

# Summary | 1

**E**xport controls on dual-use goods, technology, and software will continue to be one useful tool in U.S. efforts to stem the proliferation of weapons of mass destruction and missiles that can deliver them. The effectiveness of export controls in slowing proliferation will vary with the characteristics of the weapons of concern, the capabilities of the target countries and programs, the controllability of the designated commodities and technology, the degree of international cooperation, and the quality of enforcement. In some circumstances, they may do little to stem proliferation; in others, they may impose significant obstacles and delays in acquiring such weapons. Thus, they may buy important time during which policy makers may bring other non-proliferation tools to bear.

The overall benefits to national security of applying export controls come at a price to the companies and industries whose products are controlled. The difficult task for both Congress and the executive branch is to design an export control system that serves U.S. security interests but also takes due account of economic interests and fairness to regulated exporters. The task is made more difficult by the inherent problems in trying to estimate both the benefits and the costs of export controls.

This report is a product of OTA's project on the proliferation of weapons of mass destruction. As such, its primary purpose is to identify options for enhancing the effectiveness of export controls in slowing or preventing the spread of capabilities to develop and produce those weapons. Nevertheless, reducing the burdens of export regulation on U.S. exporters has been a major focus of discussions about revising the Export Administration Act. Therefore, the report also examines policy options directed mainly at

*The difficult task for both Congress and the executive branch is to design an export control system that serves U.S. security interests but also takes due account of economic interests and fairness to regulated exporters.*

## 2 | Export Controls and Nonproliferation Policy

the latter goal, but with special emphasis on their implications for nonproliferation policy.

### BOTTOM LINES

1. Several options are available for improving the effectiveness of nonproliferation export controls:
  - some of the options require increased resources and priority for nonproliferation objectives,
  - some would require considerable institutional change within the U.S. government,
  - some would require substantial changes in international attitudes toward nonproliferation export controls, and
  - none of the enhancement options is a “magic bullet” that will dramatically alter the prospects for stemming proliferation.
2. Formulating better export control policies requires that the U.S. government **gather and analyze better and more complete information about the actual economic costs of maintaining export controls.**
3. Assessment of effectiveness and costs of nonproliferation controls should be separated from that for controls established for other purposes.
4. Industry concerns about the burdens imposed by export controls could be addressed by the imposition of rigid rules limiting U.S. unilateral imposition of controls; however, from the point of view of nonproliferation policy, it would be preferable to leave the executive branch enough discretion to adapt to specific exceptional situations, coupled with:
  - a general presumption against unilateral controls *and*
  - extensive reporting to, and oversight by, Congress on policy rationale, outcomes, and costs.

### OPTIONS FOR ENHANCING EXPORT CONTROL EFFECTIVENESS

#### I List-Making

**Issue: What measures might improve the ability of the U.S. government to identify the ex-**

**port items, buyers, and end-users that pose proliferation risks?**

Several U.S. agencies are involved in setting U.S. export control policies. For various reasons (bureaucratic as well as technical) information is not shared as systematically among them as it might be.

**Option: Develop shared and improved database.**

Newer computers, with higher speed and more memory, allow consideration of new techniques for distributing, sifting, and analyzing information on proliferation problems. Applying such techniques within the government, however, would require some changes in bureaucratic procedures as well as some additional resources.

#### | Licensing Administration

**Issue: What measures might allow the officers reviewing export application licenses to bring the best and most complete information to bear on their judgments?**

**Option: Modernize the license-processing database.**

The computer technologies alluded to in the section on list-making could be even more usefully applied to improve the license application review process. Ideally, the interagency computer system would allow analysts in all reviewing agencies to extract in real time: data about other previous or current applications, technical background data on the proposed exports, and current intelligence or other data about the parties to the proposed transaction.

