



Export Control Reform

ECCO Conference

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Purpose of Export Control Reform (ECR)

- In August 2009, President Obama directed a broad based review of the U.S. export control system to enhance the national security, foreign policy and economic security interests of the United States.
- Objective: Strengthen national security and competitiveness of key U.S. manufacturing technology centers by:
 - focusing on current threats.
 - adapting systems to the emerging worldwide commercial and technology landscape.

Export Control Reform Long Term

Consists of 4 elements:

1. Single control list
2. Single licensing agency
3. Single IT system
4. Single export enforcement coordination agency

Export Control Reform

Current Efforts

1. Create license exceptions for close allies and regime partners.
License Exception STA.
2. Revise Commerce Control List to be more clear.
3. Revise control lists so that they are parallel and “positive.”
4. Move items that no longer warrant control on the US Munitions List to the CCL.

License Exception STA

License Exception Strategic Trade Authorization (STA)
published on June 16, 2011.

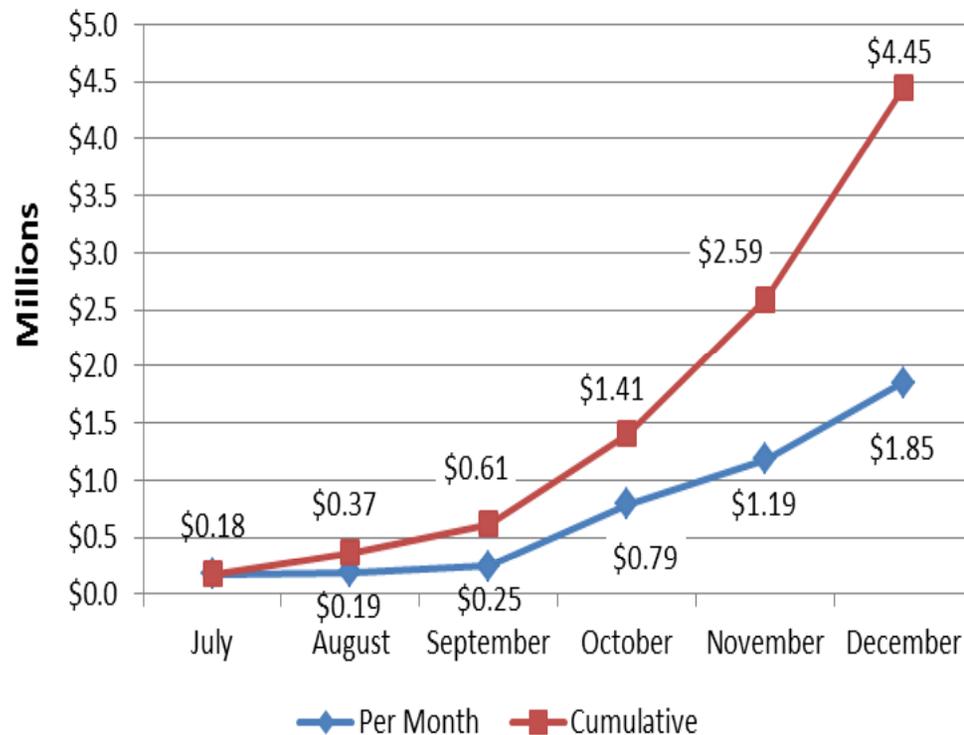
- Impacts export of almost all CCL items to most of Europe, Australia, Canada, New Zealand, Japan, South Korea, Argentina.
- Impacts export of Wassenaar Basic List items (NS controlled) to eight other countries: Albania, Hong Kong, India, Israel, Malta, Singapore, South Africa, Taiwan.

STA Advantages

- Eliminates licensing decision delays and uncertainty.
- Shortens time from order received, processed and delivered to ship or plane.
- Eliminates approximately 3,100 individual licenses worth \$1.4 Billion, enabling BIS to focus on transactions warranting greater scrutiny.
- Establishes a foundation for items to be moved from US Munitions List.

