

APPENDIX D

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 2001, BXA did not process any license applications for export of turnkey plants to a controlled country.

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 which is subject to an embargo) 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

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

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 2000, U.S. exports to these countries totaled \$19.5 billion, which represents an increase of \$3.1 billion from 1999 levels, and about 3 percent of total U.S. exports. China is, by far, the largest single export market among the controlled country group, with over 78 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. Given the small share of U.S. exports to controlled 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. It is yet to be seen what the impact of China's upcoming accession to the WTO will be on such requirements. The United States runs a substantial trade deficit with China (\$85.0 billion in 2000), 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 few full turnkey plants could be identified, a review of export license applications 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 do not require a license to such destinations 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) webpage at www.doc-bxa.bmpcoe.org. [URL to change 2/02]

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