**Issue: How can the external accountability of the nonproliferation export licensing process be improved?**

**Option: Publish nonproprietary licensing data.**

Post-licensing publication of data summarizing dual-use license approvals would enhance unclassified research by nongovernmental investigators of export-import patterns that might identify previously undetected weapon programs or supply networks (see below, in the section on improving multilateral export controls, for the benefits of strengthening unclassified analytic efforts). Second, publishing licensing information

might set a precedent for helping to persuade other nations to release comparable information, thus easing the task of both governments and non-governmental groups in identifying possible avenues of proliferation.

Undertaking this policy would require special care in protecting legitimate proprietary data from access by exporters' competitors.

**Issue: How can the broadest possible range of substantive, technical, and policy judgment be brought to bear on licensing decisions?**

Referrals of license applications by the Department of Commerce for review by other agencies now takes place according to rules agreed on among the agencies of jurisdiction. Critics of past licensing decisions have argued that, in practice, Commerce inappropriately approved licenses that other agencies would have blocked if given the chance. Others point out that Commerce acted within the laws and higher level policy guidance of the times.

**Option: Formalize interagency review processes for licenses involving proliferation-controlled items.**

Various advocates have proposed that all military-relevant license applications be routinely referred to the Defense Department or the Arms Control and Disarmament Agency, or that all nuclear-related applications be referred directly to a legislatively (not just administratively) established Subgroup on Nuclear Export Coordination.

A related issue is the degree of independent power to be assigned to individual agencies and to interagency committees. Should each agency have a veto over license applications, should interagency committees vote by majority rule, or should Commerce have the power of decision *unless* another agency invokes escalation processes to appeal the majority or Commerce's decision?

Proponents of the strictest possible enforcement of export controls argue that the more review, the greater the chance of blocking inappropriate exports. Proponents of a streamlined review process argue that too much bureaucracy can delay license decisions to death, even when their rejection is not justified.

Two additional considerations might be weighed in this debate. The first is that thorough, multi agency reviews within reasonable periods of time are feasible if agencies are required to make a decision either by action or by default within a specified period and if they are given sufficient manpower and technical resources for license reviews. Second, attempting to stack the deck in licensing decisions by granting one agency or another primary jurisdiction is not necessarily a permanent solution to perceived problems. For example, the Defense Department in previous administrations has been less willing to approve some exports than other departments; in the fall of 1993, however, it seems to have been in full agreement with the Commerce Department that current thresholds of performance for controlled computers were unrealistically low.

## I Enforcement of Regulations

**Issue: How can the government help exporters make better evaluations of prospective customers?**

**Option: Distribute more information on suspect buyers, users, and programs.**

One legislative proposal is for the government to publish a regular bulletin to better inform exporters about the risks of proliferation and what exporters can do to help reduce those risks. U.S. companies have in the past provided the government with important leads about illegitimate buyers; increased sharing of government information with exporters might enhance the latter abilities to help. Dissemination of information by the government may sometimes imperil intelligence sources and methods or risk undermining ongoing investigations. It also risks the embarrassment, and possibly the injustice, of publication of suspicions that turn out to be incorrect. The potential payoff from more active industry cooperation would have to be weighed against such risks.

**Issue: How can verification and enforcement activities be made more effective?**

**Option: Improve pre-license and post-shipment checks.**

## 4 / Export Controls and Nonproliferation Policy

Commerce Department pre-license checks of potential buyers (and post-shipment checks on approved licenses) can help identify suspicious customers. Resources for these checking activities have been limited, and the checks conducted have been poorly planned and executed. Additional resources and top-level attention to developing systematic strategies could make checks a more useful tool (although their utility will remain limited for many types of exports). Additional resources for Export Administration and Customs enforcement activities could also be considered.

***Option: Improve Bureau of Export Administration Enforcement Office data resources.***

Enforcement officials at Commerce's Bureau of Export Administration (BXA) have been studying various sources of data beyond those available from intelligence and law enforcement agencies to see if they might help reveal suspicious export patterns. For example, U.S. Census data on all the types and quantities of items going to a particular country might reveal purchasing patterns that suggest diversion of imports to a proliferant weapon program. Thus far, however, Commerce has not had the resources to put this sort of analysis into the context of a larger, more encompassing database, of the type described above.

