



# Bureau of Industry and Security

## Mission Statement

The mission of the Bureau of Industry and Security (BIS) is to advance U.S. national security, foreign policy, and economic interests. BIS's activities include regulating the export of sensitive goods and technologies in an effective and efficient manner; enforcing export control, antiboycott, and public safety laws; cooperating with and assisting other countries on export control and strategic trade issues; assisting U.S. industry to comply with international arms control agreements; monitoring the viability of the U.S. defense industrial base; and promoting federal initiatives and public-private partnerships across industry sectors to protect the nation's critical infrastructures.

**B**IS's primary activities include:

- *Administering the Export Administration Act (EAA).* The EAA (which expired on August 19, 2001, but the provisions of which remain in force under Executive Order 13222) provides for export controls on dual-use goods and technology to counter proliferation of weapons of mass destruction (WMD) and to pursue other national security and foreign policy goals (such as combating terrorism). BIS administers the provisions of the EAA through the promulgation and implementation of a regulatory, licensing, and reporting regime. A major goal of the Administration is to simplify and update export controls. The Administration also seeks to develop a long-term legal framework that will allow exports of new technologies, while protecting national security.
- *Enforcing the export control and antiboycott provisions of the EAA.* BIS investigates potential violations of U.S. export control and antiboycott laws which can result in the imposition of administrative, civil, and criminal sanctions. BIS also engages in preventive enforcement to detect and deter potential violations of the EAA.
- *Ensuring compliance with arms control treaties imposing requirements on U.S. industry.* BIS serves as the lead agency for ensuring U.S. industry compliance with the Chemical Weapons Convention (CWC). BIS is executive agent for management of inspections by the Organization for the Prohibition of Chemical Weapons at U.S. industrial sites and works on measures to strengthen the Biological and Toxin Weapons Convention.
- *Analyzing and protecting the defense, industrial and technology base, pursuant to the Defense Production Act and other laws.* As the Defense Department increases its reliance on dual-use high technology goods, BIS seeks to ensure that the U.S. remains competitive in those industry sectors and sub-sectors critical to the national security. To this end, BIS discharges responsibilities under the Defense Production Act, and other acts, including administration of the federal government's Defense Priorities Allocations System, assessing threats to U.S. national security deriving from imports, and monitoring the viability of the U.S. defense industrial base.

- *Helping key nations that export or serve as transit points for sensitive commodities and technologies to develop effective export control systems.* The effectiveness of U.S. export controls can be severely undercut if other nations export sensitive goods and technology or permit re-export or transshipment of such items to countries that pose proliferation risks. A number of nations that pose risks for re-export or transshipment of sensitive goods and technologies require assistance to establish effective export control programs of their own. BIS directly provides technical assistance to this end in cooperation with other U.S. government agencies.
- *Managing critical infrastructure protection efforts.* The Critical Infrastructure Assurance Office (CIAO), established on May 22, 1998, under the authority of the Presidential Decision Directive 63 (PDD-63) and located in BIS<sup>1</sup>, is responsible for coordinating interagency activities related to critical infrastructure protection. BIS, in partnership with other federal agencies and the private sector, coordinates and encourages the development and implementation of a comprehensive plan for the protection of U.S. infrastructures and, ultimately, the use of that plan by the government and the private sector to secure the U.S.'s critical infrastructures. The CIAO's Project Matrix identifies the critical infrastructure of federal agencies so appropriate vulnerability assessment and mitigation steps can be taken. Protecting critical infrastructures and cyber assets took on a new urgency following September 11, 2001.

## Priorities/Management Challenges

*Obtaining Passage of a New Export Administration Act (EAA)* —There has not been a comprehensive rewriting of the EAA since 1979. A revised EAA that seeks to provide a balanced framework for administering and enforcing export controls in the twenty-first century would enhance both U.S. national security and U.S. economic interests. The need for the passage of a renewed EAA has increased after the recent terrorist attacks aimed at the U.S. Such legislation would help BIS more effectively prevent the proliferation of weapons of mass destruction by controlling the export of dual-use items that could contribute to the development of such programs by terrorist-supporting states and other terrorist organizations.

*Enhancing Multilateral Cooperation with Regard to Export Controls*—BIS believes it is worthwhile to explore with key allies and partners whether we can reach agreement on uniform restrictions of certain critical technologies. U.S. companies would be benefited by no longer being “undercut” by foreign competitors competing for the same export sales. It would, moreover, strengthen overall national security. BIS also seeks to improve the effectiveness of the multilateral export control regimes by pursuing other initiatives within the regimes.

*Enhancing the Interagency Licensing Process* — BIS wants to strengthen its working relationships with the Departments of Energy, State, and Defense and the intelligence community to improve the licensing process while ensuring that national security concerns are fully considered. We aim to shorten the time period for licensing decisions and to increase the level of exporter understanding of BIS export control requirements.

*Transshipment Country Export Control Initiative* — BIS seeks to strengthen the effectiveness of U.S. and foreign country export control systems by preventing diversion of controlled items through key global transshipment hubs. This multi-pronged initiative seeks to counter diversion through transshipment hubs by working with (1) foreign governments to strengthen indigenous control systems and capabilities, and to work cooperatively with U.S. agencies to enhance export control enforcement, and (2) those private sector institutions with significant presences in transshipment hubs to promote greater awareness of and compliance with U.S. export and re-export controls. Specific components of the initiative may include technical assistance programs, private sector outreach, the adoption of best practices adapted to transshipment business environments, and, as needed, revised regulations.

*Develop New Export Enforcement Priorities and Procedures Strategy* — BIS seeks to strengthen its enforcement of export controls by developing and implementing a new comprehensive enforcement strategy, including procedures and priorities for criminal and administrative cases. Development and implementation of this strategy would facilitate speedier, more effective processing of cases. The strategy will require close cooperation with the Commerce Department's Office of General Counsel and with U.S. Attorneys' offices around the U.S.

