



Directorate of Defense Trade Controls Updates for BIS 2019

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U.S. Department of State ♦ Directorate of Defense Trade Controls



Overview



- Mission Statement
- Delegation of Authority
- Organizational Overview
- Licensing Presentation
- Policy Presentation
- Compliance Presentation
- IT Modernization Presentation
- Contact Information
- Q & A



Mission Statement



Ensure commercial exports of defense articles and defense services advance U.S. national security and foreign policy objectives.

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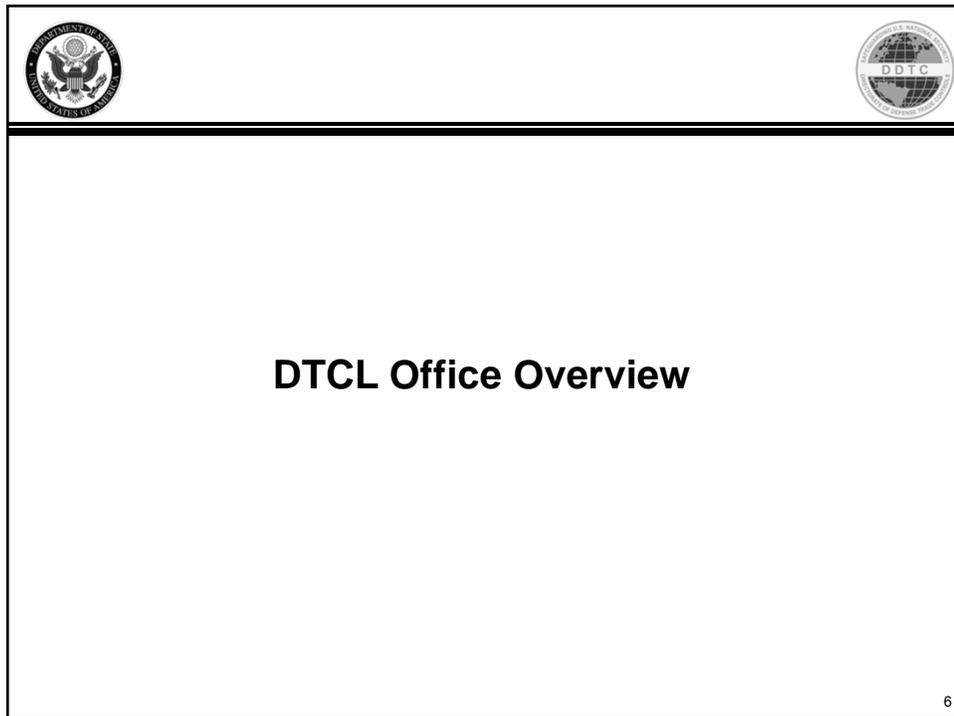
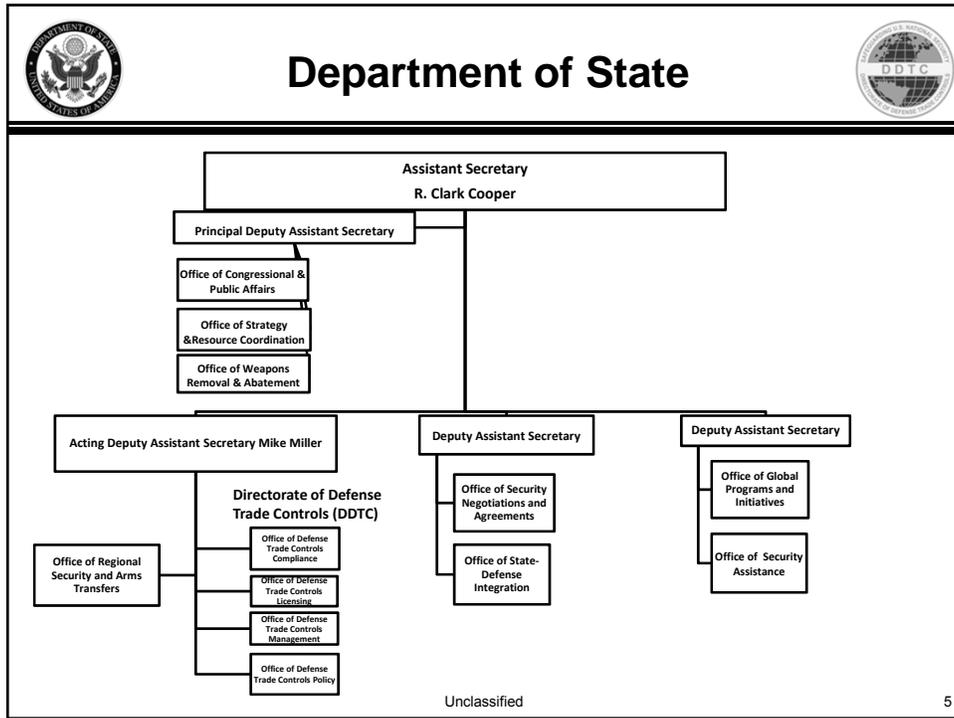
Delegation of Authority