***Option: Fully utilize sanction authorities.***

Current legislation gives the executive branch a range of economic sanctions (including the imposition of further, noneconomic, sanctions) to apply to foreign "persons" who aid proliferation through the sale or transfer of items on U.S. control lists. (The Clinton administration draft Export Administration Act (EAA) of 1994 would harmonize sanctions for chemical, biological, and missile weapons proliferation, now authorized in other pieces of legislation; the pending State Department authorization act for fiscal year 1995 institutes similar sanctions for nuclear proliferation.) The actual application of sanctions is left to considerable executive branch discretion. One option would be to leave the president less discretion in choosing, deferring, or waiving sanctions. Rigid requirements, however, risk forcing the president's hand in cases where more subtle action

might have a greater effect on nonproliferation goals. Too much discretion, on the other hand, risks avoiding difficult choices and sending inappropriate messages to those who foster proliferation.

A compromise option would be to permit the flexibility requested in the Clinton administration draft EAA, but to accompany it with more explicit provisions for accountability to Congress about the costs and effectiveness of sanctions imposed or the reasoning behind deferring or waiving them.

### **Multilateral Control Arrangements**

Since there are very few technologies useful to proliferant weapons programs that the United States produces uniquely, international cooperation among potential suppliers or transshippers is essential to effective export controls.

**Issue: How can the United States keep a low level of international consensus on the transfer of conventional military technologies from undermining current agreements on nonproliferation of weapons of mass destruction?**

With the end of the Cold War, the membership, targets, and listed technologies for the Coordinating Committee on Export Controls (COCOM, formerly a Western arrangement for denying technology to Communist nations) are undergoing significant changes that must be multilaterally negotiated. With technologies applicable to weapons of mass destruction already addressed in other multilateral export control regimes, the COCOM successor regime will most likely attempt to regulate the transfer of technologies for developing or making conventional weapons. Consensus will be difficult to reach, both within the United States and among the international participants, about what technologies should be controlled, and for what reasons.

***Option: Separate COCOM succession from regimes for nonproliferation of weapons of mass destruction.***

The nonproliferation regimes dealing with weapons of mass destruction (and missiles), for which considerable consensus has already been

painstakingly built, should not be mixed into controversies over revisions of lists formerly controlled by COCOM for other purposes.

**Issue: How can coordination among members of multinational nonproliferation export control regimes be enhanced?**

**Option: Promote an information sharing network.**

Communications and information tools cannot substitute for a genuine willingness to cooperate among adherents to export control regimes. Given such willingness, however, they could make it easier to implement cooperation. The United States has instituted a pilot program for a shared computer network among Nuclear Suppliers' Group (NSG) members (the NSG is a group of nations that has agreed to common export control policies for nuclear technologies and dual-use technologies applicable to nuclear programs). Such a network would offer a variety of opportunities for increased coordination among the nuclear suppliers. In agreeing to multilateral controls on dual-use technologies, the NSG members also agreed to avoid undercutting each other's decisions by informing one another when they deny export license applications for the listed items. Timely dissemination of this information would allow each supplier to consider its own export decisions in the light of those made by any of the others. Once refused an export license in one country, a potential buyer would not have a chance to find another supplier in another country even if that country did not have independent reason for suspicion about him. License denial information, as well as some of the other kinds of information described below, could be especially useful to governments without the extensive export control infrastructure and intelligence resources of some of the larger members of the NSG.

**Option: Extend the NSG database network idea to the other export control regimes.**

Such a network could be extended to members of the Australia Group (chemical and biological weapons) and Missile Technology Control Regime (MTCR) as well, since there is already a large overlap in membership among those groups and the NSG. This step would be most useful in combination with agreements in those regimes to report export denials, as the NSG members do. Such agreements, however, will not be easy to obtain.

