



Developing Transparent and Disciplined Processes for Disclosure Decisions

ISSUE: The Administration should develop more efficient procedures to ensure that all Defense Department (DOD) reviews of a proposed foreign release of U.S. technology are completed in a timely and consistent manner. Improved coordination and timeliness would strengthen allied coalitions, support acquisition reform by enhancing affordability, and help maintain the global competitiveness of the domestic defense industrial base.

AIA RECOMMENDATIONS

- Examine the mission, processes, resource requirements and timelines for each existing review committee, with an eye toward eliminating redundancies and improving efficiency.
- Conduct committee reviews concurrently (vs. consecutively), and take into consideration comprehensive and balanced policy and technical inputs.
- Enforce rigorous policies and timelines for each committee as regards entry, deliberation (including dedicated “blue teams” where appropriate), escalation, and exit procedures.
- Establish a time-bound debrief and appeals process for DOD/industry proponents of cases, as well as a process for reconciling divergent outputs at the SecDef level.
- Ensure appropriate oversight and accountability for timeliness and quality of committees’ advice at the Under Secretary and equivalent Military Department levels prior to SecDef or DepSecDef decisions on precedent-setting foreign release matters.
- Create an ongoing consultative process with industry to develop appropriate USD/DOD technology thresholds for U.S. exports.
- Inform relevant contractors upon completion of each committee’s review.
- Incorporate industrial base considerations into deliberations by accounting for program impacts, supporting direct commercial sale (DCS) and hybrid DCS/Foreign Military Sales (FMS) cases, and sponsoring technology disclosure cases for systems not in U.S. inventory.
- Issue DOD Instructions within 90 days of policy decisions, including the results of specific reviews that establish foreign release policy precedents.

BACKGROUND

A number of Defense Department committees review requests for release of classified or sensitive U.S.-origin defense articles and services. These committees have rules that govern when and how they conduct reviews, and often the length of the process as well as dispute resolution procedures. Unfortunately, current reviews fall short in several critical ways:

- Timetables for completing individual committee reviews are indeterminate and often entail lengthy wait times – a challenge since decisions regarding release necessarily must precede the State Department export license application process.
- Synchronizing the committees’ output and de-conflicting the ‘net effect’ of their decisions is often challenging, especially for complex, precedent-setting cases.
- Communication with industry - to support deliberations, raise industrial base or program considerations, help prioritize cases, or provide status updates - is sharply limited.
- Disparate processes and composition of the review boards compromise provision of comprehensive guidance, oversight, accountability, or coordination of release decisions.
- The different policies, procedures, and focus of the committees often result in inconsistent priorities and, in some cases, asymmetric foreign release decisions based on divergent intelligence inputs, technology evaluations and political/military perspectives.
- The committees are not integrated into programmatic decision-making that guides the development and production of weapon systems.