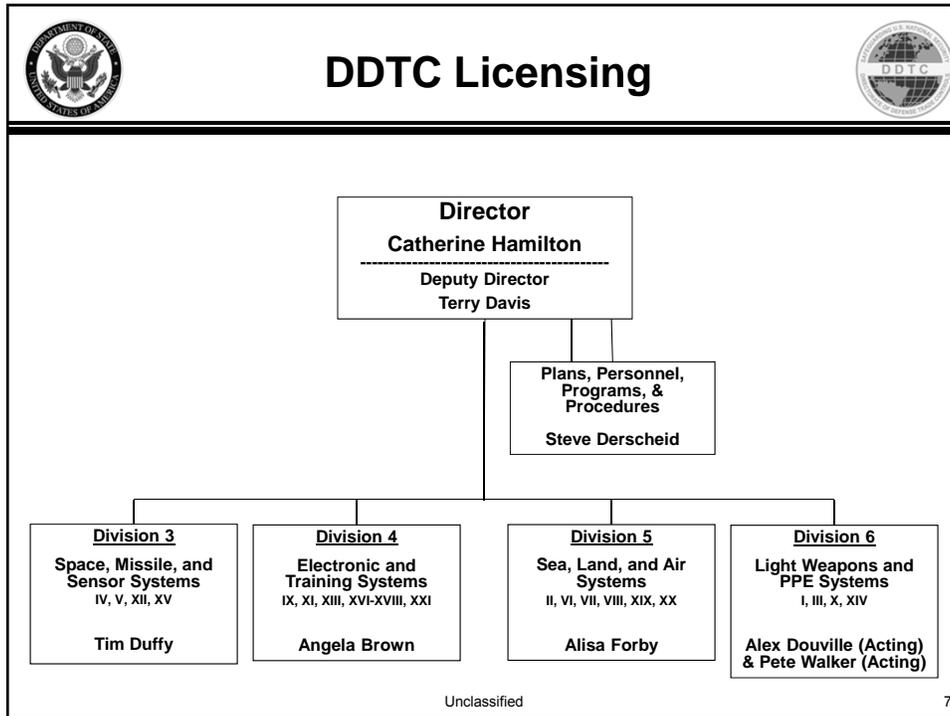


- Arms Export Control Act (AECA)
 - President of the United States (AECA Section 38)
 - Secretary of State (Executive Order 13637)
- International Traffic in Arms Regulations (ITAR)
 - Under Secretary for Arms Control and International Security
 - Assistant Secretary for Political Military Affairs
 - Deputy Assistant Secretary for Defense Trade Controls

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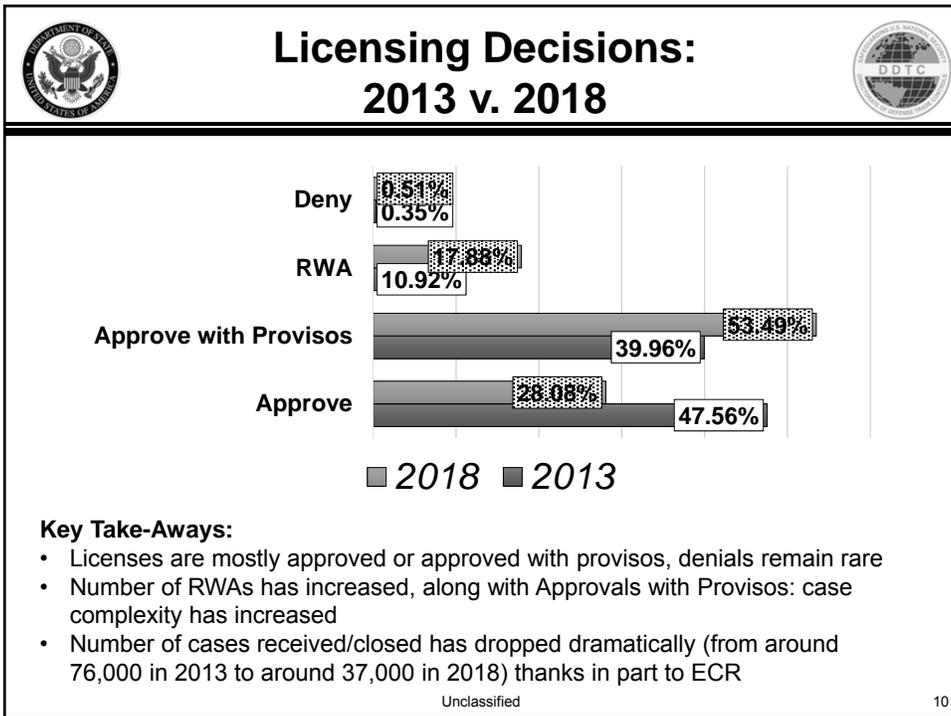
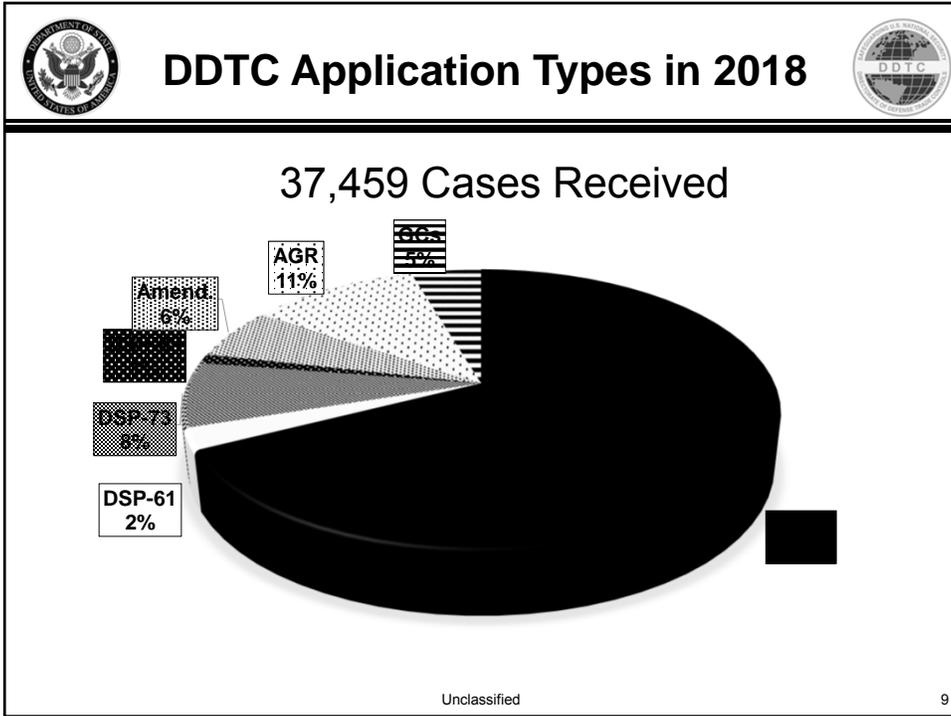