**Option: Expand international reporting to approvals as well as denials.**

With this wider range of data about exports with weapon program potential, all NSG (or other regime) members would have a better chance of discerning trade patterns that might help identify suspicious end-users or possible diversion paths. Because of fears of revealing proprietary data of use to competitors, however, regime members may resist revelation of their approved licenses.<sup>1</sup> Should the United States decide to seek such reporting, it may need to test that resistance through the leadership both of exhortation and of its own example. Even the expenditure of considerable diplomatic capital with other regime members may not be enough to bring about this degree of cooperation.

**Option: Increase intelligence sharing.**

Whether by means of a networked database or through other means of communication, **sharing intelligence data about unscrupulous suppliers, buying and financing operations, questionable agents, and suspicious end-users is an important means by which supplier groups can coordinate their export controls.** Shared intelligence could, for example, help members of the NSG make better informed licensing judgments by giving them more information about how prospective buyers measure up against the criteria that the NSG has agreed to take into account in licensing decisions.

---

<sup>1</sup>IAS noted above, some firms might be fearful that Confidential (but still legitimate market information might be revealed to competitors if all sales were reported. Even if the supplier-group data were not in the public domain, there would be the possibility that participating governments would leak information to their own country's firms.

## 6 | Export Controls and Nonproliferation Policy

In some situations, national intelligence agencies having trusted relationships with one another may be able to share secret information. Amongst the large and diverse sets of nations making up the nonproliferation supplier groups, however, the continuous, direct sharing of classified information seems unlikely. What seems more feasible is the production and dissemination of analyses based on open sources. It may also be possible to develop open-source evidence for facts that might originally have been indicated or discovered by secret means.

An option to consider is to provide government support for nongovernmental, open-source database and analytic projects. One means of support for such efforts is to contribute grants or award research contracts to the private institutions carrying on such projects. Whether the information shared multilaterally comes directly from the U.S. government, or whether it comes from private U.S. institutions, there is some risk that it will be perceived as a U.S. tool for manipulating international opinion and decisions to serve unilateral U.S. interests. This risk imposes a need for considerable tact and diplomacy in the ways in which the United States attempts to persuade other nations to act on the information provided.

### ***Option: Support development of former Soviet Union states' administration of export controls.***

The effectiveness of global export controls will be greatly weakened unless Russia and the other former Soviet states join and effectively participate in the full set of western nonproliferation control regimes: NSG, Australia Group, and MTCR. Some progress has been made in this direction with Russia already in the NSG, vowing to become a de facto member of the MTCR, and promising to adhere to Australia Group guidelines. The other newly independent states should also be brought into the nonproliferation regimes. These nations also need to develop effective export control systems. The United States has offered several million dollars in Nunn-Lugar funds for that purpose to each of the four republics retaining Soviet nuclear weapons, but has reached agreement on spending the money only with Belarus. Other re-

publics could probably also make use of financial assistance. U.S. agencies have also been offering technical assistance in export controls to the former Soviet states.

At the Moscow summit in January 1994 Presidents Clinton and Yeltsin signed a joint "Memorandum of Intent" on "Cooperation in the Area of Export Control," saying their governments intended to cooperate in "any or all" of six areas intended to improve nonproliferation export controls and that they "may" establish expert working groups to carry out their intent. At this writing, it is too soon to tell whether these actions will be taken or whether they will result in concrete improvements in the Russian control system.

### ***Option: Seek greater cooperation from developing countries.***

Newly industrializing countries that are not members of the established export control groups are also becoming possible sources for proliferant weapon programs.

