



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; and monitoring the viability of the U.S. defense industrial base and seeking to ensure that it is capable of satisfying U.S. national and homeland security needs.

BIS's primary activities include:

- **Administering U.S. dual-use export controls**—BIS imposes controls on exports of 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 this export control system through the promulgation and implementation of a regulatory, licensing, and reporting regime. An Administration goal is to secure passage of legislation that will streamline and strengthen export controls, reducing the burden on U.S. industry while protecting our national security more effectively.
- **Enforcing U.S. export control, antiboycott laws, and public safety laws**—BIS enforcement agents investigate and help prosecute potential violations of U.S. export control, antiboycott, and public safety laws, which can result in the imposition of civil and criminal sanctions. BIS also engages in preventive enforcement to deter potential violations.
- **Assisting key countries 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 technologies or permit re-export or transshipment of such items to countries or end-users of concern. A number of such countries 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.
- **Assisting U.S. industry to comply 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 Implementation Act (CWCIA), and managing inspections by the Organization for the Prohibition of Chemical Weapons at U.S. industrial sites. BIS also works with U.S. industry in the context of the Biological and Toxin Weapons Convention. In the event that the U.S. Senate ratifies the Protocol Additional to the U.S.—International Atomic Energy Agency (IAEA) Safeguards Agreement (Additional Protocol), BIS will serve as lead U.S. Government agency for U.S. industries' compliance with the Additional Protocol, and will be required to oversee declaration and inspection responsibilities similar to those imposed under the Chemical Weapons Convention (CWC).

- **Monitoring the viability of the defense industrial and technology base, and seeking to ensure that it is capable of satisfying U.S. national security and homeland security needs**—As the Defense Department increases its reliance on dual-use goods, BIS seeks to ensure that the United States remains competitive in those industry sectors and sub-sectors critical to the national security. BIS discharges responsibilities under the Defense Production Act (DPA) and other laws, including administration of the Federal Government’s Defense Priorities and Allocations System, assessing threats to U.S. national security deriving from imports, and promoting U.S. defense companies competing for international sales opportunities.

Priorities/Management Challenges

BIS faces the following priorities and management challenges:

- **Obtaining Passage of a new Export Administration Act (EAA)**—There has not been a comprehensive revision of the EAA since 1979. An EAA that provides 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 new EAA increased after the terrorist attacks of September 11, 2001. Such legislation would help BIS more effectively combat the proliferation of WMD by controlling the export of dual-use items that could contribute to the development of such programs by terrorist-supporting states and terrorist organizations.
- **Establishment of an Office of Technology Evaluation (OTE)**—The establishment of this office will aid BIS in advancing its mission of U.S. national security, foreign policy, and economic interests by having the resources, and therefore the ability and knowledge, to conduct thorough, systematic analysis of export control policies and their impact on businesses. The OTE would enable the U.S. Government to replace its existing cold war era regime of blanket dual-use controls with targeted “smart export controls,” which would serve their intended purposes more effectively and with less burden on industry.
- **Enhancing Multilateral Cooperation with Regard to Export Controls**—BIS believes it is worthwhile to explore with key allies and partners whether it can reach agreement on uniform restrictions of certain critical technologies. U.S. companies would benefit by no longer being “undercut” by foreign competitors competing for the same export sales. Such agreement 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. BIS aims 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 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.

- **Defense Production Reauthorization Act of 2003**—The DPA expired on September 30, 2003. The DPA provides BIS authority to administer the Defense Priorities and Allocations System (DPAS), to conduct industrial capability assessments, to participate in the Committee on Foreign Investments in the United States process, and to serve as the President's Executive Agent for preparing the annual Report to Congress on Offsets. BIS worked to secure passage of a DPA reauthorization bill. A bill to reauthorize the DPA for five years passed on December 8, 2003.
- **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 will 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 United States.
- **Establishment and Implementation of a Comprehensive License Condition Enforcement Program**—Ensuring and verifying adherence to license conditions is critical to the Bureau's mission. While BIS has to date sought to monitor these conditions to the extent possible, it has lacked a comprehensive system for reviewing, ensuring compliance with, and prosecuting violations of license conditions. Audits of the Bureau recently conducted by both the General Accounting Office (GAO) and the Office of the Inspector General (OIG) have noted the absence, and recommended adoption of such a system. BIS proposes to create such a program.

