



Report In Brief

U.S. Department of Commerce Office of Inspector General

March 30, 2007



Why We Did This Review

The inspectors general of the departments of Commerce, Defense, Energy, and State, in consultation with the Director of Central Intelligence and the Director of the FBI, are required by the National Defense Authorization Act for Fiscal Year 2000 to assess annually (through 2007) whether export controls and counterintelligence measures are adequate for preventing the acquisition of sensitive U.S. technology and technical information by countries and entities of concern. Although the U.S. views India as a partner in the fight against terrorism and as a counterbalance to China, nonproliferation specialists are concerned about its nuclear capabilities and intentions.

Background

In 2001, the United States eliminated economic sanctions against India and committed to a “strategic partnership” under which both countries agreed to expand cooperation on a wide range of issues, such as counterterrorism, regional security, space and scientific collaboration. BIS reports that only 1 percent of total U.S. exports to India require an export license, and the agency approves most exports that do require a license provided such items do not contribute to India’s nuclear, missile, or chemical and biological weapons programs. The number of India export license applications decreased 19 percent between FY 2005 and 2006, as licensing requirements have declined.

View the full report at <http://www.oig.doc.gov/reports/2007/IPE-18144.pdf>.

Bureau of Industry and Security

U.S. Dual-Use Exports Controls for India Should Continue to Be Closely Monitored (IPE-18144)

What We Found

We determined that coordination among federal licensing agencies was adequate during the dispute resolution process for export license applications involving India. However, our overall review of U.S.-India export control activities identified the following concerns that warrant management’s attention:

- ~ Questions remain about whether India has fully implemented all export control-related requirements of the Next Steps in Strategic Partnership agreement with the United States and whether BIS’ Entity List clearly identified all entities of concern.
- ~ The end-use check arrangement between Commerce and India’s Ministry of External Affairs limits the checks’ utility, and checks involving Indian government or government-affiliated entities are not always conducted within prescribed time frames. We also found that BIS failed to follow its own criteria for some pre-license checks and did not adequately target post-shipment verifications to help determine whether diversions were occurring.
- ~ Some BIS Export Administration licensing officers did not fully adhere to procedures for requiring exporters or end users to fulfill license reporting conditions. Some staff were not fully aware of the reporting conditions they were required to monitor and were not properly referring noncompliant exporters to Export Enforcement.
- ~ Enforcement staff were not fully adhering to guidance for monitoring or enforcing compliance with licenses that contain condition 14, which requires post-shipment verification on a specific entity following the first shipment. Our review of 24 India licenses containing condition 14 determined that 11 exporters submitted their shipping documents to BIS between 12 to 1,158 days beyond the 30-day deadline. We also found that Export Administration staff (1) recommended approval for additional licenses to exporters that had not fully complied with the condition 14 reporting requirement on previous licenses, and (2) did not refer noncompliant exporters to Enforcement for appropriate action.

What We Recommended

We made 10 classified* and unclassified recommendations to BIS. Our unclassified recommendations urged BIS to, among other things:

1. Specifically list all Indian entities that should be captured on BIS’ Entity List, or determine how to better ensure exporter compliance with export license requirements.
2. Determine why persistent breakdowns in the monitoring process occur, review a sample of licenses to ensure they are properly marked for follow-up, and ensure that staff (a) know which conditions they are responsible for monitoring and (b) refer noncompliant exporters to Export Enforcement.
3. Require Enforcement staff to closely monitor licenses at specified follow-up time frames; recommend that exporters who do not comply with condition 14 be denied additional licenses; and refer all noncompliant exporters to Enforcement.

*Classified information is contained in appendixes to the report.