### ***FY 2002 Performance***

In FY 2002, BIS had five goals and ten performance measures. BIS met nine of those ten measures. This reflected a substantial improvement from 2001 when BIS met four of ten measures.

BIS performance measures focused on the following areas:

- Decreasing processing times on license applications and revising evaluation procedures to more closely monitor the effectiveness of its seminar outreach programs
- Conducting industry site assistance visits to help prepare covered facilities for CWC international inspections
- Tracking enforcement investigations accepted for criminal prosecution
- Conducting post-shipment verifications to ensure that exported items are used in accordance with the terms of the export license, and making prompt recommendations on license applications
- Working with key countries to develop or strengthen their export control systems; and
- Promoting national education and awareness by conducting conferences and seminars and assisting federal agencies to analyze their own risk exposure and critical infrastructure dependencies.

BIS was successful in meeting many of the measures associated with these performance goals. While BIS sought to achieve all of its FY 2002 measures, BIS did not meet the measure, "Number of large, civilian federal departments and agencies working towards completion of the three step Project Matrix process." It is extremely difficult to identify strategies or steps to ensure that this measure will be met in the future. Success depends largely on the engagement and commitment of other federal agencies participating in the Project Matrix process. Also, BIS continued to refine its performance measures to: (1) focus on results instead of outputs, (2) measure work under BIS control, (3) use representative instead of distorted data (median versus average), and (4) create new measures to support new initiatives/programs and budget increases. For a detailed description of each goal and its performance, please see the appropriate goal(s) on the following pages.

In addition to meeting its performance measures, BIS had many significant accomplishments in FY 2002.

- BIS changed its name from the Bureau of Export Administration to the Bureau of Industry and Security to better represent the total scope of its work and mission, (i.e., to advance U.S. national security, foreign policy, and economic interests).
- BIS published a rule that implemented the agreement with the Departments of State and Defense resolving jurisdiction issues over several classes of space qualified items.
- BIS also published a rule to implement changes in the controls over encryption items agreed to in the Wassenaar Arrangement.

- BIS furthered a primary goal of rationalizing export controls and enhancing U.S. competitiveness in high technology sectors such as High Performance Computers (HPC), products and services requiring encryption, and microprocessors.
- BIS also made progress in the enforcement arena by investigating cases that resulted in significant fines and penalties, conducting new agent training, and selecting new attaches for Egypt and UAE.
- BIS published a notice establishing the Unverified List, which is a list of companies for which U.S. exporters should exercise heightened due diligence.
- BIS established the Administrative Case Review Board, an internal BIS Committee, to advise the Assistant Secretary for Export Enforcement at important stages of administrative enforcement cases to ensure that all positions taken by Export Enforcement (EE) are consistent, fair, and in line with the overall BIS program and enforcement goals. The Board reviews such matters as whether to issue a proposed charging letter and the proposed charges to be included, the penalties to seek in prosecuting a case, and the settlement parameters in case negotiations.

# Targets and Performance Summary

See individual Performance Goal section for further description of each measure.

## Performance Goal 1: Enhance the Efficiency of the Export Control System While Protecting U.S. National Security Interests

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2002 Met	FY 2002 Not Met
Average processing time for export licenses (Days)	40	38.8	40.4	39	39	X	
Level of exporter understanding of BIS export control requirements	New	New	New	Establish Baseline	Baseline Established (4.2)	X	
Knowledge gained indicator (scale of 0-4) <sup>1</sup>	New	New	New	Establish Baseline	Baseline Established (1.0)		

## Performance Goal 2: Ensure U.S. Industry Compliance With the Chemical Weapons Convention (CWC)

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2002 Met	FY 2002 Not Met
Number of site assistance visits conducted to assist companies prepare for CWC international inspections	New	New	New	12	16	X	

## Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2002 Met	FY 2002 Not Met
Number of investigations accepted for administrative or criminal remedies	68	93	81	75	82	X	
Number of post-shipment verifications completed	New	New	New	300	415	X	
Timely recommendations made on license applications by enforcement analysts (Days)	New	New	New	6	6	X	

**Performance Goal 4: Assist Key Nations to Establish Effective Export Control Programs**

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2002 Met	FY 2002 Not Met
Number of nonproliferation and export control international cooperative exchange activities conducted	45	39	43	44	53	X	
Number of targeted deficiencies remedied in the export control systems of key nations	New	New	New	20	25	X	

**Performance Goal 5: Coordinate Activities for the Protection of Critical Infrastructures, and to Assure that the Federal Government Continues to Be Able to Deliver Services Essential to the Nation's Security, Economy, and the Health and Safety of its Citizens**

Measure		FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2002 Met	FY 2002 Not Met
Number of outreach conferences/seminars	PCIS conference	New	New	New	1	1		
	Best practice conference	New	New	New	3	2	X	
	Audit seminars	New	New	New	40	46		
	Total	New	New	New	44	49		
Number of large, civilian federal departments and agencies working towards completion of the three step Project Matrix process	Step 1	New	New	New	9	3		
	Step 2	New	New	New	3	2		X
	Step 3	New	New	New	0	0		
	Total	New	New	New	12	5		

<sup>1</sup> Caution should be exercised before making judgment on this score prior to reading the method used to calculate the knowledge gained indicator under performance goal 1.

# Resource Requirements Summary

(Dollars in Millions. Funding amounts reflect total obligations.)