FY 2003 Performance

In FY 2003, BIS had four performance goals, eight performance measures, and nine targets. BIS met eight of those nine targets. BIS cannot directly compare FY 2003 and FY 2002 performance goals and measures because in FY 2003 BIS had fewer goals and measures as a result of the transfer of the Critical Infrastructure Assurance Office (CIAO) to the Department of Homeland Security on March 1, 2003. In addition, three new performance measures were introduced and tracked in FY 2003. These new measures better indicate the efficiency of BIS's administration of export controls. BIS's performance measures, which are linked to the competitiveness, economic growth, and security of the nation, focused on the following areas:

- Decreasing processing times on license applications and issuance of regulations and revising evaluation procedures to more closely monitor the effectiveness of its seminar outreach programs.
- Conducting industry site assistance visits (SAV) to help prepare covered facilities for international inspections.
- Conducting enforcement prevention activities, investigating cases that lead to prosecutions, verifying 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.

BIS was successful in meeting most of the measures associated with its performance goals. Also in FY 2003, BIS took additional steps to improve organizational performance as indicated below:

- BIS improved its performance measurement system by using outcome instead of output measures, and by measuring performance that is under BIS control. In fact, in FY 2003 the GAO found that BIS had refined its performance goals and measures by focusing on quality and exporter satisfaction, developing measures using plain language, and developing new measures that accurately monitor BIS's program performance. GAO added that BIS goals and

measures directly support its major management challenge—the control of exports of dual-use commodities and chemical weapons for national security and foreign policy (including nonproliferation) purposes. See GAO’s Report: “Performance and Accountability: Reported Agency Actions and Plans to Address 2001 Management Challenges and Program Risks,” dated October 2002 (GAO-03-225).

- BIS implemented a monthly performance measurement reporting system. This report provides the Bureau’s leadership with: (1) up-to-date information on the Bureau’s progress in meeting its performance targets; and (2) useful information to gauge the performance of its senior executives.
- Through its data validation program, BIS’s Office of Planning, Evaluation and Management (OPEM) also reviewed the performance data, and discussed significant deviations from projected targets, if any, with the appropriate office so that program changes could be made to help meet BIS’s performance goals. Regarding data accuracy, OPEM validated BIS’s performance data to ensure that it was accurate, complete, reliable, and timely. The actual validating process was conducted following similar audit principles, including sampling and verification of data.
- OPEM also conducted management studies of several BIS offices and programs. Several recommendations were made, such as changing work processes or making organizational changes, to improve the efficiency and effectiveness of the Bureau programs.

BIS had many significant accomplishments in FY 2003. For example, BIS:

- Published a rule that removed licensing requirements for general purpose microprocessors to most destinations, while retaining a license requirement for military end-uses or end-users, or terrorist-supporting countries.
- Published a rule to implement changes agreed to in the Australia Group 2002 plenary and intercessional agreements.
- Published a rule to clarify controls over encryption items.
- Published rules expanding foreign policy controls on explosives detection equipment and specially designated global terrorists.
- Furthered a primary goal of rationalizing export controls and enhancing U.S. competitiveness in high-technology sectors such as products and services requiring encryption and microprocessors.
- Made progress in the enforcement arena by investigating cases that resulted in significant fines and penalties, conducting significant high-profile cases, and posting a new attaché in the United Arab Emirates (UAE).
- Published notices to update the Unverified List, a list of companies for which U.S. exporters should exercise heightened due diligence.
- Reviewed cases before the Administrative Case Review Board, an internal BIS Committee that advises the Assistant Secretary for Export Enforcement at important stages of administrative enforcement cases, to ensure that all positions taken by Export Enforcement are consistent, fair, and in line with the overall BIS program and enforcement goals.
- Updated the Special Agent Manual (SAM). SAM covers policies and procedures for the Office of Export Enforcement special agents.
- Issued administrative case penalty guidelines to detail the factors considered in setting penalties for administrative cases.
- Implemented a new case management system to track the status of enforcement cases.
- Increased outreach activities on intangible technology transfers including "Deemed Export" requirements and proposed new license conditions to the interagency community.

