

Return to [Table of Contents](#)

APPENDIX I

Summary of Public Comments on Foreign Policy Export Controls

The Bureau of Export Administration (BXA) requested public comments on existing foreign policy-based export controls maintained under Section 6 of the Export Administration Act through a *Federal Register* notice published November 7, 2001. A notice also was posted on the BXA website. BXA requested comments on how existing foreign policy-based controls have affected exporters and the overall public. Specifically, the notice invited public comments about issues such as the effectiveness of controls where foreign availability exists; whether the goals of the controls can be achieved through other means such as negotiations; the compatibility of the controls with the overall U.S. policy toward the country in question; the effect of controls on U.S. economic performance; and the ability to enforce the controls. BXA also requested comments from the member companies of the Technical Advisory Committees (TACs) and the President's Export Council Subcommittee on Export Administration (PECSEA).

BXA received twelve responses to this request from the following organizations: the Sensors and Instrumentation Technical Advisory Committee (SITAC); the National Foreign Trade Council, Inc. (NFTC); the Petroleum Equipment Suppliers Association (PESA); Baker Hughes Incorporated; Halliburton Company; the National Association of Manufacturers (NAM); the International Biometric Industry Association (IBIA); Goulds Pumps; Sartomer; Conoco; the Industry Coalition on Technology Transfer (ICOTT); and an individual comment. BXA makes the comments available for public review upon request. This Appendix summarizes the comments received.

Industry Comments

Six of the twelve letters addressed the need to lift U.S. unilateral reexport controls on Libya. The letters were submitted by NAM, PESA, Baker Hughes, Halliburton, Conoco, and the NFTC. The comments each contained a common view that continued reexport controls ensure that U.S. companies will be left out of the Libyan market without any resulting foreign policy benefit. Baker Hughes stated:

“The competitive position of U.S. companies is hurt by the existence of these reexport controls, since

they cause foreign customers to “design out” U.S. products, and foreign competitors use these controls to persuade potential customers not to buy American goods.” Baker Hughes recommended aligning controls on Libya with those imposed on other countries of concern.

This view was echoed by NAM, which stated:

“The United States does not apply this standard on reexports to other countries of special concern, such as Iran and Sudan, except for narrow de minimis exceptions. While we oppose, as a general rule, unilateral trade sanctions, if they must continue, we would like to see more consistency in their application. This can be achieved by allowing the foreign policy-based reexport controls on Libya lapse when they expire in January 2002.”

Conoco stated that: “The foreign policy reexport controls on Libya are tighter than for other countries sanctioned by the U.S.; this represents an unevenness in the application of foreign policy controls that does not reflect the current state of either Libya or the world at large.”

Several other letters also advocated that the Secretary of Commerce not extend reexport controls for 2002. The organizations recommended that the United States focus on controlling items that could compromise national security, non-proliferation, or anti-terrorism concerns while liberalizing non-sensitive EAR99 reexports.

SITAC requests that Category 6 commodities related to commercial night vision and thermal imaging equipment (specifically 6A002, 6A003, 6E001, and 6E002) which are controlled for Regional Stability (RS) Column 1 be moved to RS Column 2. While RS1 includes all countries except Canada, the imposition of RS2 controls would allow items classified under these ECCNs to be exported to Canada, most E.U. members, Japan, and several others without a license. Due to the development of foreign competition in the United Kingdom, France, and Japan, SITAC stated that “the negative effect on U.S. companies far exceeds the perceived benefit to the foreign policy objective.” SITAC cited the importance of thermal imaging for firefighting, law enforcement, and security organizations worldwide and stated that the U.S. call for building a large international coalition to combat terrorism is undermined when allies’ access to available U.S. technology is restricted. SITAC further stated that treating all regions with the exception of Canada as being potentially unstable “dilutes the focus on regions where stability may truly be in question.”

The International Biometric Industry Association (IBIA) advocated for the removal of biometric products (including fingerprint and voice identification applications) from the Commerce Control List and recommended that restrictions be applied only when these products are exported to designated

terrorist-supporting countries. The IBIA cited the importance of biometric products in ensuring the protection of electronic commerce and stated that the United States is placed at a disadvantage to foreign competitors as a result of current export controls.

“Globally, the United States now holds the largest market share of biometric products yet it is the only country that restricts their export. These restrictions delay order fulfillment by U.S. companies, deter overseas companies from entering into joint ventures with U.S. companies, and channel customers for biometric products to overseas companies at the expense of U.S. companies.”

Goulds Pumps recommended the deletion of ECCN 2B350i from Category 2, stating that foreign availability of products that fall under this ECCN causes export controls placed upon these items to be ineffective and thus adversely impact U.S. companies’ competitive position. Gould Pumps stated that the license process hinders the company’s short lead-time business that necessitates shipping within four to six weeks following order placement.

Sartomer advocated easing foreign policy-based controls on hydroxyl terminated polybutadiene resins (HTPB resins), which are classified under ECCN 1C111b.2. Sartomer stated that the controls “have an adverse economic impact on our export activities, especially inasmuch as these controls create an unfair commercial advantage for foreign producers.” To decrease delays in the licensing process, Sartomer recommended adopting a framework that would permit streamlined authorization for the exportation of HTPB resins. Suggestions include the creation of a license renewal process, license exception availability for samples, and granting BXA with delegation of authority in order to avoid “repetitive interagency referral.” Sartomer also recommends broadening the Missile Technology Control Regime “no undercut” policy, stating that “disparities between the national regimes lead to inequities, especially in view of cumbersome U.S. regulatory requirements, which we believe undercut U.S. economic interests.”

The ICOTT recommended removing all unilateral controls, stating the following: “...unilateral controls should be invoked – or continued – only where the resulting injury to American workers and businesses can be justified when balanced against the symbolic character of the restrictions. ‘National security’ includes economic as well as military security, and both of these elements must be taken into account in the administration of our export control system.”

Comments received from an individual recommended a range of suggestions including the repeal of the Cuban embargo and the removal of the terrorist-supporting designation from Cuba and North Korea. The letter recommended that the embargo on Iraq be replaced by selective export controls and that the embargos on Iran, Libya, and Sudan be reduced to controls based on terrorism concerns. Also

recommended was the specification of license exceptions to Iran and Sudan in the event of control reduction by the Office of Foreign Assets Control in the Treasury Department. Suggestions related to regional stability and nonproliferation “catch-all” controls were also included.