



Directorate of Defense Trade Controls BIS Update 2017

Cat Hamilton, Office of Licensing
Sarah Heidema, Office of Policy
Arthur Shulman, Office of Compliance
Karen Wrege, Chief Information Officer



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 are consistent with U.S. national security and foreign policy objectives.



Delegation of Authority

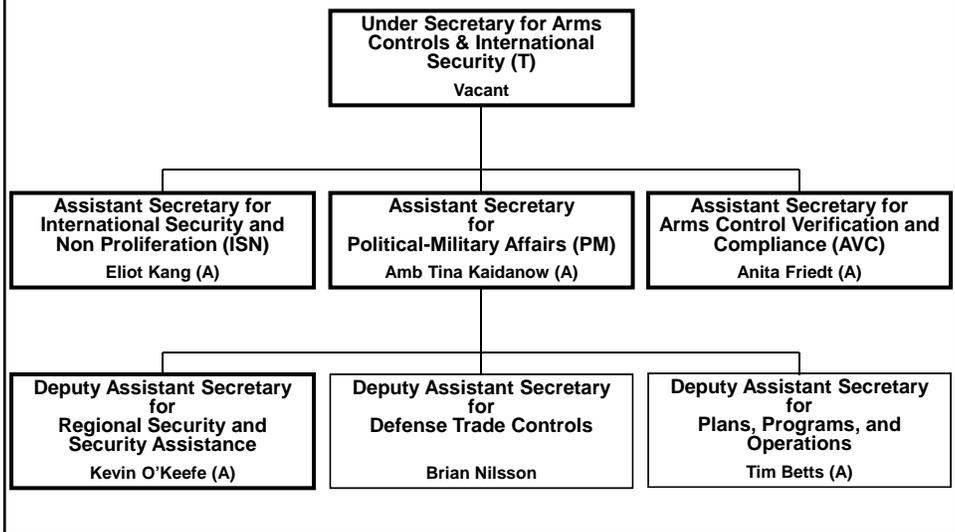


- Arms Export Control Act (AECA)
 - President of the United States (AECA Section 38)
 - Secretary of State (Executive Order 13637)
- International Traffic in Arms Regulations
 - Under Secretary for Arms Control and International Security
 - Assistant Secretary for Political Military Affairs
 - Deputy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



