

NATIONAL EMERGENCY CAUSED BY THE LAPSE OF  
THE EXPORT ADMINISTRATION ACT OF 1979 FOR  
FEBRUARY 19, 2000 TO AUGUST 19, 2000

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COMMUNICATION

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY  
DECLARED BY EXECUTIVE ORDER 12924 OF AUGUST 19, 1994,  
TO DEAL WITH THE THREAT TO THE NATIONAL SECURITY, FOR-  
EIGN POLICY, AND ECONOMY OF THE UNITED STATES CAUSED  
BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979,  
PURSUANT TO 50 U.S.C. 1703(c)



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THE WHITE HOUSE,  
*Washington, November 17, 2000.*

Hon. J. DENNIS HASTERT,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: As required by section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

Sincerely,

WILLIAM J. CLINTON.



PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY  
CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF  
1979 FOR FEBRUARY 19, 2000 TO AUGUST 19, 2000

On August 19, 1994, in Executive Order No. 12924, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*) to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 CFR 730 *et seq.*), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 (as amended by Executive Order No. 12755 of March 12, 1991), Executive Order No. 12214 of May 2, 1980, Executive Order No. 12735 of November 16, 1990 (subsequently revoked by Executive Order No. 12938 of November 14, 1994), and Executive Order No. 12851 of June 11, 1993. As required by the National Emergencies Act (50 U.S.C. 1622(d)), I issued notices on August 15, 1995, August 14, 1996, August 13, 1997, August 13, 1998, August 10, 1999, and August 3, 2000, continuing the emergency declared in Executive Order No. 12924.

In 1996, I issued two Executive orders concerning the transfer of items from the U.S. Munitions List to the Commerce Control List. On October 12, 1996, I issued Executive Order No 13020 (regarding hot-section technologies for commercial aircraft engines) and on November 15, 1996, I issued Executive Order No 13026 (regarding encryption products).

I issued Executive Order No. 12924 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including, but not limited to, IEEPA. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every six months. Additionally, section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)) requires that the President, within 90 days after the end of each six-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. To comply with these requirements, I have submitted combined activities and expenditures reports for the 6-month periods ending February 19, 1995, August 19, 1995, February 19, 1996, August 19, 1996, February 19, 1997, August 19, 1997, February 19, 1998, August 19, 1998, February 19, 1999, August 19, 1999, and February 19, 2000. The following report covers the 6-month period from February 19, 2000, to August 19, 2000. Detailed information

on export control activities is contained in the most recent Export Administration Annual Report for Fiscal Year 1999 and the January 2000 Report on Foreign Policy Export Controls, required by section 14 and section 6(f) of the Export Administration Act, respectively, which the Department of Commerce continues to submit to the Congress under a policy of conforming actions under the Executive Order to the provisions of the Export Administration Act, as appropriate.

Since the issuance of Executive Order No. 12924, the Department of Commerce has continued to administer and enforce the system of export controls, including anti-boycott provisions, contained in the Export Administration Regulations (EAR). In administering these controls, the Department has acted under a policy of conforming actions under Executive Orders No. 12924, 13020, and 13026 to the provisions of the Export Administration Act, insofar as appropriate.

The expenses incurred by the Federal Government in the 6-month period from February 19, 2000, to August 19, 2000, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration (BXA). Expenditures by the Department of Commerce for the reporting period are anticipated to be \$21,270,000, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

Since my last report to the Congress, there have been several significant developments in the area of export controls:

#### *Multilateral developments*

*Wassenaar Arrangement.* The Wassenaar Arrangement on Export Controls is a multilateral regime currently consisting of 33 member countries. Its purpose is to contribute to regional and international security and stability by promoting transparency and greater responsibility in international transfers of conventional arms and dual-use goods and technologies.

- The United States Government has participated in submissions of export data made by member countries in the regime since the November 1996 implementation of the Wassenaar dual-use export control list. The Wassenaar members make dual-use data submissions on a semi-annual basis in April and October.