Targets and Performance Summary

See individual Performance Goal sections 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 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Median processing time for referrals of export licenses to other agencies (days)	New	New	New	9	4	X	
Median processing time for export licenses not referred to other agencies (days)	New	New	New	15	9	X	
Median processing time for issuing draft regulations (months)	New	New	New	3	7		X
Level of exporter understanding of BIS export control requirements	Value of information (average score on scale of 1-5)	New	New	New	Baseline established (4.2)	4.2	X
	Knowledge gained indicator (scale of 0-4)	New	New	New	Baseline established (1.0)	1.0	X

Performance Goal 2: Ensure U.S. Industry Compliance with the Chemical Weapons Convention (CWC) and, when Approved, Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement

Measure	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Number of site assistance visits (SAV) conducted to assist companies to prepare for Chemical Weapons Convention (CWC) international inspections	New	New	16	12	12	X	

Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

Measure	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Number of cases opened that result in the prevention of a criminal violation or the prosecution of a criminal or administrative case	93	81	82	85	250	X	
Number of post-shipment verifications (PSV) completed	New	New	415	375	397	X	

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

Measure	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Number of targeted deficiencies remedied in the export control systems of program nations	New	New	25	25	39	X	

Performance Goal 5: Coordinate Activities for Homeland Security, 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 —DISCONTINUED

The following performance measures were discontinued as a result of the CIAO transfer to the Department of Homeland Security on March 1, 2003.

- Number of outreach conferences or seminars.
- Progress toward completion of the three-step project matrix process.

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 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Management and Policy Coordination	1.1	1.1	2.2	2.2
Export Administration	19.9	22.8	24.7	22.4
Reimbursable ¹	0.7	0.1	0.7	1.5
Total Funding	21.7	24.0	27.6	26.1
IT Funding ²	0.9	1.0	1.8	1.6
FTE	169	164	156	190

Performance Goal 2: Ensure U.S. Industry Compliance with the Chemical Weapons Convention, (CWC) and, when Approved, Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement

	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Management and Policy Coordination	0.0	0.0	0.0	0.0
Export Administration	4.2	6.5	4.5	10.8
Reimbursable ¹	0.0	0.0	0.0	0.0
Total Funding	4.2	6.5	4.5	10.8
IT Funding ²	0.0	0.0	0.0	0.0
FTE	30	22	22	29

Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Management and Policy Coordination	1.3	1.1	2.4	2.9
Export Enforcement	24.6	25.9	27.3	31.4
Reimbursable ¹	0.1	0.1	0.3	0.3
Total Funding	26.0	27.1	30.0	34.6
IT Funding ²	1.0	1.0	2.0	2.1
FTE	175	178	171	226

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

	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Management and Policy Coordination	1.4	1.5	1.4	1.8
Reimbursable ¹	2.9	3.8	4.1	7.0
Total Funding	4.3	5.3	5.5	8.7
IT Funding ²	0.4	0.4	0.3	0.5
FTE	9	9	9	9

Grand Total	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Management and Policy Coordination	3.8	3.7	6.0	6.9
Export Administration	24.1	29.3	29.2	33.2
Export Enforcement	24.6	25.9	27.3	31.4
Critical Infrastructure	4.4	4.8	0.0	Transferred
Homeland Security and Information Intelligence	0.0	0.0	0.0	Transferred
Total Funding	56.4	63.1	67.6	80.2
Direct	52.5	59.1	62.5	71.5
Reimbursable ¹	3.9	4.0	5.1	8.8
IT Funding ²	2.6	2.6	4.2	4.2
FTE	383	373	358	454

¹ Reimbursable funding included in total funding.

