

### **3. Regional Stability (Section 742.6)**

#### **Export Control Program Description and Licensing Policy**

In 1993, the President directed the transfer of certain goods and technologies to the Commerce Control List (CCL) from the Department of State's United States Munitions List (USML). The United States controls many of these items for regional stability reasons. This control has traditionally covered items specially designed or modified for military purposes and certain dual-use commodities that can be used to manufacture military equipment.

U.S. licensing policy for regional stability items is as follows:

**A.** The United States requires a license for foreign policy purposes to export military items and certain commodities used to manufacture military equipment to all destinations except member nations of the North Atlantic Treaty Organization (NATO), Australia, Japan, and New Zealand. The United States will generally consider applications for such licenses favorably, on a case-by-case basis, unless the export would significantly damage regional stability.

**B.** Items formerly on the USML transferred to the Commerce Control List include certain image intensifier tubes, infrared focal plane arrays, certain navigation systems software and technology for inertial navigation systems, gyroscopes and accelerometers. The United States requires a license for the export of these items to all destinations except Canada. The United States reviews all license applications for these items on a case-by-case basis to determine whether the export could contribute, directly or indirectly, to a country's military capabilities in a manner that would destabilize or alter a region's military balance contrary to the foreign policy interests of the United States.

#### **Analysis of Control as Required by Section 6(f) of the Act**

##### **A. The Purpose of the Control**

This control provides a mechanism for the United States to monitor the export of these items in order to restrict their use in instances that would adversely affect regional stability or the military balance within a region.

##### **B. Considerations and/or Determinations of the Secretary of Commerce**

**1. Probability of Achieving the Intended Foreign Policy Purpose.** This control contributes to U.S. national security and foreign policy purposes by enabling the United States to

restrict the use or availability of certain U.S.-origin sensitive goods and technologies that would adversely affect regional stability or the military balance in certain areas.

**2. Compatibility with Foreign Policy Objectives.** This control is consistent with U.S. foreign policy goals, including promoting peace and stability and preventing U.S. exports that might contribute to weapons production or military capabilities in areas of concern.

**3. Reaction of Other Countries.** A number of other countries limit exports of items and technologies with military applications to areas of concern, recognizing that such equipment could adversely affect regional stability and the military balance. For example, the U.S. and other member countries of the Wassenaar Arrangement each have their own national controls on the export of night vision devices. Additionally, members of the Missile Technology Control Regime ("MTCR") all maintain controls on software and technology related to missile guidance and control devices.

**4. Economic Impact on United States Industry.** The licenses Commerce processes for regional stability items are divided into two types: those for regional stability items transferred from the Department of State in 1993; and those for regional stability items traditionally controlled by Commerce. In Fiscal Year 1999, Commerce processed more licenses for regional stability items transferred to its licensing jurisdiction from the Department of State than for those not previously controlled by State. In Fiscal Year 1999, Commerce approved 604 license applications, with a total value of \$52,679,481, for regional stability items formerly controlled by the Department of State. Commerce denied nine applications, worth \$326,764, for these items. In addition, Commerce returned without action 45 applications for regional stability items formerly controlled by the Department of State (having a total value of \$35,440,186); most of these license applications were returned without action because of commodity jurisdiction issues and insufficient end-user or end-use information.

The effects of regional stability export controls on items traditionally controlled by Commerce were much smaller, if measured in terms of the number of license applications submitted. However, the total value of the export licenses that Commerce issued for these regional stability items in Fiscal Year 1999 (\$77,072,560) was higher than the total for regional stability items transferred from the Department of State's USML (\$52,679,481). The regional stability items traditionally controlled by Commerce generally require a validated license for export to all destinations except NATO countries, Australia, Japan, and New Zealand, although certain regional stability items in this category (ECCNs 1B018.a and 2B018, which include materials and materials processing equipment, respectively, on the International Munitions List) are also controlled for missile technology reasons and thus require a validated license to all destinations except Canada. In Fiscal Year 1999, Commerce approved 124 applications for these regional stability items, valued at \$77,072,560, denied three applications -- for items controlled by ECCN 9A018 and valued at \$9,023,658 -- and returned without action nine applications for these items.

