INDUSTRY ADVISORY COMMITTEE PERSPECTIVES

Moderator: Kathleen Barfield

Program Manager

Export Administration

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

A little background on the ISTAC

**Henry Brandt
ISTAC co-chair
19 July 2012**

ISTAC meets regularly

- The ISTAC meets quarterly, in person, with standing workgroups that convene in conference calls and email exchanges at other times in the course of the year.

- Membership consists of a "rolling base" of seasoned members along with new members from selected industries as conditions and interest warrant. Currently 34 industry, 13 government.

- Membership also has a critical base of both technical experts as well as administrative experts tasked with implementation.

- The work product consists of technology trends & product roadmaps, recommendations, proposals for revision of the regulations, and feedback to the USG on US and Wassenaar proposals/whitepapers.

- This particular TAC has a relatively wide range of products and technologies to cover.

ISTAC covers Categories 3, 4, and 5

- Category 3: semiconductors, microwave devices, batteries, semiconductor manufacturing equipment, electronic test & measurement equipment

- Category 4: computers

- Category 5 Part 1: telecom and wireless equipment

- Category 5 Part 2: encryption

❑ **Focus areas:**

      ❑ **Rad-hard semiconductors**

      ❑ **Semiconductor manufacturing tools**

      ❑ **Test & measurement equipment**

      ❑ **High-performance computers**

      ❑ **Encryption**

ISTAC originates numerous proposals

- For ISTAC-initiated activity, the usual driver is a concept or concern raised by a member, usually on behalf of his or her industry or technology.
    - In some cases, he or she is quietly advised by either colleagues on the TAC, the TAC chairman, or the DFO that the matter is unlikely to be given consideration at this time and should be shelved.
    - In most cases, the subject becomes the topic of one or more presentations at TAC meetings.
    - Given encouragement by the TAC to pursue the matter, the member often arranges additional, deeper presentations and supporting material to be given to the TAC.

The track record for proposal adoption by Wassenaar is good.

ISTAC responds to government requests

- For USG-initiated activity, the ISTAC chairman usually receives a request from the DFO or DTSA for information.

  - Frequently the government is looking for non-publicly available data and the member most closely related to that area provides input from his company or engages the industry leader to provide the requested data directly to the USG.

  - In other cases the government seeks feedback from industry prior to the publication of a draft or final regulation, or as part of a deliberation on a foreign proposal.

    - The chairman will ordinarily forward the request to either the best individual or the workgroup associated with the category.

    - For non-proprietary requests, the entire TAC is usually given a chance to comment before the feedback is given to the government.

Timely response is a critical factor that trumps formality.

ISTAC sometimes works in mysterious ways

- The ISTAC benefits from a remarkable, informal, collective institutional memory.
  - This helps when the reason for a control isn't obvious or cannot be explicitly stated.
  - It benefits new members who have to quickly gather "folklore"
  - Committee members are available to guide and support industry initiatives as the need arises.
- On the whole there is a shared sense of responsibility and purpose.
- Every effort is made, by industry and government, to arrive at a mutually-agreeable compromise.
  - This requires a high degree of trust.
  - Having that trust allows considerable open sharing of information.
  - This does exhibit itself in the form of a repeatable, informal process.

Thank you!

Regulations and Procedures Technical Advisory Committee (RPTAC)

Keith Melchers, Chair
Date: July 2012

Regulations and Procedures Technical Advisory Committee (RPTAC)

A place "Where Export Reform is an ongoing process!"

TAC Members include a broad cross-section of regulated industries and the regulatory agencies

Cover all aspects of the regulations not covered by the technical TAC's

Provide BIS with industry perspective on BIS initiatives and draft regulations

Proactive in driving initiatives to update and simplify regulations

RPTAC

How are we organized?

Five Working Groups: Compliance & Enforcement; Encryption; Multilateral Controls; Practices & Procedures; Technology Controls
Ad hoc working groups on specific topics

Quarterly meetings March, June, September, December
Conference calls and email between meetings

Pro-bono volunteer basis – commitment to spend the necessary time to provide thoughtful advice

RPTAC

What do we do?