- In April 2000, BXA representatives attended an Expert's Group meeting to review the Wassenaar Arrangement's controls on conventional arms and dual-use goods and technologies. Nearly 70 proposals were discussed to modify and streamline Wassenaar's Dual-Use and Munitions Lists, approximately 30 of which were submitted by the United States. The majority of the proposals were in the areas of electronics, computers, sensors, and machine tools. Several proposals currently under review are tied to relaxing controls on microprocessors and computers. As is typical of first round discussions, the Expert's Group focused on presentation of proposals and reached relatively few final decisions. Member countries requested and provided additional information on several proposals to further justify recommendations. However, there continues to be

strong pressure within the Arrangement to relax controls on general-purpose microprocessors and digital computers in light of rapid technological advances and controllability factors. Several countries advocate a complete decontrol of general-purpose microprocessors accompanied with drastic liberalizations of computer controls.

- Nearly all proposals require additional study by member countries and decisions to adopt or reject these proposals will occur later in the year. Also in April, BXA representatives attended the 3rd Annual Licensing and Enforcement Officers Meeting designed to exchange information on national practices of respective licensing and enforcement procedures. Discussions focused on 15 plenary-mandated agenda items, including intangible transfers of technology and software, catch-all controls, elements of effective enforcement, and international import certificates. Further discussions on intangible transfers, catch-all controls, and elements of effective enforcement will continue during the year.

- In May 2000, BXA representatives attended a General Working Group Meeting designed to increase the general information exchange regarding regions and projects of concern to the United States (e.g., Sudan, Ethiopia and Eritrea). The group discussed the specific information exchange on dual-use goods and technologies and the scope of dual-use notifications and procedures associated with cases requiring “extreme vigilance.” The group agreed to adopt a “best practices” procedure for exercising extreme vigilance for Very Sensitive List items and to establish criteria for effective enforcement. Member countries are still studying U.S. proposals for expanded reporting of conventional arms exports, strengthening dual-use export notification procedures by establishing a denial consultation procedure, and implementing controls on man-portable defense systems. Discussions on these issues will continue during the next meeting, scheduled for late 2000. The United States will continue to work with interested countries in an attempt to bridge the gap between dual-use items and arms in order to increase transparency and reduce differences in licensing practices.

*Australia Group.* The Australia Group (AG) is an informal multilateral export control regime that seeks to impede the proliferation of chemical and biological weapons through the harmonization of export controls, an exchange of information on global proliferation activities, and outreach of nonmembers. The 30 member countries meet annually and communicate between sessions to review and refine the list of controlled chemicals, biological agents, and related equipment and technology.

- At the 1999 AG Plenary, informal agreement was reached between the United States and certain concerned AG partners to exempt diagnostic test kits used in blood chemistry and water quality analysis from export licensing. These kits currently require an export license because they contain small quantities of AG-controlled chemicals. A proposed U.S. text drafted by BXA outlining the parameters of the exemption was submitted for informal review by other AG members during the week of August 14, 2000.

- All AG members are State Parties to the Chemical Weapons Convention (CWC) and the Biological Weapons Convention. The CWC is an international arms control and nonproliferation treaty that bans chemical weapons and monitors the legitimate produc-

tion, processing, consumption, export, and import of certain toxic chemicals and precursors related to chemical weapons. The BWC entered into force in 1975 to prohibit the development, production, and stockpiling of biological agents or toxins that do not have peaceful uses. AG members support national export licensing policies that promote the purpose and objectives of the CWC and BWC.

*Chemical Weapons Convention.* The CWC is an international arms control and nonproliferation treaty that bans chemical weapons (CW) and monitors the legitimate production, processing, consumption, export, and import of certain toxic chemicals and precursors related to CW. BXA has implemented certain export control provisions of the Convention in the Export Administration Regulations. During this reporting period, BXA received two advance notifications of exports of Schedule 1 chemicals, two annual reports on exports of Schedule 1 chemicals for the calendar year 1999, and 13 end-use certificates for exports to Taiwan, Malaysia, Thailand, and Israel.

*Nuclear Suppliers Group.* The Nuclear Suppliers Group (NSG), composed of 38 member countries with the European Commission as a permanent observer, is an informal group of nations concerned with the proliferation of nuclear weapons. The NSG has established guidelines to assist member nations in administering national nuclear export control programs. Controls are focused on certain categories of goods: nuclear material, equipment, and technology unique to the nuclear industry, and so-called nuclear dual-use items that have both nuclear and non-nuclear applications.