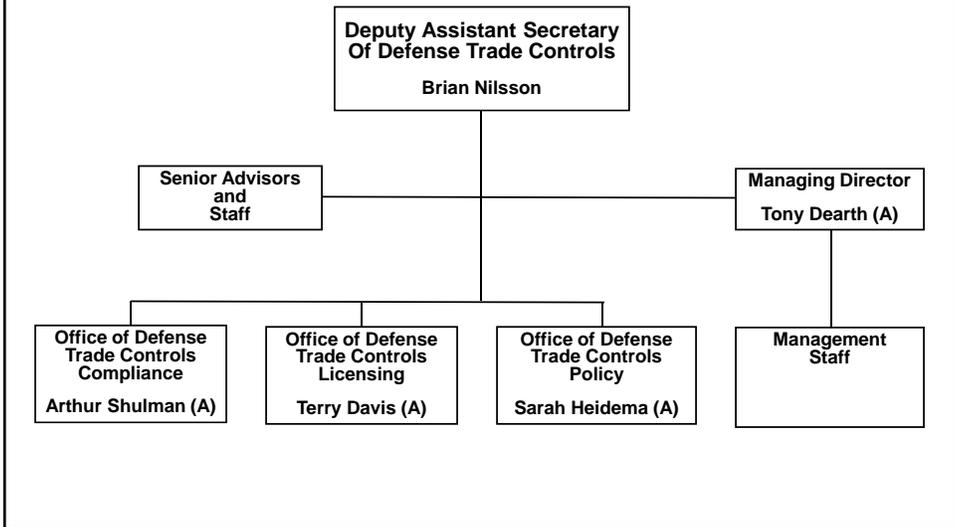
Department of State

Yellow Borders are Political Positions



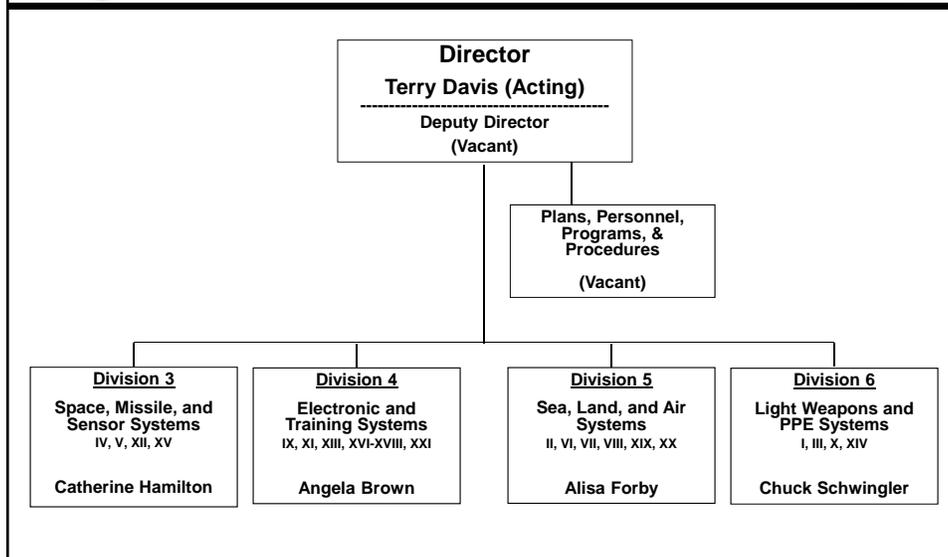
DDTC Organization

All Non-Political Professional Staff





Office of Defense Trade Controls Licensing (PM/DTCL)



Office of Licensing

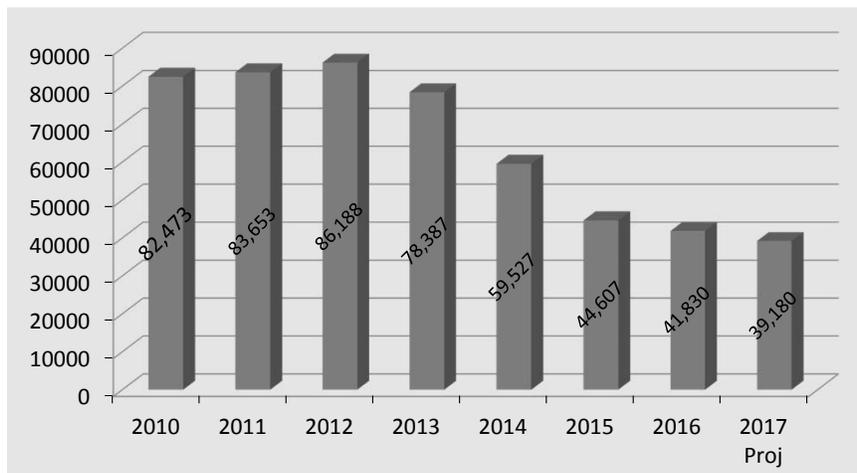


Core Responsibilities

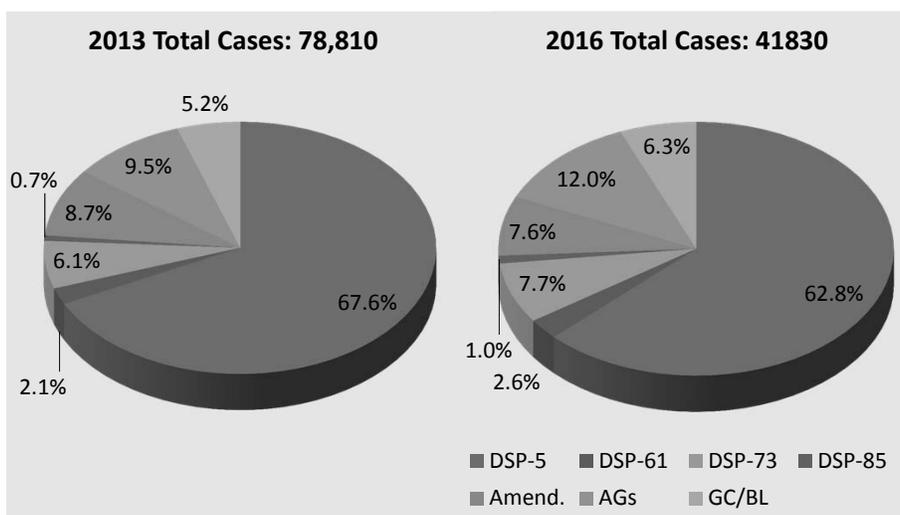
- Respond to licensing requests from industry
- Confirm answers to the following questions on every export request – Who, What, When, Where, Why, and How
- Determine if the export is consistent with U.S. foreign policy and national security objectives (seek referrals)
- Make a final determination (approve,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



