

2. Crime Control/Human Rights (Sections 742.7)^{1 2}

Export Control Program Description and Licensing Policy

The United States maintains export controls on crime control items, which Section 6(n) of the Act requires, to reflect its concerns about the human rights situation in various parts of the world.

A. Crime Control Items. The Department of Commerce requires a license to export crime control and detection instruments and equipment and related technology and software to any destination, except members of the North Atlantic Treaty Organization, Australia, Japan and New Zealand.

Implements of Torture. Commerce requires a license to export specially designed implements of torture and thumbscrews to any destination, with a presumption of denial of all license applications.

B. Crime Control Items. In general, Commerce will favorably consider applications for licenses on a case-by-case basis, unless evidence exists that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would help to deter the development of a consistent pattern of violations or the association of the United States with such violations.

Implements of Torture. Commerce will generally deny these applications for licenses.

C. Following the military assault on demonstrators by the People's Republic of China (PRC) in Tiananmen Square in June 1989, the United States imposed constraints on the export of certain items on the Commerce Control List (CCL). Section 902(a)(4) of the Foreign Relations Authorization Act for FY 1990-1991, Public Law 101-246, suspends the issuance of licenses under Section 6(n) of the Act for the export of any crime control or detection instruments or equipment to the PRC. The President may terminate the suspension by reporting to Congress that China has made progress on political reform or that it is in the national interest of the United States to terminate the suspension.

D. Commerce denies applications for licenses for those small and light arms and crowd control items under its jurisdiction to Indonesia, consistent with Section 582 of the Foreign Operations, Export Financing and Related Programs 1995 Appropriations and 1994 Supplemental Appropriations Act (Public Law 103-306) and Administration policy.

E. The Department of State annually compiles a volume of *Country Reports on Human Rights Practices*. The Department of State prepares this report in accordance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and submits it to

Congress. The factual situation presented in this report is a significant element in licensing recommendations made by the Department of State.

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

A. The Purpose of the Control

Crime Control Items. These controls aim to ensure that U.S.-origin police equipment is not exported to countries whose governments do not respect internationally recognized human rights. Denial of export license applications to such countries helps to prevent the United States from being associated with other countries' human rights violations and sends a clear signal about U.S. human rights concerns to the governments of the importing countries.

Implements of Torture. The purposes of this control are as follows: 1) to reduce the possibility of any nation using U.S.-origin products for torture; 2) to distance the United States from human rights violations; 3) to send a concrete signal about U.S. human rights concerns to the international community.

B. Considerations and/or Determinations of the Secretary of Commerce:

1. Probability of Achieving the Intended Foreign Policy Purpose. Because of the lack of complementary controls on the part of other producer nations, these controls have limited effectiveness in altering foreign government conduct when the item is available outside the United States. Nevertheless, the control does restrict human rights violators' access to U.S.-origin goods and has symbolic importance as evidence of the U.S. support for the principles of human rights.
2. Compatibility with Foreign Policy Objectives. This control program is fully consistent with U.S. policy in support of internationally recognized human rights, as expressed by successive Administrations and by Congress.
3. Reaction of Other Countries. These controls are unique, serve a distinct foreign policy purpose, and arise out of deeply held human rights convictions. Reactions of other countries do not render them ineffective.
4. Economic Impact on United States Industry. In FY 1997, Commerce approved 1,859 export license applications, worth \$149,524,378, for crime control items to all destinations. Police-model infrared viewers controlled by Export Control Classification Number (ECCN) 6A002.c (previously 6A02.c) are not included in these totals because, in some cases, these infrared viewers are almost technically indistinguishable from other direct view imaging equipment controlled by 6A002 (6A02). Commerce approved 42 applications, worth \$256,645, in FY 1997 for all direct view imaging equipment (including police-model infrared viewers) controlled by ECCN 6A002.c (6A02.c).

Table 1. CRIME CONTROL APPLICATIONS APPROVED (FY 1997)

ECCN	Items Controlled	Applications Approved	\$ Value
0A982 (0A82)*	Saps, handcuffs, police helmets & shields	272	\$12,786,787
0A983 (0A82)*	Specially designed instruments of torture	0	\$0
0A984 (0A84)*	Shotguns and shotgun shells	815	\$35,333,348
0A985 (0A84)*	Optical sighting devices, stun guns, & shock batons	433	\$23,630,565
0E984 (0E84)	Technology for "development" or "production" of shotguns	0	\$0
1A984 (1A84)	Chemical agents (including tear gas); fingerprint powders, dyes, & inks	177	\$7,358,131
3A980 (3A80)	Voice print identification & analysis equipment	1	\$50,000
3A981 (3A81)	Polygraphs, fingerprint analyzers, cameras, & equipment	133	\$16,297,734
3D980 (3D80)	Software specially designed for the "development," "production," or "use" of items in 3A980 or 3A981	20	\$53,367,811
3E980 (3E80)	Technology for the "development," "production," or "use" of items in 3A980 or 3A981	2	\$0
4A003 (4A03)	Computers for computerized fingerprint equipment	0	\$0

