service.

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

On March 9, 1999, a federal grand jury in the U.S. District of Massachusetts in Boston returned a five-count indictment charging Collin Xu, also known as Collin Shu and Zhihong Xu, and 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 conspiring to illegally export U.S.-origin fiber optic gyroscopes to the PRC 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.

Arrest in Connection with Charge of Illegal Export of U.S.-Origin Equipment to Iran

On March 17, 1999, Mahmood Reza Hashemi, a resident of Budd Lake, New Jersey, and owner of Refinery Industries in Budd Lake, was arrested by Special Agents of OEE's New York Field Office on charges of illegally exporting methane gas detection equipment to Iran. Subsequently, Hashemi appeared before a U.S. Magistrate in the District of New Jersey, where he posted bail and agreed to travel restrictions. The investigation is being conducted by OEE's New York Field Office, with the assistance of the U.S. Customs Service and the Federal Bureau of Investigation.

John Strome Sentenced for Conspiracy to Export to Embargoed Middle East Countries

On April 23, 1999, the U.S. District Court in Orlando, Florida, sentenced John R. Strome, president, of the Melbourne, Florida firm Brevard International Technical Services, to imprisonment for two years, probation for two years, and a criminal fine of \$1,000 for violating U.S. restrictions on exports to embargoed destinations. Strome, a Canadian citizen, pled guilty on December 17, 1998 to conspiracy to illegally export commodities to embargoed Middle East countries, in violation of 18 U.S.C. ' 371. Strome's conviction was the result of a two-year investigation by OEE's Miami Field Office and the U.S. Customs Service.

Ali Mozaffari Individually, and Doing Business as Interlink Computer Technology, Inc. Penalized and Denied Export Privileges in Connection With Attempted Export to Iran

On April 29, 1999, Interlink Computer Technology, Inc. (Interlink), represented by its President, Ali Mozaffari, pled guilty in the U.S. District Court for the Northern District of

California to charges that it attempted to export from the United States to Iran, through Germany, U.S.-origin computers and computer equipment in violation of the Iranian embargo. The court ordered Interlink to serve a one-year period of probation and pay a \$30,000 criminal fine. The Court also ordered Interlink to pay a \$5,000 civil fine to the Office of Foreign Assets Control. In a related administrative action, the Commerce Department ordered Ali Mozaffari, individually and doing business as Interlink, to pay a \$5,000 civil penalty and denied both Interlink and Mozaffari's export privileges for five years. The denial period was suspended for five years and will be waived, provided that Mozaffari and Interlink have committed no violation of the EAR during the suspension period. The investigation was conducted jointly by OEE's San Jose Field Office and the U.S. Customs Service.

Convictions for Illegal Export of Military Vehicles and Vehicle Parts to Vietnam

On May 26, 1999, a U.S. District Court jury for the Western District of Louisiana found Dien Duc Huynh and his corporation, Dien's Auto Salvage, guilty of violating the EAA and 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, Dien Duc 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. The conviction resulted from a joint investigation by OEE's Dallas Field Office, the U.S. Customs Service and the Department of Defense. Investigators found evidence that the defendants were purchasing surplus military vehicles from Army bases in the United States and Europe and exporting them to Vietnam through Singapore in violation of U.S. export control laws. The vehicles are controlled for

national security, antiterrorism, and regional stability reasons. On May 13, 1999, Son Kim 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.

Export Materials, Inc. and TIC, Ltd. Denied Export Privileges for Exports to Libya

On July 12, 1999, Under Secretary Reinsch signed an order affirming the recommended decision of the administrative law judge (ALJ) that imposed a 20-year denial of all export privileges against TIC, Ltd., The Bahamas, and Export Materials, Inc., Houston, Texas. The ALJ found that the two companies conspired with Thane-Coat, Inc., Stafford, Texas; its president, Jerry Vernon Ford; and its vice-president, Preston John Engebretson, to export U.S.-origin pipe coating materials valued at \$35 million to Libya without the authorization required under the EAR. The ALJ also found that the companies made false statements on export control documents in connection with the exports.

On April 20, 1999, BXA's Assistant Secretary for Export Enforcement renewed the October 23, 1998, temporary denial order for an additional 180 days against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson, denying them all export privileges for items exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran and any other country or countries that may subject in the near 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 must 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. On the same date, the Assistant Secretary renewed the October 23, 1998, order against TIC, Ltd. and Export Materials, Inc. for an additional 180 days.

The original temporary denial orders were issued in May 1997 and were 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.

Fawzi Mustapha Assi Denied Export Privileges for Illegal Exports of U.S. Origin Commodities to Lebanon

On July 12, 1999, the Commerce Department imposed a 20-year denial of all U.S. export privileges on Fawzi Mustapha Assi, a Lebanese naturalized U.S. citizen, of Dearborn, Michigan, for attempting to export from the United States to Lebanon a thermal imaging camera without the export license that he knew or had reason to know was required. The Department also alleged that, in connection with the attempted export, Assi failed to file with the Customs Service, at the time of the attempted export, the Shipper's Export Declaration required by the EAR. The equipment that Assi was attempting to export was intended for Hizballah, which has been designated as a foreign terrorist organization by the Secretary of State.

In a separate criminal action in July 1998, Assi was arrested by special agents from OEE's Chicago Field Office, the Federal Bureau of Investigation and the Customs Service for attempting to export U.S.-origin items without the required export licenses and for attempting to provide material support or resources to a designated foreign terrorist organization. Assi admitted to procuring items for the Hizballah organization in Lebanon for its use. The U.S. Magistrate released Assi on an unsecured bond. Assi was indicted in August 1998 on charges alleging

violations of IEEPA, the Arms Export Control Act, and the Antiterrorism and Effective Death Penalty Act, and failing to appear in court. He is currently a fugitive.

Nancy Ann Harvey Denied Export Privileges

On July 13, 1999, the Commerce Department imposed a three-year denial of export privileges on Nancy Ann Harvey of Salem, Oregon, for allegedly exporting U.S.-origin shotguns and shotgun shells to the Republic of South Africa (South Africa) in violation of the EAR and IEEPA. The Department also alleged that, in connection with this transaction, Harvey made false or misleading statements of material fact on an export control document. At the time of export, the shotguns and shotgun shells required a license for export to South Africa. The investigation was conducted jointly by OEE's San Jose Field Office and the Customs Service.

Morris Rothenberg and Sons, Inc., Doing Business As Rothco, Fined \$500,000 for Illegal Exports of Surplus Military Items; \$200,000 Civil Penalty Also Imposed

On July 15, 1999, Morris Rothenberg and Sons, Inc, doing business as Rothco, a Smithtown, New York, company, pled guilty in the U.S. District Court in Uniondale, New York, to charges that the company illegally exported and attempted to export handcuffs to the Republic of Croatia and gas masks to Japan. In connection with the plea, Rothco agreed to pay a criminal fine of \$500,000 and prosecution costs in the amount of \$200,000.

In a related administrative action, the Commerce Department ordered Rothco to pay a \$200,000 civil penalty and denied its export privileges for one year to settle alleged violations of the EAR. The denial period was suspended and will be waived, provided that, during the period of suspension, Rothco has committed no violation of the EAR. The Department alleged that, on 19 separate occasions between 1994 and 1996, Rothco illegally exported to various countries U.S.-origin handcuffs, defender SAP gloves, stun guns, and pistol laser sights without the required export licenses. The Department also alleged that, on one occasion in 1995, Rothco attempted to export handcuffs to El Salvador without the required export license. The investigation was conducted jointly by OEE's New York Field Office and the U.S. Customs Service.

Guilty Plea for Illegal Export of Crime Control Equipment

On August 18, 1999, Peter L. Appelbaum, president of Pacorp, Inc., Miami, Florida, pled guilty in U.S. District Court, Southern District of Florida, Miami Division, to charges of violating the Arms Export Control Act and the International Emergency Economic Powers Act by illegally exporting defense articles and crime control equipment to Honduras without the required State Department and Commerce Department licenses. The exported items included night vision equipment subject to the International Traffic in Arms Regulations, handcuffs, shackles, fingerprint powders, and dyes subject to the EAR. The conviction was the result of a joint investigation by the OEE's Miami Field Office and the U.S. Customs Service.

Summit United Industries, Inc. Pled Guilty to Illegal Export to Libya

On August 18, 1999, Summit United Industries, Inc. (Summit), Houston, Texas, pled guilty in the U.S. District Court in the Southern District of Texas to charges that the company illegally exported oil field equipment to Libya in violation of the International Emergency Economic Powers Act and the Libyan Sanctions Regulations. Summit was sentenced to a \$10,000 criminal fine and a \$400 special assessment fee. The investigation was conducted jointly by OEE's Dallas Field Office and the U.S. Customs Service.

Abdulmir Mahdi Pleads Guilty to Illegal Exports to Iran and Iraq

On August 24, 1999, Abdulmir Mahdi, a Canadian businessman, pleaded guilty in U.S. District Court in Orlando, Florida, to a criminal indictment charging him with violating U.S. export controls restricting trade with Iran and Iraq. Mahdi, an Iraqi national, used two Toronto companies, OTS Refining Equipment Corporation and Tech-Link Development Corporation, to buy U.S. oil-field and industrial equipment for diversion to Iran and Iraq.

Mahdi was a former associate of Melbourne, Florida businessman John Strome, who also pled guilty to violating U.S. restrictions on trade with Iran, Iraq and Libya. Commerce and Customs agents arrested Mahdi on March 17, 1999, while he was on a business trip to Florida. In pleading guilty to the charges, Mahdi admitted that he conspired with Strome to procure oil field and industrial equipment for Iraq and Iran valued in excess of \$10 million. The conviction was the result of a joint investigation by OEE's Miami Field Office and the U.S. Customs Service.

Immunostics, Inc. Pleads Guilty to Making False Statements

On September 17, 1999, Immunostics, Inc., a New Jersey company, pled guilty in the U.S. District Court in New Jersey to charges of knowingly and willfully making false statements and representations to the U.S. government on export control documents. The plea was the result of a joint investigation by OEE's New York Field Office and the U.S. Customs Service.

Oscar Osman Sentenced in Cuba Embargo Case

On September 27, 1999, a U.S. District Court in the Southern District of Florida, sentenced Oscar Osman, president of Antilliana Trading Corporation, to imprisonment for one year, supervised release for three years, and a \$30,000 criminal fine for illegally exporting U.S.-origin goods to Cuba. Osman had pled guilty to charges of conspiracy to violate the export control laws, and to knowingly exporting goods without authorization. The case is the result of a joint investigation by the OEE's Miami Field Office and the U.S. Customs Service.

