

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**FY 2007 Annual Performance Plan**

The mission of BIS is to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership.

The budget request for FY 2007 is \$78.6 million, including an increase of \$3.3 million for the adjustments necessary for base activities and \$.3 million for a program increase that will launch a program to improve BIS's automated system for electronic processing of export license applications.

The following BIS activities serve to advance responsible economic growth and trade while protecting American security:

**Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system:** BIS administers and enforces controls on exports of dual-use goods and technologies to counter proliferation of weapons of mass destruction, combat terrorism, and pursue other national security policy goals. BIS also serves as the lead agency for ensuring U.S. industry compliance with the Chemical Weapons Convention (CWC).

**Integrate non-U.S. actors to create a more effective global export control and treaty compliance system:** The effectiveness of U.S. export controls is enhanced by strong controls in other nations that export or transship sensitive goods and technologies. BIS works to improve the participation and compliance of existing members of the multilateral export control regimes and cooperates with other countries to help them establish effective export control programs.

**Eliminate illicit export activity outside the global export control and treaty compliance system:** BIS's enforcement efforts detect, prevent, and prosecute illicit export activity occurring outside of the global export control system, with a primary focus on weapons of mass destruction and terrorism.

**Ensure continued U.S. technology leadership in industries that are essential to national security:** BIS works to ensure that the United States remains competitive in industry sectors and sub-sectors critical to national security. To this end, BIS discharges responsibilities under the Defense Production Act and other laws, including administration of the Federal government's Defense Priorities and Allocations System, preparation of reports on selected U.S. industries and the impact of defense trade offsets, advocacy for U.S. defense companies competing for international sales opportunities, and evaluation of the security impact of certain proposed foreign investments in U.S. companies.

**FY 2007 Budget Priorities/Management Challenges:**

**Export Control Automated Support System (ECASS) Modernization Initiative (\$272,000)**

**Summary:**

The ECASS Modernization Initiative is essential if BIS is to continue to successfully administer the system of dual-use export controls that lie at the heart of its national security mission. Legacy ECASS must be replaced with an upgraded system, and this initiative has been designed to do so in the most efficient and effective manner.

FY 2007 Program Increases/Decreases (Dollars in Thousands)

	Base		Increase/Decrease	
	FTE	Amount	FTE	Amount
Export Administration	209	\$38,597	0	\$272

For a detailed description, see Exhibit 13, page 42.

### **Unit Cost Measures**

BIS does not have performance measures that can be shown in unit cost terms. However, BIS is working with its accounting service provider to develop a system to track expenditures associated with each performance measure. Once this tracking system is in place, BIS will develop unit cost performance measures, establish baselines, and project targets that are meaningful.

### **FY 2005 Program Assessment Rating Tool (PART) Process**

In FY 2005, BIS was evaluated using the PART, receiving a score of 72%. The following is quoted from the FY 2005 BIS PART.

*The program aims to facilitate US industrial competitiveness in strategic international trade while preventing sensitive goods from falling into dangerous hands. The program does so by administering exports of certain dual-use commodities and enforcing export control, anti-boycott and certain other public safety laws.*

*The program's purpose, design, and management are strong, however it would benefit from an updated, reauthorized Export Administration Act. A new act would clarify some outdated control requirements, increase penalties for violations, and specify interagency licensing processes.*

*The program has long-term and annual measures that relate to the program's goals, and targets are largely met, including those related to increasing efficiency. For example, with little change in resources, the program was able to increase the number of export licenses reviewed as well as processing such licenses more rapidly in 2004, thus better serving the export community.*

During the FY 2005 PART process, discussions with the Office of Management and Budget (OMB) stressed the need for BIS to review their overall performance goals, measures, and targets. The PART provided the impetus needed to initiate an overall BIS review of the existing performance metrics in the fall of 2005.