## Information Technology (IT)

### Full Time Equivalent (FTE)

#### Performance Goal 1: Enhance the Efficiency of the Export Control System While Protecting U.S. National Security Interests

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	1.0	0.8	0.8	2.0
Export Administration	19.1	16.1	18.8	24.7
Reimbursable	0.8	0.5	0.0	0.7
Total Funding	20.8	17.4	19.6	27.4
IT Funding <sup>1</sup>	0.6	0.7	0.8	1.6
FTE	148	136	136	153

#### Performance Goal 2: Ensure U.S. Industry Compliance With the Chemical Weapons Convention (CWC)

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	New	0.0	0.0	0.0
Export Administration	New	4.2	6.5	4.5
Reimbursable	New	0.0	0.0	0.0
Total Funding	New	4.2	6.5	4.5
IT Funding <sup>1</sup>	New	0.0	0.0	0.0
FTE	New	30	22	22

#### Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	1.2	1.2	1.1	2.2
Export Enforcement	23.9	24.6	25.9	27.3
Reimbursable	0.0	0.1	0.1	0.3
Total Funding	25.2	25.9	27.1	29.8
IT Funding <sup>1</sup>	0.7	1.0	1.0	1.8
FTE	183	175	178	169

**Performance Goal 4: Assist Key Nations to Establish Effective Export Control Programs**

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	1.2	1.4	1.5	1.4
Reimbursable	3.0	2.9	3.8	4.1
Total Funding	4.2	4.3	5.3	5.5
IT Funding <sup>1</sup>	0.1	0.4	0.4	0.3
FTE	9	9	9	9

**Performance Goal 5: Coordinate Activities for the Protection of Critical Infrastructures, and to Assure that the Federal Government Continues to Be Able to Deliver Services Essential to the Nation's Security, Economy, and the Health and Safety of its Citizens**

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	0.2	0.2	0.2	0.5
Critical Infrastructure	4.4	4.5	4.8	6.8
Homeland Security and Information				
Intelligence	0.0	0.0	0.0	0.0
Reimbursable	0.0	0.2	0.0	0.1
Total Funding	4.6	4.9	5.0	7.5
IT Funding <sup>1</sup>	0.1	0.2	0.2	0.4
FTE	7	16	16	21

**Discontinued Performance Goal: The U.S. Defense Industrial Base is Healthy and Competitive**

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Management and Policy Coordination	0.2	0.2	0.2	Discontinued
Export Administration	3.7	3.8	4.0	
Reimbursable	0.3	0.2	0.1	
Total Funding	4.2	4.2	4.3	
IT Funding <sup>1</sup>	0.1	0.2	0.2	
FTE	30	32	27	

Grand Total	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual
Operations and Administration				
Management and Policy Coordination	3.8	3.8	3.7	6.1
Export Administration	22.8	24.2	29.5	29.2
Export Enforcement	23.9	24.5	25.9	27.3
Critical Infrastructure	4.4	4.4	4.8	6.8
Homeland Security and Information Intelligence	0.0	0.0	0.0	0.0
Total Funding	58.9	60.9	67.8	74.6
Direct	54.9	57.0	63.8	69.4
Reimbursable <sup>2</sup>	4.0	3.9	4.0	5.2
IT Funding <sup>1</sup>	1.7	2.6	2.6	4.2
FTE	378	398	388	374

<sup>1</sup> IT funding included in total funding.

<sup>2</sup> Reimbursable funding included in total funding.

Note: Totals may differ slightly due to rounding.

## Skills Summary

- Extensive working knowledge of the EAA, Export Administration Regulations, and related Executive Orders pertaining to the control of dual-use commodities
- Knowledge of world political/economic systems and current trends in U.S. trade and national security and foreign policy issues
- Superior analytic abilities for complex licensing/policy decisions and regulatory interpretations

## IT Requirements

- Computer programmers, system analysts, database managers, and network engineers

## FY 2002 Performance Goals

### Performance Goal 1: Enhance the Efficiency of the Export Control System While Protecting U.S. National Security Interests

*(This goal has been reworded since the publication of the FY 2000 Annual Program Performance Report (APPR) and FY 2002 Annual Performance Plan (APP). This goal was previously worded as: "By use of a dual-use export control system that continuously is refined to respond to changing requirements, transactions that are contrary to U.S. security interests are deterred and transactions without proliferation potential are facilitated.")*

#### Corresponding Strategic Goal

Strategic Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

#### Rationale for Performance Goal

BIS serves U.S. companies engaged in international trade by analyzing export license applications for controlled commodities in accordance with Export Administration Regulations (EAR). BIS also serves U.S. companies in conjunction with the Departments of Defense, Energy, and State, by making prompt decisions on license and related applications, and by providing guidance to exporters on how to conform to applicable laws and regulations. BIS is particularly vigilant in evaluating transactions involving advanced technologies and dual-use products that potentially can be diverted to use in missile programs or in chemical, biological, nuclear, or conventional weapons programs. BIS also implements the Defense Production Act by analyzing the defense industrial and technology base to ensure that the U.S. remains competitive in sectors that are critical to the national security.

Responding to increased concern about the proliferation of weapons of mass destruction, BIS continues to refine U.S. export controls in light of geopolitical and business realities. BIS also seeks to enhance the effectiveness of the EAR by educating exporters and other stakeholders in the export licensing process thereby improving industry compliance with export control regulations. These efforts will increase the efficiency of the license processing system and thus enable exporters to be more competitive in the global economy while deterring transactions that threaten U.S. security interests.

#### *FY 2002 Performance*

In FY 2002, BIS made significant achievements for this goal by meeting all its performance targets. This was accomplished by reducing the average processing time on all completed license applications and by establishing a formal methodology to evaluate exporters' level of understanding of BIS's export control requirements.

**Measure 1a. Average Processing Time for Export Licenses (Days)**

	FY 1999	FY 2000	FY 2001	FY 2002
Target	33	33	32	39
Actual	40	38.8	40.4	39
Met/Not Met	Not Met	Not Met	Not Met	Met

*(This measure has been reworded since the publication of the FY 2000 Annual Program Performance Report (APPR) and FY 2002 Annual Performance Plan (APP).*

*This measure was previously worded as: "Average processing time for license applications (days)."*

**Explanation of Measure**

This measure reflects the average number of processing days that elapse between registration (date license application is entered in ECASS) and final action (date license is approved, denied, or returned without action) for all applications processed during the fiscal year. A reduction in the processing of export license applications allows U.S. exporters to maintain a more competitive edge by reducing their loss of contracts to foreign competitors who are subject to less stringent export controls.

