



U.S. DEPARTMENT OF STATE AND EXPORT CONTROLS

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TRADE CONTROLS**



PURPOSE OF CONTROLS

- Foreign Policy
- National Security
- Human Rights
- Regional Stability
- Non-Proliferation



LICENSING AND COMPLIANCE RESPONSIBLE U.S. AGENCIES

- Department of State
- Department of Commerce
- Department of the Treasury
- Department of Justice (ATFE)
- Department of Homeland Security
 - CBP/ICE
- Department of Energy
- Department of Defense
 - DTSA, Armed Services, DSS, DSCA



LAWS & REGULATIONS

- Arms Export Control Act (AECA)
 - 22 U.S.C. 2778
- International Traffic in Arms Regulations (ITAR) - 22 CFR Parts 120-130



ARMS EXPORT CONTROL ACT (AECA)

- Governs Arms Sales – Foreign Military Sales and Direct Commercial Sales
- Mandates Registration and Licensing of Any Person Who Engages in Manufacturing, Exporting and Brokering of Defense Articles and Services
- Requires Monitoring/Reporting Fees, Contributions and Commissions



ARMS EXPORT CONTROL ACT (AECA)

- Broad Authority of the Directorate to Approve, Deny, Suspend, Revoke and Halt Shipments at U.S. Ports
- Congressional Oversight – 36(c), 36(d), and 36(f)
- End Use and Retransfer Assurances
- Establishes Fines and Penalties



INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

- Implementing Regulations of AECA
- U.S. Munitions List (USML) Designates Defense Articles/Services Subject to State Export Jurisdiction
- Licensing Policy and Procedures
- Compliance, Enforcement, and Fine/Penalties



22 CFR - ITAR

- Part 120 Purpose and Definitions
- Part 121 USML
- Part 122 Registration
- Part 123 Licensing
- Part 124 Agreements/Offshore Procurement/Defense Services
- Part 125 Technical Data and Classified Defense Articles
- Part 126 General Policies and Provisions
- Part 127 Violations and Penalties
- Part 128 Administrative Procedures
- Part 129 Brokering (Registration and Licensing)
- Part 130 Political Contributions, Fees, and Commissions



AUTHORITY FOR ITAR CONTROLLED EXPORTS

- President of the United States
- Secretary of State
- Undersecretary for Arms Control and International Security
- Assistant Secretary for Political Military Affairs
- Deputy Assistant Secretary for Defense Trade
- DDTC Directors - Licensing, Compliance and Policy



BUREAU OF POLITICAL MILITARY AFFAIRS (PM)

- PM is the principal link between Department of State and Department of Defense
- Provides policy direction in the areas of international security, security assistance, military operations, defense strategy and plans, and defense trade.



DIRECTORATE OF DEFENSE TRADE CONTROLS (DDTC)

Our Mission:

Advance U.S. National Security and Foreign Policy Through Licensing of Direct Commercial Sales in Defense Articles and the Development and Enforcement of Defense Trade Export Control Laws, Regulations and Policies