Target and Performance Summary

BIS is currently in the process of reviewing its performance goals, measures and targets to better reflect the strategic aims of the Department of Commerce, Bureau of Industry and Security, and the Administration.

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Target	FY 2007 Target
Performance Goal 1: Advance U.S. National Security, Foreign Policy, and Economic Interests by Enhancing the Effectiveness and Efficiency of the Export Control System						
Median Processing Time for Referrals of Export Licenses to Other Agencies (Days)	New	4	3	3	9	9
Median Processing Time for Export Licenses Not Referred to Other Agencies (Days)	New	9	9	7	15	15
Median Processing Time for Issuing Draft Regulations (Months)	New	7	2	1	3	3
Level of Exporter Understanding of BIS Export Control Requirements	Value of Information (average score on scale of 1-5)	4.2	4.2	4.2	4.2	4.2
	Percent Knowledge Gained (Index)	New	New	45%	46%	45%
Percent of Industry Assessments Resulting in BIS Determination on Export Controls	New	New	New	New	100%	100%
Performance Goal 2: Ensure U.S. Industry Compliance with the CWC Agreement						
Number of Site Assistance Visits Conducted to Assist Companies Prepare for International Inspections	16	12	12	12	2	2
Performance Goal 3: Prevent Illegal Exports and Identify Violators of Export Prohibitions and Restrictions for Prosecution						
Number of Investigative Actions That Result in the Prevention of a Violation and Cases Which Result in a Criminal and/or Administrative Prosecution	82	250	310	583	315	315
Number of Post-Shipment Verifications Completed	300	397	401	512	500	500
Performance Goal 4: Enhance the Export and Transit Controls of Nations Seeking to Improve Their Export Control System						
Number of Targeted Deficiencies Remedied in the Export Control Systems of Program Nations	25	39	41	40	40	40

Resource Requirements Summary

Performance Goal 1: Advance U.S. National Security, Foreign Policy, and Economic Interests by Enhancing the Effectiveness and Efficiency of the Export Control System								
	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 President's	FY 2007 Base	Increase/ Decrease	FY 2007 Request
Management and Policy Coordination	2.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Export Administration	24.7	28.3	22.4	27.8	32.9	37.0	0.3	37.3
Reimbursable <sup>1</sup>	0.7	1.5	1.1	1.7	1.0	1.0	0.0	1.0
Total Funding <sup>2</sup>	27.6	29.8	25.8	29.5	33.9	38.0	0.3	38.3
IT Funding	1.8	1.6	2.3	2.2	2.2	2.2	0.0	2.2
FTE <sup>3</sup>	156	190	163	171	201	202	0.0	202

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

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

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above.

Performance Goal 2: Ensure U.S. Industry Compliance with the Chemical Weapons Convention Agreement								
	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 President's	FY 2007 Base	Increase/ Decrease	FY 2007 Request
Management and Policy Coordination	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Export Administration	4.5	5.9	7.0	7.2	7.2	7.2	0.0	7.2
Reimbursable	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Funding	4.5	5.9	7.0	7.2	7.2	7.2	0.0	7.2
IT Funding	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FTE	22	29	22	23	23	23	0	23

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

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

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above.

Performance Goal 3: Prevent Illegal Exports and Identify Violators of Export Prohibitions and Restrictions for Prosecution

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 President's	FY 2007 Base	Increase/ Decrease	FY 2007 Request
Management and Policy Coordination	2.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Export Enforcement	27.3	40.7	30.2	31.4	35.0	32.2	0.0	32.2
Reimbursable <sup>1</sup>	0.3	0.3	0.3	0.3	0.3	0.3	0.0	0.3
Total Funding	30.0	41.0	34.3	31.7	35.3	32.5	0.0	32.5
IT Funding <sup>2</sup>	2.0	2.1	3.8	2.4	2.4	2.4	0.0	2.4
FTE	171	226	173	157	181	183	0.0	183

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

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

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above.