BIS is seeking ways to reduce processing time for cases that undergo interagency review, including developing standard license conditions acceptable to all agencies that will apply to certain categories of cases. Because most applications are approved with conditions, defining pre-approved conditions acceptable to all export control agencies would significantly reduce the time it takes to craft agreements that are now done on a on a case-by-case basis.

***FY 2002 Performance***

The average processing time in FY 2002 for all completed applications was thirty-nine days, down from 40.4 days in FY 2001. This 1.4 percent decrease can be attributed to the continued decline in the processing time for non-referred applications. In FY 2001, non-referred applications were completed in twelve days. In FY 2001, BIS reduced the time frame for non-referred applications to eleven days. The challenge still remains to reduce the average processing time for cases that, pursuant to Executive Order, are required to undergo interagency review. In FY 2002, 86 percent of all completed licensing decisions were referred with an average processing time of forty-four days.

**Measure 1b. Level of Exporter Understanding of BIS Export Control Requirements**

	FY 1999	FY 2000	FY 2001	FY 2002
Target	New	New	New	Establish Baselines
Actual	Value of information (average score on scale of 1-5)			Baseline Established (4.2)
	Knowledge gained indicator (scale of 0-4)			Baseline Established (1.0)
Met/Not Met				Met

## Explanation of Measure

This measure indicates the effectiveness of BIS's export control outreach program. BIS's export control outreach program is a means for transferring knowledge from the government to the private sector regarding export control requirements. The BIS outreach program to the domestic and international business communities is a form of preventive enforcement that encourages compliance with the Export Administration Regulations (EAR). Seminars also help to: (1) heighten business awareness of the Bush Administration's export control policy objectives and (2) improve compliance with regulatory requirements. BIS established a baseline for the level of exporter understanding of the EAR using the results of surveys conducted in FY 2002. These survey results will be used to establish future targets to enhance BIS services and to strengthen exporter understanding of BIS export control requirements.

### *FY 2002 Performance*

BIS has always believed that its export control seminars convey information necessary for exporters to understand and comply with U.S. export controls; however, we had no data to validate this assumption. A survey was developed and implemented to determine if the seminars enhanced an exporter's level of understanding of export controls. The results of the FY 2002 surveys provide BIS with a baseline measurement of the effectiveness of its seminar program.

In FY 2002, BIS evaluated the results of seminars conducted during the year and created two metrics that measure the level of exporter understanding of BIS export control requirements. The first metric measures the overall value of information presented on a scale of 1 to 5 by calculating an average of all scores given to a set of questions. The FY 2002 average score is 4.2. We will use this baseline of 4.2 to measure progress in future years. The second metric is an index that reflects the knowledge gained by exporters who attend the seminar. This is done by looking at the scores of respondents' answers to knowledge they had on export control requirements before the seminar and the knowledge gained after the seminar.

Questions are ranked on a scale of 1-5 (1 for "not at all" comfortable with the subject matter and 5 for "completely" comfortable with the subject matter). The before and after scores are compared to measure the knowledge gained. The resulting index is on a scale of 0-4. For example, an exporter could rate himself a 5 before the seminar and a 5 after the seminar, meaning that he was completely comfortable with the information before and after the program, giving him a difference of 0. The score of 1.0 represents the knowledge gained after attendance at the seminar. Showing improvement in knowledge by a score of 1.0 will be the basis for future targets.

## Program Evaluation

In FY 2002, the General Accounting Office (GAO) and the Office of the Inspector General (OIG) continued their ongoing reviews of BIS's programs and activities. BIS's Office of Planning, Evaluation and Management (OPEM) conducted an annual review of the performance data to ensure that it was complete and accurate. During this process, significant deviations from projected targets, if any, were discussed with the appropriate office so that program changes could be made to help meet BIS performance goals.

## Performance Goal 2: Ensure U.S. Industry Compliance With the Chemical Weapons Convention (CWC)

*(This goal has been reworded since the publication of the FY 2000 Annual Program Performance Report (APPR) and FY 2002 Annual Performance Plan (APP). This goal was previously worded as: "The United States is in full compliance with the Chemical Weapons Convention (CWC) and all confidential business information of U.S. companies subject to inspection under the CWC is effectively protected.")*

### Corresponding Strategic Goal

Strategic Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

### Rationale for Performance Goal

BIS is responsible for ensuring U.S. industries' compliance with the treaty requirements of the CWC. BIS collects, validates, and aggregates data from those U.S. companies that manufacture or use chemicals covered by the convention; educates those companies on their treaty rights and obligations; and serves as the lead U.S. government agency for hosting international inspectors who are inspecting U.S. business facilities subject to convention requirements. BIS's primary host team role is to ensure that confidential business information is protected during inspections of U.S. firms.

#### *FY 2002 Performance*

During FY 2002, BIS collected and verified 960 declarations and reports from 294 private facilities in the U.S. Pursuant to CWC reporting obligations and timelines, BIS submitted information from 908 of these declarations and reports to the Organization for the Prohibition of Chemical Weapons (the others were returned without action). As Lead Agency for industry inspections, BIS hosted eight inspections of Schedule 2 plant sites. BIS's CWC outreach and education efforts included one outreach seminar in New Orleans, LA, and sixteen site assistance visits at Schedule 2, Schedule 3, and unscheduled discrete organic chemical facilities.

#### **Measure 2a. Number of Site Assistance Visits Conducted to Assist Companies Prepare for CWC International Inspections**

	FY 1999	FY 2000	FY 2001	FY 2002
Target	New	New	New	12
Actual				16
Met/Not Met				Met

## Explanation of Measure

BIS is responsible for overseeing industry compliance with the CWC. This responsibility includes facilitating domestic visits of international inspection teams to determine compliance with the multilateral treaty obligations by covered U.S. facilities, and informing industry of its obligations under the treaty. Industry site assistance visits prepare covered facilities to receive a team of international inspectors. These visits are to ensure that the inspections run smoothly with no potential loss of proprietary business information.