Goal is to provide advice to regulators *before* initiatives and regulations are fully developed

Not there to criticize, but to propose exactly how to do it better

"Reality testers" of BIS ideas; partners in export compliance and good government

Help regulators avoid unintended consequences

RPTAC

Examples of what we do

Last EAR Rewrite – Established teams for each section, did much of the initial drafting working closely with BIS

Feedback on current export reform proposals and draft regulations

Harmonization of definition of like terms in EAR, ITAR, OFAC regulations

Foreign export control practices survey

RPTAC

More Examples

Multiple encryption policy and regulation reforms

AES pre-departure regulation

Feedback on single license user form, Entity List FAQ's, transshipment best practices

RPTAC

What's next?

Continue to be sounding board for export reform regulations

Revisit creating license exception for intra-company transfers of technology

Deemed export licensing simplification

Simplify encryption regulations

RPTAC

What are your priorities?

Consider making presentations during the public comment segment at our quarterly meetings

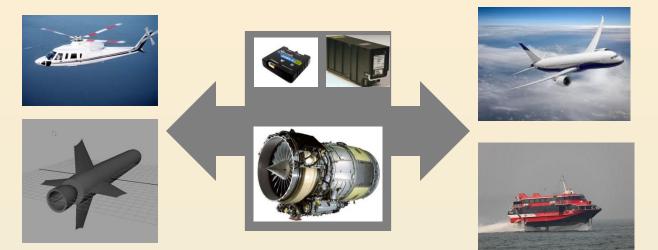Consider joining us---apply for RPTAC membership

Thank you

Transportation and Related Equipment Technical Advisory Committee (TransTAC)

Bureau of Industry and Security Update Conference
July 19, 2012

Transportation and Related Equipment Technical Advisory Committee (TransTAC)

EAR Category 7

–Aviation Electronics (Avionics)

–Navigation and Guidance Equipment

–Related Sensors and Technology
  Gyros, Accelerometers, GPS

EAR Category 9

–Aircraft

–Aircraft Engines

–Related Technology

EAR Category 8

–Marine Systems

–Marine Engines

–Related Technology

Transportation and Related Equipment Technical Advisory Committee (TransTAC)

Current Membership

–Department of Commerce

–Department of Defense / DTSA

–Department of State

–Institute for Defense Analyses

–Technical representation from 11 Corporations

Analog Devices	Northrop Grumman
Airbus North America	Saipem America
Boeing	Systron Donner Inertial
Florida Turbine Technologies	Rockwell Collins
GE Aviation	United Technologies
Honeywell	

Active TWGs

- Cat 7 Inertial Systems & Sensors
- Cat 7 HUD
- Cat 7 AFCS
- Cat 9 9.D.4
- Cat 9 Combustor/Hole Drilling
- Cat 9 a.4/a.5
- Composites

General Export Reform Support

Recent Results

2011
1C008 (Resins) – supported clarification, threshold increases*
7D003.d.7 (Software) – HUD changed to 3-D displays
9E003.a.2 (Combustors) - clarified
9E003.c (Hole drilling) – clarified

2010
1A002/1C008/1C010 (composites/resins) – supt. clarification, threshold addition*
7E004.a.3 (Displays) – modified
7E004.a.4 (INS or gyro-astro compasses) – deleted
9B002 (On-line control systems)- clarified
9B008 (Wall skin friction transducers) – clarified
9D003 (Software) – clarified
9E003.a.8 (Damage tolerant rotor components) –clarified
9E003.a.10/9E003.i (Flow path systems) – clarified

2009
1B001 (Tow machines) – increased axes threshold, clarified*
1C010 (Carcon composites) – increased thresholds, clarified*
7A005 (GNSS) - clarified
9E003.a.9/9E003.h (FADEC systems) – clarified

*Joint with MTAC

Sensors and Instrumentation Technical Advisory Committee (SITAC)

Bureau of Industry and Security Update

Conference

July 19, 2012

John Goodrich, Chair

Sensors and Instrumentation Technical Advisory Committee (SITAC)

Current Membership

- Department of Commerce
- Department of Defense/DTSA
- Department of State
- Technical representation from 23 Companies

- DRS Technologies, Inc.
- Oclaro, Inc.
- Quasar Federal Systems
- Teledyne Judson Technologies
- K&A Wireless, LLC
- Raytheon Vision Systems
- Maxtech International, Inc.
- Bullard
- LEOMA
- SemiKing,LLC
- ISG/Infrasys
- Sofradir EC, Inc.

- Pacific Advanced Technology
- Intel Corporation
- Input/Output, Inc.
- Rohm Electronics
- Fluke Corporation
- Princeton Instruments
- Pembroke Instruments, LLC
- FLIR Systems, Inc.
- BAE Systems Imaging Solutions
- Advanced Scientific Concepts, Inc.
- Nufern, Inc.