Performance Goal 4: Enhance the Export and Transit Control Systems of Nations that Lack Effective Control Arrangements

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 President's	FY 2007 Base	Increase/ Decrease	FY 2007 Request
Management and Policy Coordination	1.5	1.4	2.2	1.7	1.7	1.9	0.0	1.9
Reimbursable <sup>1</sup>	3.8	4.1	7.0	6.9	14.8	6.4	0.0	6.4
Total Funding	5.3	5.5	9.2	8.6	16.5	8.3	0.0	8.3
IT Funding <sup>2</sup>	0.4	0.3	.5	.1	0.1	.1	0.0	0.1
FTE	9	9	9	11	11	11	0.0	11

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

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

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above.

Grand Total								
	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 President's	FY 2007 Base	Increase/ Decrease	FY 2007 Request
Operations and Administration								
Management and Policy Coordination	6.0	2.2	1.9	1.7	1.7	1.9	0.0	1.9
Export Administration	29.2	33.8	29.4	35.0	40.1	44.2	0.3	44.5
Export Enforcement	27.3	40.7	29.3	31.4	35.0	32.2	0.0	32.2
Total Funding	67.6	76.7	73.9	77.0	92.9	86.0	0.3	86.3
Direct	62.5	67.9	67.8	68.1	76.8	78.3	0.3	78.6
Reimbursable <sup>1</sup>	5.1	8.8	6.1	8.9	16.1	7.7	0.0	7.7
IT Funding <sup>2</sup>	4.2	4.2	6.3	4.7	4.7	4.7	0.0	4.7
FTE <sup>3</sup>	358	454	365	362	416	419	0.0	419

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

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

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above.

Human Capital Initiative Funding is included in "overhead" and distributed appropriately across all four BIS Goals.

### **Skill Summary:**

Extensive working knowledge of the EAA, Export Administration Regulations (EAR), 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

**Performance Goal 1: Advance U.S. National Security, Foreign Policy, and Economic Interests by Enhancing the Effectiveness and Efficiency of the Export Control System**

Corresponding Strategic Goal 1: Provide the Information and Tools to Maximize U.S. Competitiveness and Enable Economic Growth for American Industries, Workers, and Consumers

Corresponding General Goal / Objective 1.2: Advance Responsible Economic Growth and Trade While Protecting American Security

Rationale:

BIS assists U.S. companies engaged in international trade by analyzing export license applications for controlled commodities in accordance with EAR. BIS, in conjunction with the Departments of State, Defense, and Energy, also assists U.S. companies 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 DPA by analyzing the defense industrial and technology base to ensure that the United States remains competitive in sectors that are critical to national security.

Responding to an increased concern about the proliferation of weapons of mass destruction, BIS continues to refine U.S. export controls in light of geopolitical and economic 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. The language of performance goal 1 is being changed from “Protect the U.S. National Security and Economic Interests by Enhancing the Efficiency of the Export Control System” to “Advance U.S. National Security, Foreign Policy, and Economic Interests by Enhancing the Effectiveness and Efficiency of the Export Control System,” which more accurately describes BIS’s mission and responsibilities.

The ECASS Modernization Initiative is essential if BIS is to continue to successfully administer the system of dual-use export controls that lie at the heart of its national security mission. Legacy ECASS must be replaced with an upgraded system, and this initiative has been designed to do so in the most efficient and effective manner.

FY 2007 Program Increases/Decreases:

Program Initiative	Funding Request	Anticipated Impact	Location in the Budget
BIS Export Control Automated Support System (ECASS) Modernization Initiative	0 Positions, 0 FTEs, and \$272,000	BIS will begin the ECASS Modernization Initiative to reengineer 10% of its licensing application process and define further requirements.	Export Administration See Page BIS-42.