### *FY 2002 Performance*

BIS conducted sixteen site assistance visits at CWC-declared facilities during FY 2002. Due to heightened interest of declared facilities, BIS conducted four more visits than anticipated in the fiscal year. The site assistance visits addressed facilities' heightened attention to security issues associated with the protection of national security and confidential business information.

## Program Evaluation

In FY 2002, the General Accounting Office (GAO) and the Office of the Inspector General (OIG) continued their ongoing reviews of BIS's programs and activities. BIS's Office of Planning, Evaluation and Management (OPEM) conducted an annual review of the performance data to ensure that it was complete and accurate. During this process, significant deviations from projected targets, if any, were discussed with the appropriate office so that program changes could be made to help meet BIS performance goals.

## Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

*(This goal has been reworded since the publication of the FY 2000 Annual Program Performance Report (APPR) and FY 2002 Annual Performance Plan (APP). This goal was previously worded as: "Violations of dual-use export control laws are identified and violators are sanctioned.")*

### Corresponding Strategic Goal

Strategic Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

### Rationale for Performance Goal

To be effective, export controls must be enforced and violators punished. BIS enforces dual-use export controls for reasons of national security, foreign policy, nonproliferation, anti-terrorism, and short supply. The Bureau also enforces the antiboycott provisions of the EAR, the Chemical Weapons Convention Implementation Act (CWCIA), and the Fastener Quality Act. BIS special agents investigate potential violations of these laws, and build and present cases for criminal or administrative prosecution.

BIS enforcement personnel also conduct outreach and education programs to train U.S. exporters to identify and avoid illegal transactions. A key element of BIS's preventive enforcement program is the onsite visits made to both current and potential foreign end-users of sensitive technology. In addition, BIS works with its foreign counterpart agencies to encourage other governments to implement enforcement measures to complement the Bureau's export enforcement efforts.

### *FY 2002 Performance*

Export Enforcement met or exceeded its targets for each of its performance measures in FY 2002. For FY 2003, there are two changes to the measures. First, the "Number of Cases Opened That Result in the Prevention of a Criminal Violation or the Prosecution of a Criminal or Administrative Case" will replace the "Number of Investigations Accepted for Administrative or Criminal Remedies" to measure BIS's preventive enforcement activities. The target will increase from 75 to 85 percent to reflect this change. In addition, the target for the "Number of Post Shipment Verifications Completed" will increase from 300 to 375 based in part on a new focus on the end-use of certain sensitive commodities. (These changes are described in greater detail below.)

#### Measure 3a: Number of Investigations Accepted for Administrative or Criminal Remedies

	FY 1999	FY 2000	FY 2001	FY 2002
Target	73	80	70	75
Actual	68	93	81	82
Met/Not Met	Not Met	Met	Met	Met

## Explanation of Measure

This measure tracks the number of investigations that are accepted by the Office of Chief Counsel for Industry and Security (OCC/IS) for administrative remedy and by the Department of Justice (DOJ) for criminal prosecution. Acceptance denotes that a specific threshold of evidence has been met to proceed with prosecution. BIS will continue to devote its current level of enforcement resources to investigations that have the highest probability of leading to prosecution of export violators.

### *FY 2002 Performance*

The FY 2002 target of seventy-five cases accepted for administrative or criminal remedies was exceeded by completing eighty-two cases. The higher number of accepted cases reflects the growing level of experience of newer agents and a concerted effort on the part of EE senior agents to concentrate on developing investigations that lead to criminal and/or administrative remedies.

<b>Measure 3b. Number of Post-Shipment Verifications Completed</b>				
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>
Target	New	New	New	300
Actual				415
Met/Not Met				Met

## Explanation of Measure

BIS enforcement agents and U.S. and Foreign Commercial Service (US&FCS) officers conduct post-shipment verifications (PSVs) to ensure that exported items are used in accordance with the terms of the export license. PSVs are conducted to ensure that the products are being used by the authorized end-users (as approved on the export license application). A significant number of PSVs are conducted on high-performance computers as mandated by the National Defense Authorization Act of 1998.

### *FY 2002 Performance*

The FY 2002 target of 300 PSVs was met by completing 415 PSVs. This significantly higher number is due to a combination of factors. First, BIS enforcement agents were able to complete double the number of checks than expected on a Safeguards trip to Hong Kong. Second, two Safeguards trips were conducted in the same country, saving time in travel and preparation so that more checks could be completed at other locations. In addition, based on a new initiative this year that focused on the end-use of particular sensitive commodities, more PSVs were initiated and completed than expected.

<b>Measure 3c. Timely Recommendations Made on License Applications by Enforcement Analysts (Days)</b>				
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>
Target	New	New	New	6
Actual				6
Met/Not Met				Met

## Explanation of Measure

The Office of Enforcement Analysis (OEA) screens all export license applications to detect potential illegal exports, employing a process that includes screening exports of license applications against several databases. Although OEA will continue to perform this function, this performance measure will be discontinued in FY 2003 to enable BIS to focus on a limited number of measures that better represent its work and priorities in the enforcement area.

### *FY 2002 Performance*

In FY 2002, OEA analysts processed all of their license reviews within an average of six days, thus meeting the established target for this performance measure.

## Program Evaluation

In FY 2002, the General Accounting Office (GAO) and the Office of the Inspector General (OIG) continued their ongoing reviews of BIS's programs and activities. Specifically, the OIG conducted a review of Export Enforcement that was not complete at the end of FY 2002. BIS's Office of Planning, Evaluation and Management (OPEM) conducted an annual review of the performance data to ensure that it was complete and accurate. During this process, significant deviations from projected targets, if any, were discussed with the appropriate office so that program changes could be made to help meet BIS performance goals.

