



U.S. Export Controls

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Office of Exporter Services

Bureau of Industry and Security

U.S. Department of Commerce

Bureau of Industry and Security

■ Mission

- Develop, implement, interpret U.S. export control policy for dual-use goods and technology
- Advance U.S. national security, foreign policy, and economic interests by regulating exports without impeding the flow of legitimate trade



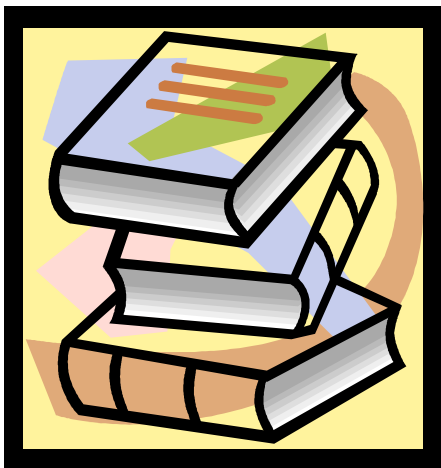
Industry – Security Relationship

- Industry dependent on government
- Government dependent on industry
 - Government cannot monitor all exports and reexports
 - Industry evaluates new customers, provides resources for internal export controls, participates in policy making



Office of Exporter Services

- Provides guidance to industry regarding export control policies, regulations, procedures
- Staffing
 - Outreach and Educational Services
 - Export Management and Compliance Division
 - Western Regional Office





BIS Licensing Offices

- Office of Nonproliferation Controls and Treaty Compliance
 - Chemical and Biological Controls Division
 - Nuclear Technology Division
 - Missile Technology Division
- Office of Strategic Trade and Foreign Policy Controls
 - Strategic Trade Division
 - Information Technology Controls Division
 - Foreign Policy Controls Division
 - Deemed Exports and Short Supply Division
- www.bis.doc.gov



Export Administration Regulations

- Implement the Export Administration Act of 1979
- International Emergency Economic Powers Act
- Contain explanations of export control policies, authorizations available, recordkeeping, enforcement, and Commerce Control List (Supplement 1 to Part 774)



Policy Basis for Controls

- Regimes

- Wassenaar Arrangement
- Missile Technology Control Regime (MTCR)
- Nuclear Suppliers Group (NSG)
- Australia Group (AG)

- Embargoes



Commerce Control List

- Commodities
- Software
- Technology: Specific information necessary for the development, production or use of a product. The information takes the form of technical data or technical assistance. (Part 772)

Technology transfer

- Intangible technology
 - Technical data
 - Technical assistance
 - Exports via intangible means such as the internet, telephone, fax subject to same level of controls as exports via shipping or mailing


- Deemed exports





Deemed exports

- Release of technology or source code subject to the Export Administration Regulations to a foreign national.
- Release is “deemed” to be an export to the home country of the foreign national.
- Exceptions: LPR, refugee or asylum status




Are you subject to the EAR? (Parts 732 and 734)

- Items physically present in the U.S., with some exceptions
- U.S. origin items
- Certain foreign made items
 - Containing de minimis U.S. content
 - Direct product of U.S. technology or software
- Deemed exports
- U.S. Persons (Part 744.6)



Do you need an export license?

- Consider the Export Control Classification Number + the Country of Destination
- General Prohibitions (Part 736)
 - What is my item?
 - Where is it going?
 - Who will receive it?
 - What will be the end-use?
 - What else does my end-user do?



Asia Licensing FY2003

10-1-2002 to 6-30-2003

■ Japan	658	\$72m
■ China	590	\$1.3b
■ Taiwan	459	\$653m
■ Germany	426	\$15.4 m
■ India	424	\$40.4 m



U.S. Exports

10-1-2002 to 6-30-2003

■ China	\$12,691.1m
■ Taiwan	\$7,841.1m
■ Japan	\$25,969.3m
■ India	\$2,334.6m
■ Germany	\$14,606.7m

Source: U.S. Census Bureau



India: Background

- 1998: Nuclear and missile sanctions
- September 2001: Sanctions waived
- October 2001: Implementing regulations lifted denial policy for export of items on the CCL for nuclear and missile technology-related concerns
- Entity list reduced



India: Export Control Policy

- Exports to Entity List companies require a license
- Many items on CCL controlled for national security concerns may be exported under a license exception
 - Authorization for export provided criteria are met (GBS, TSR, ENC)
 - Group B list (Supplement 1 to Part 740)



India Licensing

- License required to export items controlled for nuclear, missile, or chemical/biological weapons concerns
 - Reviewed on case by case basis
 - Criteria for review: would export make a material contribution to WMD program or pose unacceptable risk of diversion to WMD



India: Recent Developments

- November 2002: BIS Under Secretary and Indian Foreign Secretary establish the U.S. – India High-Technology Cooperation Group
 - Framework for discussing steps to stimulate bilateral high-technology commerce
 - Will address economic, trade, and export control issues



China: Background

- Seventh largest U.S. export market
- Remains a security and proliferation risk
 - Chinese entities have exported sensitive items to countries of concern
 - Sanctions have been imposed
 - End use visits problematic, leading to the creation of the Unverified List



China: Export Control Policy

- License required to export items controlled for national security, nuclear, missile, or chemical/biological weapons concerns
 - Reviewed on case by case basis
 - Criteria for review: would export enhance the PRC's ability to project military force, or make a material contribution to WMD program or pose unacceptable risk of diversion to WMD



PRC/Hong Kong: Licensing

- Hong Kong: “One country, two systems” formerly recognized under law
- Special status deriving from HK having been British dependent territory prior to 1997; contingent upon maintenance of integrity and autonomy of customs territory
- HK has long cooperated with the US on export control matters



Web Site Resources

- www.bis.doc.gov
- Introduction to Commerce Department Export Controls
- Guidance on Reexports and other Offshore Transactions Involving U.S.-Origin Items

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- Under Secretary Kenneth I. Juster addresses:
 - October 2003: Update Export Controls and Policy Conference
 - September 2003: Taiwan and China Semiconductor Industry Outlook.
 - June 2003: Stimulating High-Technology Cooperation with India
 - April 2003: Asian Security and Hong Kong's Role in the War on Global Terrorism



How to contact BIS

Export Administration Offices:

- Orange County, CA (949) 660-0144
- Silicon Valley, CA (408) 998-7402
- Washington, D.C. (202) 482-4811

Export Enforcement Offices:

- Northern California (408) 291-4204
- Southern California (949) 251-9001
- Nationwide (800) 424-2980