Table 1. CRIME CONTROL APPLICATIONS APPROVED (FY 1997), continued

ECCN	Items Controlled	Applications Approved	\$ Value
4A980 (4A80)	Computers for computerized fingerprint equipment	4	\$700,000
4D001 (4D01)	Software specially designed for the "development," "production," or "use" of computers in 4A003 for computerized fingerprint equipment	0	\$0
4D980 (4D80)	Software specially designed for the "development," "production," or "use" of items in 4A980	2	\$2
4E001 (4E01)	Technology for the "development," "production," or "use" of computers in 4A003 for computerized fingerprint equipment	0	\$0
4E980 (4E80)	Technology for the "development," "production," or "use" of items in 4A980	0	\$0
6A002.c (6A02.c)	Police-model infrared viewers	42	\$256,645
6E001 (6E01)	Technology for the "development" of police-model infrared viewers in 6A002.c	0	\$0
6E002 (6E02)	Technology for the "production" of police-model infrared viewers in 6A002.c	0	\$0
9A980 (9A80)	Nonmilitary mobile crime science laboratories and parts & accessories	0	\$0

***NOTE 1:** Former ECCN 0A82 (which controlled police helmets and shields, leg irons, shackles, handcuffs, straight jackets, and specially designed implements of torture and thumbscrews) was divided into two separate ECCNs in 1995. These items are now controlled by ECCNs 0A982 and 0A983.

***NOTE 2:** Former ECCN 0A84 (which controlled shotguns, stun guns, shock batons, and optical sighting devices for firearms) was divided into new ECCNs 0A984 and 0A985 in 1996.

In FY 1997, Commerce denied 60 applications for crime control items, worth \$16,116,312. Applications for stun guns, shock batons, shotguns, handcuffs, polygraphs, and fingerprint analyzers comprised the bulk of the denials (i.e., 49 applications valued at \$14,221,952). The denied applications were destined for a variety of countries, including Cambodia, China, Indonesia, South Africa and several other African, Asian, Eastern European, and Central and South American destinations.

Table 2. CRIME CONTROL APPLICATIONS DENIED (FY 1997)

ECCN	Description	Applications Denied	\$ Value
0A982 (0A82)	Handcuffs, police helmets & shields	11	\$3,080,200
0A984 (0A84)	Shotguns and shotgun shells	11	\$3,605,328
0A985 (0A84)	Optical sighting devices, stun guns, & shock batons	21	\$4,998,169
1A984 (1A84)	Fingerprint inks, dyes, & powders	3	\$222,715
3A981 (3A81)	Fingerprint analyzers; polygraphs	6	\$2,538,255
3D980 (3D80)	Lie detection software	2	\$220,000
6A002.c (6A02.c)	Direct view imaging equipment, including police-model infrared viewers	6	\$1,451,645

5. Enforcement of Control. Commerce has not identified any specific enforcement problems in connection with crime control items or implements of torture. For the most part, the affected commodities are readily recognizable. In the case of items controlled unilaterally, enforcement cooperation from other countries and control over reexports is difficult.

C. Consultation with Industry

The Department of Commerce published a notice in the *Federal Register* on October 8, 1997, requesting public comments on its foreign policy-based export controls. As of the date of publication of this report, the Department had not received any comments on its export policy for crime control items. However, throughout 1997, the Department received several requests for information about Commerce licensing policy and statistics for crime control items under the Freedom of Information Act. Commerce provided information in response to these requests to the fullest extent possible under the proprietary information protection provisions in Section 12(c) of the Act.

D. Consultation with Other Countries

Many other supplier countries have not placed similar controls on their exports of crime control and detection equipment. The United Kingdom and Canada maintain controls on crime control commodities that are similar to U.S. controls.

E. Alternative Means

Section 6(n) of the Act requires export controls on crime control and detection equipment. Alternative means do not satisfy this statutory requirement. The United States does, however, use diplomatic demarches, sanctions, and other means to convey its concerns about the human rights situation in various countries.

F. Foreign Availability

The foreign availability provision does not apply to Section 6(n) of the Act.³ Congress has recognized the usefulness of these controls in supporting United States policy on human rights issues, foreign availability notwithstanding.

ENDNOTES

1. *Certain goods, technology and software described in this report, whether or not subject to foreign policy controls, may also require a license for export to certain destinations for national security purposes in accordance with Section 5 of the Act.*
2. *Citations following each of the foreign policy control programs refer to those sections of the Export Administration Regulations (EAR), 15 CFR Parts 730-774, which describe the*

control program.

3. *Provisions pertaining to foreign availability do not apply to export controls in effect before July 12, 1985, under Sections 6(i) (International Obligations), 6(j) (Countries Supporting International Terrorism), and 6(n) (Crime Control Instruments). See the Export Administration Amendments Act of 1985, Public Law No. 99-64, Section 108(g)(2), 99 Stat. 120, 134-35. Moreover, Sections 6(i), 6(j), and 6(n) require that controls be implemented under certain conditions without consideration of foreign availability.*