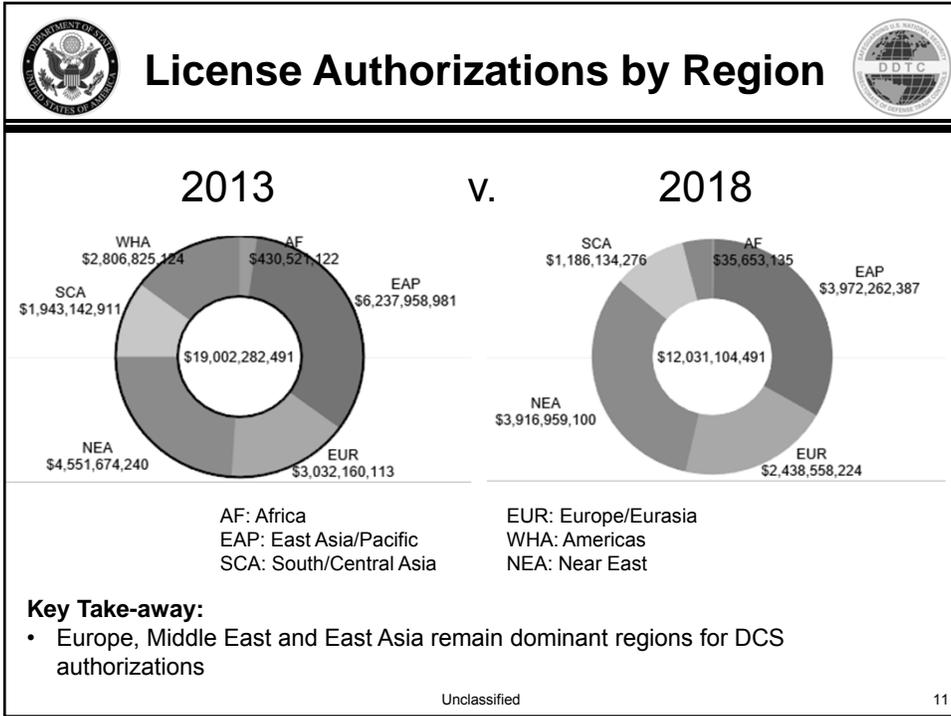
DDTC Licensing

Core Responsibilities

- Respond to licensing requests from industry
- Confirm answers to the following questions on every export request – Who, What, When, Where, Why, and How
- Determine if the export is consistent with U.S. foreign policy and national security objectives (seek referrals)
- Make a final determination (approve, limit, deny, or RWA)

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DTCP Office Overview

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Goals for DTCP



Create a DTCP that is best equipped to:

- **accomplish** its mission to develop, maintain and support implementation of an **effective export control system** for munitions AND support development of **country and technology-based DCS policy**;
- **work together** to meet that mission;
- **understand its role** vis-à-vis the other DDTC offices and **knows the role it plays** in supporting the work of DDTC and the rest of State;
- **leverage and support the work** of other State offices and the interagency;
- use **resources** within existing divisions to meet our mission.

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DTCP's Core Mission



DDTC Mission:

Ensuring commercial exports of defense articles and defense services are consistent with U.S. national security and foreign policy objectives.



DTCP Mission:

Maintain a modern and agile export control system for munitions, while providing responsive, forward-thinking, and insightful policy advice and support on Direct Commercial Sales of defense articles and services to representatives of the Department of State, U.S. Interagency, foreign partners, and the exporting public.

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New DTCP Portfolios



Regulatory and Multilateral Affairs (RMA): Regulatory Policy
The question they address: How do we and how should we control munitions in general?
Overview of Portfolio:

- ITAR development and outreach
- Bilateral and multilateral regulatory policy matters
- Support to legislative, regulatory, and legal matters
- Issuing authoritative interpretative guidance related to the ITAR

Technology and Jurisdiction Analysis (TJA): Technology Policy
The question they address: How do we and how should we control particular items?
Overview of Portfolio:

- USML review
- Develop and maintain technology based policy
- Management of Commodity Jurisdiction cases
- "1st Level" Reviews of seized commodities for DHS/FBI and support of pre-trial and trial certifications (law enforcement support)

Country and End-User Analysis (CEA): Country Policy
The question they address: How do other countries control munitions and how effective are those controls?
Overview of Portfolio:

- Report on foreign nations' export control systems and defense industrial bases
- Execute Blue Lantern Program and maintain Watchlist
- Support DCS country policy development, to include sanctions

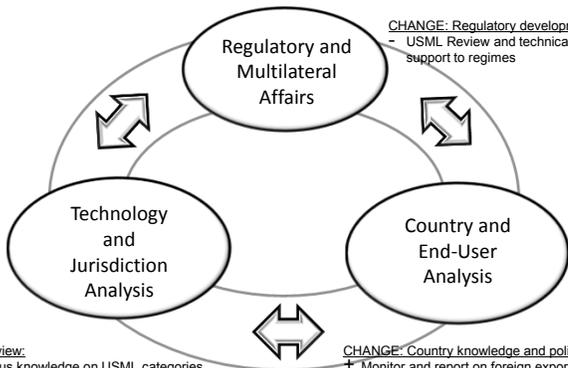
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The New DTCP



The divisions now support each others' work to meet our mission though a revamping of portfolios:



CHANGE: USML review:

- + Develop indigenous knowledge on USML categories
- + Monitor/report technology trends and publish tech reports
- + Publish USML rules and provide technical support to regimes

CHANGE: Regulatory development:

- USML Review and technical support to regimes

CHANGE: Country knowledge and policy:

- + Monitor and report on foreign export control systems and countries' export/import trends related to munitions
- + Produce DCS country reports
- + Support sanctions policy development

CHANGE: Technology policy

- + Support development of DCS technology policy (e.g., silencer policy)
- + Approve tech data for public release as needed