In its draft for the EAA of 1994, the Clinton administration proposed that (individual validated) license-free exports of controlled items could be permitted to and among members of a multilateral regime. More convenient access to dual-use technology items might serve as an incentive for some developing nations to join supplier regimes. On the other hand, were these nations so well-behaved in the first place, license approvals probably would have been forthcoming anyway. A disadvantage to removing validated license requirements is that the United States would lose the opportunity to judge on a case-by-case basis whether the recipient country's own export controls were strong enough to prevent retransfer of some items. Instead, it would have to arrive at a general judgment to that effect. Of even greater concern is that, if the emerging supplier is itself a proliferation threat, it might acquire easier access to items needed for its own weapon programs, even as it helped control supplies to others.

Other steps aimed at bringing more nations into export control cooperation have been proposed. While worth exploring, they may be difficult to sell to some developing nations, who have per-

ceived export controls more as a means of economic discrimination than as a nonproliferation tool. In attempting to better inform developing nations about the purposes and effects of export controls, the industrialized countries would have to take care to avoid the appearance of simply dictating their own views of the proliferation problem and how to deal with it.

## OPTIONS FOR AMELIORATING INDUSTRY BURDENS

From the point of view of the effectiveness of export controls, it is desirable to have exporting companies see the system as fair and just, so that they will have every incentive to help make the controls effective—for example, by reporting possible illicit purchase attempts. From the point of view of U.S. competitiveness in international markets, it is desirable to place the least constraints consistent with national security on exporting firms.

### I List Making

**Issue: How can the United States protect its exporters from competition from firms in countries with less stringent export controls?**

**Option: Promptly remove controls from items that are available from other countries in similar quality and quantities.**

A policy of attempting to control only items that were not available from other sources would lead to a shorter list and might result in fewer losses of business from U.S. companies to foreign competitors. Proponents of unilateral export controls argue that this is tantamount to knowingly selling a gun to a criminal just because he may have been able to buy it from someone else. Some exporters may feel that they should not be denied licenses to sell to such users, on the ground that someone else will anyway. Most, however, would not wish to do business with users trying to build weapons of mass destruction. It is not the loss of these relatively rare sales that exporters fear, but rather that the export licensing process itself causes them to lose *legitimate* business to foreign

competitors at the same time that it fails to keep the proscribed items out of the hands of proliferants.

Other countries may be more willing to control new items (or exports of currently controlled items to newly identified end-users) if the United States demonstrates its own will to do so first. Thus, proposals to limit U.S. export controls to multilaterally controlled items have included provisions for at least temporary impositions of unilateral controls to allow attempts to reach multilateral consensus. Putting a legislative limit on the length of time for which unilateral controls can be imposed does carry a risk: other nations whom the United States is trying to persuade to follow suit can just stall negotiations until the statutory limit on the U.S. controls runs out.

Those in favor of retaining some discretion for the government to maintain some unilateral controls argue that in some cases the United States should set a standard of leadership behavior, whatever else some other nations might be doing. In taking a principled stand against assisting the spread of weapons of mass destruction, the United States may help bolster international norms against such proliferation, protect U.S. companies from the embarrassment of being identified with proliferation activities, and possibly win over other supplying nations to its position.

**Option: Reduce the size of the export control list to narrow the scope of its purposes.**

After the initial reforms of COCOM controls with the end of the Cold War, the Department of Commerce (DOC) Office of Export Licensing went from handling over 100,000-125,000 export license applications a year to about 24,000 in 1992 and 25,000 in 1993. Many of the remaining license applications concern items controlled for purposes other than the nonproliferation of weapons of mass destruction. Most of the items remaining on the (formerly COCOM) “national security” control lists relate to possible conventional military applications. **Items controlled because they may be used in making weapons of mass destruction or missiles are largely the subject of**

## 8 | Export Controls and Nonproliferation Policy

**negotiated international supplier agreements; the option of narrowing the scope of controls does not have much applicability to this area.**

The COCOM lists were designed primarily to slow Soviet progress in a broad range of military technologies. The fact that they might also slow the development of the Soviet civilian economy was seen as, if anything, an additional national security benefit of the regime. COCOM'S original purposes became largely (though perhaps not entirely) obsolete with the breakup of the Soviet Union.