Laser Devices, Inc. Penalized \$10,000 in Connection With Attempted Illegal Export to Taiwan

On September 30, 1999, the Commerce Department imposed a \$10,000 civil penalty on Laser Devices, Inc., a Monterey, California, exporter, to settle allegations that the company attempted to export, through the U.S. Postal Service, laser gun aimer/sights to Taiwan without the required authorizations. The investigation was conducted jointly by OEE's San Jose Field Office and the U.S. Customs Service.

TABLE II.6-1 - FY99 Criminal Indictments/Informations For Export Administration Act or International Emergency Economic Powers Act Violations

Indictment/ Information/ Date	Defendant	Charge(s)	Enforcement Organization(s)	Sanction
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12/2/98	Federal Parts International, Inc., Medi Azarin, a.k.a. Michael Azarin, and Farhad Azarin	Violation of U.S. embargo against Iran.	Commerce/ Customs	Trial pending.
12/17/98	John R. Strome	Conspiracy to illegally export commodities to embargoed Middle Eastern countries	Commerce/ Customs	Convicted 12/17/98. Received a \$1,000 fine, a 24-month term of imprisonment and 24 months of probation.
1/8/99	Yufeng Wang, a.k.a, Alan Wang	Illegal export of defense articles to the People's Republic of China and filing of false statements with the U.S. Government.	Commerce/ Customs	Trial pending.
3/2/99	Continental A.P. Co. Inc. and Hadi Shalchi	Illegal export of auto parts to Iran and false statements in connection with the export.	Commerce	Continental and Shalchi were convicted 7/21/99. Continental received a \$200,000 fine. Shalchi received a \$30,000 fine, a six-month term of imprisonment, four months of home confinement and three years of probation.
4/29/99	Interlink Computer Technology, Inc.	Attempted export of computers and computer equipment	Commerce/ Customs	Interlink was convicted on 6/10/99. Interlink received a \$30,000

		to Iran.		criminal fine, one year of probation and was ordered by the court to pay a \$5,000 civil fine to the Office of Foreign Assets Control.
6/11/99	Morris Rothenberg and Sons, d.b.a. Rothco	Illegal export and attempted export of handcuffs to the Republic of Croatia and export of gas masks to Japan.	Commerce/ Customs	Rothco was convicted on 7/15/99. Received a \$500,000 fine and was ordered to pay \$200,000 as reimbursement for the costs of the prosecution.
6/15/99	Abdulmir Mahdi, a.k.a. Amir Mahdi	Conspiracy to illegally export industrial equipment to Iran and Iraq.	Commerce/ Customs	Guilty plea on 8/24/99. Awaiting sentencing.
6/22/99	Oscar Osman	Conspiracy to illegally export containers of foodstuff and other goods Cuba.	Commerce/ Customs	Osman was convicted on 7/14/99. Received a \$30,000 fine, one year of imprisonment and three years of supervised release.
6/24/99	Microtek International Development Systems Division, Inc., Joe-Pin Ouyang, Amir Janversan and Hamid Janversan	Conspiracy to attempt to illegally export computer processor emulators to Iran.	Commerce/ Customs	Trial pending.
7/22/99	Summit United	Illegal export of oil	Commerce/ Customs	Convicted on 8/18/99.

	Industries, Inc	field equipment to Libya.		Summit received a \$10,000 fine.
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Go to [Chapter Eight](#)

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.

BXA Annual Report - FY 1999

8. 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; reviewing enforcement actions to ensure consistency with policy guidelines; 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 FY99, 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 1,143 calls during FY99, and (4) continuing the outreach program to increase public awareness and understanding of the antiboycott provisions of the EAR. During FY99, OAC officials spoke at 14 events sponsored by BXA, B.A.'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 issued a new edition of its guide to boycott requests commonly appearing in letters of credit.

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. In connection with these transactions, the reporting person would have received 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 8-1 through 8-5, 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 FY99, 389 persons reported receipt of 1,524 documents containing boycott requests in 1,524 transactions. The corresponding figures for FY98 were 461 persons, 1,609 boycott requests, and 1,609 transactions. Exporters were the principal category of reporters, constituting approximately 70 percent of the reporting entities in FY99.

Prohibited boycott requests totaled 450 of the 1,524 boycott requests reported to OAC in FY99. A prohibited request is a request to take action that is prohibited by the antiboycott provisions of the EAR (e.g., a request not to use suppliers blacklisted by a boycotting country).

The United Arab Emirates was the leading country from which boycott requests originated, with a total of 116 requests. The next five countries originating boycott requests were Oman (83), Syria (74), Saudi Arabia (49), Qatar (34), and Bahrain (25).

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 FY99 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 countries. Several involved refusals to do business or agreements to refuse to do business, for boycott purposes. Others involved failure to report receipt of requests to engage in restrictive trade practices or boycotts, as the regulations require. The large majority of the settlements involved alleged violations of two or more sections of the antiboycott provisions.

Cases Completed

Ten enforcement actions were completed in FY99. Of that total, nine were settlement agreements. OAC closed one case with a warning letter for minor violations. Additionally, 17 investigative cases were closed because violations were not found. Therefore, the total number of investigations closed in FY99 was 27.

Settlement Agreements and Penalties Imposed

All of the OAC investigations that involved allegations of serious violations were resolved through settlement. Settlement agreements are used as a vehicle for these dispositions. This is in line with historical practice; an overwhelming majority of cases brought by OAC have been settled in this way. These settlement agreements may provide for payment of civil penalties, denial of export privileges and, occasionally, the establishment of compliance programs.

Civil penalties imposed in the nine settlement agreements totaled \$79,000 in FY99.

Major cases included:

Deutsche Bank AG

The Department of Commerce imposed a \$5,000 civil penalty on Deutsche Bank AG, a New York City branch of Deutsche Bank AG of Germany, to settle allegations that the New York Branch committed one violation of the antiboycott provisions. The Department alleged that, in a 1998 transaction involving a sale to Lebanon, the New York Branch confirmed a letter of credit that contained a prohibited condition, in violation of the antiboycott provisions.

The SABRE Group, Inc.

The Department of Commerce imposed a \$5,000 civil penalty on The SABRE Group, Inc., a Texas provider of travel-related products and services, for two alleged violations of the antiboycott provisions. The Department alleged that, in a 1998 contract with a Pakistani company, The SABRE Group agreed to refuse to subcontract any work to Israeli-based businesses or individuals. The Department further alleged that The SABRE Group failed to report its receipt of the boycott requests in the contract.

Alaris Medical Systems, Inc.

The Department of Commerce imposed a \$35,000 civil penalty on Alaris Medical Systems, Inc., located in San Diego, California, to settle allegations that the company violated the antiboycott provisions. The Department alleged that Alaris Medical Systems, Inc., formerly IMED Corporation, failed on ten occasions to report its receipt of requests from Kuwait to engage in restrictive trade practices or boycotts. The Department also alleged that, in six of the transactions, the company failed to maintain records as required by the regulations.

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 \$1,000 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. The decision of the ALJ becomes the final agency decision unless one of the parties appeals. The OAC did not issue any charging letters in FY99.

Previously Issued Charging Letters

Serfilco, Ltd.

On August 25, 1994, OAC issued a charging letter to Serfilco, Ltd., a Northbrook, Illinois manufacturer of commercial filtration and pumping equipment. The Department charged that Serfilco furnished prohibited business information to a distributor in Iraq. The Department also alleged that Serfilco failed to report its receipt of seven boycott requests. A hearing was conducted on August 23, 1995. In his decision, the ALJ found that Serfilco had violated the antiboycott provisions and imposed a \$118,000 civil penalty on the company. Also, the ALJ denied for one year Serfilco's export privileges to export to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen. Serfilco appealed the ALJ's decision to the Department's Under Secretary for Export Administration.

Jack H. Berg

On August 25, 1994, OAC issued a charging letter to Mr. Jack H. Berg, president of Serfilco. The Department charged that Mr. Berg furnished prohibited business information to a distributor in Iraq. A hearing was conducted on August 23, 1995. In his decision, the ALJ found that Berg had violated the antiboycott provisions and imposed a civil penalty of \$90,000 on Berg. Mr. Berg appealed the ALJ's decision to the Under Secretary for Export Administration.

In his June 10, 1996, "Final Decision and Order," the Under Secretary upheld the ALJ's decision to deny for one year Berg's and Serfilco's privileges to export to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen. However, the Under Secretary reduced the \$118,000 penalty imposed on Serfilco to \$38,000 and reduced the penalty imposed on Berg to \$80,000. Berg and Serfilco have refused to pay the civil penalties. At the request of the Commerce Department, the U.S. Department of Justice has filed a law suit in Federal court against Berg and Serfilco to collect the civil penalties.

All of the final orders issued during FY99 imposing administrative sanctions, including civil penalties, resulting from OAC investigations are summarized in the following table.

Summary of Settlements and Charging Letters in Fiscal Year 1999

Company Name & Location	Date Order Signed	Alleged Violations	Penalty Amount
MKD International, Inc. Nashville, TN	10/22/98	2 violations alleged: 1- 769.2(a) Required a person to refuse to do business. 1- 769.2(d) Furnished prohibited information.	\$ 10,000 (\$6,000 suspended)
Allison Engine Company, Inc. Indianapolis, IN	12/23/98	2 violations alleged: 1- 769.2(d) Furnished prohibited information. 1- 769.6 Failed to report.	\$ 3,000
Fritz Companies, Inc. San Francisco, CA	2/1/99	6 violations of 769.2(d) Furnished prohibited	\$12,000

		information.	
Hanson Aggregates West, Inc. Dallas, TX	3/8/99	2 violations alleged: 1- 769.2(d) Furnished prohibited information. 1 769.6 Failed to report.	\$3,000
The SABRE Group, Inc. Texas	5/20/99	2 violations alleged: 1- 760.2(d) Agreement to refuse to do business. 1- 760.5 Failed to report.	\$5,000
Langham Transport Services, Inc. Indianapolis, IN	5/20/99	1 violation of 769.2(d) Furnished prohibited information.	\$2,000
Alaris Medical Systems, Inc. San Diego, CA	6/14/99	16 violations alleged. 10 - 769.6 Failed to report. 6 - 769.6(b) Recordkeeping.	\$35,000
Deutsche Bank A.G. New York, NY	6/14/99	1 violation of 760.2(f) Implemented a letter of credit.	\$5,000
Najarian Furniture Co., Inc. City of Industry, CA	7/26/99	4 violations of 769.2(d) Furnished prohibited information.	\$4,000

Go to Boycott Request Tables

[INDIVIDUAL FIRMS, TRANSACTIONS, REQUESTING DOCUMENTS AND RESTRICTIVE TRADE PRACTICES BY FIRM TYPE](#) [PDF Format]

[NUMBER OF RESTRICTIVE TRADE PRACTICES AND TYPE OF RESTRICTIVE TRADE PRACTICE](#)
[PDF Format]

[NUMBER OF RESTRICTIVE TRADE PRACTICES BY ORIGINATING COUNTRY AND TYPE OF PRACTICE](#)
[PDF Format]

[NUMBER OF REQUESTING DOCUMENTS BY ORIGINATING COUNTRY AND BY TYPE OF DOCUMENT](#)
[PDF Format]

**NUMBER AND VALUE OF EXPORTER TRANSACTIONS BY ORIGINATING COUNTRY AND
DECISION ON REQUEST** [PDF Format]

Go to [Chapter Nine](#)

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.