Licenses Submitted to DDTC by Calendar Year

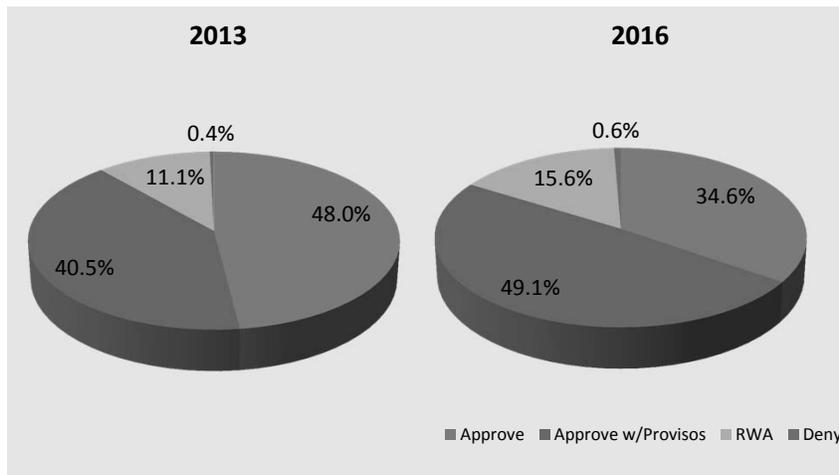


Cases Received

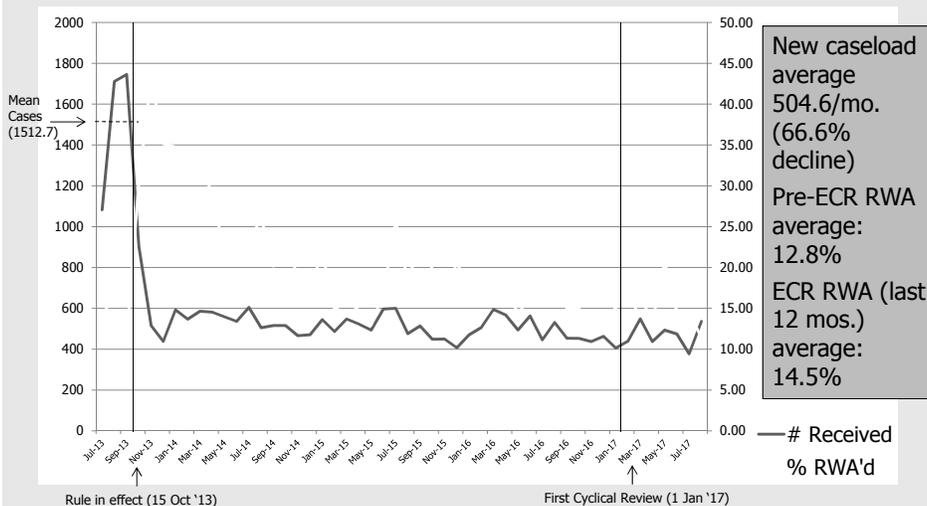




Licensing Decisions

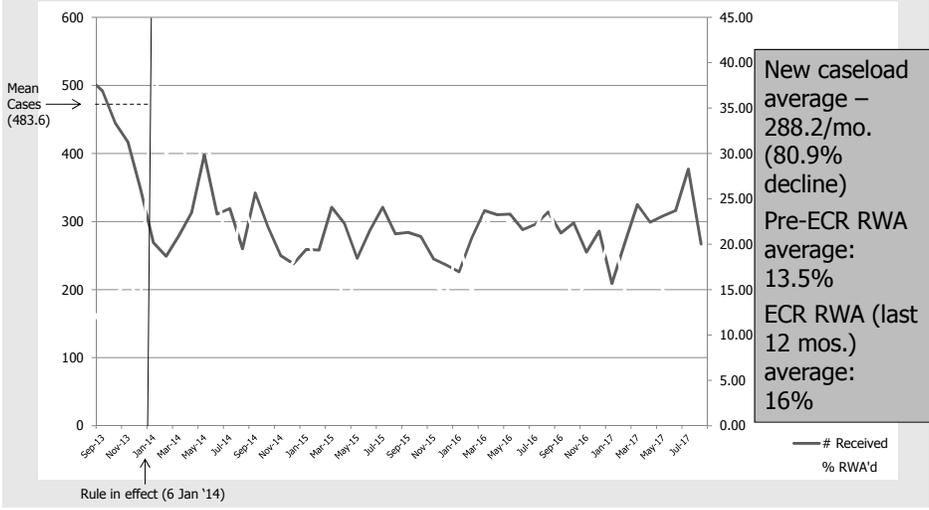


Cat VIII & XIX Trends

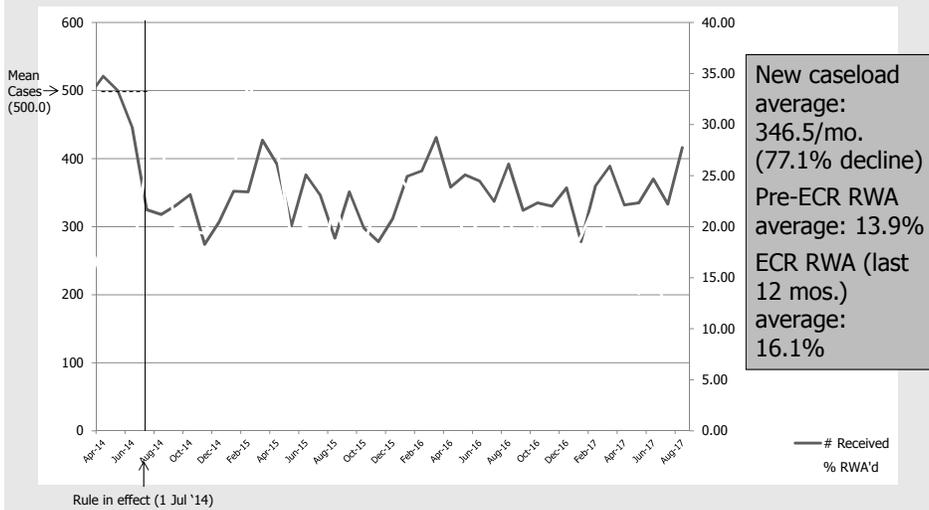




