

3. Regional Stability (Section 742.6)

Export Control Program Description and Licensing Policy

This control has traditionally covered vehicles specially designed or modified for military purposes and certain dual-use commodities that can be used to manufacture military equipment. In 1993, the President transferred certain goods and technologies to the Commerce Control List (CCL) from the Department of State's United States Munitions List (USML), which the United States controls for regional stability reasons. This process of transferring items from State Department licensing jurisdiction to Commerce Department licensing jurisdiction is continuing.

A. Commerce requires a license for foreign policy purposes to export military vehicles and certain commodities used to manufacture military equipment to all destinations except member nations of the North Atlantic Treaty Organization (NATO), Australia, Japan and New Zealand. The Bureau of Export Administration (BXA) will generally consider applications for such licenses favorably, on a case-by-case basis, unless the export would contribute significantly to the destabilization of any region.

B. Items formerly on the USML transferred to the Commerce Control List include certain image intensifier tubes, infrared focal plane arrays, certain navigation systems technology for inertial navigation systems, gyroscopes and accelerometers. Commerce requires a license for export to all destinations except Canada. BXA will review all license applications for these items on a case-by-case basis to determine whether the export could contribute, directly or indirectly, to a country's military capabilities in a manner that would destabilize or alter a region's military balance contrary to the foreign policy interests of the United States.

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

A. The Purpose of the Control

This control provides an effective mechanism for the United States to monitor the export of the noted items to restrict their use in instances that would adversely affect regional stability or the military balance.

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

1. Probability of Achieving the Intended Foreign Policy Purpose. This control contributes to U.S. foreign policy purposes by enabling the United States to restrict the use or availability of certain U.S.-origin sensitive goods and technologies that would adversely affect regional stability or the military balance in certain areas.

2. Compatibility with Foreign Policy Objectives. This control is consistent with U.S. foreign policy goals, including promoting peace and stability and preventing U.S. exports that might contribute to weapons production or military capabilities in areas of concern.
3. Reaction of Other Countries. A number of other countries limit exports of items and technologies with military applications to areas of concern, recognizing that such equipment could adversely affect regional stability and the military balance.
4. Economic Impact on United States Industry. In FY 1997, Commerce processed more licenses for those regional stability items transferred to its licensing jurisdiction from the Department of State than for those not previously controlled by State. In FY 1997, BXA approved 492 license applications, with a total value of \$26,724,044, for these regional stability items. Almost all of these applications (490 out of the 492 approvals mentioned above, valued at \$26,724,042) were for items controlled by Export Control Classification Number (ECCN) 6A002 (optical sensors) or ECCN 6A003 (imaging cameras). Commerce denied sixteen applications for these items, worth \$2,354,588: seven for items controlled by ECCN 6A002 (totaling \$1,464,120) and nine for items controlled by ECCN 6A003 (totaling \$890,468). Of the sixteen denied applications, five listed Japan as the country of ultimate destination, four listed various NATO countries, and two listed China. The remaining denials were for exports to Croatia, Finland, India, Russia, and the United Arab Emirates.

In addition, Commerce returned 72 applications for these regional stability items (having a total value of \$6,528,729) without action: 35 applications were for items controlled by ECCN 6A002 (valued at \$2,557,975) and 37 were for items controlled by ECCN 6A003 (valued at \$3,970,754). Among the reasons Commerce returned these licenses without action, four of the ECCN 6A002 applications (valued at \$1,804,665) were for bulk sales (i.e., resale to unknown end-users), and another 22 (valued at \$99,980) involved Generation III night vision equipment. BXA returned six applications for ECCN 6A003 regional stability items (valued at \$1,141,140) without action because they involved resale to unknown end-users.

The effects of regional stability export controls on those items traditionally controlled by Commerce were much smaller, if measured only in terms of the number of license applications submitted. However, the total value of the export licenses that BXA issued for these traditional regional stability items in FY 1997 (\$109,302,935) was significantly higher than the total for those regional stability items that were transferred from the Department of State's USML (\$26,724,044). The regional stability items traditionally controlled by Commerce generally require a validated license for export to all destinations except NATO countries, Australia, Japan, and New Zealand, although certain regional stability items in this category (see ECCNs 1B018.a and 2B018, which include materials and materials processing equipment, respectively, on the International Munitions List) are also controlled for missile technology reasons, and thus require a validated license to all destinations except Canada (i.e., the more stringent missile technology validated license requirements apply to these items). In FY 1997, BXA approved 123 applications for these regional stability items, valued at \$109,302,935. Almost all of these approvals were for items controlled by ECCN 9A018 (which includes certain military trainer

aircraft, flight trainers, parachutes and related equipment) or ECCN 2B018 (122 out of the 123 approvals mentioned above, worth \$109,302,860). BXA denied no applications for items in this category. Commerce returned only eight applications for these items (having a total value of \$1,343,220) without action: five for items controlled by ECCN 2B018 (totaling \$880,000) and three for items controlled by ECCN 9A018 (totaling \$463,220).

In summary, BXA processed a total of 711 applications for all regional stability items in FY 1997. Of this total, BXA approved 615 (86.5 percent), denied 16 (2.25 percent), and returned 80 (11.25 percent) without action. The bulk of export licenses issued for regional stability items were for imaging cameras controlled by ECCN 6A003.b.3 or .b.4 (410 applications, valued at \$21,157,818); vehicles controlled by ECCN 9A018.b that were specially designed or modified for military purposes (120 applications, valued at \$108,102,860); and solid state detectors, image intensifier tubes, focal plane arrays, and direct-view imaging equipment controlled by ECCN 6A002.a.1, a.2, a.3, or .c (80 applications, worth \$5,566,224). All sixteen of the denied regional stability applications, and 75 of the 80 applications returned without action, were for items controlled by ECCNs 6A002, 6A003, or 9A018. As these licensing data clearly demonstrate, the burden of the regional stability validated license requirements has fallen primarily upon domestic suppliers of those items in ECCNs 6A002, 6A003, and 9A018, as described above.

5. Enforcement of Control. Nearly all commodities and related software and technology subject to controls for regional stability purposes are also subject to multilateral controls for either national security or missile technology reasons. This coincidence of control facilitates the ability to detect direct exports because enforcement personnel do not require additional training to distinguish national security or missile technology controlled items from those controlled for foreign policy purposes.

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 received no public comments on its regional stability controls. However, Commerce consults with various elements in industry during the ongoing transfer of USML items from State to Commerce licensing jurisdiction. Most industry input received during this process supports the transfer of these items to Commerce control, and encourages more such transfers.

D. Consultation with Other Countries

The Wassenaar Arrangement on Conventional Arms and Dual-Use Goods and Technologies, signed by the United States and thirty-two other countries in 1996, controls certain items the United States also controls for regional stability purposes. Each member state has agreed to incorporate the Wassenaar Dual-Use Control List into its own national control lists. (See Appendix II for complete list of regime members.)

E. Alternative Means

The United States has undertaken a wide range of actions to support and encourage regional stability. The United States has used bilateral and multilateral diplomatic means to discourage actions that promote regional instability. The United States has specifically encouraged efforts to limit the flow of arms and militarily useful goods to regions of conflict and tension.

F. Foreign Availability

The military vehicles and other military-type equipment long controlled for regional stability purposes may be obtained from numerous foreign sources. A considerable number of items previously controlled by the State Department, but now under Commerce jurisdiction, are also available from foreign sources. However, nearly all commodities and related software and technology controlled for regional stability purposes are also subject to multilateral controls for either national security or missile technology reasons.