BXA Annual Report - FY 1999

Chapter 9. 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 FY99, the NEC team, in conjunction with other BXA organizations and other representatives from the U.S. government, hosted, coordinated, or sponsored forty-two technical exchange workshops and multilateral events. These activities included cooperative bilateral workshops with Armenia, Bulgaria, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Poland, Romania, Russia, Tajikistan, and Ukraine, as well as multilateral technical workshops with Kyrgyzstan and Uzbekistan and with Russia and Ukraine. The NEC Team conducted three major multilateral conferences, two of them regional conferences, and (one for the nations of Central Asia and the Caucasus region, and the other for the nations of Europe and North America), and the other the Annual Symposium for export control officials from all the nations in Europe and Asia with which the NEC Team has worked in its cooperative export control development activities.

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 export control 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 FY99, the NEC international cooperation program saw major strides in development of national export control systems by the Newly Independent States (NIS) of the former Soviet Union, and by some countries in Central Europe. The outcome of these workshops 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. 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 holds responsibility in all technical areas of export controls, it takes 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. 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 are also reviewed.

To demonstrate the need for a national control list and the interagency process, 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. Such mechanisms as pre-license checks, post-shipment verifications, Asafeguard@ programs, preparation of materials for evidentiary purposes, and the use of criminal and administrative sanctions to deter illegal exports are discussed. 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 work together to 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 FY99, the NEC team helped selected countries automate 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 lead system automation technical exchange workshops and work with officials of the countries to decide how best to automate their export control licensing functions. BXA representatives assess the need for, then design and develop comprehensive licensing systems in cooperation with a country's senior export control officials. They discuss and demonstrate BXA's automation system and its interagency control features.

Technical Exchange Workshops

Armenia

- National Export License Processing Workshop, Washington, D.C., October 19-23, 1998

BXA hosted a Licensing Procedures and Practices Workshop for five senior Armenian officials from the Office of the Prime Minister, the Ministry of Foreign Affairs, and the Ministry of the Interior and National Security. The workshop reviewed the legal basis and framework for export licenses; analyzed dual-use license procedures; and provided an overview of the national control list, Acatch-all@ controls, the Enhanced Proliferation Control Initiative (EPCI), and dispute resolution procedures. A summary of the Commerce Department's enforcement operations was followed by a U.S. Customs presentation concerning its role in export controls. The requirements and methodologies for successful interagency coordination in shaping government export control decisions were examined as current issues facing export licensing systems. Other U.S. agencies taking part in the workshop were the Departments of State, Defense, and Energy. The Armenian delegation presented a discussion and summary of Armenia's export licensing process and procedures.

Bulgaria

- Legal Assessment of Draft Amendments to Bulgaria's Export Control Law, Sofia, Bulgaria, January 25-29, 1999

At the Government of Bulgaria's request, a U.S. Interagency delegation consisting of export control experts visited Sofia to consult with Bulgarian officials on draft amendments to Bulgaria's export control law. Receiving unprecedented access to a wide range of government and arms industry officials, the delegation also discussed licensing and enforcement procedures. The delegation concluded that senior Bulgarian officials are making serious efforts to develop an effective export control regime with a firm legal basis. The U.S. delegation found that although the existing export control legislation contained many of the essential elements of an effective export control regime, the proposed amendments will make important improvements in the legal framework. The delegation suggested areas where the draft amendments might be modified to strengthen further Bulgaria's ability to implement and enforce its new export control policies.

- National Control List Technical Exchange Workshop, Washington, DC, February 22-26, 1999

As part of the planned cooperation between the United States and Bulgaria on export controls, BXA's National Control List Technical Exchange Workshop addressed senior policy makers and mid-level Bulgarian export control experts engaged in control list activities. The workshop focused on the development of a dual-use control list, provided an overview of the control list process from both international and national perspectives, described the basic elements of the European Union (EU) numbering system for dual-use goods and technologies, and examined the elements of the multilateral control regimes (The Wassenaar Arrangement, the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime).

Georgia

- Control List Workshop, Washington, DC, October 26-30, 1998

Held in response to requests made by Republic of Georgia export control officials, the Control List Workshop constituted the latest in a series of technical export control cooperation activities carried out with the Republic of Georgia government during the last three years. Led by a member of Parliament, the five-member Georgian delegation also included senior officials from the Georgian Ministry of Foreign Affairs, the Ministry of Trade and Foreign Economic Relations, and the State Border Guards. The legal bases for control lists, licensing procedures and practices, general and technical aspects of control list development, enforcement of the dual-use control list, and transit trade were analyzed. Questions on commodity jurisdiction and related

issues were discussed during visits by the delegation to the Departments of State and Defense. At the conclusion of the workshop, the head of the Georgian delegation stated that the materials handed out at the workshop, including the EU List, would be used in the development of the Republic of Georgia's own control list.

- Technical Workshop on License Processing, Washington, DC March 15-19, 1999

Hosted by BXA, the Technical Workshop on Licensing Processing examined the administration of a licensing system and techniques to ensure compliance with export controls by the exporting community, and addressed technical and policy analysis as part of the license review process and the importance of interagency review and dispute resolutions as part of final licensing decisions. Enforcement aspects presented included pre-license, end-use, and end-user checks. Practice with the Licensing Officer Instructional Simulation (LOIS) computer software illustrated key decision points in the licensing process to the Georgian participants.

Hungary

- Export Licensing Practices and Procedures Technical Exchange Workshop, Washington, DC, November 2-6, 1998

BXA hosted an Export Licensing Practices and Procedures Technical Exchange Workshop for five senior Hungarian officials who manage the export license review and decision process, and are responsible for interpreting and implementing export control laws through licensing practices and procedures. The technical exchange workshop examined the interagency process, dispute resolution, export clearances, and current issues facing export licensing systems. Export enforcement issues addressed included pre-license checks and post-shipment verifications, and international export enforcement cooperation. Exploration of the different but complementary roles that BXA's Office of Export Enforcement and the U.S. Customs Service have in export enforcement generated a technical discussion with the Hungarian delegation. The Departments of State, Defense, and Energy also participated in the workshop. Hands-on practice with the Licensing Officer Instructional Simulation (LOIS) software illustrated critical points in the process to the Hungarians.

Kazakhstan

BXA engaged in three technical licensing and control list development exchanges with Kazakhstan during FY99. The exchanges provided a sequential series of discussions that enhanced a common understanding of the implementation issues for controlling sensitive items. BXA hosted two of the exchanges in Washington, DC, and the Kazakhstan Ministry of Energy and Trade hosted the third exchange in Astana, Kazakhstan. The exchanges were sponsored by the Commerce Department.

- National Control List Technical Workshop, Washington, DC, April 5-9, 1999

The Kazakh delegation to the National Control List Technical Workshop, hosted by BXA, was led by a senior official from the Office of the Prime Minister. The workshops focused on the development of a dual-use control list by providing an overview of the control list process from both an international and a national perspective, and described practices in commodity classification work. The program included interagency visits to and briefings by representatives from the Department of Energy and the U.S. Customs Service. A meeting with a U.S. industry representative provided insight into how industry establishes and maintains classifications of its products.

- Licensing Procedures and Practices Workshop, Washington, DC, May 3-7, 1999

The Kazakh delegation to the Licensing Procedures and Practices Workshop was led by a senior official from the Kazakh Atomic Energy Agency. The exchange with the U.S. Delegation provided the Kazakhs with information on the legal context and framework for the administration of an export licensing system, and the techniques to ensure compliance with export controls by the exporting community. The workshop addressed the license review process, including technical and policy analyses, dual-use and munitions licensing, interagency review, dispute resolutions, and final licensing decisions. Export enforcement aspects presented concerned pre-license inquiries and end-use and end-user checks. The workshop also provided extensive hands-on use of Licensing Officer Instructional Simulation (LOIS) software.

- Technical Workshop on the European Union Unified Control List in the International System, Astana, Kazakhstan, June 7-19, 1999

The Technical Workshop focused on the use of the European Union (EU) Unified Control List in the current international system for export control of dual-use items and weapons of mass destruction. The workshop considered practices and procedures associated with the conversion to a unified control list by a number of countries that adhere to different national and international export control regimes. It covered the fundamental structure of the EU list, how it is used by licensing officers and industry to perform commodity classifications, and the benefits derived by a country adopting the EU model control list as the national control list. The U.S. experience proved particularly interesting to the Kazakhs because the United States uses a unified list as the national control list. All presentation materials and interactive computer training were presented in the Russian language.

Moldova

- Export Control Legal Technical Forum, Washington, DC, May 24-28, 1999

During an Export Control Legal Technical Forum hosted by BXA, representatives from U.S. departments and agencies met with a delegation from Moldova that included officials from the Cabinet of Ministers, the Parliament's staff, Ministry of Defense, Border Guards, and the Customs Committee. Designed to provide the Moldovan delegation with information needed to draft an export control law, the forum focused on the legal basis for a comprehensive and effective export control system, including essential authorities needed in the law, such as customs, transit, and defense authorities, as well as controls on dual-use exports, arms, and nuclear equipment. Moldova's export control authority was also discussed.

- Control Lists Technical Workshop, Washington, DC, September 13-17, 1999

A five-member delegation from Moldova participated in a technical workshop on the development and maintenance of a national control list. The counselor to the Deputy Prime Minister, who led the Moldovan delegation, pointed out that Moldova was developing a new list of controlled commodities and that the new Moldovan customs code would conform to the EU list. He added that Moldova recognized the necessity for updating its control list to conform to international lists, because its current control list was based on former Soviet commodity lists. The workshop addressed the legal basis and framework for control lists, and for licensing practices and procedures; munitions control licensing and missile nonproliferation; transit trade; and the perspective of private industry on export controls. The discussion of export enforcement included

a description of the U.S. Customs Service's AExodus@ program. Other U.S. Agencies participating in the technical workshop included representatives from the Department of State and the U.S. Customs Service.

Poland

- Authorware Software Training Automation Program for Poland, Washington, DC, February 8, 1999

As part of an undertaking to assist Poland in improving its systems automation efforts, BXA/NEC conducted a special Authorware Software Training automation program for Poland in Washington, DC. Developed to train foreign delegates how to modify and customize their countries' Internal Compliance Programs (ICP), the Authorware software enables modifications to be made in ICPs to reflect changes in the laws, regulations, and policies of export control regimes. The Polish participants in the program received hands-on training in using the ICP software, as well as the Authorware software itself. Discussions included development of ICP customization training, development of Train-the-Trainer curricula, ICP deployment workshops, and ongoing coordination of responsibilities.