Cat VI, VII, XIII, XX Trends

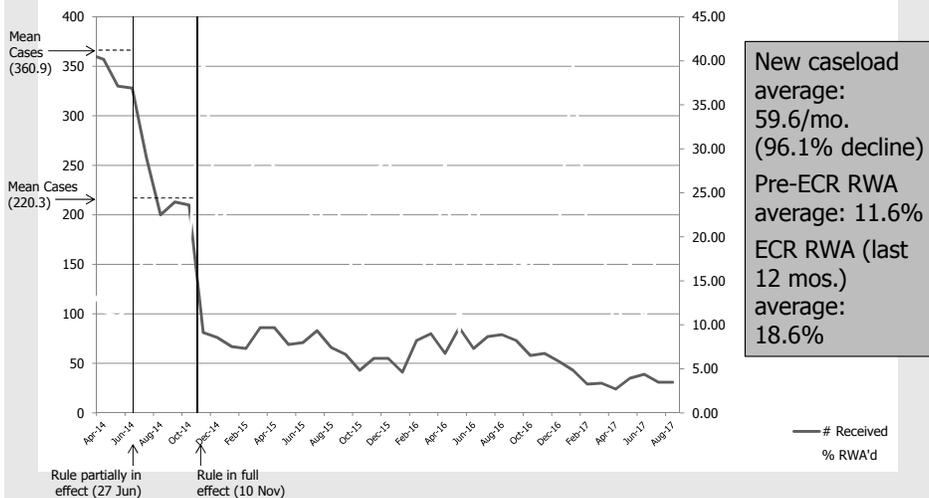


Cat IV, V, IX, X, XVI Trends

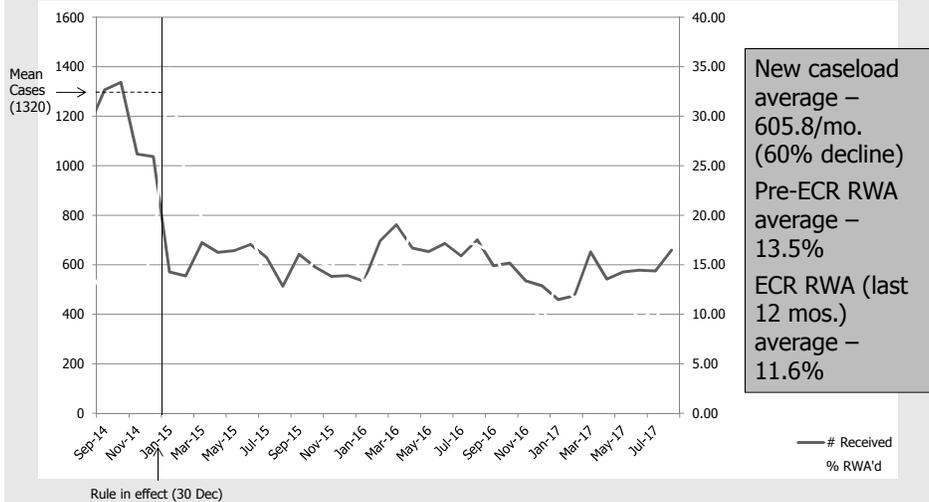




Cat XV Trends

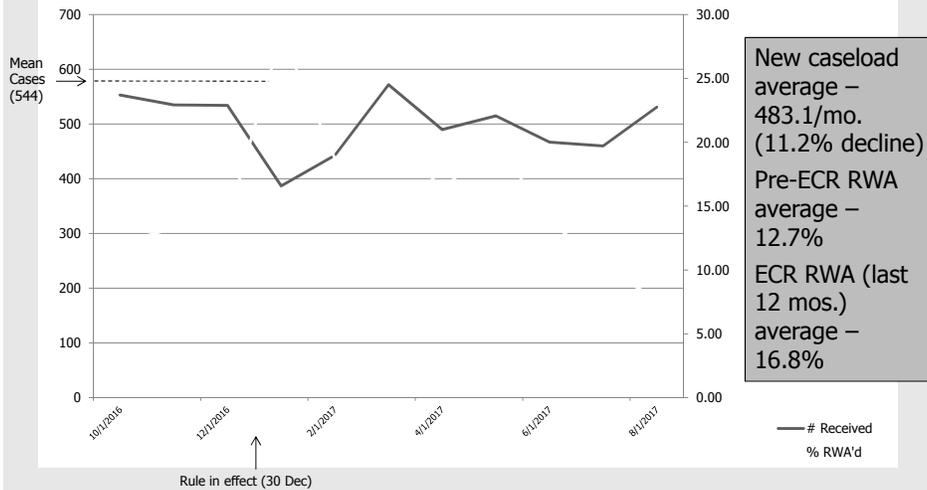


Cat XI Trends

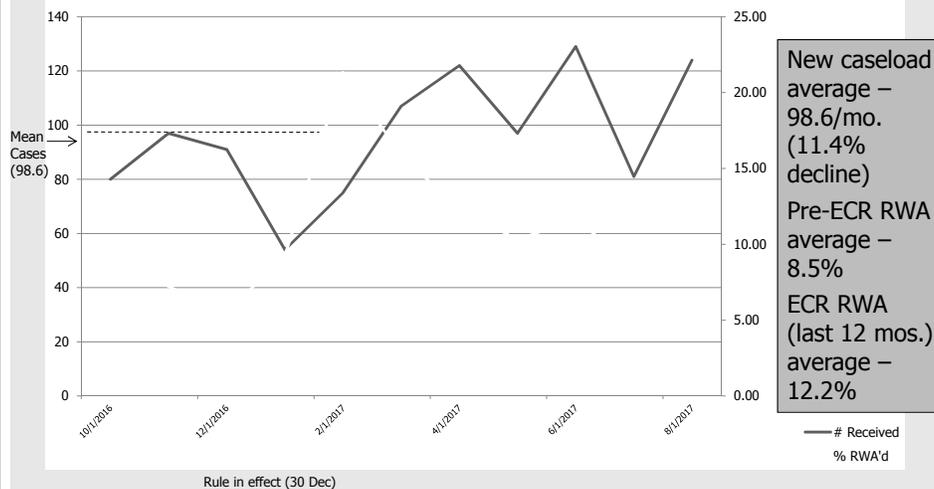




Cat XII Trends



Cat XIV & XVIII Trends





Overall RWA Statistics



Average Annual Stats

<u>YEAR</u>	<u>CASES</u>	<u>AVG AGE</u>	<u>AVG RWA</u>
2012	86,188	18.6	10.6%
2013	78,387	19.2	11.3%
2014	59,527	21.9	14.5%
2015	44,523	26.58	16.0%
2016	41,830	28.08	15.6%
2017 (Aug)	26,214	27.66	15.3%