#### Measure 1a: Median Processing Time for Referral of Export Licenses to Other Agencies (Days)

This measure, which was developed using the timeliness factors in Executive Order 12981, tracks the median processing time of an export license application from its receipt to its referral to other agencies. Approximately 85 percent of all export licenses must be referred to other agencies as dictated by Executive Order 12981. BIS is reviewing whether to revise this measure to more clearly track the performance standard set forth in the Executive Order. Until the measure is formally revised, BIS will retain the target of 9 days in FY 2007.

#### Measure 1b: Median Processing Time for Export Licenses Not Referred to Other Agencies (Days)

This is the other component of the license application inventory (about 15 percent of all applications received). As with measure 1a, BIS is reviewing whether to revise this measure to more clearly track the performance standard set forth in Executive Order 12981. Until the measure is formally revised, BIS will retain the target of 15 days in FY 2007.

#### Measure 1c: Median Processing Time for Issuing Draft Regulations (Months)

BIS routinely issues new and amended regulations to effectuate its responsibilities under the EAA. Whether regulations liberalize or restrict industry activity, their prompt promulgation benefits the United States from a trade, economic, and national security perspective. Regulatory changes can, for example, reduce the number of license requirements imposed on U.S. exporters, close loopholes in the regulations, implement international agreements, adapt controls to geopolitical developments, or address new export control challenges. The majority of BIS regulations issued implement changes agreed to in the four multilateral control regimes in which the United States participates: Wassenaar Arrangement (conventional arms and related sensitive dual-use goods), Nuclear Suppliers Group, Missile Technology Control Regime, and the Australia Group (chemical and biological controls). This measure will track the length of time it takes BIS to issue a draft regulation after regime changes have been received and analyzed. There is a significant amount of time that is spent analyzing each regime resolution before actual drafting of a regulation can begin. For example, BIS must determine the appropriate level of unilateral controls for items decontrolled by the Regimes before it can change its regulations. Until the measure is formally revised, BIS will retain the target of 3 months in FY 2007.

#### Measure 1d. Level of Exporter Understanding of BIS Export Control Requirements

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. BIS's outreach program to the domestic and international business communities is a form of preventive enforcement that encourages compliance with the EAR. Seminars also help to heighten business awareness of the U.S. Government's export control policy objectives and improve compliance with regulatory 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 second metric is an index that reflects the knowledge gained by exporters who attend BIS seminars. Until the measure is formally revised, BIS will retain the current targets in FY 2007.

#### Measure 1e: Percent of Industry Assessments Resulting in BIS Determination on Export Controls

The Office of Technology Evaluation (OTE), (to be funded and established in FY 2006), will be responsible for assessing the current status of technologies employed in U.S. industries whose products are subject to export controls – in order to determine if those technologies have changed in such ways that existing controls should be revised or new controls should be imposed, and in order to determine if the control criteria remain pertinent and relevant or should be altered so the controls achieve the greatest possible beneficial effect and avoid unintended consequences. Because all determinations by BIS concerning whether

existing controls should be revised ought to be informed by rigorous assessments of the technology employed in producing the products to which the controls apply, BIS seeks to establish an OTE to conduct such assessments. BIS anticipates that such assessments will be of such importance to its decision making concerning revising existing or imposing new controls that 100 percent of the export control-focused industry assessments OTE conducts will be instrumental in determining whether – and, if so, how – to revise existing or establish new export controls. Until the measure is formally revised, BIS will retain the 100% target for FY 2007.

#### Program Evaluations:

The Government Accountability Office (GAO) and the Department of Commerce's Office of Inspector General (OIG) continued to review BIS's programs and activities. BIS's Office of Planning, Evaluation and Management (OPEM) conducted a review of the performance data to ensure that it was complete and accurate. In addition to the review, OPEM produces monthly performance reports for the performance measures tracked by ECASS and semiannual reports for other selected measures tracked by paper evidence. 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.

#### Cross Cutting Activities:

##### Intra-Department of Commerce

BIS works with the International Trade Administration's (ITA) U.S. and Foreign Commercial Service (US&FCS) offices located around the world to coordinate activities associated with planning and conducting export control seminars, Pre-License Checks (PLCs), and Post-Shipment Verifications (PSVs).