A new set of goals for controls over dual-use technologies related to conventional weapons has not yet emerged. Late in 1993, COCOM members agreed to abolish the organization at the end of March 1994 and to replace it with a successor regime. As COCOM formally ended, however, the goals and procedures of that successor regime remained unclear. Some have proposed that the United States initiate an explicit new nonproliferation regime aimed at limiting the spread of advanced conventional weapon technologies. Such a policy, aimed at keeping particular types of conventional weapons out of reach of many nations, would require a different export control strategy than one directed at maintaining a Western military advantage by restraining the technical development of a single large military-industrial complex. In the absence of clear-cut opposing blocks of allies, there is bound to be less consensus about who should be the targets of such a strategy.<sup>2</sup> It is therefore likely to be more difficult to sell the strategy multilaterally than it was to persuade states to participate in the original COCOM regime.

**Issue: How can uncertainties and costs stemming from “EPCI” rules be reduced?**

The Bush administration's Enhanced Proliferation Control Initiative (EPCI) and certain subse-

quent legislation led to Export Administration Regulations requiring individual validated licenses (IVLs)<sup>3</sup> for almost any items that the exporter “knows” or “is informed” might be used in any way in a chemical, biological, or missile weapon program. In December 1993 the Commerce Department issued further guidance specifying that the rule would apply to items destined to be directly *employed* in such a program. For nuclear weapon programs, the rule is stronger: a license is required for *any* item that the exporter “\*knows or has *reason to know*” will be used directly or *indirectly* in such a program.

Industry representatives, at least prior to the December 1993 clarifications, argued that the EPCI rule unnecessarily hinders their economic performance by:

- requiring virtually all exporters to establish costly programs to find out whether their customers are involved in a proscribed activity,
- imposing unilateral controls on U.S. exports of items that are likely to be available to proliferant programs from foreign sources anyway,
- burdening honest exporters with regulations, when illicit exporters will not apply for licenses anyway, and
- because of uneven information among exporting firms, giving honest exporters who are nonetheless ignorant of export control requirements an unfair economic advantage over their better informed competitors.

### ***Option: Eliminate the EPCI rule***

The Congress could eliminate the EPCI rule by legally requiring the DOC to consolidate its dual-use or “commercial” export controls into a single list that fully enumerates all the products for which an export license is required and all the countries and specific end-users as well. This would greatly simplify the exporting companies'

<sup>2</sup>There is more international consensus about restraining the general spread of weapons of mass destruction than there is about maintaining the military superiority in conventional weapon technologies of the advanced industrial nations.

<sup>3</sup>To obtain an IVL, the exporter must file an application with the Department of Commerce stating the items to be shipped, their value, the buyer, and the end-user.

job in deciding whether a license application was necessary and whether it was likely to be approved.

Elements of this proposal exist in the current regimes. The NSG, the Australia Group, and the MTCR all center on agreed, published lists of commodities. On the other hand, the regimes do not require the members to agree in advance on who all the controlled countries and end-users may be. Instead, they provide agreed criteria for deciding whether an export should go forward.

Publishing lists of all suspect buyers and users has drawbacks, including risking the compromise of intelligence and law enforcement data. It also eliminates the government ability to control exports that pose an imminent proliferation threat even though they are not on a published control list. These drawbacks must be weighed against the advantages of having better informed legitimate exporters.

***Option: Maintain the EPCI rule, while attempting to assure its fair application.***

Defenders of the “knows or has reason to know” rules argue that exporters who may be trading with a proliferant end-user find it too easy to look the other way, or to fail to report what they know, as long as their own particular export is not on a specific control list. More important, the rule gives the government a safety net by allowing the application of export controls when it learns about a pending transaction that risks helping a weapon program, but which is not explicitly covered by the current Commerce Control List. Finally, many companies would themselves prefer not to deal with end-users developing weapons of mass destruction, whether their products are critical to those programs or not. Procedures for the government to inform them of the character of their buyers may well save them from public embarrassment later on.