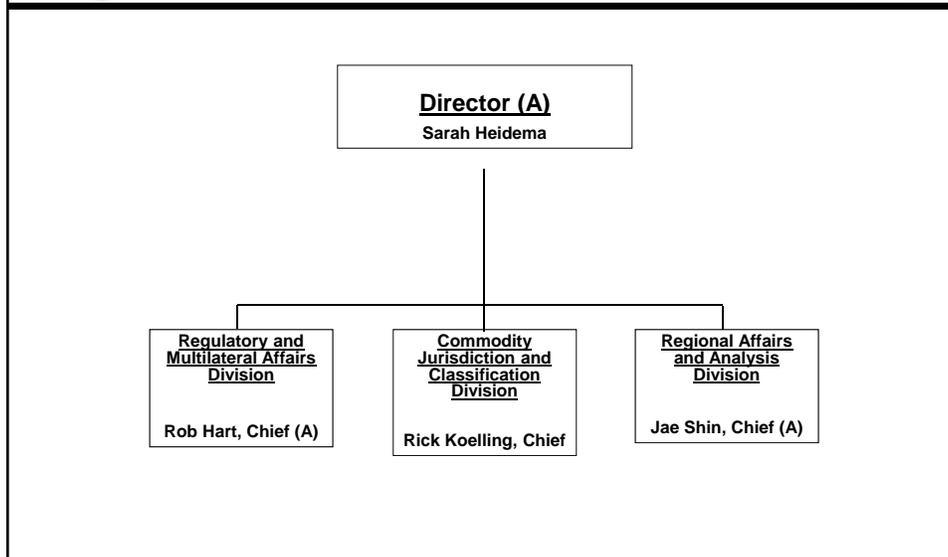
Office of Policy

Sarah Heidema - Acting Director

October 2017



Office of Defense Trade Controls Policy (PM/DTCP)



Office of Policy



Core Responsibilities

- Maintain and update the ITAR
- Respond to requests from industry and USG for commodity jurisdiction and classification determinations
- Conduct end-use monitoring of exports, and provide research and risk analysis support to licensing
- Develop and implement policy and guidance for exporters, USG, and foreign partners and allies



Regulatory Review for 2017



- Categories I, II, III
- §126.4 (By or for the USG) revision
- “Defrag 1” ITAR clean-up
- USML review:
 - Notice of Inquiry for Categories V, X, and XI
 - Proposed Rule for VI, VII, XIII, and XX



Future Regulatory Actions



- Continue USML review
- “Defrag II” (Further clean-up, exemptions, integration of agreements guidelines, “one form”)
- Continue work on Definitions (Defense Services, etc.)
- Cloud Computing issue
- Temporary export of foreign-origin articles to OEM for repair/maintenance
- US persons working abroad
- And more!



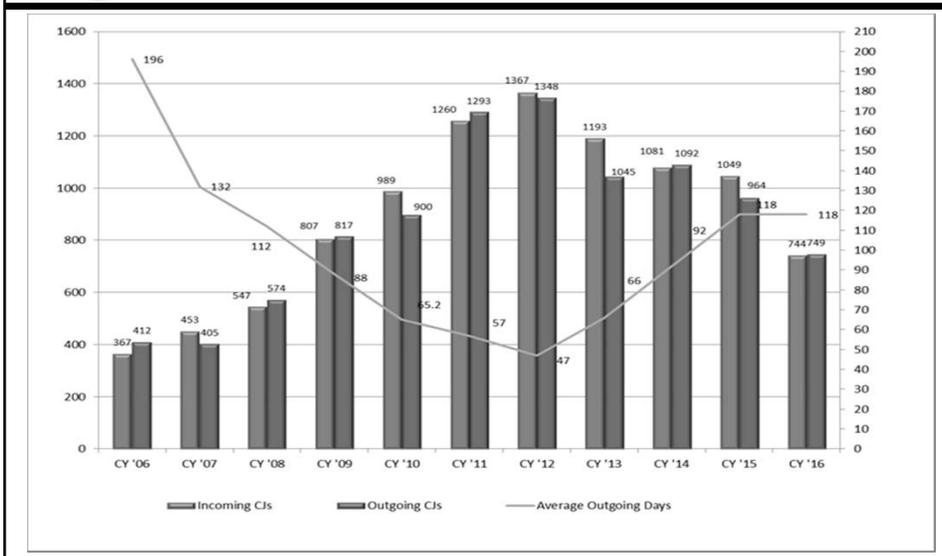
Other Policy Notes



- New process for advisory opinions
 - Increased volume/decreased processing times
 - 101 Advisory Opinions in CY 2016
 - Nexus with FAQs, regulatory process
- CJs: decline in submissions has reached plateau, significant reduction in cases escalated to senior leadership
 - ECR going “mainstream,” improved interagency review process
 - Nexus with regulatory process
- Blue Lantern outreach/training
- Working with partner countries and international organizations on regulatory questions/harmonization
- Harmonizing the DCS and FMS processes