BIS employs a full-time EA specialist in the Department of Commerce's Public Information Office in the Reagan International Trade Center. The specialist operates as an export counselor providing information in response to walk-in or telephone inquiries.

##### Other Government Agencies

Departments of State, Defense, Energy, Treasury, and Justice and the Central Intelligence Agency (CIA) – BIS works with these Executive Branch agencies to develop and implement U.S. export control policy and programs, including reviewing license applications, developing encryption policy and high-performance computer control policy, implementing sanctions, and participating in multilateral regimes such as the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Australia Group. BIS also coordinates intelligence and law enforcement operations with these agencies.

##### Government/Private Sector

Technical Advisory Committee – BIS consults with Committee members who are appointed by the Secretary of Commerce to advise the U.S. Government on matters and issues pertinent to implementation of the provisions of the EAA and the EAR, as amended, and related statutes and regulations. These issues relate to U.S. export controls for national security, foreign policy, nonproliferation, and short supply reasons.

External Factors and Mitigation Strategies:

Compliance with dual-use export control laws may be compromised if exporters are not aware of changes in requirements pertaining to them. BIS mitigates this situation by ensuring that exporters have ready access to regulatory and policy changes through seminars, individual counseling, and the Internet.

**Performance Goal 2: Ensure U.S. Industry Compliance with the CWC Agreement**

Corresponding Strategic Goal 1: Provide the Information and Tools to Maximize U.S. Competitiveness and Enable Economic Growth for American Industries, Workers, and Consumers

Corresponding General Goal / Objective 1.2: Advance Responsible Economic Growth and Trade While Protecting American Security

Rationale:

BIS is responsible for ensuring U.S. industry's compliance with the treaty requirements of the CWC Agreement. 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. In addition, with the ratification by the U.S. Senate of the Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement, BIS will serve as lead U.S. Government agency in U.S. industry's compliance with the Protocol and will be required to discharge responsibilities similar to those imposed under the CWC.

Program Increases/Decreases: None.

Measure 2a: Number of Site Assistance Visits Conducted to Assist Companies Prepare for International Inspections

BIS is responsible for overseeing industry compliance with the CWC and under the IAEA Protocol (when ratified). 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.

The FY 2006 and FY 2007 target for this measure is being reduced from twelve (12) Site Assistance Visits to two (2) per year. The OPCW has revised their basis for selecting U.S. inspections. During the initial phases of CWC implementation, BIS knew which facilities were going to be inspected by the OPCW because the treaty required all Schedule 1 and 2 facilities to receive an initial inspection. However, all of the Schedule 1 and 2 facilities have been inspected, and the OPCW will reinspect them once every three to five years and conduct a lottery to inspect Schedule 3 facilities and unscheduled discrete organic chemical (UDOC) facilities. BIS has conducted site assistance visits (SAVs) at all Schedule 1, 2, and 3 facilities that have consented to receive them. There are 552 UDOC plant sites subject to inspection, and since 2000 only four of those sites have been inspected. Given the inability to determine which facilities will be inspected and the low frequency of inspection, BIS is reducing the target for this measure. A revised measure is under consideration which will eliminate this measure entirely and focus on an overall measure of industry compliance with the CWC Agreement. Until the measure is formally revised, BIS will retain the target of two Site Assistance Visits in FY 2006 and FY 2007.

Program Evaluations:

The GAO and the Department of Commerce's OIG continued to review BIS's programs and activities. BIS's OPEM conducted a review of the performance data to ensure that it was complete and accurate. In addition to the review, OPEM produces monthly performance reports for the performance measures tracked by ECASS and semiannual reports for other selected measures tracked by paper evidence. 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.