² IT 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 2003 Performance Goals

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

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 DPA by analyzing the defense industrial and technology base to ensure that the United States remains competitive in sectors that are critical to the national security.

Responding to increased concern about the proliferation of WMD, BIS continues to refine U.S. export controls in light of geopolitical and business realities. BIS also seeks to enhance the effectiveness of EAR by educating exporters and other stakeholders in the export licensing process, thereby improving industry compliance with export control regulations. This 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. national security interests.

FY 2003 Performance

In FY 2003, BIS made significant achievements toward this goal by processing license applications in a timely manner and by conducting valuable outreach programs to increase the level of understanding of BIS export control requirements.

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

	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	New	9
Actual				4
Met/Not Met				Met

Explanation of Measure

The FY 2002 performance measure, Average Processing Time for Export Licenses, sought to measure the average processing time of an export license application from its receipt to a final license decision. This earlier measure is a vestige of an era when BIS had complete control over the licensing process. Today, however, approximately 85 percent of all export licenses must be referred to other agencies (as dictated by Executive Order 12981). This new measure monitors the time it takes to process a license application from receipt to its referral. Measures 1a and 1b more accurately reflect BIS-specific performance as they focus on the time period when BIS has sole control of the licensing process.

FY 2003 Performance

The median processing time in FY 2003 for referrals of export licenses to other agencies was four days. This reflects the Bureau's efforts to reduce its review time in order to expedite the export license application process.

Measure 1b: Median Processing Time for Export Licenses Not Referred to Other Agencies (Days)				
	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	New	15
Actual				9
Met/Not Met				Met

Explanation of Measure

This new measure monitors the time it takes to process a license application (that is not referred) from its receipt to a final decision by BIS.

FY 2003 Performance

The median processing time in FY 2003 for export licenses not referred to other agencies was nine days. This reflects the Bureau's committed efforts to expedite the export license application process.

Measure 1c: Median Processing Time for Issuing Draft Regulations (Months)				
	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	New	3
Actual				7
Met/Not Met				Not Met

Explanation of Measure

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, 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 U.S. 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 tracks the length of time it takes BIS to issue a draft regulation implementing a regime resolution.

FY 2003 Performance

A staffing shortage in the Regulatory Policy Division hampered progress on drafting, revising, and coordinating the promulgation of regulations. Though BIS was allocated funding in FY 2003 to hire additional staff, this funding did not become available until February, severely delaying the hiring process.

To measure its timeliness in publishing changes to regulations, BIS intended to use, as a start date, the date the multilateral control Regimes publish changes agreed to during their Plenary sessions on their Web sites. However, the Regime Web sites do not contain all the information necessary to draft a regulation. For example, the Web sites do not provide any guidance on items that have been decontrolled by the Regimes, an action which prompts changes to the BIS regulations. Instead BIS must determine the appropriate level of unilateral controls for items decontrolled by the Regimes before it can change its regulations. Therefore, the start date for measurement of performance will be the date when BIS has documentation sufficient to draft the regulation, evidenced by an official notification to the Regulatory Policy Division from one of two BIS offices that handle these changes. This is the way BIS actually measured performance in FY 2003, and will in FY 2004.

Measure 1d: Level of Exporter Understanding of BIS Export Control Requirements

		FY 2000	FY 2001	FY 2002	FY 2003
Target	Value of information (average score on scale of 1-5)	New	New	Establish baseline	4.2
	Knowledge gained indicator (scale of 0-4)	New	New	Establish baseline	1.0
Actual	Value of information (average score on scale of 1-5)			Baseline established (4.2)	4.2
	Knowledge gained indicator (scale of 0-4)			Baseline established (1.0)	1.0
Met/Not Met					Met

Explanation of Measure

This measure indicates the effectiveness of the BIS export control outreach program. The BIS 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 EAR. Seminars also help to heighten business awareness of the Administration's export control policy objectives and enhance government-industry interaction on export control policies and procedures.