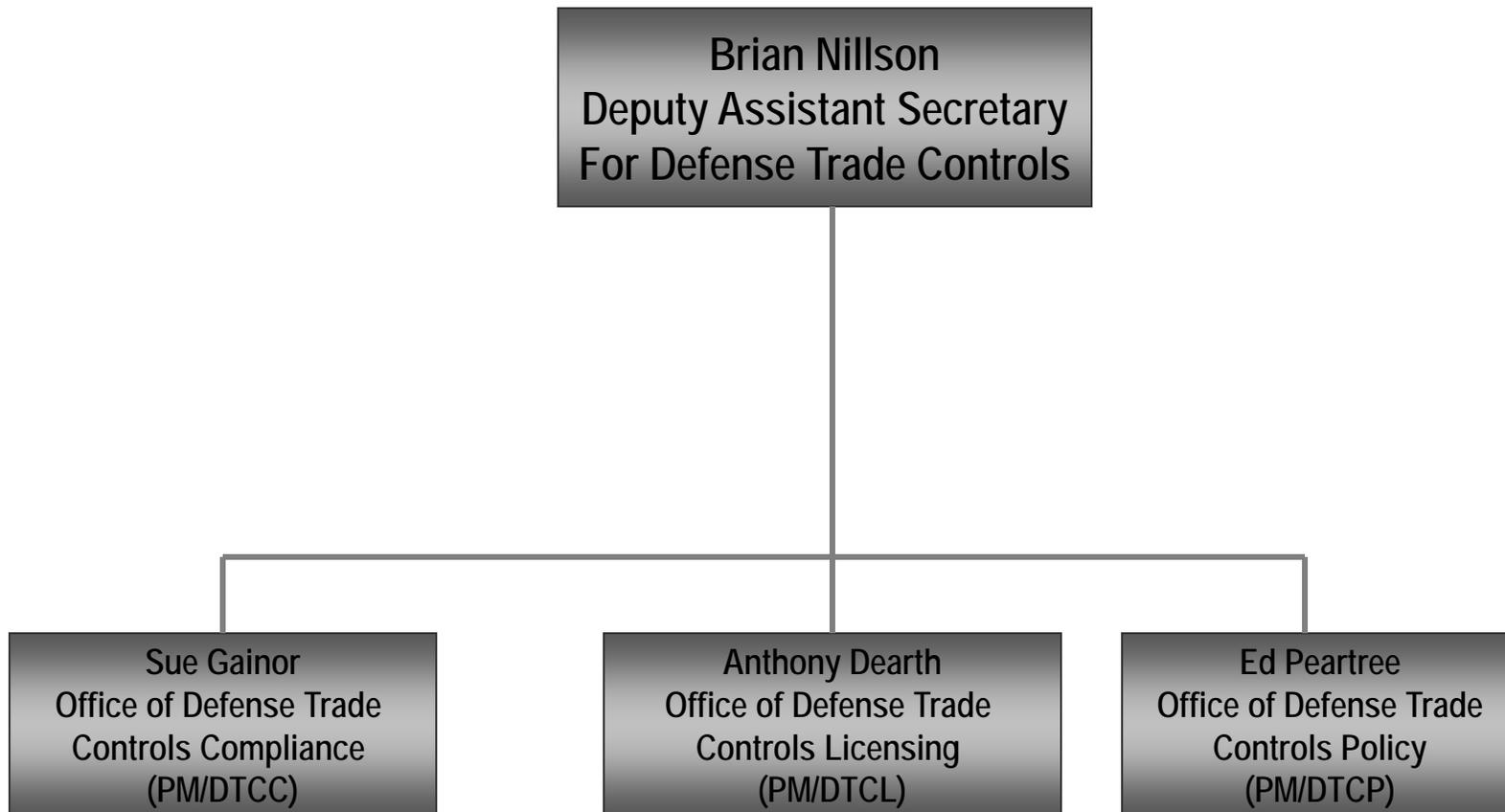


FOREIGN POLICY OBJECTIVES

- Support Allies in their mutual foreign Policy and national security goals
- Promote interoperability with allies
- Keep Defense Technology out of the hands of our adversaries



DDTC ORGANIZATION





NSPD-56 DEFENSE TRADE REFORM

- Signed by the President on Jan. 22, 2008
- Mandates Specific Process and Resource Requirements to Support an Export Control System that is Predictable, Efficient and Transparent.



NSPD-56 DEFENSE TRADE REFORM

- Per NSPD-56, No License Can Take More than 60 Days Unless:
 - Congressional Notification is required
 - A Waiver is Required (Presidential or UNSCR)
 - Assurances are Required from the Foreign Government
 - Verification of the End User is Necessary
 - DOD Cites National Security Concern
 - Requires Waiver of Restriction (i.e. Presidential Waiver)



APPLICATION PROCESS

- DDTC's Automated Export Licensing System
 - DSP 5, 61, 73
 - Amendments 6, 62, 74
 - TAA/MLA/WDA
- Electronic Submission
 - Commodity Jurisdiction
 - Registration
- Eventually to Include DSP-85, GC, BA



EXPORT CONTROL REFORM

The Administration has determined that fundamental reform of the U.S. export control system is required in each of its four components areas, with consolidation into a:

- Single Control List;
- Single Primary Enforcement Coordination Agency;
- Single Information Technology (IT) System; and
- Single Licensing Agency



ECR IMPLEMENTATION

Review U.S. Munitions List (USML) to determine which items no longer merit USML control; and make this list more “positive”.

