



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

Defense Trade and Industrial Base Programs

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Export Control Reform Resources: www.bis.doc.gov

Note: This presentation is merely a summary of official statements and final rules published by the Departments of Commerce and State. Final rules, as well as the Export Administration Regulations and International Traffic in Arms Regulations, must be reviewed to determine the full scope of any applicable requirements.

Topics

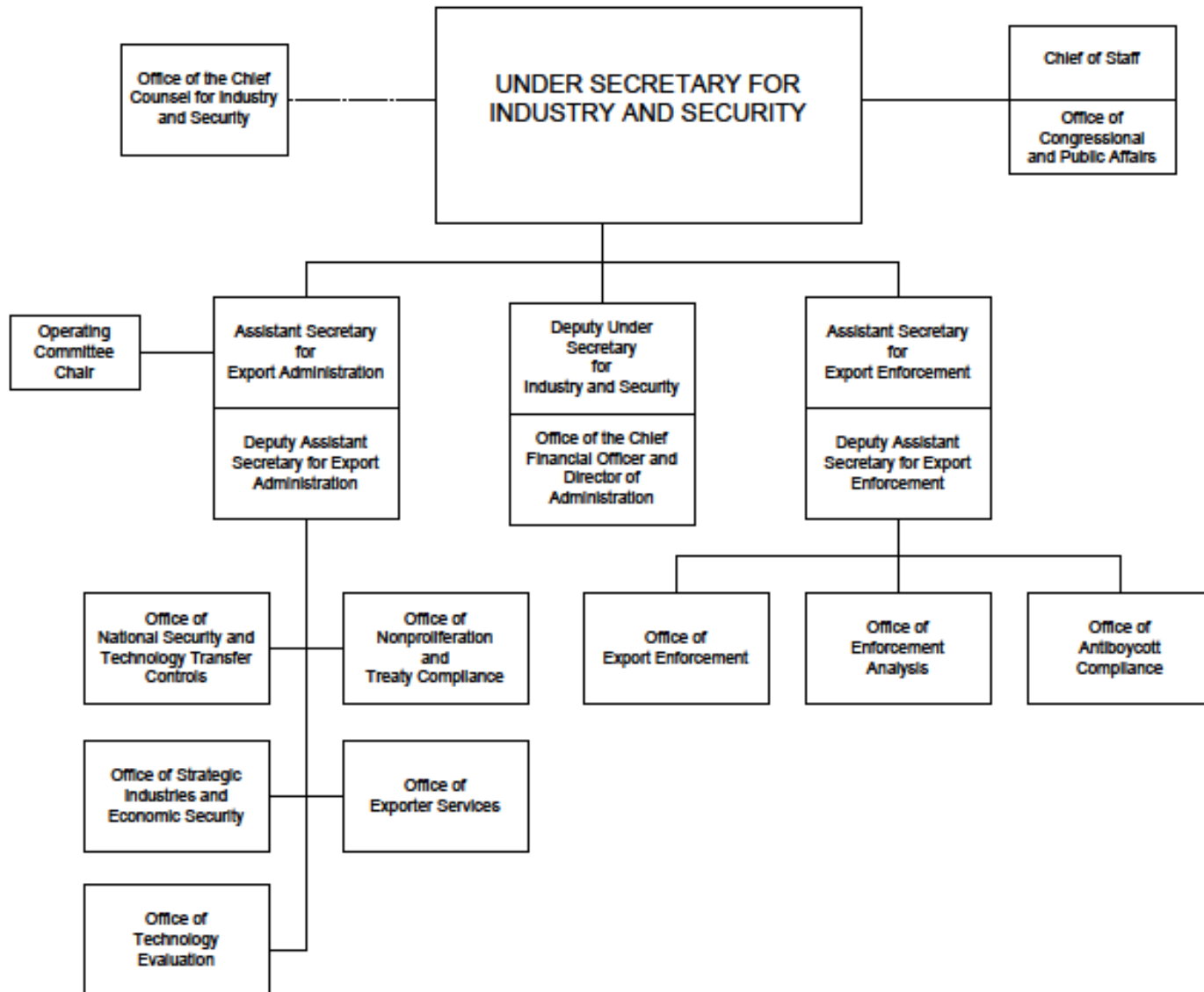


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- Export Control Reform Background/Status
- Industrial Base Programs
 - Defense Priorities and Allocations System
 - Offsets in Defense Trade
 - Excess Defense Articles