- Conference on Export Control Cooperation Between Business and Government Warsaw, Poland, May 13-14, 1999

A delegation of U.S. officials and U.S. Industry representatives headed by the Deputy Under Secretary of Commerce for Export Administration participated in the International Conference on Export Control Cooperation Between Business and Government Administration held in Warsaw, Poland, May 13-14, 1999. Organized by the Polish Chamber of Commerce in cooperation with the Department of Export Control of the Polish Ministry of Economy and the Bureau of Export Administration, U.S. Department of Commerce, the conference represented the first occasion where both Polish industry and government met together to focus on export control cooperation. As such, the conference represented a major step forward in Poland's steady export control progress and a critical step in strengthening Poland's national export control system.

During the conference, the U.S. Delegation provided assistance to Poland in developing an industry-government partnership in export control and nonproliferation of weapons of mass destruction, and deployed a Polish language version of the U.S.-developed Internal Control Program (ICP) for Polish munitions and dual-use industry sectors. The Polish Deputy Prime Minister attended the conference, as did some 350 Polish industry representatives. Polish government officials viewed accomplishments of the conference as comprising important elements for creating foreign and security policies for Poland complementary to those of NATO and European Union countries, contributing to Poland's improved export control effectiveness within NATO, and enhancing Polish industry's support for ICPs as a component of strengthening Poland's national export control system.

Romania

- Licensing Procedures and Practices Workshop, Washington, DC June 21-25, 1999

The U.S.-Romania Licensing Procedures and Practices Workshop provided the Romanian delegation with information on the legal context and framework for the administration of an export licensing system and the techniques to ensure compliance with export controls by the exporting community. Romanian participants from the National Agency for Control of Strategic Exports and Prohibition of Chemical Weapons engaged in discussions on how the license review process incorporates technical and policy analyses, dual-use and munitions licensing, interagency

review, dispute resolutions, and final licensing decisions. Export enforcement programs and practices involving law enforcement investigations and sanctions were examined. The Romanian delegation also received demonstrations of tools that could assist Romanian licensing officers in classification and licensing, including LOIS software.

Russia

- Russian Control Lists and Commodity Classification, Moscow, Russia, November 16-18, 1998

A BXA/NEC delegation held an export control technical workshop on Russian control lists and commodity classification at the Center on Export Controls (CEC), a Moscow-based non-government entity. The workshop provided representatives of 15 Russian government agencies involved in export controls with an overview of the four multilateral control regimes, technical details regarding each of the international lists, and the process of integrating these lists into a master national control list. The BXA/NEC delegation provided an explanation of the European Union (EU) control list, addressed questions concerning the use of the EU list in the international system of export regulation of dual-use products and weapons of mass destruction, and emphasized the importance of proper classification. The delegation also demonstrated the use of Licensing Officer Instructional Simulation (LOIS) software to the Russians.

- Russian Industry Information, Tomsk, Russia, November 19-20, 1998

Two BXA/NEC staff members traveled to Russia to assist the Moscow-based Center on Export Controls in familiarizing Russian enterprises in the Tomsk region and regional and local authorities, with Russian export control regulations and policies.

- Russian Defense Industries, Moscow, Russia, September 15, 1998, to January 25, 1999

Between September 15, 1998, and January 25, 1999, BXA/NEC personnel and representatives from U.S. companies helped the Center on Export Controls in Moscow, Russia, to install a pilot Internal Compliance Program at six enterprises subordinated to the Russian Space Agency (September 15-18, 1998), six enterprises subordinated to the Ministry of Economy (December 7-9, 1998), and five enterprises subordinated to the Ministry of Atomic Energy (January 25-26, 1999). The CEC planned to obtain feedback from the enterprises and develop an improved version to be unveiled at an Industry-Government forum in April 2000.

- Export Control Parliamentary Forum, Washington, DC, March 1-3, 1999

BXA hosted the first Export Control Parliamentary Forum in Washington, DC, for two members of the Russian Duma with responsibility for Russia's export control legislation. Other members of the Russian delegation included representatives from the Ministry of Foreign Affairs, the Federal Service for Currency and Export Controls, the non-government Center for Export Controls, and the Russian Union of Industrialists. The forum provided an opportunity for the participants to exchange information on the legal bases for export controls in the United States and in Russia, and to discuss export control legislation in the two countries. The Russian delegation briefed U.S. officials on the status and scope of Russia's pending export control legislation, provided a copy of the most recent version of the draft bill, and stated that the bill, when it became law and entered into force, would substantially strengthen the ability of the Russian Government to prosecute and punish export control violators. During the forum, the Russian delegation also met with U.S.

House and Senate staff members and attended a Congressional hearing on the Export Administration Act.

- Licensing Procedures and Practices Workshop, Washington, DC, March 22-26, 1999

The U.S.-Russia Licensing Procedures and Practices Workshop, hosted by BXA, shared knowledge on the management of license processing with a Russian delegation with representatives from the Ministries of Trade and Defense, the State Customs Committee, and the Security Council of the Russian Federation. The workshop focused on management practices meeting international standards for export control licensing administration, and on job skills needed by supervisors. In utilizing advanced case studies in licensing, the program included the rationale and methodology for licensing administration decision-making strategies, addressed the details of critical supervisory elements as well as the responsibilities for an effective export control system, and demonstrated the application of systems automation technology in a licensing system. Additional topics covered included using National Control Lists and the EU Control List, the export licensing system review process and interagency review, making decisions on projects of concern, implementation of Acatch-all@ controls, and criminal and administrative enforcement actions. A visit to the Defense Threat Reduction Agency (DTRA) at the Defense Department focused on dual-use and munitions licensing. The second meeting of the U.S.-Russia Sub-Working Group on Dual-Use Licensing also took place immediately following the workshop.

- Export Control Update Conference for Russian Industry (All-Russian Conference on Export Controls), Moscow, Russia, April 19-20, 1999

Commerce/BXA sponsored an Export Control Update Conference for Russian Industry (All-Russian Conference on Export Controls@), held in Moscow, Russia. The Center on Export Controls (CEC), a Russian non-government organization based in Moscow, hosted the conference. A large delegation of U.S. business representatives and government officials participated. The conference was structured to familiarize and update Russian industrial enterprises with their export control responsibilities and with Russian export control rules and regulations; demonstrate that industry-government cooperation on export controls and voluntary industry compliance with export control regulations are essential for effective export controls; and illustrate how U.S. and other non-Russian companies manage export controls and their in-house export control compliance programs.

Over 100 Russian industrial enterprises from the aerospace and defense industries and nuclear-related fields attended the conference and participated in break-out sessions. Representatives from the Russian Duma also took part in the conference, as did senior officials from the Security Council the Russian Federation; the Ministries of Foreign Affairs, Trade, the Economy, and Atomic Energy; the Russian Aviation and Space Agency; the State Customs Committee; and other agencies. Officials from the Japanese Center for Information on Security Trade Control attended and participated in the program. In sharp and positive contrast to the predecessor conference held in Moscow in December 1996, U.S. Government officials observed extended meaningful and frank dialogue between Russian industry representatives and the attending Russian government officials on a range of export control-related issues. During the conference, the director of the CEC demonstrated an operational Internal Control Program (ICP) developed by Commerce/BXA and modified by the CEC to fit the Russian regulatory environment. The ICP tool is a software-based learning document development tool equipped with a self-paced training platform and templates that may produce a customized internal control program manual for the company. The documents include in-house administrative and screening requirements that meet universally recognized standards to ensure compliance with national export control rules and regulations.

- Internal Control Program Workshops, Russia, April 5-October 1, 1999

Between April 5 and October 1, 1999, a small team of BXA/NEC personnel and representatives from U.S. companies presented a series of Internal Control Program (ICP) Workshops in ten Russian cities as part of the U.S.-Russian Bilateral Cooperation on Export Controls program. This program was conducted initially under the Cooperative Threat Reduction Program and more recently under the Nonproliferation, Anti-Terrorism, Demining, and Related Activities (NADR) Program. The workshops assisted the Russians to deploy operational ICPs at 187 Russian industrial enterprises. The ICP deployment is part of a Russian government initiative to improve industry compliance with national export control rules.

Among Russian government participants at each workshop in the series were representatives of the State Customs Committee; the Federal Service on Currency and Export Control; and the Ministries of Economy, Foreign Affairs, Defense, and Trade. The Center on Export Controls (CEC) Director noted in his remarks opening the workshop at Samara that all Russian enterprises need to become aware of their export control responsibilities and develop an in-house compliance capability, which must include trained export control administrators, compliance job tools, and access to the latest export control rules and regulations. The ICP software tool enables individual export control administrators to develop a competency in export control in their respective enterprises.

The deployments took place in 11 enterprises in Samara (April 5-6, 1999), 21 enterprises in Voronezh (May 18-19, 1999), 24 enterprises in Yaroslavl (May 26-27, 1999), 18 enterprises in Orel (June 16-17, 1999), 21 enterprises in Kazan (June 24-25, 1999), 27 enterprises in Bryansk (July 8-9, 1999), 16 enterprises in Irkutsk (July 22-23, 1999), 24 enterprises in Novosibirsk (September 9-10, 1999), 18 enterprises in and around Vladimir (September 21-22, 1999), and seven enterprises in Puschino (September 30-October 1, 1999).

- Export Enforcement Technical Exchange Workshop, Moscow and Vladimir, Russia, September 20-24, 1999

The enforcement workshop, hosted by the State Customs Committee of the Russian Federation, was part of the planned U.S.-Russia Bilateral Cooperation on Export Controls. A U.S. Interagency delegation led by officials from BXA visited Moscow and Vladimir to take part in an export enforcement technical exchange workshop. The purposes of the technical exchange were to understand the structure and staffing of Russian organizations involved in export enforcement; observe how Russian government agencies explain export control responsibilities to Russian enterprises; engage in meaningful discussions regarding export enforcement success stories on both sides; and address the next steps in bilateral cooperation. Participating Russian agencies included the Security Council of the Russian Federation; the State Customs Committee; the Ministries of Foreign Affairs, Justice, and Trade; the Russian Customs Academy; the Federal Service for Currency and Export Control; and the Center on Export Controls. The U.S. Delegation included representatives of the Departments of State, Commerce, and Energy, and the U.S. Customs Service. Commerce Department participants included officials from the Office of Export Enforcement, the Office of Chief Counsel, and BXA/NEC.

