

Dated: June 4, 2002.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer,  
Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 020514120-2120-01]

RIN 0694-AC63

#### Computer Technology and Software Eligible for Export or Reexport Under License Exception TSR (Technology and Software Under Restriction)

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Bureau of Industry and Security (BIS) is reviewing the current limit for use of License Exception TSR for exports and reexports of technology and software on the Commerce Control List (CCL) of the Export Administration Regulations (EAR) under Export Classification Control Numbers (ECCNs) 4D001 and 4E001. These ECCNs control technology and software that can be used for the development, production, or use of computers. The goal of this notice of inquiry is to collect information from industry that will assist BIS in evaluating whether the current TSR eligibility level of 33,000 Millions of Theoretical Operations per Second (MTOPS) for exports and reexports to most countries should be adjusted, taking into consideration the control level for the export of computer equipment and the control policies of other member countries of the Wassenaar Arrangement.

**DATES:** Comments must be received by July 10, 2002.

**ADDRESSES:** Written comments (four copies) should be sent to Sharron Cook, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., PO Box 273, Room 2705, Washington, DC 20230; or one copy E-Mailed to: scook@bis.doc.gov; or faxed to 202-482-3355.

**FOR FURTHER INFORMATION CONTACT:** Sharron Cook, Senior Export Policy Analyst, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482-2440.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Arrangement) is one of four multilateral export control regimes in which the United States participates. The Arrangement's purpose is to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies (*i.e.*, having civil and military uses) to prevent destabilizing accumulations of those items by countries of concern. The Arrangement establishes lists of items to which member countries are to apply export controls. Member governments implement these controls to ensure that transfers of the controlled items do not contribute to the development or enhancement of military capabilities that undermine the goals of the Arrangement, and are not diverted to support such capabilities. In addition, the Arrangement imposes some reporting requirements on its member governments.

The U.S. Government controls all items for export that are controlled multilaterally by the Arrangement. In general, the U.S. Department of Commerce administers export controls for dual-use goods and technologies controlled in the Arrangement, and the U.S. Department of State administers export controls on conventional arms.

Through the Export Administration Regulations (EAR), the Commerce Department controls the export and reexport of technology and software for the development, production, or use of computers with a Composite Theoretical Performance (CTP) greater than 28,000 Millions of Theoretical Operations per Second (MTOPS) under Export Control Classification Numbers (ECCNs) 4E001 and 4D001 of the Commerce Control List (CCL). Such technology requires a license, for national security (NS) reasons, to all destinations except Canada. However, ECCNs 4E001 and 4D001 provide that License Exception TSR (section 740.6 of the EAR) is available for exports and reexports of such technology and software: (1) For computers of unlimited CTP to 22 countries (former member countries of the Coordinating Committee for Multilateral Export Controls (COCOM) or former cooperating countries of COCOM) when the transaction meets certain eligibility criteria; and (2) for computers with a CTP less than or equal to 33,000 MTOPS to countries listed in Country Group B (Supplement No. 1 to part 740).

Under the Wassenaar Arrangement, there are currently three levels of sensitivity for computers and computer technology. Equipment, technology and software are controlled for computers with a CTP of 28,000 MTOPS on the Basic List, 75,000 MTOPS on the Sensitive List, and 150,000 MTOPS on the Very Sensitive List.

Historically, the U.S. has required a license for any item on the Wassenaar Very Sensitive List, and has made such items generally ineligible for license exceptions. However, in March of this year, BIS implemented a Presidential decision to allow exports and reexports of computers with a CTP of up to 190,000 MTOPS under license exception CTP to Computer Tier 3 Countries (see section 740.7(d)(1) of the EAR for a list of these countries) to reflect rapid technological advances in computing capability. The President's report to Congress stated that this change was to "promote our national security, enhance the effectiveness of our export control system and ease unnecessary regulatory burdens on both government and industry." Industry, through the Regulations and Procedures Technical Advisory Committee (RPTAC), has requested that BIS raise the CTP limit for license exception TSR eligibility of technology and software for the development, production, and use of these computers. One reason stated by industry is that companies need a limit for technology and software corresponding to the limit for equipment in order to provide foreign nationals working in their U.S. and foreign manufacturing plants access to this technology and software.

The goal of this notice is to collect information from industry that will assist BIS in evaluating the current control level on the export of computer technology and software.