## Performance Goal 4: Assist Key Nations to Establish Effective Export Control Programs

*(This goal has been reworded since the publication of the FY 2000 Annual Program Performance Report (APPR) and FY 2002 Annual Performance Plan (APP). This goal was previously worded as: "Export controls of key nations are strong and effective.")*

### Corresponding Strategic Goal

Strategic Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

### Rationale for Performance Goal

Strong enforcement of U.S. export regulations is critical to protect U.S. security interests. However, U.S. national interests can also be jeopardized if sensitive materials and technologies from other nations reach countries of concern or terrorists. For this reason, BIS's strategy includes promoting the establishment of effective export control systems by other nations. BIS has been assisting the countries of the former Soviet Union and the former Warsaw Pact nations of Central Europe to strengthen their export control and enforcement regimes. BIS is also now extending technical assistance to other countries considered export or transit proliferation risks.

Through a series of bilateral and regional cooperative activities co-sponsored with the State Department, BIS helps the nations with which it works to (1) develop the procedures and requirements necessary to regulate the transfer of sensitive goods and technologies, (2) enforce compliance with these procedures and requirements, and (3) promote the industry-government partnerships necessary for an effective export control system to meet international standards.

#### *FY 2002 Performance*

In FY 2002, BIS made significant strides in this goal by working with key countries of the world to develop or strengthen their national export control systems. BIS's Nonproliferation and Export Control (NEC) Cooperation program plays a key role in the Bureau's bilateral and multilateral initiatives. NEC, with the assistance of other offices of BIS and other U.S. government agencies, organized and coordinated technical exchange workshops and multilateral conferences. This enabled BIS to meet its targets associated with this goal.

#### **Measure 4a: Number of Nonproliferation and Export Control International Cooperative Exchange Activities Conducted**

	FY 1999	FY 2000	FY 2001	FY 2002
Target	42	30	37	44
Actual	45	39	43	53
Met/Not Met	Met	Met	Met	Met

## Explanation of Measure

This measure includes technical exchanges, executive exchanges, symposiums, workshops, training courses, system capability assessment visits, and other multilateral and bilateral activities in which BIS has the lead or a significant role. This performance measure is being discontinued beginning in FY 2003 in order to focus on measure 4b, which tracks the outcomes of these activities. The new measure—focused on deficiencies remedied, rather than simply conferences held—reflects a results-oriented approach to management of this program.

### *FY 2002 Performance*

BIS met this target by completing fifty-three exchange activities. Heightened global awareness and sensitivity to the need for improving national export control systems resulted in a higher level of interest in and willingness on the part of program countries to participate in these export control technical cooperative programs.

### Measure 4b. Number of Targeted Deficiencies Remedied in the Export Control Systems of Key Nations

	FY 1999	FY 2000	FY 2001	FY 2002
Target	New	New	New	20
Actual				25
Met/Not Met				Met

## Explanation of Measure

This performance measure is intended to measure the achievement of BIS's international cooperation program in remedying deficiencies in the export control systems of key nations. The BIS program aims to enhance the export and transit control systems of nations that lack effective control arrangements. Each targeted deficiency represents a specific facet of an export or transit control system that BIS seeks to strengthen through its cooperative activities in participating countries. BIS's Model Country Program has identified fifty-six possible targeted deficiencies and matching remedial activities that are used to assess each country's export control program. Each targeted deficiency remedied shows how BIS can document the influence of its extensive bilateral and regional cooperative activities.

### *FY 2002 Performance*

This outcome measure was met as a result of actions taken by program countries to remedy deficiencies in their national export control system capabilities. There is a considerable lag between the date of the activity and the date evidence is found verifying that the desired outcome has occurred. BIS's best assessment of the reason for the increase is that the same heightened awareness that led countries to be more willing to participate in these programs led to completing more than anticipated.

## Program Evaluation

BIS's Office of Planning, Evaluation and Management (OPEM) conducted an annual review of the performance data to ensure that it was complete and accurate. During this process, significant deviations from projected targets, if any, were discussed with the appropriate office so that program changes could be made to help meet BIS performance goals.

In addition, two audits were conducted by Department of State independent contractors on BIS's NEC program during FY 2002, including: (1) a programmatic audit conducted by Los Alamos Technical Associates; and (2) a financial audit conducted by Leonard G. Birnbaum & Company.

## Performance Goal 5: Coordinate Activities for the Protection of Critical Infrastructures, and to Assure that the Federal Government Continues to Be Able to Deliver Services Essential to the Nation's Security, Economy, and the Health and Safety of its Citizens

### Corresponding Strategic Goal

Strategic Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

### Rationale for Performance Goal

The Critical Infrastructure Assurance Office (CIAO) is an interagency office housed in BIS<sup>1</sup> to coordinate federal government policy and initiatives on critical infrastructure protection. CIAO is responsible for (1) promoting national outreach, education, and awareness; (2) assisting federal agencies to analyze their own risk exposure and critical infrastructure dependencies; (3) coordinating and facilitating the integration of strategies for critical infrastructure assurance into the national strategies for homeland security and cyberspace security; and (4) developing initiatives to promote coordinated use of information technology for homeland security purposes.

#### *FY 2002 Performance*

Overall, in FY 2002, CIAO made important strides toward achieving its established goals while also meeting many of the exigent challenges that accompanied a year of extraordinary shifts in the U.S. national security threat environment. CIAO's Project Matrix assisted federal agencies to analyze critical infrastructure dependencies, assess vulnerabilities, and take mitigating steps to ensure the delivery of federal government services essential to the nation's security, economy, and the health and safety of its citizens.

Progress toward this mission was also realized this past year by CIAO's Outreach Program as it reshaped the corporate governance mindset and agenda of senior officers and auditors in boardrooms throughout the nation. Beyond measurable achievements, CIAO has also learned to think of its activities and performance in terms of meaningful outcomes rather than by strictly counting outputs. For example, CIAO's policy staff provided core support for important national policy initiatives, including publication of the President's *National Strategy to Secure Cyberspace*, released for public comment on September 18, and contributed to the *National Strategy on Homeland Security*, released in July 2002.

