

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Chapter VII**

[Docket No. 040910262-4262-01]

Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Industry and Security (BIS) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BIS is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

DATES: Comments must be received by November 19, 2004.

ADDRESSES: Written comments (three copies) should be sent to Sheila Quarterman, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Alternatively, comments may be e-mailed to Sheila Quarterman at *SQuarter@bis.doc.gov*.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482-4252. Copies of the current Annual Foreign Policy Report to the Congress are available at <http://www.bis.doc.gov/PoliciesAndRegulations/04ForPolControls/index.htm> and copies may also be requested by calling the Office of Nonproliferation and Treaty Compliance at the number listed above.

SUPPLEMENTARY INFORMATION: Foreign policy based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended. The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR, including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Special Country Controls). These controls apply to a range of countries, items and activities including: high performance computers (§ 742.12); certain general purpose microprocessors for "military end-uses" and "military end-users" (§ 744.17); significant items (SI): hot

section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (§ 742.15 and § 744.9); crime control and detection commodities (§ 742.7); specially designed implements of torture (§ 742.11); certain firearms included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17); regional stability commodities and equipment (§ 742.6); equipment and related technical data used in the design, development, production, or use of missiles (§ 742.5 and § 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 742.2 and § 744.4) and various chemicals included in those controlled pursuant to the Chemical Weapons Convention (§ 742.18); nuclear propulsion (§ 744.5); aircraft and vessels (§ 744.7); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 742.19, 742.20, 746.2, 746.3, and 746.7); certain entities in Russia (§ 744.10); and individual terrorists and terrorist organizations (§§ 744.12, 744.13 and § 744.14). Attention is also given in this context to the controls on nuclear-related commodities and technology (§§ 742.3 and 744.2), which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 FR 48763, August 10, 2004), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls, requesting public comments on such controls, and submitting a report to Congress.

In January 2004, the Secretary of Commerce, on the recommendation of

the Secretary of State, extended for one year all foreign policy-based export controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy-based export controls for another year. Among the criteria considered in determining whether to continue or revise U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;
2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;
3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;
4. Whether reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;
5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and
6. The ability of the United States to enforce the controls effectively.

BIS is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of U.S. products to third countries (*i.e.*, those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.
2. Information on controls maintained by U.S. trade partners. For example, to what extent do they have similar controls on goods and technology on a worldwide basis or to specific destinations?
3. Information on licensing policies or practices by our foreign trade partners

which are similar to U.S. foreign policy-based export controls, including license review criteria, use of conditions, requirements for pre and post shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for revisions to foreign policy-based export controls that would (if there are any differences) bring them more into line with multilateral practice.

5. Comments or suggestions as to actions that would make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy-based export controls on the trade or acquisitions by intended targets of the controls.

7. Data or other information as to the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.

8. Suggestions as to how to measure the effect of foreign policy-based export controls on trade.

9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals.

BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and developing the report to Congress.

All information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BIS requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482-2165 for assistance.

Dated: September 22, 2004.

Matthew S. Borman,

Acting Assistant Secretary for Export Administration.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 131, 154, 157, 250, 281, 284, 300, 341, 344, 346, 347, 348, 375, and 385

[Docket No. RM01-5-000]

Electronic Tariff Filings

September 17, 2004.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment deadline.

SUMMARY: The Federal Energy Regulatory Commission is extending the October 4, 2004, deadline for comments on the Commission's July 8, 2004, Notice of Proposed Rulemaking. (69 FR 43929, July 23, 2004.) A document will be published in the **Federal Register** to establish the new comment date.

DATES: A document will be published in the **Federal Register** establishing the new comment date.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble of the Notice of Proposed Rulemaking for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT:

H. Keith Pierce (Technical Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-8525. *Keith.Pierce@ferc.gov*.

Jamie Chabinsky (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-6040, *Jamie.Chabinsky@ferc.gov*.

Bolton Pierce (Software Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-8803. *Bolton.Pierce@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Tariff Filings; Notice of Extension of Comment Deadline

Take notice that the Federal Energy Regulatory Commission is extending the

October 4, 2004, deadline for comments on the Commission's July 8, 2004, Notice of Proposed Rulemaking¹ on electronic tariff and rate case filing. This extension is to allow time for continued development and experimental use of the software to be used for tariff and rate filings. A subsequent notice will be published establishing the new comment date as well as the date for the technical conference.

For more information, please contact: Keith Pierce, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 202-502-8525, *Keith.Pierce@ferc.gov*.

Magalie R. Salas,

Secretary.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-129771-04]

RIN 1545-BD49

Guidance Under Section 951 for Determining *Pro Rata* Share; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to notice of proposed rulemaking that were published in the **Federal Register** on August 6, 2004 (69 FR 47822) providing guidance for determining a United States shareholder's *pro rata* share of a controlled foreign corporation's (CFC's) subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, previously excluded subpart F income withdrawn from foreign base company shipping operations, and amounts determined under section.

FOR FURTHER INFORMATION CONTACT:

Jonathan A. Sambur at (202) 622-3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections are under

¹ Electronic Tariff Filings, Notice of Proposed Rulemaking, 69 FR 43929 (July 23, 2004), FERC Stats. & Regs. Proposed Regulations ¶ 32,575 (July 8, 2004).