FY 2003 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, BIS had no data to validate this assumption. A seminar evaluation 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 seminar evaluations provided 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 2003 average score was 4.2, the same as in FY 2002.

The second metric is an index that reflects the knowledge gained by exporters who attend BIS seminars. 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, so that the knowledge gained index is zero. This result distorts the data in that no matter how valuable the program is, no knowledge could be gained according to the exporter's self evaluation. Furthermore, the measure, in this case, is completely out of the control of the BIS presenters, a circumstance BIS wants to avoid in developing performance measures. Therefore, BIS plans to change this measure in FY 2004 to develop a new baseline for "Percent Knowledge Gained" that will be calculated by comparing the actual improvement in knowledge to the maximum improvement possible for each event attendee. For example, one exporter might report her "before" knowledge at a level of 2 and her "after" knowledge at a level of 4. So, BIS helped her increase her knowledge by 2 points, when the best they could have done would have been to increase her knowledge by 3 points to 5. The percent knowledge gained would be two-thirds, or 67percent. The exporter who reported his knowledge at a level of 5 before and 5 after would not be included in the calculation because his actual increase and the best increase that could have been achieved are both zero.

Program Evaluation

In FY 2003, the GAO and the OIG recommended that BIS increase its monitoring of export license conditions. BIS has taken several steps to address this recommendation. BIS has (1) issued step-by-step procedures to effectively monitor and follow up on conditions placed on licenses, (2) modified the Export Control Automated Support System (ECASS) to generate reminders for exporters at various times during the life of a license of the need to submit required documentation of any shipment that was or will be made during the license period, and (3) completed a pilot program consisting of enforcement agents and analysts to assess compliance with license conditions and refer potential leads for enforcement.

Performance Goal 2: Ensure U.S. Industry Compliance with the Chemical Weapons Convention (CWC) and, when Approved, Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement

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. industry's compliance with the declaration, inspection, and export and import requirements of the CWC regulations as authorized by the CWCIA. BIS collects, validates, and aggregates data from those U.S. companies that manufacture, use, or trade in, above the thresholds, chemicals covered by the Convention; educates those companies on their rights and obligations under regulations implementing the treaty; and serves as the lead U.S. Government agency for hosting international inspectors who are inspecting U.S. business facilities subject to CWC requirements. BIS's primary host team role is to ensure compliance with the CWC regulations while protecting confidential business information during inspections. BIS also works with U.S. industry in the context of the Biological and Toxin Weapons Convention. In addition, in the event that the U.S. Senate ratifies the Additional Protocol to the U.S. IAEA Safeguards Agreement (Additional Protocol), BIS will serve as lead U.S. Government agency for U.S. industry's compliance with the Additional Protocol, and will be required to oversee declaration and inspection responsibilities similar to those imposed under the CWC.

The performance measure associated with this goal tracks BIS's ability to oversee industry compliance with the CWC regulations and to help facilities subject to inspection better prepare to receive international inspectors.

FY 2003 Performance

In FY 2003, BIS made significant achievements toward this goal by assisting U.S. businesses to comply with the CWC requirements. BIS continued to implement a program of outreach and contact with the U.S. chemical industry. In addition to 12 SAVs, BIS also conducted a CWC Round Table Seminar and a Sampling and Analysis Seminar Exercise. Over 35 U.S. industry representatives attended the Round Table Seminar, held at the Treaty Compliance Division. BIS maintained an on-call capability throughout the fiscal year to respond to inspection notifications and acted as host and escort to ensure satisfactory completion of all U.S. chemical industry inspections conducted under the CWC during the year. The total number of inspections conducted during the fiscal year is at the discretion of the Organization for the Prohibition of Chemical Weapons. The nine inspections that BIS hosted involved a broad range of plant sites and types, including Schedule 2 sites (those producing chemical precursors for industrial use), Schedule 3 sites (those producing chemicals that are mainly industrial but may be used as precursors or agents) and unscheduled discrete organic chemical facilities reflecting an overall ability by BIS to respond to inspections that cover all facets of the industry. Also, during FY 2003, BIS completed over 700 chemical industry declarations and requests for Chemical Determinations.