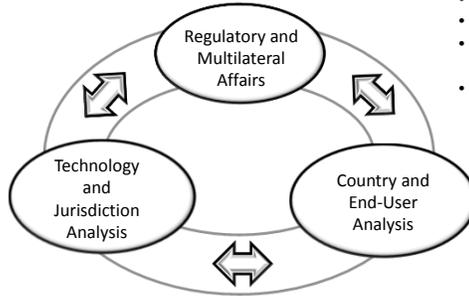
CHANGE: Securing U.S. defense technology

- + Enhanced support of DCS licensing country policy development
- + Monitor/report M&A of foreign parties/conduct risk assessment

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Day-to-Day Deliverables



RMA Deliverables

- ITAR Amendments
- Advisory Opinions
- Frequently Asked Questions for DDTC website
- Defense Trade Cooperation Treaty Reports to Congress

TJA Deliverables

- Commodity Jurisdiction Determinations
- First Level Reviews and Regulatory Review Letters
- Frequently Asked Questions for DDTC website
- Technology Trend Reports - New
- USML rules - New
- Defense Office of Prepublication and Security Reviews - New

CEA Deliverables

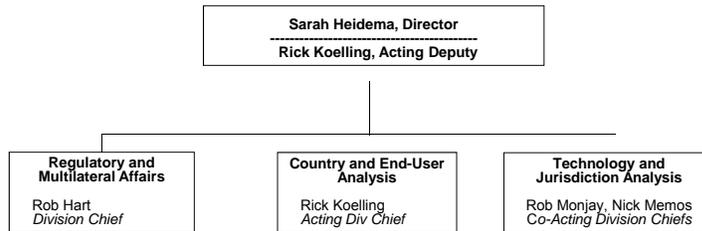
- Blue Lantern actions and Watchlist amendments
- DCS country reports - New
- Foreign merger and acquisition reports - New

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DTCP: New Organization



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Rules in Development



- “Defrag” rules
 - Rule 1: Consolidation of definitions (Part 120)
 - Rule 2: License requirements, license process, consolidation of exemptions (Parts 123, 124, 125)
 - ANPRM, to support this rule, currently in interagency review
- End-to-End Encryption “Carve-Out” rule
 - Intended to be similar to and interoperable with existing BIS rule
- USML Reviews
 - No final rule has been published for Categories I-III
 - Categories VI, VII, XIII and XX: close to a proposed rule
 - Categories V, X, and XI: interagency continues to discuss to develop proposed rule
 - Categories IV, XV: notice of inquiry comments under review

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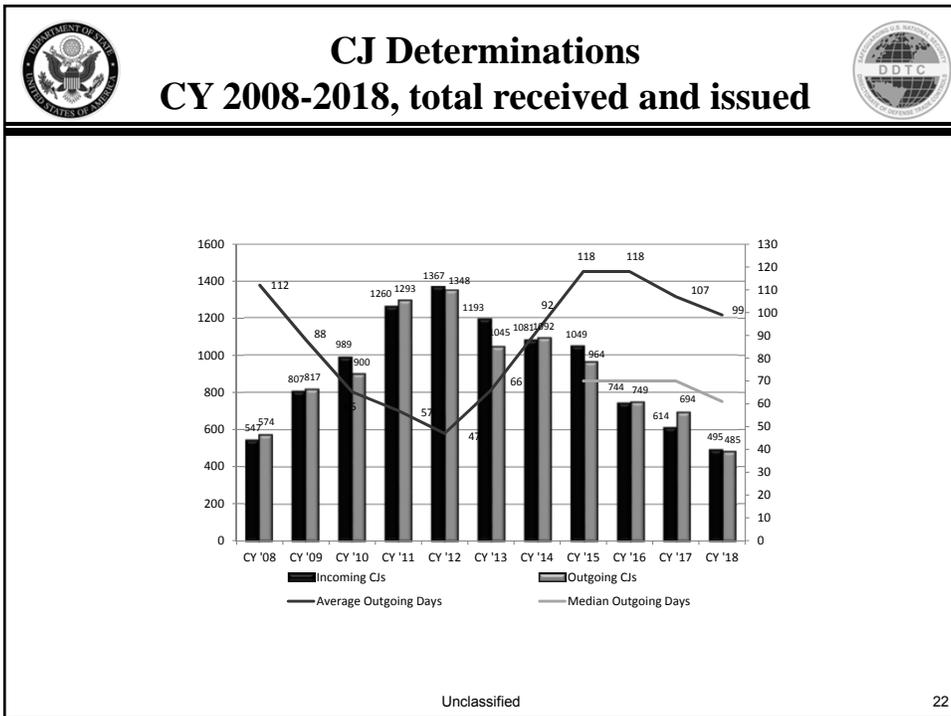
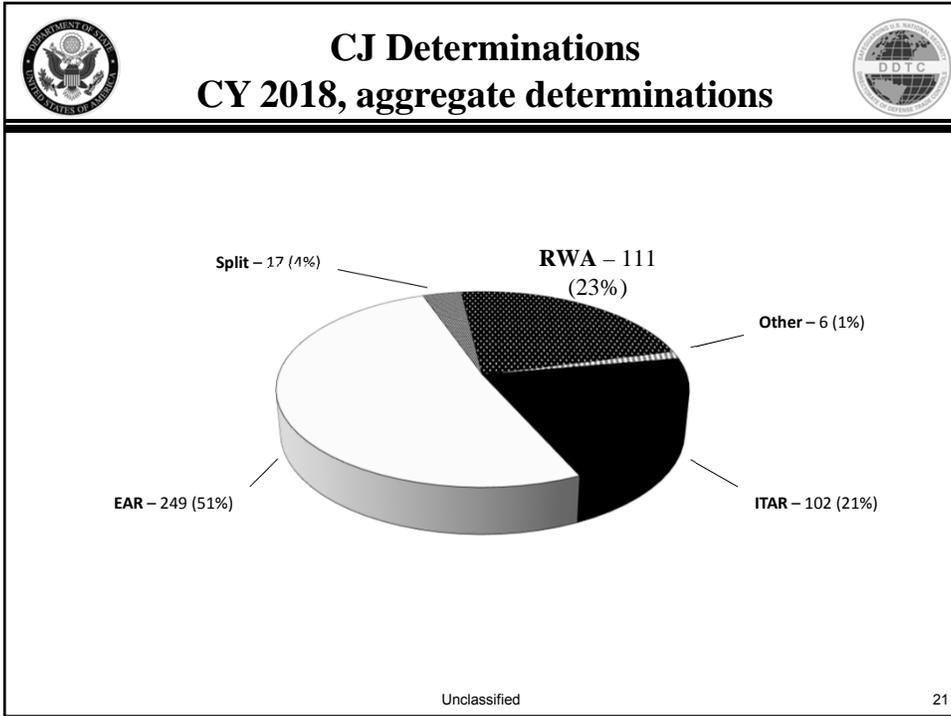