As a result of the technical exchange, the U.S. side concluded that Russia continues to make measurable progress in establishing and implementing a structure, agency roles, and industry-government cooperation for enforcement of export controls. However, additional work is required to strengthen enforcement and industry compliance with export control regulations. Russia's new law provides significant authority to enforce export controls and penalize violators. The allocation of this new authority among various Russian organizations and implementation of that authority have begun but, according to the time table described by several officials, will understandably

extend into the spring of 2000. Thereafter, the involved agencies will require time to carry out their roles. Certain Russian enforcement agencies still lack legal authority to prosecute and punish export control violators. Most Russian enterprises are poorly informed about their export control obligations. Russian government officials repeatedly stated that their highest priorities relative to export enforcement include the establishment of internal compliance programs at Russian enterprises, delegation of authority under the new export control law, and training of enforcement agents, especially at Russian Customs academies.

Tajikistan

- Legal Technical Forum, Washington, D.C., February 8-12, 1999

During the week of February 8-12, 1999, the Bureau of Export Administration (BXA) hosted the first interagency bilateral technical exchange between the United States and Tajikistan on nonproliferation export controls. The exchange also constituted the first legal technical forum between the two countries to focus on the legal basis and regulatory framework for a comprehensive and effective export control system. Participating U.S. agencies included the Departments of State, Defense, and Energy, and the U.S. Customs Service. A representative from the Commerce Department's Business Information Service for the Newly Independent States (BISNIS) gave a short presentation.

The forum afforded U.S. legal and other experts the opportunity to discuss with Tajik export control officials: 1) the scope of Tajikistan's new export control law, and 2) the decrees and regulations that will be needed to implement the law, including promulgation of a control list that meets international standards. Other topics addressed included controls on exports of dual-use items and arms, multilateral regimes controlling nuclear and missile components and technology, and biological and chemical weapons controls. The forum provided information on the export control authority and perspective at the U.S. Defense Department, Customs Service and the Office of Export Enforcement of the Commerce Department, Bureau of Export Administration. At the conclusion of the forum, the Tajikistan delegation discussed with the U.S. side the next steps Tajikistan wants to undertake in order to strengthen its national export control system. These included review of Tajikistan's decrees and regulations for implementing its export control law, establishment of a functional export licensing system, and construction of control lists consistent with international control regime standards.

Ukraine

- Administration and System Support Technical Training, Washington, D.C., February 3-5, 1999

BXA/NEC presented a U.S.-Ukraine Internal Compliance Program (ICP) Workshop in Washington, D.C. in February, 1999. The workshop provided key information about the recently completed Ukraine ICP software version 2.0, as well as further training and support pertaining to the ICP for Ukrainian industries which produce controlled items.

- Export Enforcement Technical Workshop, Washington, D.C., and Fort Lauderdale, Florida, April 26-30, 1999

A seven-member delegation of Ukrainian officials participated in the U.S.-Ukraine Export Enforcement Technical Workshop, held in Washington, D.C., and Fort Lauderdale, Florida. The workshop sought to strengthen the basis for export enforcement cooperation with Ukraine by familiarizing the Ukraine delegation of export enforcement officials with the U.S. government's

export enforcement programs, measures, and methods. Next steps for further developing enforcement cooperation was discussed with the Ukrainian delegation.

The Ukraine delegation included the director of the Export Control Department of the Cabinet of Ministers and senior officials from the National Security and Defense Council, the Ministry of Foreign Affairs, the State Committee for National Border Defense, and the State Customs Service, as well as the Director of the State Service on Export Control who headed the delegation. The delegation sought a first-hand overview of how the U.S. government enforces export controls, as well as information on how other U.S. government agencies involved in export enforcement interact with BXA and with each other, focusing on how export enforcement contributes to halting the proliferation of weapons of mass destruction, discussing techniques and authorities used by U.S. government agencies, and examining the role of interagency and international cooperation in detecting and interdicting illegal exports. Representatives from the Defense Department's Defense Threat Reduction Agency (DTRA) and from the U.S. Customs Service participated in the discussions. The workshop included a two-day visit to export enforcement field operations in Fort Lauderdale, Florida, including BXA's Office of Export Enforcement Field Office, the U.S. Customs Service, and the Office of the U.S. Attorney for the Southern District of Florida.

Uzbekistan

- DOD/FBI Legal Assistance Workshop, Tashkent, Uzbekistan, September 20-24, 1999

A U.S. interagency delegation traveled to Tashkent, Uzbekistan, to help the Uzbek government review its draft export control law. During the workshop, the U.S. side offered its comments on the draft law and expressed the view that the host government had made a good start in assembling the necessary legal elements in the draft law. The U.S. delegation included representatives from the Departments of State and Defense; the Federal Bureau of Investigation; the Commerce Department's Office of Chief Counsel, Office of Export Enforcement, and BXA/NEC.

Multilateral Activities

In addition to the bilateral activities just described, BXA/NEC coordinated and participated in several multilateral activities, which emphasized a regional approach to export control issues.

- Third Regional Forum on Export Control and Nonproliferation of Weapons of Mass Destruction for Central Asian and Caucasian Countries, Astana, Kazakhstan, November 10-12, 1998

From November 10-12, 1998, the United States and Kazakhstan co-hosted in Astana, Kazakhstan, the Third Regional Forum on Export Control and Nonproliferation of Weapons of Mass Destruction, in which eight Central Asian and Caucasian countries (Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey, and Uzbekistan) participated. The forum focused on a regional approach to nonproliferation and export controls in the major functional areas of export control systems -- the legal and regulatory framework, licensing procedures, enforcement mechanisms, and industry-government outreach. The participants made progress on several issues. First, they endorsed a regional approach toward the resolution of nonproliferation and export control issues; second, they agreed on the need for a regional agreement on transit/transshipment notification; third, they reached a consensus on the desirability of information exchange, possibly via an electronic Web site; and fourth, they expressed a strong interest in further regional meetings. Kazakhstan delivered a comprehensive

presentation of its export control system, which provided a positive example for the other countries.

Kyrgyzstan and Uzbekistan

- Export Control Licensing Technical Exchange Workshop, Washington, D.C., January 11-15, 1999

Representatives from Kyrgyzstan and Uzbekistan participated in a BXA/NEC technical exchange workshop on export licensing in Washington, D.C. Structured for officials responsible for interpreting and implementing export control laws and decrees, the workshop addressed control lists as well as the standards, practices, and procedures for export licensing.

Russia and Ukraine

- Authorware Software Training Automation Program workshop, Washington, D.C., February 1, 1999

Representatives from Russia and Ukraine took part in a BXA/NEC Authorware Software Training Automation Program workshop in February, 1999. The Authorware software has been designed to enable the delegates to make modifications in their country's Internal Compliance Program (ICP) to reflect changes that have been made to the laws, regulations, and policies on which their export control regimes are built. During the workshop, the delegates received hands-on training in using the ICP software, as well as the Authorware software itself. Discussions included development of ICP customization training, development of Train-the-Trainer curricula, ICP deployment workshops, and on-going coordination of responsibilities.

- Sixth Annual Symposium for International Export Control Officials, Washington, D.C., July 12-16, 1999

The Sixth Annual Symposium for International Export Control Officials and Update "99" were held July 12-16, 1999, in Washington, D.C., Representatives of 23 foreign countries attended. The Symposium was sponsored by BXA and funded by the State Department's Nonproliferation, Anti-terrorism, Demining and Related Activities (NADR) budget. The Symposium, which incorporated attendance at pertinent portions of the Update "99" program, was specifically designed to enable international export control officials to meet U.S. export control officials, develop or maintain working relationships with their U.S. and international counterparts, and become more familiar with the U.S. export control system and the systems of the other participating nations.

This year's program had sections addressing the roles of brokers, freight forwarders, and shippers in export control trade, regulation of transit of controlled items, and the operating procedures for compliance with export control laws and regulations that are essential to establishing and maintaining an effective national export control system. The countries participating in the 1999 Symposium were Albania, Armenia, Azerbaijan, Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Observers from India also attended.

- North American/European Conference on Export Controls, Oxford, United Kingdom, September 28-30, 1999

BXA/NEC led an interagency U.S. delegation to a North American/European Conference on Export Controls in Oxford, United Kingdom. The conference considered the efficacy of the global

export control system, assessed efforts to assist the nations of the former Soviet Union and Central Europe to establish national export control programs, and developed recommendations to the governments of participating nations for strengthening and making more effective the global export control system. Deputy Under Secretary for Export Administration T. Scott Bunton was accompanied by Assistant Secretaries F. Amanda Debusk (BXA/Export Enforcement) and Roger Majak (BXA/Export Administration). The countries participating in the Oxford Conference were Albania, Austria, Bulgaria, Canada, Czech Republic, Denmark, Estonia, European Union, Finland, France, Germany, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Sweden, the United Kingdom, and the United States. Representatives from the Wassenaar Arrangement, the Australia Group and the Nuclear Suppliers Group multilateral control regimes also attended.

TABLE
Commerce/BXA/NEC Activities
for Fiscal Year 1999

The following NEC technical exchange workshops and multilateral conferences took place in FY 99. The technical exchange workshops centered on the major elements that constitute an effective national export control system. The multilateral conferences emphasized a regional approach to export control issues.

COUNTRY	Legal Foundation	Licensing Procedures and Practices	Export Enforcement Activities	Govt-Industry Relations	Systems Automation
Armenia		Oct. >98			
Bulgaria	Jan. >99	Feb. >99			
Georgia		Oct. >98 Mar. >99			
Hungary		Nov. >98			
Kazakhstan		Apr. >99 May >99 June >99			
Moldova	May >99	Sept. >99			
Poland				May >99	Feb. >99
Romania		June >99			

Russia	Mar. >99	Nov. >98 Mar. >99	Sept. >99	Sept. >98 --Jan. >99 [17 events] Apr.-Oct. >99 [10 cities]	Nov. >98 -- April >99
Tajikistan	Feb. >99				
Ukraine	Sept. >99		Apr. >99		
Uzbekistan	Sept. >99				

Multilateral Activities

COUNTRY	Workshop	Workshop	Conference	Conference	Conference
	Licensing Procedures and Practices	Systems Automation	Third Regional Forum Central Asian & Caucasian Countries Nov. >98	Sixth Annual Symposium July >99	Oxford Conference North America & Europe Sept. >99
Kyrgyzstan & Uzbekistan	Jan. >99				
Russia & Ukraine		Feb. >99			
Albania				x	x
Armenia			x	x	
Austria					x

Azerbaijan			x	x	
Bulgaria				x	x
Canada					x
Czech Republic				x	x
Denmark					x
Estonia				x	x
European Union					x
Finland					x
France					x
Germany					x
Georgia			x	x	
Hungary				x	x
Kazakhstan			x	x	
Latvia				x	x
Lithuania				x	x
Moldova		Go to Continuation of Table		x	

[Table Continued]

COUNTRY	Workshop	Workshop	Conference	Conference	Conference
Netherlands					x
Norway					x
Poland				x	x
Romania				x	x
Russia				x	
Slovakia				x	x
Slovenia				x	x
Sweden					x
Tajikistan			x	x	
Turkey			x		
Ukraine				x	
United Kingdom					x
United States			x	x	x
Uzbekistan			x	x	
India (observer)				x	
Multilateral Regimes:					x
Wassenaar Agreement					x
Australia Group					x
Nuclear Suppliers Group					

Go to [Chapter Ten](#)

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.