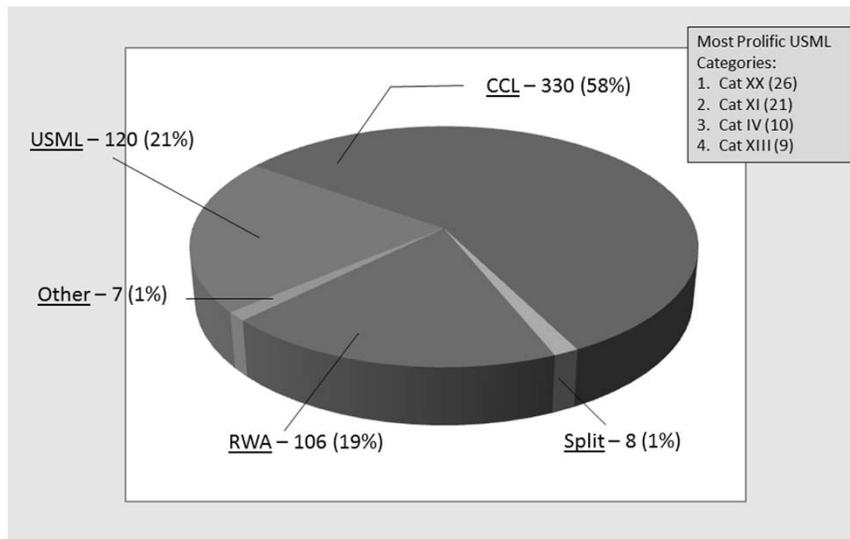


CY 06 – 16 Commodity Jurisdiction Determinations





CJ Decisions CY 2016



Concluding Thoughts



- We have in place an on-going dynamic regulatory review process
- Continued harmonization of USG export controls infrastructure, regulations, policy (and culture)
- Partnership with public
 - Feedback/comment from industry, academia, foreign partners is essential
 - GCs, CJs, public comments



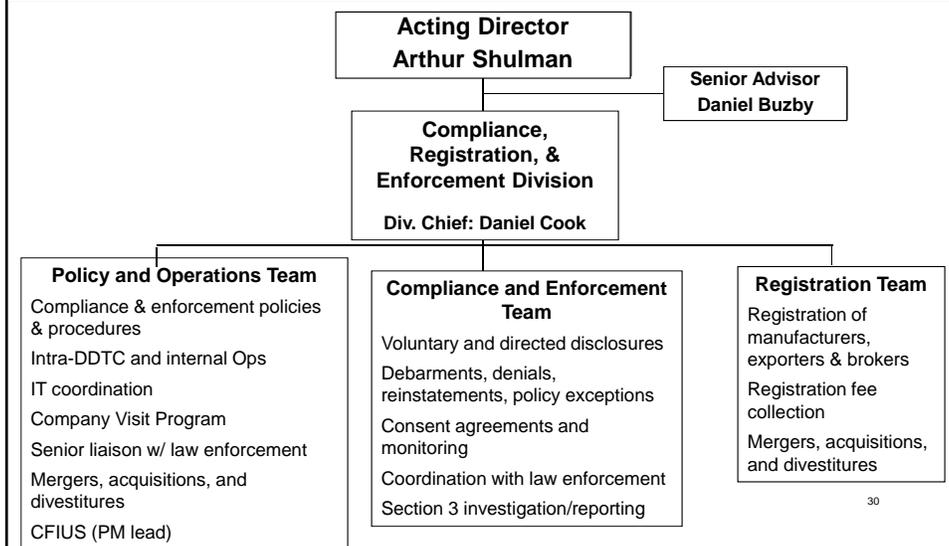
Office of Compliance

Arthur Shulman - Acting Director

October 2017



Office of Defense Trade Controls Compliance (PM/DTCC)