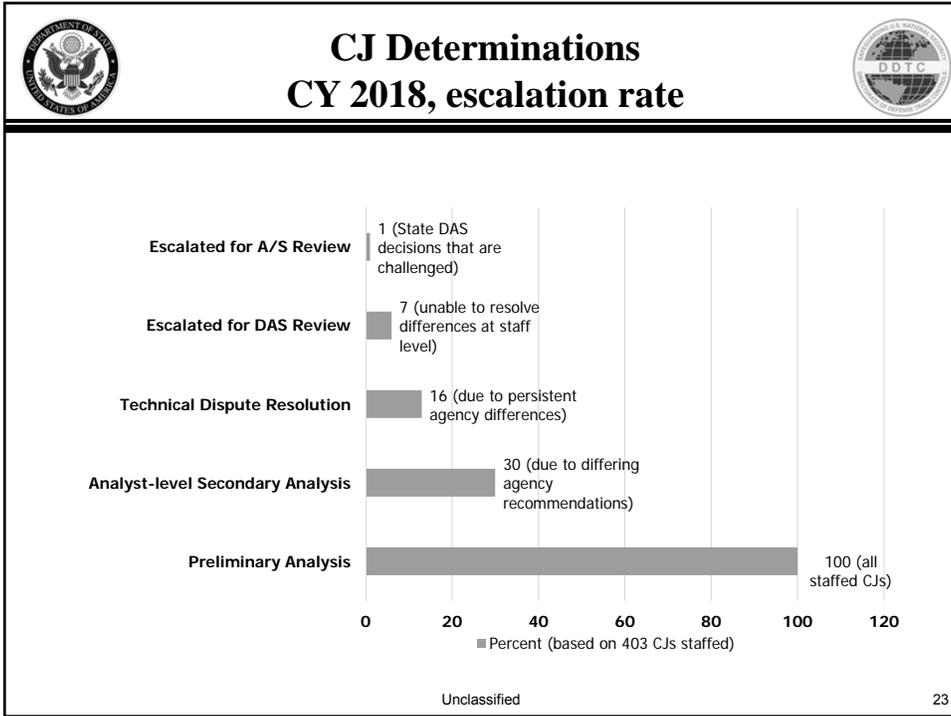
§126.4 Update



- Published April 2019 – final rule
 - Allows for permanent exports
 - Clarifies the scope of USG and partner programs that are eligible under the exemption
 - Clarifies role of contractors in eligible exports
- Relevance to industry:
 - At the written direction of the USG, an industry partner can make any export under the exemption that the USG would have been authorized to make itself, including to foreign partners
 - Relevant USG agency is responsible for determining what will qualify as written direction for that agency and who will be authorized to issue it
 - Industry in the destination country may also *receive* exports under the exemption, if directed in writing by the USG and if the relevant agency would be eligible to make the export itself under the exemption

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USG End-Use Monitoring Programs

-  **Blue Lantern** – Direct Commercial Sales (DCS) of United States Munitions List (USML) articles, technology, services, and brokering
-  **Golden Sentry** – Foreign Military Sales (FMS) of defense articles and services via government-to-government channels
-  **End-Use Checks** – Dual-use items and munitions (“600-series”) on the Commerce Control List (CCL)

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Blue Lantern End-Use Monitoring Program



Pre-license, post-license, and post-shipment inquiries or checks to:

- Verify *bona fides* of foreign consignees and end-users
- Confirm receipt and disposition of exported articles
- Confirm end-use and compliance with requirements/provisos

- *Required by U.S. law*
- *Over 16,000 checks since 1990*
- *Conducted in 80-100 countries each year (92 in FY 2017)*
- *429 checks out of 36,092 applications (1.18%) in FY 2017*

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Blue Lantern: Mission and Objectives



To help ensure the security and integrity of U.S. defense trade

Objective 1: Build Confidence in Trade Relationship

- Monitor transfer of sensitive hardware, technology, and services
- Verify bona fides of parties, especially intermediaries
- Foster cooperation/confidence among U.S. government, host government, and industry
- Enhance understanding of U.S. export controls

Objective 2: Regulate Hardware & Technology Transfer

- Support and facilitate transfer of increased volume and more advanced hardware and technology, or...
- Result in increased scrutiny and/or restrictions on future exports

