

## 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”<sup>1</sup> 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 Fiscal Year 1998, 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 and other embargoed destinations) 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

---

<sup>1</sup> 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.

(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-users, 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 for either those items subject or those not subject to license. 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 1997, U.S. exports to these countries totaled \$18.1 billion, which represents an increase of \$330 million over the 1996 figure, but still only 2.82 percent of total U.S. exports. China is, by far, the largest single export market among the controlled country group, by itself counting for nearly 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 1997. 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, nonproliferation, 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. In many cases, U.S. (and other Western) companies accede to these demands in order to capture sales or establish joint ventures. Such trade-related investment requirements and commercial offset demands are not limited to China, but are contrary to free trade principles to which members of the World Trade Organization (of which China is not a member) adhere. The United States runs a substantial trade deficit with China (\$49.5 billion in

1997), and a very high percentage of China's exports (more than 50 percent) 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.

In addition to this 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) and on BXA's Webpage.