During FY 2003, BIS also was also successful in launching a complete upgrade of its CWC Web site. The Web site, www.cwc.gov, was revised to include more user-friendly options, folders, processes and new system features to increase Internet security. Interactive outreach publications, such as a Pre-inspection Briefing and numerous other pamphlets, were completed and made available to the public. New inspection and declaration publications were posted to the Web site, greatly enhancing the BIS CWC outreach capability.

Measure 2a: Number of Site Assistance Visits (SAV) Conducted to Assist Companies To Prepare for Chemical Weapons Convention (CWC) International Inspections

	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	12	12
Actual			16	12
Met/Not Met			Met	Met

Explanation of Measure

BIS is responsible for overseeing industry compliance with the CWC regulations and will have similar responsibility under the Additional Protocol (if ratified). This responsibility includes facilitating domestic visits of international inspection teams to determine compliance with multilateral treaty obligations by covered U.S. facilities, and informing industry of its obligations under regulations implementing the treaty. Industry SAVs prepare covered facilities to receive a team of international inspectors. These visits are to ensure that the inspection aims are verified while maximizing the protection of confidential business information and minimizing burdens on facilities.

FY 2003 Performance

BIS met its target by conducting 12 SAVs at CWC-declared facilities during FY 2003. The number of SAVs was agreed upon to set an achievable objective utilizing available Division personnel strength in relation to other ongoing office activities. The SAVs are routinely conducted on a monthly basis at private industry sites and can only be scheduled in accordance with the availability of the given facility. The number of visits was also accepted to be a realistic goal to ensure maintaining a BIS presence in the field at U.S. chemical industry facilities. The outreach and education that are provided during SAVs serve to inform companies and demonstrate a measure of the BIS support that is available to them upon receipt of an inspection notification.

Program Evaluation

In FY 2003, BIS conducted one mock inspection exercise at a Schedule 2 facility in which industry representatives participated in preparation for sampling and analysis activities anticipated during upcoming CWC inspections. The exercise served to provide an interim evaluation of BIS and its goal of ensuring compliance and providing outreach to industry.

Performance Goal 3: Detect Illegal Export Transactions and Penalize Violators

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 EAR, 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.

The performance measures associated with this goal track BIS's ability to enforce export controls, prevent export violations, ensure that controlled items are used in accordance with the terms of the export license, and train U.S. exporters to identify and avoid illegal transactions.

FY 2003 Performance

In FY 2003, BIS made significant achievements toward this goal by increasing (1) the number of violations prevented or prosecuted, and (2) the number of post-shipment verifications (PSV) conducted to ensure that exported items are used in accordance with the terms of the export license.

Measure 3a: Number of Cases Opened that Result in the Prevention of a Criminal Violation or the Prosecution of a Criminal or Administrative Case

	FY 2000	FY 2001	FY 2002	FY 2003
Target	80	70	75	85
Actual	93	81	82	250
Met/Not Met	Met	Met	Met	Met

Explanation of Measure

This performance measure is designed to emphasize a results-oriented approach to export enforcement—focusing on violations prevented or prosecuted, rather than simply investigations accepted. It enables BIS to recapture such preventive enforcement information as the interdiction of suspicious shipments, warning letters, recommending denials on license applications, placing parties on the Unverified List, denials on visa requests, detecting violations of license conditions and other measures to prevent exposure to sensitive technology by foreign nationals. The implementation of this measure allows BIS to gauge its overall effectiveness in terms of prosecutions and preventive enforcement.

FY 2003 Performance

BIS exceeded its FY 2003 target of 85 cases by processing 250 cases. This new measure, for which we had established a conservative benchmark, is now higher because it captures the preventive enforcement activity which is an additional 143 cases as well as cases accepted for administrative and criminal prosecution. BIS will update this target in the future to reflect this change.