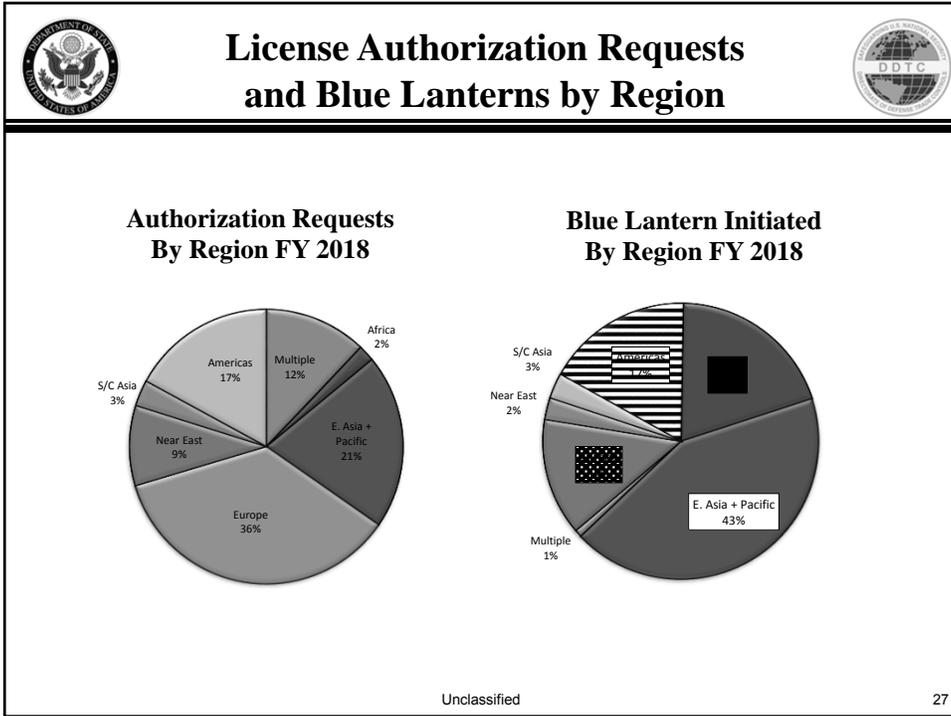
Objective 3: Impede Gray Arms Trade

- Use of legitimate means for illicit ends
- Uncover false end-use documentation, front companies, hidden intermediaries/brokers

NOT a law enforcement action or investigation.

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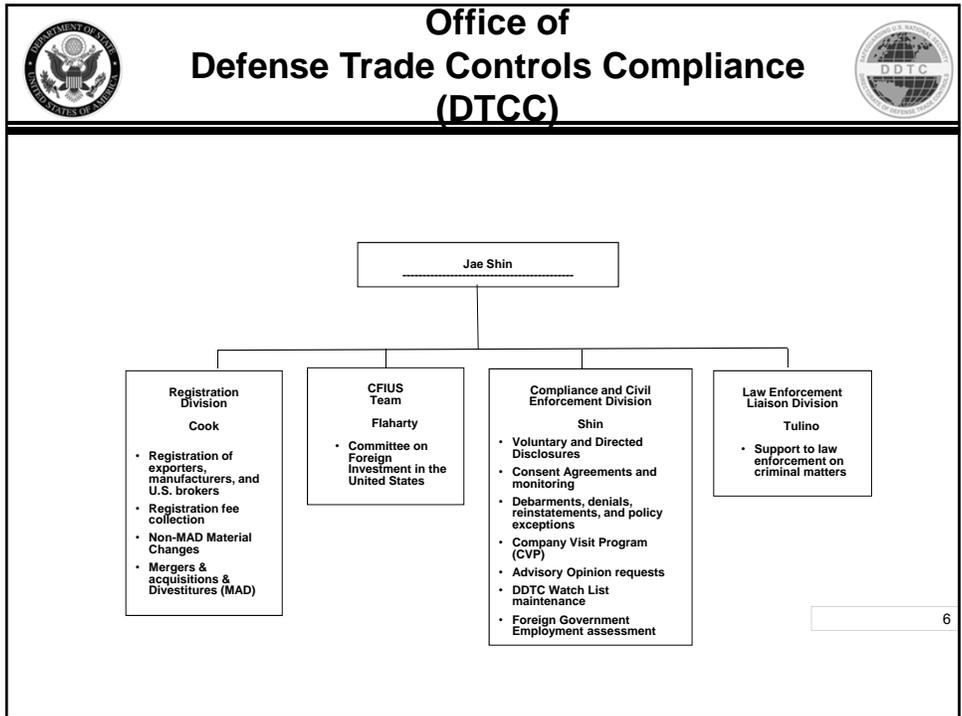
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 **DTCC Office Overview** 

DTCC Office Overview

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Compliance and Enforcement Trends

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Enforcement



- Defense articles are controlled by U.S. even after export from the U.S.
- U.S. government exercises broad authority under the AECA for civil and criminal enforcement
 - Civil enforcement cases
 - Brought by the Office of Defense Trade Controls Compliance
 - Adjudicated before Administrative Law Judge
 - Criminal enforcement cases
 - Investigated by the U.S. Department of Homeland Security
 - Prosecuted by the U.S. Department of Justice, U.S. Attorney's Office
 - Counter-intelligence cases
 - Investigated by the Federal Bureau of Investigation (FBI)
 - Prosecuted by the U.S. Department of Justice, U.S. Attorney's Office

U.S. and non-U.S. individuals and corporations may be held liable for criminal and civil offenses under the AECA and its enumerated statutes

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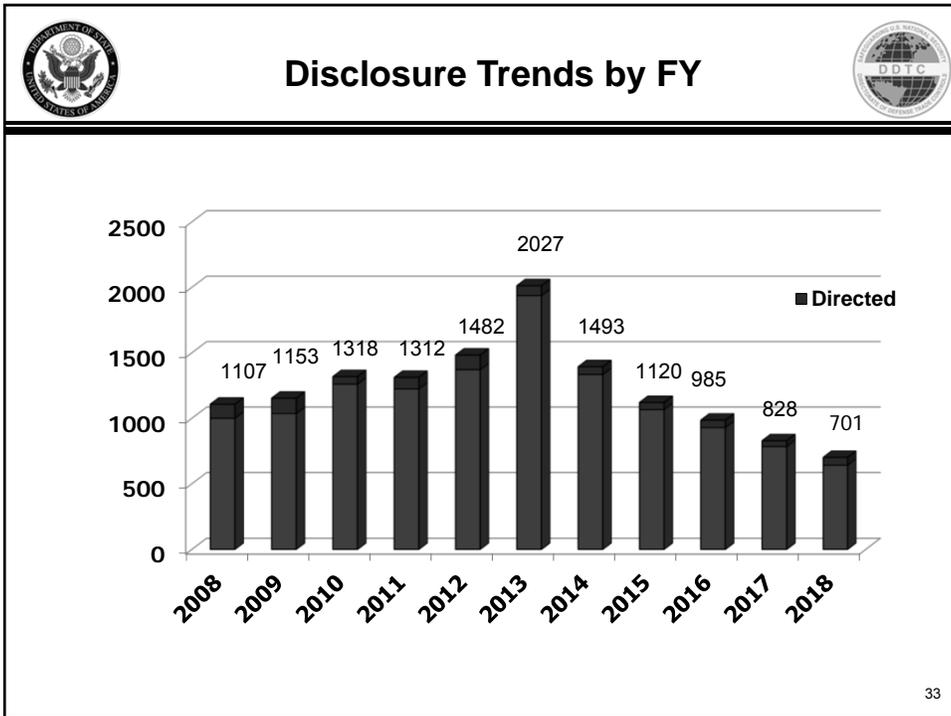