To ensure maximum public participation in the review process, comments are solicited for the next 30 days on the effect of the current CTP limit of 33,000 MTOPS for license exception TSR eligibility of technology and software for the development, production, and use of computers. BIS is interested in comments relating to the following:

(1) What is the purpose of U.S. companies in exporting technology and software for the development, production, and use of computers with a CTP greater than 33,000 MTOPS? Are the exports for transfers to U.S. subsidiaries, branches, or joint ventures that manufacture products abroad; sales to foreign manufacturers; or largely for release to foreign nationals for work

designing and developing new products in the United States?

(2) If the exports of software and technology are largely to foreign nationals for work in designing and developing new products in the United States, what is the economic and competitiveness impact on U.S. industry of maintaining the current TSR level? Does maintaining the current level impair the timely introduction of new products into the market?

(3) What percentage of current employees is restricted by TSR limits? What percentage is expected to be limited in 2–3 years? In 5–7 years?

(4) What is the foreign availability of technology and software for the production, development, and use of computers with a CTP greater than 33,000 MTOPS?

(5) What controls do U.S. trade partners maintain on the export of technology and software for the development, production, and use of computers? What are the MTOPS limits and do our trade partners use license exceptions or other licensing measures?

(6) In light of recent changes in architectures and technology, what performance levels can be identified for TSR limits? What alternate methods or metrics should be considered for technology and software control under TSR?

(7) Any other information relevant to the current 33,000 MTOPS TSR level.

(8) Additional views on the format of license exception TSR eligibility language.

Parties submitting comments are asked to be as specific as possible. The Department encourages interested persons who wish to comment to do so at the earliest possible time.

The period for submission of comments will close July 10, 2002. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All comments on these regulations will be a matter of public record and will be available for public inspection and copying. The Department requires comments be submitted in written form.

The public record concerning these comments will be maintained in the Bureau of Industry and Security, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC 20230; (202) 482-0637. This component does not maintain a separate public inspection facility. Requesters should first view BIS's FOIA Web site (which can be reached through <http://www.bis.doc.gov/foia>). If the records sought cannot be located at this site, or if the requester does not have access to a computer, please call the phone number above for assistance.

Dated: May 31, 2002.

**James J. Jochum,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-702]

#### **Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe and Tube Fittings From Japan**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review.

**SUMMARY:** In accordance with 19 CFR 351.216 of the Department of Commerce (the Department) regulations, Benex Corporation (Benex) requested a changed circumstances administrative review pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act).

The Department finds, in response to this request, that it contains information sufficient to warrant initiating a changed circumstances review on stainless steel butt-weld pipe and tube fittings (SSPFs) from Japan.

**EFFECTIVE DATE :** June 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jack K. Dulberger or Tom Futner, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-5505 or (202) 482-3814, respectively.

**SUPPLEMENTARY INFORMATION:**

### Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended, are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the regulations of the Department are to 19 CFR Part 351 (2001).

### Background

On March 25, 1988, the Department published in the **Federal Register** the antidumping order on SSPFs from Japan. *See Antidumping Duty Order of Sales at Less Than Fair Value; Stainless Steel Butt-Weld Pipe and Tube Fittings from Japan* 53 FR 9787. On April 19, 2002, Benex submitted a letter stating that on November 16, 2001, it had acquired the SSPFs business of Benkan Corporation (Benkan), which had filed for bankruptcy in October 2000. Benex further stated that it purchased Benkan's manufacturing facilities (in Yuki City and Kiryu City, Japan) and materials inventory. Benex stated that it had no previous experience in the SSPFs business, and had been formed by Japanese investors for the specific purpose of bringing Benkan out of bankruptcy and turning around its SSPFs operations. Benex stated that, in view of the foregoing, it is the successor-in-interest to Benkan and, as such, Benex is entitled to receive the same antidumping treatment as is accorded Benkan. In its April 19, 2002 letter, Benex also requested that the Department conduct an expedited changed circumstances review, pursuant to 19 CFR 351.216(e).

### Scope of Review

The products covered by this review include certain stainless steel butt-weld pipe and tube fittings, or SSPFs. These fittings are used in piping systems for chemical plants, pharmaceutical plants, food processing facilities, waste treatment facilities, semiconductor equipment applications, nuclear power plants and other areas. This merchandise is currently classifiable under the Harmonized Tariff Schedules (HTS) item number 7307.23.0000. While the HTS item number is provided for convenience and for Customs purposes, the written product description remains dispositive as to the scope of the product coverage.

### Initiation of Changed Circumstances Antidumping Duty Review

At the request of Benex, and in accordance with section 751(b) of the Act and 19 CFR 351.216 of the