To sustain its exceptional and vital contributions to the U.S. made possible by a highly experienced and exceptionally talented workforce, CIAO must soon obtain the authority to incorporate full-time equivalent positions into its present staff complement, which consists largely of temporary contractors and interagency detailees.

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<sup>1</sup> On November 25, 2002, the President signed the Homeland Security Bill into law. The new law creates the Department of Homeland Security, to which the CIAO will be transferred.

**Measure 5a: Number of outreach conferences/seminars**

		FY 1999	FY 2000	FY 2001	FY 2002
PCIS Conf.	Target	New	New	New	1
	Actual	New	New	New	1
Best Practice Conf.	Target	New	New	New	3
	Actual	New	New	New	2
Audit Seminars	Target	New	New	New	40
	Actual	New	New	New	46
Total	Target	New	New	New	44
	Actual	New	New	New	49
Met/Not Met					Met

**Explanation of Measure**

These conferences and seminars target two specific groups of stakeholders: (1) private and public (state and local government) owners and operators of critical infrastructures, and (2) professional risk managers, such as the auditing community. With respect to infrastructure owners and operators, CIAO sponsored the 2002 Third Annual Membership meeting of the Partnership for Critical Infrastructure Security (PCIS). The PCIS comprises more than 70 Fortune-500 companies representing a cross-section of the critical infrastructure industries. The mission of PCIS is to identify and address infrastructure security matters common to all the sectors because of increased reliance on information systems and networks.

***FY 2002 Performance***

In 2002, the CIAO met this measure by conducting forty-nine seminars and conferences. As a component of this measure, CIAO completed forty-six nationwide seminars in conjunction with a consortium of risk management leaders. The seminars focused on building awareness and educating auditors and corporate executives on assessing and managing risk arising from increased information technology dependency. The CIAO received positive feedback on the effectiveness of the seminars from participants and, as a result, the risk management community has taken on educating auditors and corporate executives on the importance of security practices.

This year the CIAO also convened two conferences at major U.S. cities that involved critical infrastructure companies and state and local government officials who discussed lessons learned from the events of September 11, 2001. The CIAO, in cooperation with other stakeholders, formed steering groups to gather effective business practices for securing critical infrastructures. Effective critical infrastructure assurance practices will be published in a compendium for local communities to use as a guide.

As part of its mandate, the CIAO continues to provide leadership support and facilitate discussion by members of cross-sector groups to improve communication and cooperation. In September 2002, CIAO held the third annual membership meeting of the PCIS.

Moreover, although not directly projected and tracked by this measure, the CIAO conducted additional outreach efforts in FY 2002. The CIAO held two policy forums and two CXO executive forums in cooperation with one of its partners, CXO Media. These policy forums on key critical infrastructure security and leadership topics were open to the public and attracted media attention. The forums were aimed at raising the level of awareness of state and local communities, and preceded national-level conferences the CIAO co-sponsored with governors from Texas and New Jersey.

As part of the CIAO’s national strategy efforts the President asked the government to provide a roadmap on how best to secure Digital Control Systems (DCS) that underpin the U.S.’s critical services. DCS manage the delivery of key services including electricity, water, and transportation. In February 2002, government leaders with technical expertise and/or applicable policy and regulatory jurisdiction met to discuss security shortcomings in existing systems, ways to improve the security of those systems, and the government’s role. In April 2002, the CIAO, in conjunction with the White House and PCIS, hosted a meeting with stakeholders to determine ways to strengthen the security of DCS.

Last, the CIAO, in conjunction with the White House’s Office of Cyberspace Security, hosted the second annual conference in July 2002 for Inter-Information Sharing and Analysis Centers (ISACs). The purpose of the meeting was to present updates on the current status of ISAC formulation, information sharing and cross-sector exchange efforts, and to plan next steps. Cross-sector coordination and information sharing is essential to the effective protection of critical infrastructures. The CIAO convenes the sectors periodically to share experiences and practices. The ISACs are growing examples of cooperation between government and industry. Support of PCIS and ISAC development is not a new effort; after the events of September 11, 2001, the CIAO accelerated its activities with PCIS and has encouraged the creation of new ISACs.

**Measure 5b: Completion of an Integrated National Strategy for Securing the Nation’s Critical Infrastructures**

	FY 1999	FY 2000	FY 2001	FY 2002
Target	New	New	New	First version completed
Actual				Discontinued <sup>1</sup>
Met/Not Met				N/A

<sup>1</sup> This measure was discontinued in FY 2002. Per Executive Order, 13228, the Office of Homeland Security “shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and shall periodically review and coordinate revisions to that strategy as necessary.”

**Explanation of Measure**

This measure tracks the development and publication of a government-private sector national strategy for securing U.S. critical infrastructures. The White House initially assigned the task of coordinating the development and final integration of this strategy to the CIAO. Incident to a post-September 11 reorganization of responsibilities for developing strategies to respond to the new, expanded threat environment, effective October 8 and 16, 2001, the White House reassigned responsibility to the Office of Homeland Security (OHS) to “develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks;” whether physical or cyber in nature. That office, in conjunction with the President’s Critical Infrastructure Protection Board, is now developing strategies to address each of these threat environments that when completed will collectively comprise an integrated national strategy for protecting U.S. critical infrastructures.

Because the CIAO is no longer responsible for completing or revising the national strategy, this performance measure is no longer applicable and will be discontinued in FY 2003. However, CIAO remains deeply involved in the development of each of these strategies. At the request of OHS, CIAO has provided significant support to these efforts and remains the primary interface between OHS and the private sector on matters of cross-sectoral concern.