- An NSG Working Group meeting was held the week of March 6, 2000, in Vienna, Austria, to discuss the control of parts and components exports. Under current rules, only a small number of parts and components of controlled items are listed in the NSG Guidelines as being subject to control. While a number of NSG members would like to change that approach, the United States favors continuing to allow each member's "catch all" controls to apply to the export of spare parts and components of controlled items.

- At the NSG Plenary held in Paris, France, June 19–June 24, 2000, the NSG took the following actions: (1) with the support of the United States, it was decided that no further action was needed to control parts and components; (2) it was determined that a working group will continue to look at possible options for simplifying the NSG's institutional arrangement; (3) Turkey, Belarus, and Cyprus were welcomed as new NSG members, and it was agreed that Slovenia, participating at this Plenary as an observer, could be admitted to the NSG intercessionally; and (4) the United States will host the 2001 Plenary in Aspen, Colorado, the week of May 7, 2001, when the United States will take over the chairmanship of the NSG.

*Missile Technology Control Regime (MTCR).* The MTCR is an informal group of 32 countries that have agreed to coordinate their national export controls for the prevention of missile proliferation. Each member, under its own laws and practices, has committed to adhere to the MTCR Guidelines for export licensing policy for items found on the MTCR Equipment and Technology Annex.

- BXA staff represented the Department at a Missile Technology Control Regime (MTCR) seminar in Munich, Germany, on May 24–



26. Topics of discussion included possible measures to reduce regional and global security risks, further eliminate existing missile stockpiles, and curtail indigenous missile development programs. The consensus of views reached at the seminar will be presented at the MTCR Plenary meeting in October 2000 in Helsinki, Finland.

- BXA represented the Department at the MTCR intercessional Technical Experts Meeting (TEM) held in Berlin, Germany, on July 4–6. The TEM, at which proposals on technical changes to the MTCR Annex are reviewed and prepared for consideration by the full MTCR membership, considered a proposal tabled by the United States that would expand controls on small fuel efficient engines and integrated navigation systems used in unmanned air vehicles that can become potential delivery vehicles for chemical and biological agents. The proposal was well received, and will receive further consideration at the next TEM to be held prior to the MTCR Plenary scheduled for October 2000 in Helsinki, Finland.

*Encryption / high performance computer policy*

*Encryption.* During the period February 19, 2000, to August 19, 2000, BXA carried out a number of activities to implement the Administration's encryption policy. These activities included license and commodity classification processing, meeting with industry representatives and technical advisory committees, and working with interagency groups on formulating encryption policy initiatives. BXA continues to manage a significant workload as a result of U.S. companies seeking to meet the increased consumer demand for encryption products worldwide.

- To support and explain U.S. encryption policy in the international arena, BXA actively participates in policy discussions with other nations. BXA attended several Wassenaar Arrangement working group meetings to explain U.S. policy and discuss its proposal to release encryption software considered to be "in the public domain." Wassenaar members also discussed various proposals to ease key length restrictions for mass-market hardware products. On May 8, 2000, BXA briefed the Free Trade Area of the Americas E-Commerce Working Group on the U.S. encryption regulations. BXA also held encryption export control policy discussions with other foreign delegations on a bilateral basis.

- BXA continues to educate exporters and the general public on the goals of the Administration's updated encryption policy, and how to obtain export authorization through licensing and classification. BXA presented information technology licensing workshops at its conferences in San Diego ("Update West 2000") and Washington, D.C. ("Update 2000"). Through regular meetings with U.S. companies and Web site updates, BXA provides exporters with practical guidance concerning encryption export control policy and procedures.

- The Administration believes its encryption export control policy continues to be effective and credible. During this reporting period, Congress failed to pass any legislation to move beyond these initiatives. The Administration opposes proposed legislation such as the "Security and Freedom Through Encryption Act of 1999" and the "Promote Reliable On-Line Transactions to Encourage Com-

merce and Trade Act of 1999.” The Administration believes that such legislation is unnecessary in light of the current regulatory structure that promotes secure electronic commerce, facilitates U.S. competitiveness in global information technology markets, and protects privacy in balance with public safety and national security interests.