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Exhibit 1 to DOO 50-1
9-4-12



Office of Strategic Industries and Economic Security



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Defense Programs Division

- Defense Priorities and Allocations System/ Security of Supply
- Emergency Preparedness/Continuity of Operations
- National Defense Stockpile Market Impact Committee
- NATO Industrial Resources and Communications Services Working Group

Munitions Control Division

- 600 Series Licensing
- 600 Series Commodity Classifications/LDs/Commodity Jurisdictions
- 600 Series Compliance/Outreach

Strategic Analysis Division

- Committee on Foreign Investment in the United States
- Defense Policy (Advocacy, Excess Defense Articles, International Agreements, Offshore FMS/FMF Waivers)
- Offsets in Defense Trade
- NATO International Competitive Bidding Certification

ECR Background



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- To enhance national security, the Administration determined that the export control system needed to be reformed to:
 - Increase interoperability with NATO and other close allies;
 - Reduce the current incentives for companies in non-embargoed countries to design out or avoid US-origin content; and
 - Allow the Administration to focus its resources on the transactions of greater concern.

ECR Background



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- To implement the objectives, the Administration needed to:
 - Identify the specific sensitive and other items on a more positive USML that warrant individual license reviews even for ultimate end use by NATO and other regime allies; and
 - Amend the EAR and the CCL to control all formerly USML items that would no longer be on the revised USML so that they still could be adequately controlled, but in a more flexible way regarding such allies.

ECR Background



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Framework:

- Items providing a significant military or intelligence capability are listed on the USML, which is now a more “positive” list.
- Military items no longer listed on the USML are subject to the EAR’s “600 series.”
- Commercial spacecraft items no longer on the USML are listed in the EAR’s 9x515 ECCNs.
- When items cannot be positively enumerated, they will be described using the defined term “specially designed.”

License Requirements:

- Licenses from BIS will still be required to export or reexport most 600 series items worldwide (minus Canada), unless an EAR license exception is available.

ECR Background



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License Exception STA for 600 series:

- Makes defense trade with allies more efficient by authorizing exports and reexports of 600 series items to 36 countries if (a) for ultimate end use by a government of such countries, (b) return to the US, or (c) in connection with an existing authorization.
- Also allows for exports and reexports of 9x515 items to 36 countries under fewer conditions than those for 600 series.

Transition/Implementation:

- ECR final rules will have generally have a six-month delay in implementation after publication. DDTC approvals containing 600 series items may continue to be used in accordance with DDTC's transition plan.

Example: USML Category VIII and ECCN 9A610



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Revised USML

“A More Positive List”



- F-15, F-16
- Assembled engines
- Weapons pylons
- Mission systems
- Bomb racks
- Missile launchers
- Fire control computer
- Fire control Radar

Commerce Control List 600 Series

“.a-.w” items

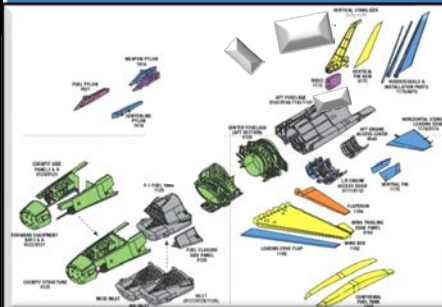
Specifically enumerated end-items, “parts,” “components,” “accessories,” & “attachments”



- Aircrew life support and safety equipment
- Parachutes/paragliders
- Controlled opening equipment of automatic piloting systems, designed for parachuted loads
- T-1 Aircraft

“.x” items

“Specially designed” “parts,” “components,” “accessories,” and “attachments”



- Wings, Rudder, Fin, Panels
- Fuselage – forward, center, aft
- Cockpit structure
- Forward equipment bay
- Control surfaces, activation and control systems

“.y” items

Specifically enumerated commodities (primarily “parts,” “components,” “accessories,” and “attachments”) that are “specially designed”



- Aircraft tires
- Hydraulic system filters
- Hydraulic and fuel hoses, fittings, clips, couplings, brackets
- Cockpit panel knobs, switches, buttons, dials