**FY 2002 Performance**

In keeping with the realignment of responsibilities discussed above, during FY 2002 CIAO provided significant staff and logistical support to OHS in connection with the national strategies for physical and cyberspace security that it is developing. In addition, CIAO’s work with lead agencies and private sector partners, including the PCIS, was instrumental to compiling considerable private sector information relevant to both the draft *National Strategy to Secure Cyberspace*, which was released for public comment on September 18, 2002, and the *National Strategy for the Physical Protection of Critical Infrastructures and Key Assets*, which OHS expects to release early in 2003.

<b>Measure 5c: Number of large, civilian federal departments and agencies working towards completion of the three step Project Matrix process</b>					
		FY 1999	FY 2000	FY 2001	FY 2002
Step 1	Target	New	New	New	9
	Actual	New	New	New	3
Step 2	Target	New	New	New	3
	Actual	New	New	New	2
Step 3	Target	New	New	New	0
	Actual	New	New	New	0
Total	Target	New	New	New	12
	Actual	New	New	New	5
Met/Not Met					Not Met

*Project matrix process steps:*

*Step 1: critical assets.*

*Step 2: other federal government assets, systems and networks on which those critical assets depend to operate.*

*Step 3: all associated dependencies on privately owned and operated critical infrastructures.*

**Explanation of Measure**

The CIAO seeks to assist civilian federal departments and agencies to analyze their dependencies on critical infrastructures so that appropriate vulnerability assessment and mitigation steps can be taken to ensure the delivery of federal government services that are essential to the nation’s security, economy, and the health and safety of its citizens.

Project Matrix is a time-intensive, multistage analytic process in which selected civilian federal departments and agencies identify: (1) their critical assets; (2) other federal government assets, systems, and networks on which those critical assets depend to operate; and (3) all associated dependencies of those assets on privately-owned and operated critical infrastructures.

### ***FY 2002 Performance***

Although the CIAO did not meet the target, Project Matrix made progress toward completion of the Project Matrix process with seventeen agencies. The Step 1 analyses and the reports on those analyses were completed for three agencies, and two Step 2 analyses and reports on those analyses were completed (for a total of five Step completions). In addition, after it completed the discovery process with one agency, Project Matrix determined the agency possesses no nationally-critical assets, and so no Step 1 or Step 2 analysis was appropriate for it. Further, Project Matrix also completed four Step 2 analyses during FY 2002 for which the reports were in draft stage but not yet complete at the end of the fiscal year. In summary, even though the goal of fully completing twelve Step activities was not attained, nine Step activities were either completed or very near completion.

CIAO fell short of its performance target for Project Matrix step completions principally because: (1) Project Matrix, (at the direction of the Office of Homeland Security to increase its completion rate in the aftermath of September 11, 2001), reduced the pace of agency assessment and reporting work temporarily in order to reformulate, reorder, and document changes to its established methodology; (2) inadequate staff resources existed; and (3) lack of engagement on Project Matrix by some federal agencies combined with a failure of these agencies to provide essential inputs to the process in accordance with projected timetables.

## **Program Evaluation**

In FY 2002, the General Accounting Office (GAO) and the Office of the Inspector General (OIG) continued their ongoing reviews of BIS's programs and activities. BIS's Office of Planning, Evaluation and Management (OPEM) conducted an annual review of the performance data to ensure that it was complete and accurate. During this process, significant deviations from projected targets, if any, were discussed with the appropriate office so that program changes could be made to help meet BIS performance goals.

## **BIS Data Validation and Verification**

BIS's Office of Planning, Evaluation and Management (OPEM) conducts an annual review of the performance data to ensure that it is complete and accurate. During this process, significant deviations from projected targets, if any, are discussed with the appropriate office so that program changes can be made to help meet BIS performance goals.

The actual validation process is conducted following procedures similar to audit principles including sampling and verification of data. Case information is regularly downloaded from the management information systems and imported into databases and spreadsheets for analysis. In some cases, information is manually checked against actual paper files (when available) to ensure the accuracy of information in the management information systems. Additionally, documentation is reviewed and a determination is made on its adequacy and sufficiency to support claims that outcomes and outputs have been achieved. The BIS Data Validation and Verification table can be found on the following page.

**BIS Data Validation and Verification**

Performance Measure	Data Source	Frequency	Data Storage	Verification	Data Limitations	Actions to be Taken
<b>Measure 1a:</b> Average processing time for export licenses (days)	ECASS	Annual	ECASS	BIS's OPEM will perform two types of checks to ensure data are entered where they should be (system integrity) and to ensure that the data are accurate and valid.	None	None
<b>Measure 1b:</b> Level of exporter understanding of BIS export control requirements	Survey	Annual	Survey results database	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
<b>Measure 2a:</b> Number of site assistance visits conducted to assist companies prepare for CWC international inspections	Paper records such as trip reports.	Annual	Office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
<b>Measure 3a:</b> Number of investigations accepted for administrative or criminal remedies	ECASS	Annual	ECASS	BIS's OPEM will perform two types of checks to ensure data are entered where they should be (system integrity) and to ensure that the data are accurate and valid.	None	None
<b>Measure 3b:</b> Number of post-shipment verifications completed						
<b>Measure 3c:</b> Timely recommendations made on licenses applications by enforcement analysis (days)						
<b>Measure 4a:</b> Number of nonproliferation and export control international cooperative exchange activities conducted	Paper records such as reporting cables and BIS after activity reports.	Annual	Electronic or office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
<b>Measure 4b:</b> Number of targeted deficiencies remedied in the export control systems of key nations	Paper records such as official publications and academic/intelligence community analyses.	Annual	Electronic or office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
<b>Measure 5a:</b> Number of outreach conferences or seminars	Paper records such as agendas, travel vouchers, and thank you letters.	Annual	Office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
<b>Measure 5b:</b> Completion of an integrated national strategy for securing the Nation's critical infrastructures (discontinued measure)	N/A	N/A	N/A	N/A	N/A	N/A
<b>Measure 5c:</b> Number of large, civilian federal departments and agencies working towards completion of the three step Project Matrix process	Paper records	Annual	Office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None