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
ALBANIA			
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	1	\$15,000
	TOTAL APPLICATIONS: 1		
	TOTAL CCL'S: 1		
	TOTAL DOLLAR VALUE: \$15,000		

ARMENIA			
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	6	\$6
	TOTAL APPLICATIONS: 6		
	TOTAL CCL'S: 1		
	TOTAL DOLLAR VALUE: \$6		

AZERBAIJAN			
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	1	\$600,000
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	1	\$763,000
3A229	FIRING SETS AND HIGH CURRENT PULSE GENERATORS	1	\$19,000
3A232	DETONATORS/MULTIPOINT INITIATION SYSTEMS	1	\$8,000
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	1	\$7,060
	TOTAL APPLICATIONS: 3		
	TOTAL CCL'S: 5		
	TOTAL DOLLAR VALUE: \$1,397,060		

BELARUS			
3E001	TECHNOLOGY FOR DEV OR PROD OF CERTAIN ITEMS IN 3A/	4	\$2
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	1	\$50,684
4E001	TECHNOLOGY FOR DEV/PROD/USE OF CERTAIN EQUIP/SOFTW	1	\$1
6A005	OPTICAL EQUIPMENT (LASERS)	1	\$3,360
	TOTAL APPLICATIONS: 7		
	TOTAL CCL'S: 4		
	TOTAL DOLLAR VALUE: \$54,047		

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
BULGARIA			
EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	2	\$235,819
0A984	SHOTGUNS, BUCKSHOT, SHOTGUN SHELLS	5	\$591,166
0A985	DISCHARGE TYPE ARMS	7	\$1,353,485
1C111	PROPELLANTS AND CONSTITUENT CHEMICALS	1	\$64,000
3A981	POLYGRAPHS/FINGERPRINT ANALYZERS/CAMERAS/EQUIPMENT	2	\$20,950
3D980	SOFTWARE FOR DEV/PROD/USE OF ITEMS IN 3A980 AND 3A	1	\$33,000
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	11	\$2,006,497
4A980	COMPUTERS FOR FINGERPRINT EQUIPMENT, N.E.S.	2	\$744,356
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	1	\$18,100
4D001	SOFTWARE FOR CERTAIN EQUIPMENT/SOFTWARE IN 4A-4D	1	\$45,337
4D980	SOFTWARE FOR DEV/PROD/USE WITH 4A980 ITEMS	3	\$699,762
4E980	TECHNOLOGY FOR DEV/PROD/USE OF ITEMS IN 4A980	1	\$27,750
5A991	TRANSMISSION ITEMS NOT W/I PARAMETERS IN 5A001	1	\$6,882

5D002	SOFTWARE FOR INFORMATION SECURITY	1	\$0
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	1	\$100
TOTAL APPLICATIONS: 33			
TOTAL CCL'S: 15			
TOTAL DOLLAR VALUE: \$5,847,204			

CAMBODIA

3A231	NEUTRON GENERATOR SYSTEMS INCLUDING TUBES	1	\$51,000
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	2	\$382,839
TOTAL APPLICATIONS: 3			
TOTAL CCL'S: 2			
TOTAL DOLLAR VALUE: \$433,839			

CHINA (PRC)

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	13	\$3,031,482
1C006	FLUIDS AND LUBRICATING MATERIALS	1	\$175,120
1C010	FIBROUS/FILAMENTARY MATERIALS USED IN MATRIX STRUC	5	\$1,100,400
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	14	\$1,131,849
1C202	ALUMINUM AND TITANIUM ALLOYS IN THE FORM OF TUBES/	3	\$839,476
1C210	FIBROUS/FILAMENTARY MATERIALS NOT CONTROLLED BY 1C	3	\$866,600
1C231	HAFNIUM	1	\$34,068
1C234	ZIRCONIUM, WITH A HAFNIUM CONTENT	2	\$535
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	36	\$161,891,602
1C351	HUMAN PATHOGENS, ZOOSES, AND TOXINS	5	\$502
1C990	FIBROUS AND FILAMENTARY MATERIALS	1	\$1,286
1E001	TECHNOLOGY FOR DEVELOPMENT OF EQUIPMENT UNDER 1A00	2	\$2
1E351	TECHNOLOGY FOR USE OF MICROBIOLOGICAL MATERIALS	1	\$1
2A291	NUCLEAR REACTOR AND NUCLEAR POWER PLANT RELATED EQ	1	\$113,900
2B001	NUMERICAL CONTROL UNITS/MOTION CONTROL BOARDS	4	\$1,700,341
2B201	MACHINE TOOLS FOR REMOVING OR CUTTING METALS	2	\$629,980

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
2B204	ISOSTATIC PRESSES NOT CONTROLLED BY 2B004 OR 2B104	1	\$223,000
2B226	VACUUM AND CONTROLLED ENVIRONMENT INDUCTION FURNAC	1	\$12,024,000
2B230	PRESSURE TRANSDUCERS	18	\$188,842
2B231	VACUUM PUMPS	5	\$105,201
2B350	CHEMICAL MANUFACTURING FACILITIES AND EQUIPMENT	6	\$268,628
2B351	TOXIC GAS MONITORING SYSTEMS & DEDICATED DETECTORS	31	\$1,352,605
2B352	BIOLOGICAL EQUIPMENT	1	\$590,000
2E003	OTHER TECHNOLOGY	1	\$0
2E201	TECHNOLOGY FOR USE OF COMMODITIES CONTROLLED BY 2A	1	\$0
2E301	TECHNOLOGY FOR USE OF COMMODITIES CONTROLLED BY 2B	1	\$1
3A001	ELECTRONIC DEVICES/COMPONENTS	15	\$247,810,192
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	12	\$658,149
3A225	INVERTERS/CONVERTERS/FREQUENCY CHANGERS/GENERATORS	1	\$7,662
3A228	SWITCHING DEVICES	3	\$23,868
3A231	NEUTRON GENERATOR SYSTEMS INCLUDING TUBES	1	\$500,000
3A233	MASS SPECTROMETERS	1	\$110,750
3A292	OSCILLOSCOPES AND TRANSIENT RECORDERS	1	\$140,000
3A992	GENERAL PURPOSE ELECTRONIC EQUIPMENT	1	\$67,797
3B002	ION IMPLANTATION EQUIPMENT FOR SEMICONDUCTORS	1	\$6,279,000
3C001	HETERO-EPITAXIAL MATERIALS	2	\$494,800
3C004	HYDRIDES OF PHOSPHORUS, ARSENIC, OR ANTIMONY	1	\$26,009
3D001	SOFTWARE FOR DEV OR PROD OF EQUIP CERTAIN ITEMS IN	2	\$0
3D002	SOFTWARE FOR USE OF CERTAIN EQUIPMENT CONTROLLED B	1	\$1
3D003	CAD SOFTWARE FOR SEMICONDUCTOR DEVICES/INTEGRATED	7	\$6
3E001	TECHNOLOGY FOR DEV OR PROD OF CERTAIN ITEMS IN 3A/	121	\$10,127
3E002	OTHER TECHNOLOGY FOR ITEMS IN CATEGORY 3	1	\$1
3E201	TECHNOLOGY FOR THE USE OF CERTAIN ITEMS IN 3A	1	\$200,000

4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	620	\$317,897,237
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	3	\$434,880
4D001	SOFTWARE FOR CERTAIN EQUIPMENT/SOFTWARE IN 4A-4D	1	\$1
4D003	SPECIFIC SOFTWARE, AS DESCRIBED IN THIS ENTRY	7	\$206,101
4E001	TECHNOLOGY FOR DEV/PROD/USE OF CERTAIN EQUIP/SOFTW	24	\$200,017
5A001	TELECOMMUNICATIONS/TRANSMISSION EQUIPMENT	1	\$9,939,000
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	9	\$20,498,683
5D001	SOFTWARE FOR DEV/PROD/USE OF ITEMS IN 5A001/5B001/	40	\$34
5D002	SOFTWARE FOR INFORMATION SECURITY	16	\$24,924,675
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	148	\$504,280
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	39	\$3,317
6A001	ACOUSTICS	4	\$6,664,237
6A003	CAMERAS	16	\$470,647
6A005	OPTICAL EQUIPMENT (LASERS)	6	\$997,000
6A006	MAGNETOMETERS/MAGNETIC GRADIOMETERS/COMPENSATION S	3	\$181,800
6A203	CAMERAS/COMPONENTS NOT CONTROLLED BY ECCN 6A003	2	\$95,850
6E001	TECHNOLOGY FOR DEVELOPMENT OF EQUIPMENT/MATERIALS/	1	\$0
6E002	TECHNOLOGY FOR PRODUCTION OF EQUIPMENT/MATERIALS I	1	\$0
7A103	INSTRUMENTATION, NAVIGATION EQUIPMENT/SYSTEMS NOT	13	\$5,420,158
7B001	TEST/CALIBRATION/ALIGNMENT EQUIPMENT CONTROLLED BY	1	\$8,000
8A001	SUBMERSIBLE VEHICLES OR SURFACE VESSELS	1	\$4,538,052
9A004	SPACECRAFT	3	\$530,334,788
9E003	OTHER TECHNOLOGY	1	\$0

TOTAL APPLICATIONS: 1210

TOTAL CCL'S: 66

TOTAL DOLLAR VALUE: \$1,365,916,540

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE

CUBA			
EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	162	\$10,574,518,155
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	1	\$17,000
3A992	GENERAL PURPOSE ELECTRONIC EQUIPMENT	1	\$1,850
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	3	\$366,965
5A991	TRANSMISSION ITEMS NOT W/I PARAMETERS IN 5A001	1	\$1,095
5B991	TELECOMMUNICATIONS TEST EQUIPMENT	1	\$14,550
6A998	AIRBORNE RADAR EQUIPMENT	1	\$0
7A101	ACCELEROMETERS, OTHER THAN THOSE IN 7A001	1	\$0
7A102	GYROS OTHER THAN THOSE SPECIFIED IN 7A002, USABLE	1	\$0
7A103	INSTRUMENTATION, NAVIGATION EQUIPMENT/SYSTEMS NOT	1	\$0
7A994	OTHER NAVIGATION/AIRBORNE COMMUNICATION EQUIPMENT	1	\$0
9A991	AIRCRAFT AND CERTAIN GAS TURBINE ENGINES N.E.S.	23	\$183,569,000

