



Improving Export Licensing Caseload Management

ISSUE: State must continue to adopt new management techniques for greater efficiency and responsiveness in the face of a burgeoning license caseload.

AIA RECOMMENDATIONS

Streamline Licensing to Support International Cooperation on Key Defense Programs

Develop a workable framework for technology sharing between the U.S. and its allies and partners who are cooperating on major defense and national security programs important to the U.S. Government. Such a framework should reduce licensing requirements by:

- Defining and tailoring protection requirements for specific categories of technologies, systems, components, and materials used in the program.
- Pre-qualifying companies in allied and partner nations to receive and share controlled defense articles and related technical data.
- Establishing a vetting process for dual national personnel of pre-qualified companies.
- Apportioning responsibility for compliance with International Traffic in Arms Regulations (ITAR) appropriately among all participants, thus allowing multiple U.S. industry parties to sign onto a single agreement.
- Developing new control mechanisms for items that are ITAR-controlled, but whose export or re-export after incorporation into another item does not raise policy concerns.

Support Greater Use of Existing ITAR Exemptions

Within the ITAR there are a number of exemptions which, coupled with appropriate record-keeping and notifications, companies can use instead of submitting licenses. Unfortunately, the ability to use these measures effectively is compromised by their regulatory language/structure. Examples of current exemptions which could be more easily used include:

- 126.4 (c)(3) – No license required if an export supports the U.S. Government. A company must prove “the appropriate export license or Bill of Lading could not have been obtained in a timely manner,” a virtually impossible hurdle leading companies to forego this exemption.
- 123.16(b)(2) – The exemption for items valued below \$500 is of limited use since few components qualify. The threshold should be \$10,000 for most components.
- 123.4(a)(1) – An exemption for replacement/repair of items previously approved for export. When such parts are returned to the U.S. without proper citation on import documents, U.S. companies submit voluntary disclosures and apply for licenses to re-export the item.

Update Congressional Notification Processes

State and Congress should develop better procedures for review of licenses and agreements for Foreign Military Sales (FMS) and Direct Commercial Sales (DCS) requiring Congressional Notification, including a documented procedure for out-of-session notifications.

Fund Export Control Modernization at the State Department

Funding for State’s export control functions should come from standard appropriations vs. higher registration fees. As long as these increased fees continue to be collected, State should:

- Ensure funds are exclusively designated for modernizing Directorate of Defense Trade Control (DDTC) operations, and report annually on how the funds are being used.
- Develop an automated electronic registration system, including electronic funds transfer for payments and electronic issuance of registration confirmation.
- Include policy coordination and review and other quality control management tools in future upgrades of the e-licensing system to provide more uniform and transparent application of licensing guidelines and provisos.