

Export Control Reform

Background:

- On August 31, 2010, the White House “rolled out” the President’s announcement that the Administration is moving forward on a fundamentally new U.S. export control system.
- The system will be based on the four singles that Secretary Gates mentioned in his April speech – a single licensing agency, a single control list, a single enforcement coordination center, and a single IT system for export licensing.
 - New controls will be based on three “tiers,” to distinguish the types of items that should be controlled at different levels for different types of destinations, end-uses, and end-users.
 - Controls will be rewritten to create clear jurisdictional lines between munitions and dual-use items, to develop “positive” lists of controls (particularly for munitions items), and structure controls so that they can be aligned into a new, single control list.
- An Executive Order establishing the new Export Enforcement Coordination Center was issued in November 2010. SOP for the Center is currently being worked by the NSS.
- DoD is working with other agencies on transitioning to a single electronic licensing system. We expect to be operational with State by June 2011; and with Commerce by mid-2012.
- **Completed Work:**
 - New foreign national regulation regarding employment of dual and third country nationals. (Published in the Federal Register on August 11, 2010, for a 30-day public comment period.) The final rule should be issued soon.
 - Currently, a license is required in order to allow access by dual and third country nationals to ITAR-controlled technology. Under the new rule, the burden of compliance with U.S. laws and regulations to prevent diversion of U.S. defense articles and technology is placed on the foreign company, government, or international organization.
 - New encryption regulation will significantly reduce the licensing requirement for exports of certain mass market encryption software.

- **On-Going Work:**
 - Licensing Policies. Agencies are working on a new license exception Strategic Trade Authorization (STA) that will allow license-free exports of most dual-use items to Allies and close partners.
 - Single List - Rewriting Controls. Objective is to rewrite the U.S. Munitions List into a “positive” list, using objective rather than subjective criteria such as design intent or a catch-all, and to structurally “align” USML and CCL controls so they can be combined into a single list of controlled items by the end of the reform effort.
 - DoD has taken the lead in rewriting the USML. Work is to be completed by June 2011. The MilDeps and AT&L are providing expertise.
 - Category VII – Military Vehicles, was published in the federal register for comment in December 2010.
 - The CCL will also need to be rewritten and tiered, for eventual merging into a single list.
 - Legislation. Creation of the Single Licensing Agency (SLA) will require legislation.
 - The NSC Task Force is focusing on new legislation that deals with both dual-use and munitions exports, and establishes the SLA. The plan is to present the bill to Congress in early 2011.
- **Review of the Department’s Technology Release and Transfer Processes** is being conducted hand-in-hand with the Administration’s export control reform initiative.