Civil Enforcement - Types of Disclosures



Voluntary Disclosure (VD)	Directed Disclosure (DD)
Persons voluntarily disclose circumstances to DTCC which they believe may have violated any export control provision of the AECA, or any regulation, order, license, or other authorization issued	In the form of a letter, DTCC requests information regarding a potential or actual violation, based on other information received from other sources Information sources: calls, emails, inter-agency, intra-agency, other disclosures
ITAR §127.12	Based on ITAR §122.5(b)
<i>Failure to report is considered when assessing penalties</i>	

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Voluntary Disclosure Trends (FY-18)

- Over 640 voluntary disclosures of civil violations by industry
- Gradual decrease in the last five years because of the decreased number of licenses and articles controlled under the USML
- Industry is focused on compliance and willing to disclose
- Industry is establishing internal auditing capability to protect sensitive technology
- The preventive effect of consent agreements and fines

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Directed Disclosure Trends (FY-18)



- Initiated more than 60 directed disclosures in FY18 alone, and over 90 ongoing directed disclosure investigations
 - Approximately 40% increase in opened directed disclosures from FY17
 - Strengthening interagency cooperation is leading to an increase in directed disclosure referrals
 - Disclosures increasingly more focused and remedial actions imposed
 - Better to disclose voluntarily than under direction

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Disclosure Trends - ITAR Violations



Nature or pattern of violations has been consistent from the previous years:

- Unauthorized export of hardware, including technical data
 - Misclassification of hardware/technical data
 - Access to network directories
- Unauthorized provision of defense services
- Violating provisos and other conditions of approval
- Foreign person employment (you and your sub-contractors)
- Improper use of exemptions
- Exceeding dollar value of agreements (TAAs and MLAs)

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	<h2>Civil Enforcement - Disclosure Review</h2>	
<ul style="list-style-type: none">• Harm to U.S. foreign policy or national security• Adherence to law, regulations and DDTC's licensing and compliance policies• Severity of violation (systemic or unique, minor or substantive, procedural or judgmental, once or repeated)• Company's approach & commitment to compliance• Root cause analysis• Implementation of remedial measures• Improvement of company's compliance program		

	<h2>Civil Enforcement - Penalties</h2>	
<p><u>What violations prompt civil penalties?</u></p> <ul style="list-style-type: none">• Harm to U.S. National Security or Foreign Policy interests• Undermine the integrity of the legal and regulatory system<ul style="list-style-type: none">○ Systematic and pervasive violations		



Civil Settlement



- Charges are usually resolved via a consent agreement settlement
- Settlement components:
 - Negotiate language of the proposed charging letter and settlement terms set forth in the consent agreement
 - Final proposed charging letter, consent agreement, and order

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Details of Civil Penalty



- Penalty amount varies based on:
 - Number, nature, and severity of charged and other violations
 - Company cooperation and negotiations
- Aggregate civil penalty typically includes:
 - Fine (paid in installments or in full)
 - Suspended penalty assessed/credited for:
 - Self-initiated pre-consent agreement remedial compliance measures
 - Consent agreement authorized remedial compliance costs
- Suspended penalty expenditures reviewed by special compliance official and subject to DTCC approval
- At consent agreement conclusion, any remaining portion of suspended penalty generally must be paid in full in 30 days

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Recent Civil Settlements – Consent Agreements



Company	Year	Penalty (USD)	# of Proposed Charges
Rocky Mountain Instrument Company (oversight only)	2016	N/A	N/A
Turi/TDG	2016	200,000*	2
Microwave Engineering Corporation (penalty only)	2016	100,000	1
Bright Lights USA	2017	400,000	11
FLIR Systems, Inc.	2018	30,000,000*	347

* Suspended in whole or in part as provided in the Consent Agreement

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DDTC Support for Criminal Cases



- The prosecution of criminal AECA/ITAR violations is integral to DDTC’s mission
- Dedicated Law Enforcement Liaison Division (LEL) provides support essential to investigations involving violations of the AECA and the ITAR
- Types of support includes:
 - Guidance on jurisdiction and classification of items
 - License/registration history of entities
 - Trial witnesses
 - Outreach/training
- FBI and HSI liaisons assigned to DDTC
- LEL involved in the Export Enforcement Coordination Center (E2C2)

JUSTICE NEWS

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE Tuesday, March 20, 2018

Florida Man Pleads Guilty to Conspiracy to Illegally Export Defense Articles to Russia

These night vision rifle scopes, thermal monocular, and ammunition primers required a license or other authorization from the U.S. Department of State before being exported from the U.S. since they were on the U.S. Munitions List.

A certified license history check revealed that neither Nevidomy nor his associates ever applied or attempted to apply for an export license from the State Department for the night-vision equipment or ammunition primers.