TOTAL APPLICATIONS: 183

TOTAL CCL'S: 12

TOTAL DOLLAR VALUE: \$10,758,488,615

ESTONIA

0A985	DISCHARGE TYPE ARMS	3	\$365,440
0A987	OPTICAL SIGHTING DEVICES FOR FIREARMS	2	\$69,075
1C006	FLUIDS AND LUBRICATING MATERIALS	1	\$2,425
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	1	\$33
1C351	HUMAN PATHOGENS, ZOONOSES, AND TOXINS	2	\$587
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	20	\$1,348,809
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	2	\$68,885
5D002	SOFTWARE FOR INFORMATION SECURITY	2	\$4,485

TOTAL APPLICATIONS: 31

TOTAL CCL'S: 8

TOTAL DOLLAR VALUE: \$1,859,739

GEORGIA

1C225	BORON AND BORON COMPOUNDS/MIXTURES AND LOADED MATE	1	\$1
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	1	\$21,530
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	1	\$2,300
6A002	OPTICAL SENSORS	1	\$91,975
TOTAL APPLICATIONS: 4			
TOTAL CCL'S: 4			
TOTAL DOLLAR VALUE: \$115,806			

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE

KAZAKHSTAN

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	3	\$109,129
1A005	BODY ARMOR	1	\$75,000
1A984	CHEMICAL AGENTS, INCLUDING TEAR GAS	1	\$776
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	4	\$1,374,252
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	3	\$2,021,824
3A233	MASS SPECTROMETERS	1	\$11,000
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	16	\$6,248,430
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	2	\$29,100
4D003	SPECIFIC SOFTWARE, AS DESCRIBED IN THIS ENTRY	1	\$216,000
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	5	\$163,754
5A991	TRANSMISSION ITEMS NOT W/I PARAMETERS IN 5A001	1	\$280
5D002	SOFTWARE FOR INFORMATION SECURITY	3	\$8,315
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	1	\$1
6A003	CAMERAS	1	\$58,500
9A004	SPACECRAFT	5	\$1,522,384,000
TOTAL APPLICATIONS: 38			
TOTAL CCL'S: 15			
TOTAL DOLLAR VALUE: \$1,532,700,361			

KOREA, P. DEM. REP.

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	29	\$362,886,947
1C982	OTHER PETROLEUM PRODUCTS LISTED IN SUPP 2 TO PART	1	\$0
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	1	\$200
TOTAL APPLICATIONS: 31			
TOTAL CCL'S: 3			
TOTAL DOLLAR VALUE: \$362,887,147			

KYRGYZSTAN

1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	1	\$20,000,000
6A006	MAGNETOMETERS/MAGNETIC GRADIOMETERS/COMPENSATION S	1	\$95,745
TOTAL APPLICATIONS: 2			
TOTAL CCL'S: 2			
TOTAL DOLLAR VALUE: \$20,095,745			

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE

LAOS

TOTAL APPLICATIONS: 0
TOTAL CCL'S: 0

TOTAL DOLLAR VALUE: \$0

LATVIA

0A984	SHOTGUNS, BUCKSHOT, SHOTGUN SHELLS	1	\$35,000
0A985	DISCHARGE TYPE ARMS	2	\$336,685
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	23	\$1,848,787
6A003	CAMERAS	1	\$18,500

TOTAL APPLICATIONS: 27
TOTAL CCL'S: 4
TOTAL DOLLAR VALUE: \$2,238,972

LITHUANIA

0A985	DISCHARGE TYPE ARMS	2	\$664,350
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	1	\$3,810
3A981	POLYGRAPHS/FINGERPRINT ANALYZERS/CAMERAS/EQUIPMENT	1	\$5,825
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	14	\$1,463,863
5A001	TELECOMMUNICATIONS/TRANSMISSION EQUIPMENT	1	\$9,562
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	1	\$8,820
9A018	COMMODITIES ON THE INTERNATIONAL MUNITIONS LIST	1	\$45,440

TOTAL APPLICATIONS: 21
TOTAL CCL'S: 7
TOTAL DOLLAR VALUE: \$2,201,670

MOLDOVA

0A018	ITEMS ON THE INTERNATIONAL MUNITIONS LIST	1	\$2,970
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TOTAL APPLICATIONS: 1
TOTAL CCL'S: 1
TOTAL DOLLAR VALUE: \$2,970

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
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MONGOLIA

TOTAL APPLICATIONS: 0
TOTAL CCL'S: 0
TOTAL DOLLAR VALUE: \$0

ROMANIA

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	1	\$28,800
0A982	SAPS; THUMBCEFFS, LEG IRONS, SHACKLES, AND HANDCUF	1	\$799
0A984	SHOTGUNS, BUCKSHOT, SHOTGUN SHELLS	1	\$1,320
0A985	DISCHARGE TYPE ARMS	1	\$250
1C002	METAL ALLOYS, POWDER OR ALLOYED MATERIALS	1	\$121,042
1C010	FIBROUS/FILAMENTARY MATERIALS USED IN MATRIX STRUC	2	\$1,847
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	2	\$415,800
1C351	HUMAN PATHOGENS, ZOONOSES, AND TOXINS	1	\$125
3A001	ELECTRONIC DEVICES/COMPONENTS	1	\$2,200
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	1	\$42,555

3A981	POLYGRAPHS/FINGERPRINT ANALYZERS/CAMERAS/EQUIPMENT	2	\$44,840
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	30	\$4,173,155
4D003	SPECIFIC SOFTWARE, AS DESCRIBED IN THIS ENTRY	2	\$108,001
4E001	TECHNOLOGY FOR DEV/PROD/USE OF CERTAIN EQUIP/SOFTW	1	\$1
5D002	SOFTWARE FOR INFORMATION SECURITY	1	\$1
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	3	\$200
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	1	\$1
6A003	CAMERAS	1	\$20,700

TOTAL APPLICATIONS: 50
TOTAL CCL'S: 18
TOTAL DOLLAR VALUE: \$4,961,637

RUSSIA

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	54	\$4,515,932
0A984	SHOTGUNS, BUCKSHOT, SHOTGUN SHELLS	4	\$1,089,868
0A985	DISCHARGE TYPE ARMS	10	\$2,197,670
0A987	OPTICAL SIGHTING DEVICES FOR FIREARMS	2	\$249,524
1A984	CHEMICAL AGENTS, INCLUDING TEAR GAS	4	\$49,045
1C003	MAGNETIC METALS	1	\$250
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	5	\$359,000
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	5	\$4,040,078
1C351	HUMAN PATHOGENS, ZOOSES, AND TOXINS	3	\$1,260,493
1D002	SOFTWARE UTILIZED FOR DEVELOPMENT OF ORGANIC MATRI	1	\$0
1E001	TECHNOLOGY FOR DEVELOPMENT OF EQUIPMENT UNDER 1A00	2	\$0

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
1E103	TECHNOLOGY TO REGULATE TEMPERATURE OF COMPOSITES	2	\$0
2B351	TOXIC GAS MONITORING SYSTEMS & DEDICATED DETECTORS	1	\$10,945
3A001	ELECTRONIC DEVICES/COMPONENTS	12	\$1,645,414
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	2	\$147,102
3A233	MASS SPECTROMETERS	1	\$850,000
3A981	POLYGRAPHS/FINGERPRINT ANALYZERS/CAMERAS/EQUIPMENT	3	\$40,775
3A992	GENERAL PURPOSE ELECTRONIC EQUIPMENT	10	\$286,996
3D002	SOFTWARE FOR USE OF CERTAIN EQUIPMENT CONTROLLED B	1	\$1
3D991	GENERAL PURPOSE ELECTRONIC EQUIPMENT FOR 3A992	3	\$19,460
3E001	TECHNOLOGY FOR DEV OR PROD OF CERTAIN ITEMS IN 3A/	6	\$21
3E991	MANUFACTURING AND TEST EQUIPMENT FOR 3B991/92	3	\$55,566
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	118	\$14,436,332
4A980	COMPUTERS FOR FINGERPRINT EQUIPMENT, N.E.S.	2	\$701,466
4A994	ITEMS NOT CONTROLLED BY 4A001/4A002/4A003	21	\$2,605,107
4D003	SPECIFIC SOFTWARE, AS DESCRIBED IN THIS ENTRY	12	\$216,303
4D980	SOFTWARE FOR DEV/PROD/USE WITH 4A980 ITEMS	2	\$66,300
4D994	SOFTWARE FOR DEV/PROD/USE OF ITEMS IN 4A994/4B994/	5	\$300,861
4E001	TECHNOLOGY FOR DEV/PROD/USE OF CERTAIN EQUIP/SOFTW	9	\$10
4E002	OTHER TECHNOLOGY	6	\$7
4E992	TECHNOLOGY FOR DEV/PROD/USE OF 4A994/4B994/4C994	4	\$18,665
5A001	TELECOMMUNICATIONS/TRANSMISSION EQUIPMENT	2	\$154,756
5A002	SYSTEMS/EQUIPMENT/INTEGRATED CIRCUITS FOR INFO SEC	4	\$1,973,708
5A991	TRANSMISSION ITEMS NOT W/I PARAMETERS IN 5A001	9	\$328,624
5A992	INFORMATION SECURITY EQUIPMENT	1	\$100
5D001	SOFTWARE FOR DEV/PROD/USE OF ITEMS IN 5A001/5B001/	1	\$1
5D002	SOFTWARE FOR INFORMATION SECURITY	10	\$1,059,518
5D992	SOFTWARE NOT CONTROLLED BY 5D002	1	\$17,500
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	15	\$1,004
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	5	\$30
6A001	ACOUSTICS	4	\$4,342,656
6A003	CAMERAS	1	\$80,300
6A005	OPTICAL EQUIPMENT (LASERS)	2	\$45,749
6E001	TECHNOLOGY FOR DEVELOPMENT OF EQUIPMENT/MATERIALS/	1	\$1
6E002	TECHNOLOGY FOR PRODUCTION OF EQUIPMENT/MATERIALS I	1	\$1
7A103	INSTRUMENTATION, NAVIGATION EQUIPMENT/SYSTEMS NOT	3	\$793,892
7D001	SOFTWARE FOR EQUIPMENT CONTROLLED BY 7A/7B, EXCEPT	1	\$0
7D002	SOURCE CODE FOR INERTIAL NAVIGATION EQUIPMENT	1	\$0