Cross Cutting Activities:

Intra-Department of Commerce: None

Other Government Agencies:

Governments of nations that conform to the CWC – BIS has negotiated bilateral and multilateral agreements that demonstrate compliance with the CWC.

Departments of State and Defense – BIS works with these Executive branch agencies to develop and implement U.S. policy and programs related to implementation of the CWC and to effectively coordinate industry site visits so that inspected companies comply with their statutory and regulatory obligations.

Government/Private Sector:

American Chemistry Council and the Society of Chemical Manufacturers of America – BIS negotiates controls and policies that conform to the CWC while also protecting the valid concerns and interests of U.S. industry.

External Factors and Mitigation Strategies:

BIS conducts both informational seminars and outreach visits that help companies prepare for CWC inspections. The OPCW establishes the number of CWC inspections based on: (1) a mandated minimum number, and (2) risk assessments that the OPCW performs. BIS mitigates these potential problems by working closely with the OPCW to anticipate inspection requirements and properly address them in the budget planning process.

### **Performance Goal 3: Prevent Illegal Exports and Identify Violators of Export Prohibitions and Restrictions for Prosecution**

Corresponding Strategic Goal 1: Provide the Information and Tools to Maximize U.S. Competitiveness and Enable Economic Growth for American Industries, Workers, and Consumers

Corresponding General Goal / Objective 1.2: Advance Responsible Economic Growth and Trade While Protecting American Security

#### Rationale:

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 (FQA). 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 educational programs to train U.S. exporters to identify and avoid illegal transactions. A key element of BIS's preventive measures program is the on-site visits made to both current and potential foreign end-users of sensitive technology. In addition, BIS works with the international multilateral regimes for non-proliferation to encourage other governments to implement enforcement measures consistent with the Bureau's export enforcement efforts.

Program Increases/Decreases: None.

Measure 3a: Number of Investigative Actions That Result in the Prevention of a Violation and Cases Which Result in a Criminal and/or Administrative Prosecution

This performance measure will capture the actual number of EE leads and cases that result in a prevention of a violation. Prevention may be accomplished by an investigative lead which results in agent outreach to a business, a freight forwarder, or any party to an export, and deters or prevents an unauthorized export. This measure will also count preventions that are achieved through cases that result in a criminal penalty or administrative resolution, rather than simply investigations accepted for prosecution. This measure will reflect the actual number and type of preventive enforcement actions conducted including: detentions of suspect exports, seizures of unauthorized shipments, industry outreach and issuance of warning letters for first time and/or minor export offenses, screened licenses targeted for enforcement concerns, recommended denials of license applications based on diversion or false statement indicators, recommended placement of parties on the Unverified List and denials on visa requests, detection of violations of license conditions, and other preventive actions that identify and prevent suspect transactions. The implementation of this measure will allow BIS to gauge its overall effectiveness in terms of successful prosecutions and preventive enforcement.

BIS will monitor and enhance compliance with license conditions, by detecting and prosecuting violations of such conditions. Until the measure is formally revised, BIS will retain the target of 315 in FY 2006 and FY 2007.

### Measure 3b: Number of Post-Shipment Verifications Completed

The continued rapid development of technology presents great economic and trade opportunities for the United States but also raises significant potential risks to our national security and our ability to maintain a military and technological advantage. Consistent with DOC's goal of increasing national security while facilitating trade, BIS's Office of Export Enforcement (OEE) conducts end-use verification checks (EUCs). A primary means for conducting EUCs is Sentinel visits (formerly known as "Safeguards") conducted under the Sentinel Program. During Sentinel trips, OEE agents attempt to verify bona fides of consignees named on a BIS license, and confirm that the equipment is being used in conformance with conditions on the license. By conducting PSVs, BIS can provide a level of assurance that foreign end-users are aware of BIS license restrictions and comply with them. PSV's also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees.