*High Performance Computers.* During the past six months, BXA has been engaged in various activities to keep pace with technological trends in high-performance computers (HPCs). These activities include updating export controls on HPCs, studying alternative methods for controlling HPCs, meeting with industry counterparts to assess their needs, and working on developing bilateral and multilateral relationships with certain countries to ensure appropriate safeguards are attached to the export HPCs.

- On August 3, 2000, the Administration announced its intent to raise the National Defense Authorization Act (NDAA) notification requirement for exports of HPCs to Tier 3 countries (as listed in Section 740.7 of the EAR) from 12,500 millions of theoretical operations per second (MTOPS) to 28,000 MTOPS, to account for rapid changes in technology over the previous six months (MTOPS is a measure of a computer’s composite theoretical performance, or “CTP”). Similarly, the Tier 2 level for computers eligible for export under a license exception will raise to 45,000 MTOPS. The Administration also announced its intention to move Estonia from Tier 3 to Tier 2 effective December 28, 2000, and to move Argentina from Tier 2 to Tier 1 when BXA publishes its next computer regulation.

- The Information Security Technical Advisory Committee is continuing to study alternative control parameters for HPCs. The Administration needs to continually update CTP-based control levels to keep up with the rapid technological advances in the computer industry. The need for these significant adjustments calls into question the viability of the current approach for determining HPC control levels. For this reason, BXA will continue to work with other concerned agencies to explore alternative control parameters that would provide the flexibility necessary to accommodate future advances in HPC and microprocessor technology.

- BXA is also actively involved in negotiations with one other HPC producing country to ensure that appropriate safeguards and licensing mechanisms are in place to avoid exports or transfers to countries of concern and proliferation entities.

#### *Bilateral cooperation / technical assistance*

As part of the Administration’s continuing effort to encourage other countries to strengthen their export control systems, the Department of Commerce and other agencies conducted a wide range of discussions with a number of foreign countries.

*Hong Kong.* Under the Hong Kong Policy Act of 1992, the United States Government committed itself to continuing its export licensing treatment for Hong Kong as long as Hong Kong maintains an effective and autonomous export control program. BXA actively monitors the status of Hong Kong’s post-reversion export control program to ensure that it continues to be effective and autonomous from that of the People’s Republic of China. By openly and vigilantly observing Hong Kong’s program, BXA supports Hong Kong’s

efforts to maintain the separation of its export control system from the rest of China.

The United States and Hong Kong Special Administrative Region (SAR) hold semi-annual meetings to exchange information and enhance cooperation, as called for in the Agreed Minute on Strategic Commodities Trade Controls signed by former Secretary Daley and his Hong Kong counterpart in October 1997. These meetings assist BXA in monitoring Hong Kong's export control program to determine whether their system continues to be effective and free from influence by the government of the PRC. In March 2000, BXA led an interagency delegation to Hong Kong for the fifth round of strategic trade talks since the two sides signed the Agreed Minute. During the March meeting, BXA encouraged Hong Kong to implement controls on intangible technology transfers and provided Hong Kong officials with a white paper and other materials on the subject. Hong Kong officials gave a comprehensive overview of the SAR's new licensing scheme for in-transit cargo at Hong Kong's airport. The delegation visited strategic trade control facilities at Chek Lap Kok airport, Lok Ma Chau boundary crossing, and Kwai Chung container terminal port.

*India.* Under a regulation published on November 19, 1998, the United States implemented economic sanctions on India by imposing a policy of denial for the export or reexport of U.S.-origin items controlled for nuclear nonproliferation and missile technology reasons to India and Pakistan as stated in part 742 of the EAR. Prior to the sanctions, the United States reviewed applications for these items on a case-by-case basis with a presumption of approval.

In early March 2000, BXA participated in a Commerce Department delegation to India to prepare for the President's visit to India. The trip's focus was advocacy for pending contracts with U.S. companies, primarily in the power and telecommunications industries. BXA participated in the trip to address sanctions issues related to these and other projects.

In April 2000, BXA participated in State Department-led meetings in Washington with a delegation of Indian export control officials. The two sides discussed India's revisions to its control list and recent U.S. policy changes. The United States provided an analysis of the Indian revisions, which expanded controls on munitions and missile-related items. Indian officials indicated, however, that as long as their civilian programs are targets of the multilateral nonproliferation regimes, the Indian government would continue to withhold membership in them. The two sides also discussed initiating technical-level exchanges on export controls and agreed to further discussions on the scope of such exchanges in New Delhi in the summer.