<https://www.justice.gov/opa/pr/florida-man-pleads-guilty-conspiracy-illegally-export-defense-articles-russia>

[Russia](#)



Criminal-Civil Coordination



- DTCC will consider participating in a coordinated, “global settlement” of criminal and civil charges
- DTCC refers cases to law enforcement
- If law enforcement or AUSA declines to pursue a criminal case, DTCC may pursue a civil enforcement action

Esterline Civil Settlement

- May 2011: HSI initiated a criminal investigation.
- January 2012: U.S. Attorney’s Office for the Central District of California declined to prosecute Esterline. HSI provided its investigation report to DTCC.
- March 5, 2014: Esterline entered into a civil settlement with the Department of State to resolve 282 alleged violations, \$20 million penalty.
- https://www.pmdtcc.state.gov/compliance/consent_agreements/Esterline.html

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DTCC Enforcement Toolkit: Debarment



Two types:

- **Statutory Debarment**
- **Administrative Debarment**



Statorily Debarred Parties

The persons and entities identified below have been convicted of violating the AECA, or of conspiring (18 U.S.C. 371) to violate the AECA, and are the subject of a Federal Register Notice of statutory debarment pursuant to ITAR section 127.7. They are prohibited from participating directly or indirectly in any activities that are subject to the ITAR.

Party Name	Date of Birth	Federal Register Notice	Notice Date	Corrected Notice	Corrected Notice Date
A & C International Trade, Inc.		67 FR 10033 (PCL 3486)	2002-03-09		

Debarred parties

- **Prohibited from directly or indirectly participating in ITAR-related activities**
- **List of debarred parties available on DDTC’s website**

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Statutory Debarment Notice





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U.S. Department of State Debars 168 Persons for Violating or Conspiring To Violate the Arms Export Control Act

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Media Note
Office of the Spokesperson
Washington, DC
April 25, 2018

On April 25, 2018, the U.S. Department of State published a Federal Register notice of 168 persons and entities who have been statutorily debarred for convictions of violating, or conspiring to violate, the Arms Export Control Act (22 U.S.C. 2751, et seq.). This action, as required by section 127.7(b) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130), highlights the Department's responsibility to protect U.S. defense articles, including technical data, and defense services from unauthorized exports and brokering.

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Contact Information



- To check on correspondence from our office or find out which Compliance Specialist is assigned to your disclosure, email DTCC-CaseStatus@state.gov
- For all other matters, including substantive questions and inquiries regarding registration submittal or status and referrals, contact the DDTC Response Team
 - Phone number: (202) 663-1282
 - E-mail: DDTCResponseTeam@state.gov
- For general information, please visit DDTC's website
 - <http://www.pmdtcc.state.gov/>

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IT Modernization at DDTC

July 2019

U.S. Department of State ♦ Directorate of Defense Trade Controls



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IT Modernization Vision



DDTC's IT modernization vision is to enable and equip the Directorate with 21st century tools and data to securely, efficiently, and proactively fulfill its export control mission.

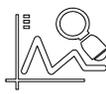
Seamless & Secure Systems

World Class Service

Insight-Driven Organization

- Centralized, online access to DDTC's core business processes for industry and staff
- Increased system security and identity management
- Automated data exchanges between DDTC and partner agencies

- Improved user experience and customer satisfaction through electronic submissions and automated case management
- Increased self-service through online status tracking and ready access to up-to-date guidance on DDTC policies and procedures



- Mission-focused predictive analytics enhance targeting of outreach, compliance checks and help pre-empt violations
- Intelligent optical character recognition enables quicker document in-processing and richer analysis

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The Defense Export Control and Compliance System (DECCS)



To realize DDTC's IT Vision, the organization launched the Defense Export Control and Compliance System (DECCS), which replaces legacy IT systems and manual processes with a single, cloud-based portal.

Legacy Systems

DTrade Licensing System



Mail-in General Correspondence



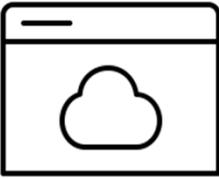
MARY Status Retrieval System



EFS Form Submission System



DECCS



Industry Applications

- Advisory Opinions
- Registration
- Disclosures
- Commodity Jurisdictions
- Licensing

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DECCS User Experience



DECCS is realizing significant improvements in user experience for both industry and DDTC staff.

Pre-DECCS Experience



- Paper-based processes
- Multiple systems without data linkages or consistent design
- Multiple logins and/or viewer software
- Dated content
- One-dimensional data without user-driven analyses or visualizations
- Manual data queries and report development

Post-DECCS Experience



- Completely digitized processes
- Single sign-on to a centralized system
- Consistent design, UX, and UI across applications
- Seamless linkages across applications, with built in coordination and chat features
- Advanced data capture and analysis
- User-friendly automated reports and visualizations

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Implementation Roadmap



Multiple DECCS releases have taken place since the launch of DDTC's redesigned public-facing website in April 2018. The organization is on track to complete an initial release of all major applications by the close of CY2019, as well as the Licensing "One Form" in 2020.

2019
2020

Public-facing Website Redesign

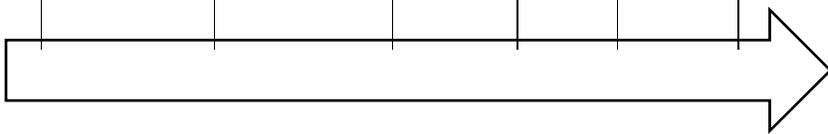
DECCS Industry Service Portal Launch, Including Advisory Opinions and User Management Applications

Refreshed Commodity Jurisdiction Application

Disclosures Application

Registration and Licensing Applications

Licensing "One Form"



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What's New and What's to Come



Please watch for the following IT Modernization happenings in the next few months:

What's to Come?

- Industry testing of Registration and Licensing applications in August 2019 (including batch testing)
- Release of Disclosures application for industry use in Fall 2019
- Release of Registration and Licensing applications for industry use in December 2019



DDTC IT Contact Information



To sign up for DDTC IT Modernization Testing:

DDTC Test Support Team: PM-DDTC-DECCS@state.gov

Website: www.pmdtc.state.gov

For General Inquiries:

DDTC Response Team

Tel: (202)-663-1282

Email: ddtcrsponseteam@state.gov

For Technology Assistance:

DDTC HelpDesk

Tel: (202)-663-2838

Email: dtradehelpdesk@state.gov