Sentinel trips are resource intensive. Each trip requires a team of two special agents for nearly six weeks to perform target analysis, pre-departure technical training, actual travel, and the subsequent post-trip briefings and final report. The end-use check workload is likely to increase significantly. With the increase of trade and licensing applications in key sectors, and the increased number of requests from other U.S. Government agencies, BIS will increase the target to 500 in FY 2006 and FY 2007. The PSV target of 500 is a 25 percent increase from FY 2005 due to the increase in the Sentinel funding.

#### Program Evaluations:

The GAO and the Department of Commerce's OIG continued to review BIS's programs and activities. BIS's OPEM conducted a review of the performance data to ensure that it was complete and accurate. In addition to the review, OPEM produces monthly performance reports for the performance measures tracked by ECASS and semiannual reports for other selected measures tracked by paper evidence. 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.

#### Cross Cutting Activities:

##### Intra-Department of Commerce

BIS works with the Office of Chief Counsel for Industry and Security (OCC/IS) on administrative cases developed by BIS's enforcement agents.

BIS works with the Census Bureau on seminars and data sharing, including Shipper's Export Declarations (SED). BIS is also working with the Census Bureau on the Automated Export System, a joint venture with other U.S. Government agencies that seeks to implement electronic submission of SED data by the exporter.

BIS works with the ITA and the US&FCS offices located around the world to conduct PSVs.

## Other Government Agencies

Departments of State, Justice (DOJ) and its Federal Bureau of Investigation (FBI), Homeland Security and its Bureau of Immigration and Customs Enforcement (ICE), U.S. Postal Service, and the intelligence community – BIS works with these agencies on law enforcement matters, including development of leads, intelligence coordination, implementation of export control policy, and coordination of export license, antiboycott, and fastener quality investigations. BIS field offices participate in interagency working groups with the FBI and the U.S. Postal Service, and shares data with ICE via the Treasury Enforcement Computer System (TECS).

Government/Private Sector: None

### External Factors and Mitigation Strategies:

Priorities and resources of DOJ and OCC/IS directly influence the achievement of this goal. BIS mitigates this situation by targeting investigations effectively, conducting them in a professional manner, and presenting them persuasively to prosecutors. BIS may also have to rely on other agencies to conduct certain investigative activities. BIS mitigates this by maintaining regular communication with those agencies. BIS also diligently seeks opportunities to work cases jointly with other law enforcement agencies.

The increasing volume and complexity of international commerce directly increases the difficulty of applying and enforcing export controls and, consequently, the difficulty of preventing proliferation. BIS mitigates this situation by conducting visits overseas to educate foreign consignees about U.S. export laws and by sharing information with foreign export control officials. BIS attempts to focus investigative resources on areas that pose the greatest risk to national security.

### **Performance Goal 4: Enhance the Export and Transit Controls of Nations that Lack Effective Control Arrangements**

Corresponding Strategic Goal 1: Provide the Information and Tools to Maximize U.S. Competitiveness and Enable Economic Growth for American Industries, Workers, and Consumers

Corresponding General Goal / Objective 1.2: Advance Responsible Economic Growth and Trade While Protecting American Security

### Rationale:

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.

Program Increases/Decreases: None

Measure 4a: Number of Targeted Deficiencies Remedied in the Export Control Systems of Program Nations

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. BIS's program aims to enhance the export and transit control systems of nations are seeking to improve their export control systems. 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 59 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.

BIS bases and establishes future targets on the pace and timing of activities and the availability of resources to conduct the exchanges that produce outcomes. Because they require action on the part of sovereign governments, outcomes from BIS activities are often not immediately achieved. As a result, for many outcomes, there is an inherent time delay of as much as six months to two years between the performance of an export control technical exchange that addresses a specific desired outcome and BIS's ability to obtain confirming evidence that the outcome has been achieved. Estimates of future targets are based on historical experience related to the number of outcomes that have been addressed by past technical exchanges, but that have not yet been confirmed with evidence, and the number of new outcomes that will be addressed by technical exchanges during the current fiscal year. BIS expects a slightly higher level of activity in this area and increased reimbursable funding from other agencies. The target of 40 will be retained in FY 2006 and FY 2007.