On August 7–10, 2000, BXA participated in an interagency visit to India to discuss India's specific interests in a program of export control cooperation. In discussions with officials in Indian Customs and the Directorate General of Foreign Trade in the Ministry of Commerce and Industry, the two sides agreed on a series of exchanges, to begin in fall 2000, dealing with nonproliferation-related Customs procedures and export licensing policies and procedures. This outreach program is part of the U.S.-Indian dialogue on nonproliferation led by the State Department that began after India's

nuclear detonations in May 1998. The first activity, a seminar on licensing procedures and policies in Washington, is scheduled for October 2000.

*Asia.* BXA officials attended the Asian Export Control Seminar in Tokyo, Japan, from February 29–March 2, 2000. Delegations from 12 Asian countries and regions, including Australia, China, Hong Kong, Macau, and Chinese Taipei, plus the United Kingdom, also attended the conference, which was jointly chaired by Japan, the United States, Australia, and the United Kingdom. The U.S. delegation, led by the Department of State and including representatives from the Department of Defense and Commerce/BXA, made presentations on the Wassenaar Arrangement, enforcement issues, and export management systems. Audience response was very positive and there were questions and follow-up discussions on the presentation on export management systems. Presentations by other delegations covered such issues as transshipment, export control legal authority, and other multilateral export control regimes. The conference featured small group discussions on a range of export control issues.

*Cuba.* Since I announced streamlined procedures for sale of medicines and medical equipment to Cuba in 1998, approved licenses for sale to Cuba of these items have increased significantly. However, the food-for-sale program initiated by my Administration in 1999 has not been as effective as anticipated because prospective U.S. exporters have had difficulty in identifying purchasers of the food in Cuba that are private, non-governmental organizations, as required by the regulations.

*Nonproliferation Export Control and International Cooperation.* During the period February 2, 2000, through August 19, 2000, BXA's Nonproliferation Export Control and International Cooperation Program (NEC) hosted, participated in, and/or coordinated 18 technical exchanges on export controls in conjunction with representatives from the Departments of State, Defense, Energy, Justice, and the Treasury (U.S. Customs Service). These programs sought not only to familiarize the governments of Russia, Central Europe, the Balkans, the Baltics, the Causasus, and Central Asia with the major elements comprising an export control system that meets international standards for effectiveness, but also to assist the governments in developing and strengthening their own national export control systems. These elements involve five functional areas: the legal and regulatory framework necessary for an effective export control system, licensing procedures and control lists, enforcement mechanisms, industry-government relations, and system administration and automation support. Programs conducted during this period also included special activities and multilateral conferences that related to NEC objectives. These programs have contributed to a reduction of the proliferation threat from and through the participating countries by strengthening these countries' national export control systems.

*Regulatory actions: Published and pending*

*Encryption.* On January 14, 2000, BXA published regulations implementing the Administration's September 16, 1999, announcement to simplify the export of cryptography. The Administration's

encryption policy rests on three tenets: a review of encryption products in advance of sale, a streamlined post-export reporting system that takes into account industry's distribution models, and review of exports to foreign government end-users. In carrying out this policy, BXA analysts review license applications for exports to government end-users, classify encryption items to determine eligibility under new license exception provisions, and handle industry notifications of products released from export controls. BXA actively reaches out to the public through correspondence, meetings with industry, case consultation, and its Web site.

On July 17, 2000, the Administration announced changes to U.S. encryption policy. The changes will be included in a regulation to be published in fall 2000. The most significant change in the soon-to-be released regulation is that U.S. companies will be able to export encryption products and technology under license exception to any end user in the 15 nations of the European Union as well as Australia, Norway, Czech Republic, Hungary, Poland, Japan, New Zealand, and Switzerland immediately upon notifying BXA of intent to export. Even highly sophisticated encryption items such as source code, general purpose toolkits, and high-end routers and switches will be included under these new procedures. The upcoming regulation will only require licenses for "cryptanalytic items," which are a specialized class of tools not normally used in commercial environments. Other policy initiatives to be implemented in new regulations include streamlined export provisions for U.S. products that operate with foreign-origin encryption through an Open Cryptographic Interface; are compiled from "open" source code; are made publicly available through submission to international standards bodies; implement short-range wireless encryption technologies such as HomeRF and Bluetooth; or that implement data encryption at key lengths (e.g. 56-bits) that are not controlled by the Wassenaar Arrangement. The rule implementing this policy was published on October 19.