EAR Category 6

- Acoustics
- Optical Sensors
- Cameras
- Radars
- Photomultiplier Tubes

- Night Vision
- Lasers
- Magnetometers
- Gravity Meters
- Pressure Sensors
- Related Software

SITAC – Typical Meeting Agenda

- Set one month in advance
- BIS update focusing on license statistics
  - Night Vision has highest volume of licenses
- Wassenaar updates
- Industrial Presentations
  - Ocean Acoustics
  - Night Vision in Russia
  - Night Vision in China
  - Export/Import bank
- Closed Sessions

Major 2011-2012 Initiatives

- Ensure compliance with UTIC rule
- Pursue resolution of the large number of outstanding Commodity Jurisdiction requests
- Support export reform initiatives
- Obtain more support from DTSA and Department of State personnel at meetings
- Update and communicate Night Vision foreign availability facts
- Continue to asses relevancy of existing controls over other Sensors

SITAC-Current Critical Issue
Export Control Reform

- Need appropriate bright line between USML and CCL
- Current practice provides foreign competitors with market advantage
  - Foreign customers do not want to buy U.S. commercial cameras treated as USML or U.S. dual-use components treated as USML for foreign-made commercial cameras
  - Foreign customers simply buy from non-US suppliers
- Commercial cameras and components treated as dual-use under the Wassenaar Arrangement
  - License-free within the EU and to other major markets, including the US
- US night vision uncooled commercial market share has declined from ≈ 100% in the mid 1990's to ≈ 60% today and declining
- Treating commercial cameras and dual-use components as USML
  - Provides less control and visibility for USG
  - Could result in US job losses
  - Could accelerate technical night vision advances by foreign manufacturers as the US becomes less competitive…particularly China
  - Could negatively affect US defense industrial base
- Export control reform needs to acknowledge uncooled night vision has become a commercial technology available world-wide

US Department of Commerce
Bureau of Industry and Security

Materials Technical Advisory Committee

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Duties of the Committee

- Technical assistance and guidance regarding export controls on materials, associated equipment, and technology
  - Identify technical issues associated with regulations
  - Propose changes
  - Evaluate proposed changes
  - Support discussions in multilateral forums
  - Inform US policy-makers

Current Membership

- **Materials**
  - Toray Composites America
  - Toho Tenax
  - DuPont
  - Harper International
  - Dow Corning
- **Bio-medical**
  - SIGA
  - Battelle
  - Centocor
  - MedImmune
  - Avalere Health LCC

- **Chemical Processing**
  - Kelley Drye
  - DuPont
- **Aerospace**
  - Boeing

MTAC Meetings

- Quarterly in Washington DC
  - Next meetings: Aug. 9, Nov. 14, Feb. 7
- Technical Working Group Meetings:
  - Chem. Processing (ad hoc)
  - Biotechnology (ad hoc)
  - Composite Materials and Structures – Co-sponsored by TransTAC (monthly)

Commerce Control List Categories

- <u>CCL Category 1</u> – materials, equipment, software, and technology
    - Chemicals and toxins
    - Biological Agents
    - Nuclear materials
    - Energetic Materials
    - Aerospace materials

- <u>CCL Category 2</u> – chemical processing equipment, software, and technology

Recent Results

- Comments on proposed EAR changes and Australia Group issues on chemical processing equipment
- Update of controls on composites
  - Clarification of "General Technology Note" interpretation
  - Revised control thresholds on composite materials in 1C010 – Wassenaar Arrangement
  - Revised control thresholds on automated layup equipment in 1B001- Wassenaar Arrangement
  - Proposal to amend 1C210 control parameters - NSG
- Establishment of working group to address issues relating to the Biological Weapons Convention

Recent Results

- Technical inputs to numerous US and other States Parties change proposals

- Forum for discussion of industry concerns:
  - Hydroxyl Terminated Polybutadine

Priorities

- Composite processing equipment and material recycling issues
- Chemical processing equipment
- BWC confidence building measures
- Inputs relating to regulatory reform activities

Additional Goals

- Identify:
  - Additional issues of concern to industry
    - E.g. Proposal to expand controls on valve category under ECCN 2B350.g
  - Emerging issues

- Encourage:
  - Additional presentations to the MTAC by industries with regulatory/procedural concerns