Program Evaluations:

The GAO and the Department of Commerce's OIG continued to review BIS's programs and activities. BIS's OPEM conducted a review of the performance data to ensure that it was complete and accurate. In addition to the review, OPEM produces monthly performance reports for the performance measures tracked by ECASS and semiannual reports for other selected measures tracked by paper evidence. 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.

Cross Cutting Activities:

Intra-Department of Commerce

ITA and OCC/IS support BIS's program to assist key nations to establish strong, effective export controls.

Other Government Agencies

ICE and the CIA's Weapons Intelligence, Nonproliferation, and Arms Control Center – BIS coordinates with these agencies regarding export control cooperation technical exchanges and activities with other nations.

Departments of State, Defense, Energy, and Justice, ICE, and the FBI – BIS works with these agencies to coordinate assessments of the international export control system and to prioritize, design, and fund programs in which interagency resources are focused on specific national and regional issues.

Government/Private Section: None

External Factors and Mitigation Strategies:

BIS works with other agencies on the technical exchange and other activities relating to international export control cooperation. Two factors that drive the scheduling of technical exchange activities are: (1) the interagency coordination process that enables agency experts to participate in the exchanges, and (2) the priorities of the countries involved. BIS mitigates these factors by conducting close and frequent consultations with pertinent U.S. agencies and client nation officials.

Unforeseeable shifts in U.S. policy (for example, suspension of activity with a particular country) or in the policies of client nations occasionally may preclude execution of funded, scheduled events or participation of certain national invitees. BIS mitigates these situations by designing fewer events that appeal to a broader range of potential participants. BIS also works with service providers to minimize cancellation costs.

Data Validation and Verification

BIS's 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's 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 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.

Performance Measure	Data Source	Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be taken
Median Processing Time for Referrals of Export Licenses to Other Agencies (Days)	ECASS	Monthly	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
Median Processing Time for Export Licenses Not Referred to Other Agencies (Days)	ECASS	Monthly	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
Median Processing Time for Issuing Draft Regulations (Months)	Paper records such as official publications and draft regulations	Semi-annual	Office Files	BIS's OPEM will validate the performance measure against supporting documentation	None	None

Performance Measure		Data Source	Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be taken
Level of Exporter Understanding of BIS Export Control Requirements	Value of Information (Average Score on a scale of 1-5)	Export Seminar Surveys	Monthly	Survey Results Database	BIS's OPEM will validate the performance measure against supporting documentation	Data is dependent on the voluntary responses of seminar participants and in based on respondent opinion. Opinion may, or may not be a factual indicator of performance.	None
	Percent Knowledge Gained Index	Export Seminar Surveys	Monthly	Survey Results Database	BIS's OPEM will validate the performance measure against supporting documentation	None	None
Percent of Industry Assessments Resulting in BIS Determination on Export Controls		Written Determination to Impose, Revise, or Continue Controls Based on the Results to the Assessment	Semi-annual	Office Files	BIS's OPEM will validate the performance measure against supporting documentation	None	None
Number of Site Assistance Visits Conducted to Assist Companies Prepare for International Inspections		Site Assistance and Inspection Reports	Semi-annual	Office Files	BIS's OPEM will validate the performance measure against supporting documentation	None	None

Performance Measure	Data Source	Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be taken
Number of Investigative Actions that Result in the Prevention of a Violation and Cases Which Result in a Criminal and/or Administrative Prosecution	Export Enforcement IMS	Monthly	Export Enforcement IMS	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
Number of Post-Shipment Verifications Completed	ECASS	Monthly	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
Number of Targeted Deficiencies Remedied in the Export Control Systems of Program Nations	Paper Records	Semi-annual	Office Files	BIS's OPEM will validate the performance measure against supporting documentation	None	None