Once implemented, this updated policy will reflect the invaluable and ongoing dialogue between the interagency working group on cryptography and various industry groups and organizations advocating privacy protection. Through consultation with groups such as the President's Export Council Subcommittee on Encryption, Regulations and Procedures Technical Advisory Committee, Alliance for Network Security, Americans for Computer Privacy, and Computer Systems Policy Project, the new regulations will take into account technology trends and market realities, which, if not addressed as a matter of policy, would only serve to disadvantage U.S. industry and undermine the national interest. In addition to facilitating exports to the European Union and other key trading partners, the new regulation will ease the post-export reporting burden on U.S. companies and will simplify exports to telecommunication and internet service providers. For the first time, exporters will be able to self-classify 56- and 64-bit encryption products not controlled by the Wassenaar Arrangement, and distribute "beta test" encryption software under license exception. The regulation will also allow incorporation of certain U.S.-origin retail encryption components and software into foreign products outside of U.S. export control without triggering a U.S. license require-

ment, so long as total U.S. content does not exceed “de minimis” thresholds.

These initiatives will assure the continuing competitiveness of U.S. companies in international markets, consistent with the national interest in areas such as electronic commerce, national security, and support to law enforcement.

*High Performance Computers.* On March 10, 2000, BXA published a regulation raising the technical level above which exports of high performance computers require licenses implementing the President’s February 1 update announcement to the Administration HPC export control policy. This update raised the upper threshold of the license exception CTP for exports to Computer Tier 2 countries from 20,000 MTOPS to 33,000 MTOPS, and from 12,300 MTOPS to 20,000 MTOPS for exports to Tier 3 countries. On August 3, 2000, the Administration announced a further modification of technical limits. BXA has a rule pending to implement the changes. Due to rapid technological advancement in the computer industry, the technical level of computers is reviewed every six months.

*India.* On March 17, 2000, BXA published a regulation that removed 51 Indian entities from the Entity List in Supplement 4 of Section 744 of the EAR. The regulation also changed the policy for exports of non-sensitive “EAR99” items to listed entities from “presumption of denial” to “presumption of approval.” This rule represented the first significant modification of measures associated with India sanctions since their imposition in November 1998. Because many India applications submitted to BXA since May 1998 have been for EAR99 items that require a license under Glenn Amendment sanctions, the March policy change has resulted in a significant increase in the approval rate for India licenses. On July 26, 2000, BXA published another rule that removed two Indian entities from the Entity List and added one.

*North Korea.* On September 17, 1999, I announced my decision to ease some of the sanctions against North Korea administered under the Trading with the Enemy Act, the Defense Production Act, and the EAR. On June 19, 2000, BXA published a regulation easing restrictions on exports of low-level items to North Korea in response to North Korea agreeing to halt further tests of its missile program. Under sanctions easing measures, U.S. exporters may now ship agricultural commodities, medical items, and low-level industrial goods to North Korea without a license. However, all multilaterally controlled items, as well as items controlled unilaterally by the United States, continue to require a license to North Korea.

*Wassenaar Arrangement.* On July 12, 2000, BXA published a rule implementing the Wassenaar Arrangement’s changes to their list of dual-use items. This rule affected entries in Categories 1 through 6, and 9 of the Commerce Control List.

*Export Clearance.* On July 10, 2000, BXA and the Census Bureau jointly published final rules clarifying export clearance, including the definition of exporter and the requirements for filing a Shipper’s Export Declaration. Public comments contributed significantly to the development of these rules.

*Export license information*

During the reporting period, BXA continued to receive many requests for exports licensing information through the Freedom of Information Act and through discovery requests during enforcement proceedings. Under section 12(c) of the Export Administration Act, BXA continues to withhold from public disclosure information obtained for the purpose of consideration of, or concerning, export license applications, unless the release of such information is determined by the Under Secretary to be in the national interest, pursuant to the directive in Executive Order No. 12924 to carry out the provisions of the Export Administration Act, to the extent permitted by law, notwithstanding an adverse court decision regarding BXA's authority to withhold such information. The Department has appealed this decision.