STA Usage 2011

Value of STA Shipments



- \$4.5 M Inception through end of CY2011
- Significant potential for future increase in utilization

STA Safeguards

- Ensure eligible items are not re-exported outside eligible countries without USG authorization.
- Exporters must furnish the consignee with the Export Control Classification Number.
- Prior to shipping, consignee must furnish exporter with:
 - STA acknowledgement
 - ECCNs
 - Agreement to re-export or retransfer in accordance with EAR (e.g., no APR)
 - Agreement to maintain records

Revisions to CCL

December 9, 2010 Advance Notice of Proposed Rulemaking
Changes to CCL:

- Ensures that CCL entries are clear and based on objective technical parameters.
- If items are controlled on CCL and USML, a performance parameter will distinguish which set of regulations applies.
- Seeks foreign availability information.

BIS is reviewing over 100 public comments.

US Munitions List

- Convert USML into a "positive list."
- Establish objective technical parameters rather than design intent to control items on USML.
- Items not meeting criteria to be on "positive" USML list would be transferred to CCL:
 - End-items, parts, components, accessories and attachments
 - Requires congressional notification
- Commerce and State have published several complementary proposed rules detailing what and how items would move from the USML to the CCL.

List Review – Progress to Date

- BIS and State published proposed rules on:
 - Surface Vessels (Category VI), 12/23/11
 - Submersibles (Category XX), 12/23/11
 - Gas Turbine Engines (Categories VI, VII, VIII), 12/6/11
 - Vehicles (Category VII), 12/6/11
 - Aircraft (Category VIII), 11/7/11
- BIS posted industry comments on Aircraft proposal on BIS website: www.bis.doc.gov

How to Provide Comments

- Submit *specific* comments to:
 - Federal Register at <http://www.regulations.gov>
 - BIS at publiccomments@bis.doc.gov
- BIS conducts weekly teleconferences on ECR proposals
 - Calls intended to foster public understanding of the proposal and assist interested parties prepare more informed comments.
 - http://www.bis.doc.gov/news/2011/ecr_teleconferences.htm

Benefits of Positive USML and Transfers to CCL

- Eliminates ITAR registration.
- Addresses “design-out” concerns related to "see through" rule.
- Ends of MLA/TAA requirements to share data and services.
- Reduces jurisdictional fights and delays.

Compliance and Enforcement

- Executive Order establishing Export Enforcement Coordination Center.
- Importance of voluntary self-disclosures.
- Going forward, where there is a deliberate violation, BIS will seek penalties against individuals as well as companies.

Statistics

FY 2010

- 20 criminal convictions
- \$12 million in criminal fines
- 40 administrative cases
- \$25.2 million in administrative penalties

FY 2011

- 39 criminal convictions
- \$20.2 million in criminal fines, 572 months imprisonment
- 39 administrative cases
- \$ 8.3 million in administrative penalties

Additional Reform Initiatives

- Harmonized definitions such as “specially designed,” “technology,” and “fundamental research” across regulations.
- Merging of USG license applications into one form.
- IT system - upgrades BIS systems to make them more user-friendly for exporters and leverage the resources and information of agencies across the USG.
- Consolidated End-User screening list:
 - ITAR debarred, SDNs, Denied parties, Entity List, et al.
 - 24,000 entries

To Sum Up -- Reform Initiatives

- Harmonizing the USML and the CCL will result in:
 1. No overlapping controls
 2. Structurally "aligned" so that they later can be combined into a single list of controlled items when the single licensing agency is created.
- License exception STA will streamline and focus controls while eliminating ~3,100 licenses.
- USML-CCL changes will have even greater licensing impact.

Additional Information

- BIS counseling services available:
 - Irvine, CA: (949) 660-0144
 - San Jose, CA: (408) 998-8806
 - Washington, DC: (202) 482-4811
- Regional seminars
- Website: www.bis.doc.gov