Status



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USML Category	ECCNs	Status
I: Firearms	0x601	Proposed rule TBD
II: Artillery	0x602	Proposed rule TBD
III: Ammunition	0x603	Proposed rule TBD
IV: Launch Vehicles/Missiles	0x604 9x604	Final rule Jan. 2, 2014; Effective July 1, 2014
V: Explosives/Propellants	1x608	Final rule Jan. 2, 2014; Effective July 1, 2014
VI: Vessels of War	8x609	Final rule July 8, 2013; Effective Jan. 6, 2014
VII: Tanks/Military Vehicles	0x606	Final Rule July 8, 2013; Effective Jan. 6, 2014
VIII: Aircraft	9x610	Final rule Apr. 16, 2013; Effective Oct 15, 2013
IX: Training Equipment	0x614	Final rule Jan. 2, 2014; Effective July 1, 2014
X: Personal Protective Equip.	1x613	Final rule Jan. 2, 2014; Effective July 1, 2014
XI: Electronics	3x611 9x620	Final rule July 1, 2014; Effective Dec. 30, 2014

Status



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USML Category	ECCNs	Status
XII: Sensors/Night Vision	6x615 7x611	Proposed rule May 5, 2015
XIII: Miscellaneous	0x617	Final rule July 8, 2013; Effective Jan. 6, 2014
XIV: Toxicological Agents	1x607	Proposed rule June 17, 2015
XV: Spacecraft/Satellites	9x515	Interim final rule May 13, 2014 Effective June 27, 2014 (for rad-hard ICs) Effective Nov. 10, 2014 (for all other items)
XVI: Nuclear	N/A	Final rule Jan. 2, 2014; Effective July 1, 2014
XVII: Classified	N/A	Final rule Apr. 16, 2013; Effective Oct 15, 2013
XVIII: Directed Energy Weapons	TBD	Proposed rule June 17, 2015
XIX: Gas Turbine Engines	9x619	Final rule Apr. 16, 2013; Effective Oct 15, 2013
XX: Submersible Vessels	8x620	Final rule July 8, 2013; Effective Jan. 6, 2014
XXI: Not Enumerated	N/A	Final rule Apr. 16, 2013; Effective Oct 15, 2013 ¹

Impact



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- From October 2013 through September 2015:
 - 55% reduction in license volume at the Department of State for the newly implemented USML categories
 - Over 22,000 license applications submitted to BIS for items that have moved from the USML to the CCL
 - Over 180,000 shipments valued at \$6.2 billion in exports have been shipped under BIS authorizations

Top 10 Destinations - Licenses



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600 Series and 9x515 Items (10/2013-9/2015)

<u>Country</u>	<u>Processed Licenses</u>
Japan	2,251
United Kingdom	1,852
South Korea	1,126
Germany	848
United Arab Emirates	754
Italy	655
Saudi Arabia	622
Israel	607
France	605
Brazil	601

Top Ten ECR ECCNs of U.S. Exports



600 Series and 9x515 Items (10/2013-9/2015)

<u>ECCN</u>	<u>Description</u>	<u>% of Total Transactions</u>	<u>% of Total Value</u>
9A610	Military aircraft and related commodities	62.3%	50.9%
9A619	Military gas turbine engines and related commodities	15.4%	25.0%
9A515	"Spacecraft" and related commodities	1.6%	9.2%
0A606	Ground vehicles and related commodities	11.2%	5.1%
3A611	Military electronics	2.7%	2.7%
1A613	Armored and protective "equipment" and related commodities	1.2%	1.7%
9B610	Test, inspection, and "production" equipment and related commodities "specially designed" for the "development" or "production" of commodities enumerated in ECCN 9A610 or USML Category VIII	0.9%	1.3%
0A614	Military training "equipment"	1.4%	0.8%
8A609	Surface vessels of war and related commodities	0.3%	0.5%
9A604	Commodities related to launch vehicles, missiles, and rockets	0.5%	0.05%
Top Ten/Total		97.4%	98.0%

Top Destinations of ECR Exports



600 Series and 9x515 Items (10/2013-9/2015)

<u>Country</u>	<u>% of Total Count</u>	<u>% of Total Value</u>
Japan	9%	16.60%
Canada	7.20%	10.70%
South Korea	7.30%	8.30%
United Kingdom	10.90%	7.20%
French Guiana	0.00%	5.60%
Israel	4.90%	4.70%
Germany	3.70%	3.50%
Singapore	3.80%	3.00%
Italy	3.00%	2.90%
United Arab Emirates	3.30%	2.50%
<i>Top Ten/Total</i>	<i>53.10%</i>	<i>65.10%</i>