Measure 3b: Number of Post-Shipment Verifications (PSV) Completed				
	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	300	375
Actual			415	397
Met/Not Met			Met	Met

Explanation of Measure

BIS enforcement agents and U.S. & Foreign Commercial Service officers conduct 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.

FY 2003 Performance

The FY 2003 target of 375 PSVs was met by completing 397 PSVs. BIS made progress in the enforcement arena by posting a new attaché in the UAE. Attachés, who are special agents, are assigned to posts overseas to (1) conduct end-use checks to uncover illegal export transactions, (2) work with host governments to develop effective enforcement systems, and (3) educate the local business community about U.S. export control laws and regulations.

Program Evaluation

In FY 2003, GAO and OIG recommended that BIS increase its monitoring of export license conditions. BIS has taken several steps to address this recommendation. BIS has (1) issued step-by-step procedures to effectively monitor and follow up on conditions placed on licenses, (2) modified the Export Control Automated Support System (ECASS) to generate reminders for exporters at various times during the life of a license of the need to submit required documentation of any shipment that was or will be made during the license period, and (3) completed a pilot program consisting of enforcement agents and analysts to assess compliance with license conditions and refer potential leads for enforcement.

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

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 Department of State, 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.

The performance measure associated with this goal tracks the effectiveness of BIS's international cooperation program.

FY 2003 Performance

In FY 2003, BIS made significant strides toward 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 Team 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 several technical exchange workshops and multilateral conferences. This enabled BIS to exceed the FY 2003 performance measure target for this goal.

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

	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	20	25
Actual			25	39
Met/Not Met			Met	Met

Explanation of Measure

This performance measure is intended to gauge 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 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.

FY 2003 Performance

This outcome measure was met as a result of actions taken by program countries to remedy 39 deficiencies in their national export control system capabilities. BIS staff attribute the increase in performance to the introduction of more efficient and effective management tools and better partnerships with the private sector. These changes allowed BIS to increase the number of its technical exchanges, the primary method for achieving its objectives, by more than 30 percent over the previous year.

Program Evaluation

In FY 2003, BIS entered into a contract with the University of Georgia to conduct evaluations of the effectiveness of this program. In the first quarter of FY 2004, the first deliverables will be a methodology and report format for subsequent studies to be done on each country in which BIS operates a technical exchange program. In FY 2003, BIS conducted a review of its organizational structure by which the technical exchange program is managed and developed a strategic plan for overall international cooperative programs. The results of these two activities were decisions to reorganize the BIS management structure for the technical exchange program and to develop a performance based approach for a new five-year operations contract.

BIS Data Validation and Verification

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
Measure 1a: Median processing time for referrals of export licenses to other agencies (days)	Export Control Automated Support System (ECASS)	Monthly	ECASS	BIS's Office of Planning, Evaluation and Management (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
Measure 1b: Median processing time for export licenses not referred to other agencies (days)						
Measure 1c: 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
Measure 1d: Level of exporter understanding of BIS export control requirements	Evaluation	Semi-Annual	Evaluation results database.	BIS's OPEM will validate the performance measure against supporting documentation.	Data is dependent on the voluntary responses of seminar participants and is based on respondent opinion. Opinion may, or may not be a factual indicator of performance.	None
Measure 2a: Number of site assistance visits (SAV) conducted to assist companies to prepare for Chemical Weapons Convention (CWC) international inspections	Paper records such as trip reports.	Semi-Annual	Office files	BIS's OPEM will validate the performance measure against supporting documentation.	None	None
Measure 3a: Number of cases opened that result in the prevention of a criminal violation or the prosecution of a criminal or administrative case	ECASS, investigative management system, and paper records.	Monthly	ECASS, Access database, and paper records.	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
Measure 3b: Number of post-shipment verifications (PSV) completed	ECASS and Access database.	Monthly	ECASS and Access database.	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
Measure 4a: Number of targeted deficiencies remedied in the export control systems of program nations	Paper records such as official publications and academic/intelligence community analyses.	Semi-Annual	Electronic or office files.	BIS's OPEM will validate the performance measure against supporting documentation.	None	None