RESULT: A large amount of parts and components that are not enumerated or specially designed* have been moved off USML

Items moving off the USML are not decontrolled; they are controlled on the Commerce Control List or on the regular dual-use list administered by the Department of Commerce



15 OF 21 CATEGORIES REVISED

USML	Description	Status
IV	Launch Vehicles/Missiles	Rule 3 – Effective 7/1/13
V	Explosives/Propellants	Rule 3 – Effective 7/1/13
VI	Vessels of War	Rule 2 – Effective 1/6/14
VII	Ground Vehicles	Rule 2 – Effective 1/6/14
VIII	Aircraft and Related Articles	Rule 1 – Effective 10/15/13
IX	Training Equipment	Rule 3 – Effective 7/1/13
X	Personal Protective Equipment	Rule 3 – Effective 7/1/13
XI	Electronics	Rule 5 – Effective 12/30/14
XIII	Miscellaneous	Rule 2 – Effective 1/6/14
XV	Spacecraft/Satellites	Rule 4 – Effective 6/27/14 & 11/10/14
XVI	Nuclear	Rule 3 – Effective 7/1/13
XVII	Classified Articles	Rule 1 – Effective 10/15/13
XIX	Gas Turbine Engines	Rule 1 – Effective 10/15/13
XX	Submersible Vessels	Rule 2 – Effective 1/6/14
XXI	Articles Not Enumerated	Rule 1 – Effective 10/15/13



PROPOSED RULES

- USML Category XII 2nd proposed rule
 - Published Feb 19th, comments were due April 4th
- USML Categories XIV and XVIII proposed rule
 - Published June 17th, comments were due August 17th
- ECR Definitions proposed rule
 - Published June 3rd, comments were due August 3rd
- USML Category VIII and XIX proposed rule
 - Published Feb 9th, comment were due March 24th



GENERAL TRENDS

- Increase in advisory opinions
 - Some questions have resulted in future rule changes
- Difficulty with no catch-all buckets
 - VI(f)(1), VII(g)(1), and VIII(h)(1) are not catch-alls
 - Bulk licenses and WDAs likely “things of the past”
- High Return Without Action (RWA) rate RWAs **are not** Commodity Jurisdiction determinations
- Transition difficulties
 - Agreement amendments for paragraph (x) – it’s part of the FRN
 - Rolling transition for licenses with multiple categories
 - “See Through Rule” exception only in Cat VIII and XV – to be fixed



ADDITIONAL TRENDS

- Decrease in DDTC licenses exceeds BIS increase – why?
- License processing times up slightly
- Lack of clarity/specificity in applicant submissions
 - Tech data: clarify that TD is ITAR-controlled by pointing to relevant hardware category
 - Hardware: clarify that HW fits into appropriate bucket; provide specs if needed; no generic parts
 - Article 124.7(1) of agreements must delineate USML and CCL hardware
 - If paragraph (x) desired, ensure 123.1(b) requirements are met
 - Use order of review
- Submissions are improving!



CONCLUSIONS

- ECR is the New Normal
- The USG is counting on exporters to apply proper controls
- The new enumeration system requires specificity
- RWA rates will remain elevated for some time
 - Do not view them as punitive but rather as educational
 - They should **never** be considered a Commodity Jurisdiction
 - We expect RWAs to slowly return to normal levels
- The sooner we ALL embrace the new control structure, the sooner we will become comfortable with the New Normal



EXPORT CONTROL REFORM

Additional information on the White House website:

- <http://www.whitehouse.gov/the-press-office/fact-sheet-presidents-export-control-reform-initiative>



QUESTIONS?

- DDTC's website: www.pmddtc.state.gov (lots of resources)
- Generic Questions: DDTC Response Team, 202-663-1282
DDTCResponseTeam@state.gov.
- DTC IT Issues: DDTC Help Desk, 202-663-2838
dtradehelpdesk@state.gov.
- Case status: <http://elisa.dtsa.mil/>