7D101	SOFTWARE FOR COMMODITIES CONTROLLED BY 7A001/004,	1	\$0
7D102	INTEGRATED SOFTWARE FOR EQUIPMENT IN 7A003 OR 7A10	1	\$0
7E001	TECHNOLOGY FOR DEVELOPMENT OF EQ. CONTROLLED BY 7A	1	\$0
7E002	TECHNOLOGY FOR PRODUCTION OF EQ. COTROLLED BY 7A/7	1	\$0
7E003	TECHNOLOGY FOR REPAIR OF OF EQUIPMENT IN 7A001 TO	1	\$0
7E101	TECHNOLOGY FOR EQUIPMENT/SOFTWARE CONTROLLED BY 7A	1	\$0
7E102	TECHNOLOGY FOR PROTECTION AGAINST EMI AND EMP	2	\$0
9E001	TECHNOLOGY FOR DEV OF EQUIPMENT OR SOFTWARE IN 9A/	2	\$1
9E003	OTHER TECHNOLOGY	1	\$0

TOTAL APPLICATIONS: 299
TOTAL CCL'S: 57
TOTAL DOLLAR VALUE: \$43,961,032

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
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TAJIKISTAN

TOTAL APPLICATIONS: 0
TOTAL CCL'S: 0
TOTAL DOLLAR VALUE: \$0

TURKMENISTAN

1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	1	\$400,000
3A229	FIRING SETS AND HIGH CURRENT PULSE GENERATORS	1	\$19,000
3A231	NEUTRON GENERATOR SYSTEMS INCLUDING TUBES	1	\$51,000
3A232	DETONATORS/MULTIPOINT INITIATION SYSTEMS	1	\$8,000
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	2	\$15,250

TOTAL APPLICATIONS: 4
TOTAL CCL'S: 5
TOTAL DOLLAR VALUE: \$493,250

UKRAINE

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	1	\$5,585
0A018	ITEMS ON THE INTERNATIONAL MUNITIONS LIST	1	\$9,640
0A984	SHOTGUNS, BUCKSHOT, SHOTGUN SHELLS	5	\$324,111
0A985	DISCHARGE TYPE ARMS	4	\$578,946
0A987	OPTICAL SIGHTING DEVICES FOR FIREARMS	2	\$175,750
1A984	CHEMICAL AGENTS, INCLUDING TEAR GAS	1	\$167,250
2E003	OTHER TECHNOLOGY	1	\$1
3A001	ELECTRONIC DEVICES/COMPONENTS	6	\$1,396
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	1	\$250,000
3A981	POLYGRAPHS/FINGERPRINT ANALYZERS/CAMERAS/EQUIPMENT	1	\$300,000
3D980	SOFTWARE FOR DEV/PROD/USE OF ITEMS IN 3A980 AND 3A	1	\$33,000
3E001	TECHNOLOGY FOR DEV OR PROD OF CERTAIN ITEMS IN 3A/	2	\$0
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	18	\$1,718,149
5D002	SOFTWARE FOR INFORMATION SECURITY	3	\$894
5E001	TECHNOLOGY FOR DEV/PROD/USE, ETC, OF EQUIP. IN 5A0	2	\$0
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	2	\$0

TOTAL APPLICATIONS: 49
TOTAL CCL'S: 16
TOTAL DOLLAR VALUE: \$3,564,722

UZBEKISTAN

CCL	DESCRIPTION	APPLICATIONS	DOLLAR VALUE
1A984	CHEMICAL AGENTS, INCLUDING TEAR GAS	1	\$500
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	1	\$7,010,000
2B350	CHEMICAL MANUFACTURING FACILITIES AND EQUIPMENT	1	\$1,285
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	2	\$21,040
9A018	COMMODITIES ON THE INTERNATIONAL MUNITIONS LIST	1	\$285,200
TOTAL APPLICATIONS: 6			
TOTAL CCL'S: 5			
TOTAL DOLLAR VALUE: \$7,318,025			

VIETNAM

EAR99	ITEMS SUBJECT TO THE EAR N.E.S.	1	\$1,000
0A018	ITEMS ON THE INTERNATIONAL MUNITIONS LIST	1	\$45,000
1A005	BODY ARMOR	1	\$125,000
1C010	FIBROUS/FILAMENTARY MATERIALS USED IN MATRIX STRUC	1	\$6,000
1C018	MATERIALS ON THE INTERNATIONAL MUNITIONS LIST	3	\$7,085,442
1C350	PRECURSOR/INTERMEDIATE CHEMICALS FOR CHEMICAL WARF	3	\$823,000
1C351	HUMAN PATHOGENS, ZOOSES, AND TOXINS	5	\$2,711
2B201	MACHINE TOOLS FOR REMOVING OR CUTTING METALS	1	\$1,682,000
2B351	TOXIC GAS MONITORING SYSTEMS & DEDICATED DETECTORS	1	\$12,800
3A002	GENERAL PURPOSE ELECTRONIC EQUIPMENT	2	\$164,946
3E001	TECHNOLOGY FOR DEV OR PROD OF CERTAIN ITEMS IN 3A/	2	\$3
4A003	DIGITAL COMPUTERS/ASSEMBLIES AND RELATED EQUIPMENT	14	\$2,720,343
4D003	SPECIFIC SOFTWARE, AS DESCRIBED IN THIS ENTRY	2	\$165,000
5E002	TECHNOLOGY FOR DEV/PROD/USE OF INFORMATION SECURIT	2	\$301
9A018	COMMODITIES ON THE INTERNATIONAL MUNITIONS LIST	2	\$381,000
TOTAL APPLICATIONS: 40			
TOTAL CCL'S: 15			
TOTAL DOLLAR VALUE: \$13,214,546			

BXA Annual Report - FY 1999

Appendix 2

Report on Domestic Impact of U.S. Exports to Controlled Countries

In accordance with Section 14(e) of the Export Administration Act of 1979, as amended, the Bureau of Export Administration (BXA) continues to assess the impact on U.S. industry and employment of output from "controlled countries"(1) resulting, in particular, from the use of U.S. exports of turnkey plants and manufacturing facilities.

Section 14(e), which was added as an amendment to the Act in 1985, requires the following:

"...a detailed description of the extent of injury to U.S. industry and the extent of job displacement caused by U.S. exports of goods and technology to controlled countries."

"...a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to controlled countries...to produce goods for export to the United States or compete with U.S. products in export markets."

Turnkey Plants and Facilities Exports

The Export Administration Regulations (EAR) require a license to export most turnkey plants and facilities (and related software and technology) to controlled destinations. In FY 99, BXA did not issue any licenses to export turnkey plants and facilities to controlled countries.

As a result of several revisions to the EAR in recent years, an increasing number of turnkey plants and facilities (and related software and technology) have become eligible for export to controlled destinations either without a license or under a license exception. For example, a license is generally not required for exports to controlled destinations (except Cuba and North Korea) of turnkey plants and facilities (and related software and technology) that are classified as EAR99 (the designation for items that are subject to the EAR, but not listed on the Commerce Control List). In addition, certain turnkey plants and facilities (and related software and technology) may be listed in a Commerce Control List entry where the applicable Reason for Control does not require a license to one or more controlled destinations, as indicated in the appropriate Reason for Control column of the Commerce Country Chart. Other turnkey plants and facilities (and related technology and software) may be eligible for export to controlled destinations under a license exception, such as License Exception CIV (which authorizes exports of certain national security controlled items to civil end-users, for civil end-uses, in most controlled countries, except Cuba and North Korea) or License Exception TSU (which authorizes exports of operation technology and software, sales technology, and software updates, subject to certain conditions).

BXA does not maintain data on actual U.S. exports, regardless of whether or not a license is required. In addition, U.S. export data that are available from the Bureau of the Census do not provide the level of specificity needed to identify exports of turnkey plants and facilities. These factors preclude a thorough assessment of the impact of U.S. exports of turnkey plants and facilities to controlled countries. However, the small number of such exports in the past, coupled with the low percentage of U.S. exports destined for controlled countries (see below), make it reasonable to conclude that the ultimate impact on U.S. production is insignificant.

Goods and Technology Exports

Historically, the dollar value of trade with controlled destinations has been low. In 1998, U.S. exports to these countries totaled \$20.0 billion, which represents an increase of \$1.5 billion over the 1997 figure, but still less than 3 percent of total U.S. exports. China is, by far, the largest single export market among the controlled country group, with over 70 percent of the total. A breakdown of exports by commodity category indicates that capital goods items, including machinery and transportation equipment, represented about half of the total U.S. exports to controlled countries in 1998. Given the small share of U.S. exports to these countries, relative to total U.S. exports, the overall adverse impact through injury to U.S. industry and job displacement is probably minimal.

Although the bases for our export controls are national security, foreign policy, and short supply, BXA, as part of its defense industrial base monitoring responsibilities, reviews, on an ongoing basis, the potential impact of U.S. technology transfers. In this regard, BXA recently conducted a study that examines the extent to which access to the Chinese market is conditioned upon technology transfers, including those related to the establishment of turnkey plants and facilities. The study found that the Chinese government routinely seeks to obtain technology from foreign bidders through formal and informal means. Such technology transfer occurs in the form of local content requirements, investment requirements, establishment of R&D facilities, and other concessions. U.S. (and other Western) companies accede to these demands in order to capture the sale or establish a joint venture. Such trade-related investment requirements and commercial offset demands are not limited to China, but are contrary to free trade principles adhered to by members of the World Trade Organization (of which China is not a member). The United States runs a substantial trade deficit with China (\$56.9 billion in 1998), and a very high percentage of China's exports (more than 50%) originate from foreign-invested enterprises. Thus, these practices do raise concerns with regard to their impact on the competitiveness of U.S. industry and employment over the long term.

While no full turnkey plants could be identified, a review of export licenses applied for China in the past fiscal years shows that a significant number involve exports of components, manufacturing equipment, and/or technology for use in foreign invested production facilities. Among the components being exported (for incorporation into products manufactured in China) are aircraft bearings, microprocessors for personal computers, and aluminum forgings. Examples of equipment are vacuum measurement equipment, semiconductor test equipment, milling machines, and oscilloscopes. Again, many other types of components, equipment, and technology are doubtless exported without the need for an export license (i.e., because they are not controlled for national security reasons or are eligible for shipment under a license exception).

In addition to the above-mentioned study on U.S. Commercial Technology Transfers to the People's Republic of China, BXA monitors certain forms of technology transfer as part of its overall responsibilities for the defense industrial base. Among these responsibilities are: reviewing the impact of offsets on defense trade; participating in the Treasury Department-chaired Committee on Foreign Investment in the United States (CFIUS); and assessing the health and competitiveness of strategic industry sectors. Further information on these activities, including copies of the industrial sector assessments, is available from BXA's Office of Strategic Industries and Economic Security (SIES) web page.

1. For the purpose of this section, "controlled countries" are: Albania; Armenia; Azerbaijan; Belarus; Bulgaria; China (PRC); Cuba; Estonia; Georgia; Kazakhstan; Kyrgyzstan; Latvia; Lithuania; Moldova; Mongolia; North Korea; Romania; Russia; Tajikistan; Tibet; Turkmenistan; Ukraine; Uzbekistan; and Vietnam.

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.