In summary, Commerce processed a total of 794 applications for regional stability items in Fiscal Year 1999. Of this total, Commerce approved 728 (91.7 percent), denied 12 (1.5 percent), and returned without action 54 (6.8 percent). The bulk of export licenses issued for regional stability items were for imaging cameras controlled by ECCN 6A003.b.3 or .b.4 (521 applications, valued at \$39,722,077), vehicles specially designed or modified for military purposes controlled by ECCN 9A018.b (119 applications, valued at \$74,436,419), and solid state detectors, image intensifier tubes, focal plane arrays and direct-view imaging equipment controlled by ECCN 6A002.a.1, a.2, a.3, or .c (82 applications, worth \$12,952,353). All 12 of the denied regional stability applications were for items controlled by ECCNs 6A003 or 9A018 and 52 of the 54 applications returned without action were for items controlled by ECCNs 6A002, 6A003, or 9A018. As these licensing data clearly demonstrate, the burden of the regional stability license requirements has fallen primarily upon exporters of items in ECCNs 6A002, 6A003, and 9A018.

The table below lists the total number and value (by ECCN) of export licenses that BXA issued for regional stability items during Fiscal Year 1999.

**Regional Stability Applications Approved  
(Fiscal Year 1999)**

<b>ECCN</b>	<b>Description</b>	<b>Number of Applications</b>	<b>Dollar Value</b>
<b>9A018</b>	Military trainer aircraft and vehicles designed or modified for military use	124	\$77,072,560
<b>6A002*</b>	Optical detectors and direct view imaging equipment incorporating image intensifier tubes or focal plane arrays	82	\$12,952,353
<b>6A003</b>	Imaging cameras incorporating image intensifiers or focal plane arrays	521	\$39,722,077
<b>7D001</b>	Software for the development or production of equipment in 7A/7B	1	\$0
<b>7E001</b>	Technology for the development of items in 7A/7B/7D	4	\$0
<b>7E002</b>	Technology for the production of items in 7A/7B	4	\$5,050

<b>ECCN</b>	<b>Description</b>	<b>Number of Applications</b>	<b>Dollar Value</b>
<b>7E101</b>	Technology for the use of items in 7A/7B/7D	2	\$1
<b>TOTAL</b>		728 *	\$129,752,041

**NOTES:** 1. The ECCN 6A002 data contained in this table include all licenses issued for items controlled by 6A002.a.1, .a.2, .a.3, or .c, including direct view imaging equipment in 6A002.c that is also controlled for crime control reasons. 2. The total number of regional stability applications in this table reads "728," instead of "738," because ten applications contain more than one ECCN listed in the table -- seven applications contain both 6A002 and 6A003 items, and one application contains 7D001, 7E001, 7E002, and 7E101 items.

Image intensifier tubes, infrared focal plane arrays, certain navigation systems technology for inertial navigation systems, gyroscopes, accelerometers and other items controlled for regional stability purposes are nearly all subject to multilateral controls for either national security or missile technology reasons. Although this helps to ensure that there is export cooperation from foreign enforcement agencies in enforcing these controls, other concerns do exist, primarily in the area of detecting export violations. To maintain an effective control effort, Commerce has developed a program focused on analysis of Shipper's Export Declarations to assist in identifying goods shipped without the proper export licenses.

### **C. Consultation with Industry**

The Department of Commerce consulted with various elements of industry during the 1993 Presidential transfer of certain United States Munitions List (USML) items from the Department of State's to Commerce's licensing jurisdiction. In as much as industry continues to develop new commercial technologies and applications for night vision devices, discussions are ongoing for this technology. The majority of industry input received during this process supports the transfer of these items to Commerce control and encourages continued transfers.

### **D. Consultation with Other Countries**

The Wassenaar Arrangement on Conventional Arms and Dual-Use Goods and Technologies, signed by the United States and 32 other countries in 1996, controls certain items the United States also controls for regional stability purposes (see Appendix II for complete list of regime members). Each member state has agreed to incorporate The Wassenaar Dual-Use Control List into its own national control lists to prevent exports that could contribute to destabilizing buildups of conventional arms. Each member state of the Missile Technology Control Regime (MTCR) also incorporates the MTCR control list into its own national control lists.

**E. Alternative Means**

The United States has undertaken a wide range of actions to support and encourage regional stability and has specifically encouraged efforts to limit the flow of arms and militarily useful goods to regions of conflict and tension.

**F. Foreign Availability**

The military vehicles and other military-type equipment long controlled for regional stability purposes may be obtained from numerous foreign sources. Nearly all commodities and related software and technology controlled for regional stability purposes are also subject to multilateral controls for either national security or missile technology reasons under multilateral regimes.