The DOC’S December 1993 guidance should assure U.S. exporting firms that they do not have to worry that they will be subjected to extraordinary demands to probe deeply into the character of end-users of relatively innocuous products. Advocates of a “knows or is informed rule” point out

that the stronger form of the rule (“has reason to know”) has existed for some time for nuclear exports and in other legal areas. The judicial system has not generally permitted unreasonable interpretations of what constitutes a “reason to know.” In practice, no firms have been penalized for having failed to apply for a license for something that they are alleged to have known would be used in a banned project. On the other hand, questionable sales have been prevented by the government informing exporters that transactions with certain buyers would require an IVL.

***Option: Change the “knows or is informed” rule to just an “is informed” rule.***

Under this option, the government would not expect companies to “know their customers” and apply for licenses in dubious cases. It would, however, retain the legal ability to stop risky transactions about which it had obtained intelligence by informing the exporter of a license requirement, even if it could not expect companies to report the “red flags” that may indicate suspicious customers.

***Option: Maintain the rule, but publish a specific list of controllable items.***

The government would generate a separate control list of products or technologies that, although not listed as requiring export licenses, could be “directly used” in proliferant programs. The exporting companies would then be responsible only for knowing or having reason to know whether recipients of those particular items were engaged in illicit activities. The firms, if in doubt, could ask the government for advisory opinions on prospective buyers. The government could also make the companies’ job easier by publishing those advisory opinions about particular end users so that other firms could be forewarned. This latter measure would carry some risk of alerting illicit procurement agents the the U.S. government Was aware of their activities.

## I Licensing Administration

**Issue: How can exporters be given licensing decisions in time to avoid losing sales?**

## 10 | Export Controls and Nonproliferation Policy

**Option: Place statutory limits on licensing processing times.**

The Clinton administration's draft EAA proposes assuring that nearly all license applications would either be resolved or referred to the President within 90 days of filing. For reviewing agencies, the default decision is approval if the deadlines for objections are not met. There seems to be no reason why, with sufficient resources, current license decision deadlines could not be shortened to the times proposed in the Administration bill, or even less, without diminishing the quality of analysis and review that the license applications receive. Doing so, however, is likely to cost additional funds that the executive branch has not recently been willing to allocate to export control management.

**Issue: How can the economic costs of export controls be given appropriate weight in policy and licensing decisions?**

Some U.S. exporters have argued that the government imposes export controls without adequate consideration of the costs they will impose on U.S. industries. They have proposed, therefore, that assessment of the costs of controls should be made an integral part of the export control process. Costs may include:

- resource and opportunity costs to the government,
- sales forgone or denied because of controls,
- exporters' administrative costs in complying with regulations, and
- business lost because of licensing delays or customer perceptions of supplier unreliability.

Current data about the actual costs, direct or indirect, imposed by export controls on specific U.S. industrial sectors and on individual firms is not generally available. Estimates used in public discourse are either anecdotal or based on data sets not well-designed to provide the needed information.

**Option: Require regular economic impact statements for export control policies.**

The Clinton administration's draft EAA states as U.S. policy:

... to ensure that U.S. economic interests play a key role in decisions on export controls and to take immediate action to increase the rigor of economic analysis and data available in the decisionmaking process.

Such a policy could be reinforced by a requirement for regular "economic impact" statements to Congress attempting to estimate the overall costs of controls to the U.S. economy as well as their more specific costs to certain industries. Such estimates should help enlighten a debate now featuring many claims and counter-claims, but little real data.

As desirable as such costs estimates may be, however, it is important to recognize that gathering usable data will require overhaul of the current DOC license-processing computer system and expenditures on economic research and extensive exporter surveys. Even after these efforts are made, the nature of this particular estimating problem will dictate that many uncertainties still remain.