Top Destinations of 600 Series Items Exported Under STA License Exception



(10/2013-9/2015)

<u>Country</u>	<u># of Shipments</u>	<u>Value \$ Million</u>
Japan	3,038	\$358.00
South Korea	1,947	\$128.60
United Kingdom	968	\$55.60
Turkey	754	\$20.50
Netherlands	639	\$14.10
Australia	475	\$57.60
Italy	467	\$18.20

STA Resources



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- Strategic Trade Authorization Web based tool helps companies determine if their item is eligible for License Exception STA and if they are prepared to meet the compliance requirements
<http://www.bis.doc.gov/index.php/2012-03-30-17-54-11/2013-02-15-13-50-21>
- Monthly public reports on Export Control Reform licensing and export trends/Strategic Trade Authorization use
<http://www.bis.doc.gov/index.php/ecr-analysis>
- Export Control Reform Frequently Asked Questions
<http://www.bis.doc.gov/index.php/2012-03-30-17-54-11/ecr-faqs>
- Export Control Reform Resources: www.bis.doc.gov

DPAS Background



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- *Title I of the Defense Production Act* – authorizes President to require acceptance and priority performance of contracts and orders (other than employment) to promote the national defense over performance of any other contracts and orders
- *National Defense* - includes military, energy, homeland security, emergency preparedness, and critical infrastructure protection and restoration activities
- *Executive Order 13603, National Defense Resources Preparedness (March 2012)* – most recent delegation of President’s Title I authorities
- *Defense Priorities and Allocations System Regulation (15 CFR Part 700)* – administered by DOC/BIS to implement priorities authorities for industrial resources. DOC has managed priorities system for industrial resources since 1950

DPAS – Key Takeaways



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- DPAS is regularly used to support acquisition of industrial resources needed to support national defense requirements. Regulation updated in 2014 to enhance ability to support time-sensitive emergency preparedness requirements
- Key elements are mandatory acceptance of “rated” orders; preferential scheduling; extension of priority ratings throughout the supply chain; and protection against claims
- DOD, DHS/FEMA, or DOE must determine programs are “necessary or appropriate to promote the national defense” to be eligible for DPAS support
- DOC/BIS collaborates closely with DOD, DHS/FEMA, DOE and other Departments with DPA responsibilities (USDA, HHS, and DOT)
- Industrial base well-versed in the DPAS based on 60+ years experience in receiving/placing priority rated contracts/orders for industrial resources to support DOD requirements

Security of Supply



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- *Foreign Military Sales* contracts typically include DPAS priority ratings
- *Direct Commercial Sales* to foreign nations are eligible for DPAS support on case-by-case basis (AT&L/MIBP coordinates DoD position on foreign requests for support)
- U.S. bilateral security of supply arrangements (Australia, Canada, Finland, Italy, Netherlands, Spain, Sweden, and United Kingdom).
- European defense industrial and technological base/security of supply-related initiatives

Offsets in Defense Trade



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- Annual report to Congress on defense-related offsets
- 2013 – 17 firms reported 67 new offset agreements with 18 countries (\$5 billion, @ 52 percent contract values)
- 2013 – 21 firms reported 541 offset transactions with 32 countries (\$3.1 billion, credit value \$3.5 billion)
 - Aerospace sector accounts for the largest share of offset transactions
- Offsets demands in emerging/growing markets
- Initiatives to restrict use of offsets within EU
- *Proposed Rule: Export Control Reform: Conforming Change to Defense Sales Offset Reporting Requirements*, 80 FR 75,438 (12/3/15). Public comments due 2/1/16

Offsets in Defense Trade



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- Items offered as part of an offset transaction may require an export license from the relevant U.S. Government agency
- For items that require an export license, such as items controlled for Missile Technology (MT) reasons, exporters are advised to consult with the Departments of Commerce, Defense, and State to obtain export control policy guidance prior to offering such items as part of an offset transaction

Excess Defense Article Review



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- DOC/BIS part of interagency coordination
- Provide DSCA with recommendation on whether proposed transfers of excess defense articles to foreign nations would have an adverse impact on national technology and industrial base, or reduce the opportunities of U.S. industry to sell new or used equipment to the countries to which such articles are transferred
- In FY 2015, DOC/BIS reviewed 99 proposed EDA transfers

Contact Information



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