BXA received two Congressional requests for large amounts of export licensing information during the reporting period.

*Office of Inspector General and the General Accounting Office studies*

During the reporting period, BXA continued its cooperation with the Office of Inspector General (OIG) and the General Accounting Office (GAO). OIG initiated three new studies and GAO initiated nine. Also during the period, OIG closed three studies and GAO closed six, with the issuance of final reports or briefings.

*Export enforcement*

Export Enforcement continued, through its three constituent offices, its programs of prevention of diversions, investigation/enforcement of the export control provisions of the Export Administration Regulations, and enforcement of the antiboycott provisions of the Export Administration Regulations.

*Office of Enforcement Analysis*

*Preventive/Compliance Activities.* Office of Enforcement Analysis (OEA) prevention activities included designing a systematic plan to target and prioritize pre-license checks (PLCs) and post shipment verifications (PSVs) conducted by representatives of U.S. diplomatic posts. The purpose of the plan is to ensure that the PLC and PSV programs, which are coordinated by BXA's Export Enforcement, reflect the full range of U.S. export control concerns and use available resources as effectively as possible.

PLCs validate information on export license applications including the reliability of the end-users. In contrast, PSVs strengthen assurances that exporters, shippers, consignees, and end-users comply with the terms of export licenses and licensing conditions that are intended to deter diversions from approved end-users and end-uses of dual-use exports. The overall objective for conducting PLCs and PSVs is to detect and prevent the illegal transfer of controlled U.S.-origin goods and technology.

Another major preventive enforcement activity of OEA is the compiling of information regarding parties of export control concern and maintaining these names on Export Enforcement's watch list. All of the parties included on this watch list are screened against names listed on export license applications received by BXA. OEA

analysts review all applications in detail that include a match against a party on the watch list to assess diversion risks, identify potential violations, and determine the reliability of proposed end-users of controlled U.S.-origin commodities or technical data.

*NDAAs Activities.* OEA has responsibility for implementing the High Performance Computer post-shipment verification and annual report requirements of the NDAAs for FY1998. OEA tracks all post-shipment reporting on exports of HPCs over a set operating level to "Tier 3" countries, as defined by the NDAAs, and oversees the post-shipment verifications performed on such exports. OEA has the responsibility for reporting the total number of HPCs exported and the number of NDAAs HPC post-shipment verifications performed to Congress in an Annual Report.

*Visa Review Program.* During the reporting period, OEA continued restructuring its Visa Application Review Program to prevent unauthorized access to controlled technology or technical data by foreign nationals visiting the United States. The Office has developed new criteria and thresholds for evaluating visa applications for targeting purposes. OEA has narrowed its focus and concentrated on specific products most often used in weapons of mass destruction projects. OEA's evaluation and analysis of visa application cable traffic involves preventive enforcement efforts such as recommending denial of certain visas and the referral of enforcement leads to Office of Export Enforcement (OEE) field offices for possible case development. In some instances, OEE Special Agents uncovered possible visa fraud on the part of the foreign applicant. These findings were forwarded to OEA and submitted to the State Department's Visa Fraud Unit for further investigation and action during the reporting period.

*Shipper's Export Declaration Review Program.* OEA systematically reviews Shipper's Export Declarations (SEDs) filed by exporters. Using a computerized index of data fields, OEA produces a list of SEDs targeted for closer review. These reviews focus particularly on licensed and license exception shipments, shipments bound for destinations of concern, and shipments of strategic commodities of proliferation concern. Through these reviews, OEA identifies SEDs that may indicate violations of the Export Administration Regulations and refers them to OEE special agents for further enforcement actions.

#### *Office of Export Enforcement*

The Office of Export Enforcement opened 486 and closed 813 investigations during the reporting period.

#### *Office of Antiboycott Compliance Activities*

The Office of Antiboycott Compliance continued to supply the State Department with information on boycott requests received by U.S. persons. The State Department uses this information in its discussions with boycotting countries concerning ending the Arab boycott of Israel. The Office of Antiboycott Compliance opened four and closed ten investigations during the reporting period.