



Appendix A: Guiding Principles of the Bureau of Industry and Security

This statement of principles represents the guiding philosophy of the Commerce Department's Bureau of Industry and Security in approaching its activities and fulfilling its responsibilities. This statement is not intended to dictate any particular regulatory action or enforcement action.

- **The Bureau's paramount concern is the security of the United States.** The Bureau's mission is to protect the security of the United States, which includes its national security, economic security, cyber security, and homeland security.
 - The Bureau's credibility – within government, with industry, and with the American people – depends upon its fidelity to this principle.
 - For example, in the area of dual-use export controls, the Bureau will vigorously administer and enforce such controls to stem the proliferation of weapons of mass destruction and the means of delivering them, to halt the spread of weapons to terrorists or countries of concern, and to further important U.S. foreign policy objectives. Where there is credible evidence suggesting that the export of a dual-use item threatens U.S. security, the Bureau must act to combat that threat.
- **Protecting U.S. security includes not only supporting U.S. national defense, but also ensuring the health of the U.S. economy and the competitiveness of U.S. industry.**
 - The Bureau seeks to promote a strong and vibrant defense industrial base that can develop and provide technologies that will enable the United States to maintain its military superiority.
 - The Bureau must take great care to ensure that its regulations do not impose unreasonable restrictions on legitimate international commercial activity that is necessary for the health of U.S. industry. In protecting U.S. security, the Bureau must avoid actions that compromise the international competitiveness of U.S. industry without any appreciable national security benefits.
- **The Bureau strives to work in partnership with the private sector.** The Bureau will seek to fulfill its mission, where possible, through public-private partnerships and market-based solutions.
 - U.S. security cannot be achieved without the active cooperation of the private sector, which today controls a greater share of critical U.S. resources than in the past. At the same time, the health of U.S. industry is dependent on U.S. security – of our borders, our critical infrastructures, and our computer networks.
 - The symbiotic relationship between industry and security should be reflected in the formulation, application, and enforcement of Bureau rules and policies.

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- **The Bureau strives to work cooperatively with other parts of the U.S. Government and with state and local governments.**
 - The Bureau shall seek to collaborate in a collegial and effective manner with other agencies and departments of the U.S. Government, including the National Security Council, the Office of Homeland Security, the State Department, the Defense Department, the Energy Department, and the Intelligence Community.
 - The Bureau shall consult with its oversight committees and other appropriate Members of Congress and congressional staff on matters of mutual interest.
 - The Bureau shall seek to enhance its relationships with state and local government officials and first responders to national emergencies.
- **The Bureau’s activities and regulations need to be able to adapt to changing global conditions and challenges.** The political, economic, technological, and security environment that exists today is substantially different than that of only a decade ago. Bureau activities and regulations can only be justified, and should only be maintained, to the extent they reflect current global realities. Laws, regulations, or practices that do not take into account these realities – and that do not have sufficient flexibility to allow for adaptation in response to future changes – ultimately harm national security by imposing costs and burdens on U.S. industry without any corresponding benefit to U.S. security.
 - In the area of exports, these significant geopolitical changes suggest that the U.S. control regime that in the past was primarily list-based must shift to a mix of list-based controls and controls that target specific end-uses and end-users of concern.
 - The Bureau also should be creative in thinking about how new technologies can be utilized in designing better export controls and enforcing controls more effectively.
- **The Bureau’s rules, policies, and decisions should be stated clearly, applied consistently, and followed faithfully.** The Bureau’s rules, policies, and decisions should be transparent and clearly stated. Once promulgated, Bureau rules and policies should be applied consistently, and Bureau action should be guided by precedent.
 - Uncertainty, and the delay it engenders, constitutes a needless transaction cost on U.S. companies and citizens, hampering their ability to compete effectively. Voluntary compliance with Bureau rules and regulations should be encouraged and, to the extent appropriate, rewarded.
 - These precepts are particularly important with respect to the application and enforcement of export controls. An effective export control regime necessarily depends upon the private sector clearly understanding and seeking to implement Bureau rules and policies voluntarily.
- **Decision making should be fact-based, analytically sound, and consistent with governing laws and regulations.** Bureau decisions should be made after careful review of all available and relevant facts and without any philosophical predisposition.
 - A “reasonable person” standard should be applied to all decisions: How would a “reasonable person” decide this issue? The Bureau’s mission does not lend itself to “ideological” decision making – especially when it comes to its licensing and enforcement functions.
 - It is inappropriate to recommend outcomes based on an assumption that a position will be reviewed and “pared back” by another party – whether it be another office in the Bureau or another agency of the U.S. Government. Such an approach violates the public’s trust, undermines the Bureau’s credibility, and imposes substantial costs in terms of wasted time and effort.

- **International cooperation is critical to the Bureau's activities.** Fulfilling the Bureau's mission of promoting security depends heavily upon international cooperation with our principal trading partners and other countries of strategic importance, such as major transshipment hubs. Whether seeking to control the spread of dangerous goods and technologies, protect critical infrastructures, or ensure the existence of a strong defense industrial base, international cooperation is critical.
- With regard to export control laws in particular, effective enforcement is greatly enhanced by both international cooperation and an effort to harmonize the substance of U.S. laws with those of our principal trading partners.
- International cooperation, however, does not mean settling on the "lowest common denominator." Where consensus cannot be broadly obtained, the Bureau will not abandon its principles, but should seek to achieve its goals through other means, including cooperation among smaller groups of like-minded partners.

Nothing contained herein shall create any rights or benefits, substantive or procedural, enforceable by any party against BIS, its officers and employees, or any other person.