Office of Compliance



Core Responsibilities

- Process registrations for arms manufacturers, exporters, brokers
- Ensure ITAR compliance through various means, including company visits/outreach, voluntary and directed disclosures, criminal referrals, and administrative/civil actions when warranted
- Coordinate with law enforcement



Enforcement & Compliance Responsibilities



- U.S. government exercises broad authority for civil and criminal enforcement
 - Civil enforcement cases
 - Adjudicated by the Department of State, Office of Defense Trade Controls Compliance (DTCC)
 - Criminal enforcement cases
 - Investigated by the Department of Homeland Security, Homeland Security Investigations (HSI)
 - Prosecuted by the Department of Justice, U.S. Attorney's Offices
 - Counter-intelligence cases
 - Investigated by the Federal Bureau of Investigation (FBI)
 - Prosecuted by the U.S. Department of Justice, U.S. Attorney's Offices

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



Civil Compliance & Enforcement



- Voluntary and directed disclosures
 - Processed ~850 disclosures in FY 2017
 - Vast majority of disclosures are voluntary
- Civil enforcement actions: charging letters, consent agreements and monitoring, debarment
 - Monitoring 4 active consent agreements
 - Several potential consent agreements under consideration
 - Current consent agreements have not concluded at anticipated end-dates
- Statutory debarments and ineligibility, exceptions, reinstatements



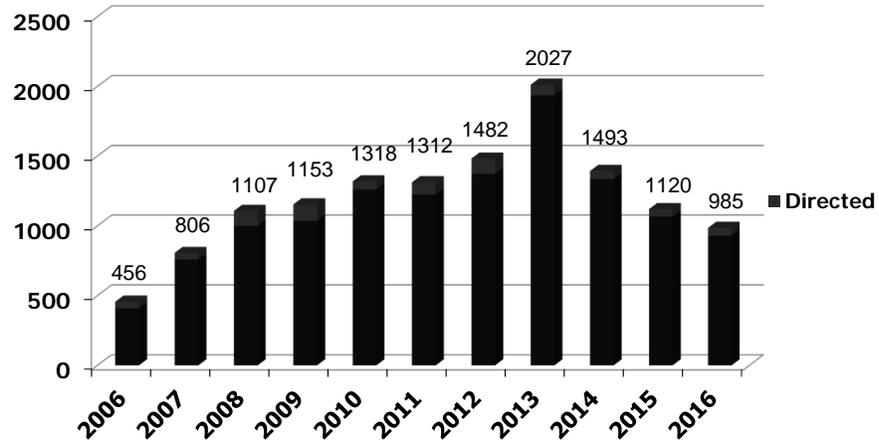
Registration, MAD, etc. in FY2016



- Total Registrants: 12,824 (FY2015: 12,503)
 - Manufacturers/Exporters: 11,657 (FY2015: 11,385)
 - Brokers: 1,167, 88% U.S. (FY2015: 1,118, 85 % U.S.)
- Mergers, Acquisitions, & Divestitures (MAD)
 - Reviewed 374 MADs (FY2015: 324)
 - Reviewed 88 Foreign MADs (FY2015: 82)
 - 45 transactions reviewed under CFIUS process (FY2015: 42)
- Committee on Foreign Investment in the U.S. (CFIUS)
 - About 35-40% of CFIUS cases involve ITAR equities
- Reporting retransfer violations to Congress (pursuant to AECA Section 3)



Disclosure Trends by FY



Assessing Disclosures



- Harm to U.S. foreign policy or national security
- Adherence to law, regulations, and DDTC's licensing and compliance policies
- Severity of violations
 - Minor/administrative versus pervasive/substantive
 - Procedural or judgmental
 - Isolated incident or repeated violation
 - Number of locations, programs, and business units affected



Assessing Disclosures



- Destinations (proscribed countries) and other persons involved
- Whether transaction would have been authorized
- Company's approach and commitment to compliance
 - Unclear or incomplete disclosure
 - Nature of investigation; root causes identified
 - Remedial measures implemented
 - Improved company compliance program



Assessing Disclosures



- Majority of disclosure cases closed without further action
- When warranted, most common DTCC actions include:
 - Request additional information
 - Review company compliance program
 - Recommend additional compliance measures
 - Recommend audit of compliance program
 - Recommend commodity jurisdiction (CJ) submission
 - Disclosure resolved under a consent agreement



Consent Agreements



- Agreements include a proposed charging letter (PCL), monetary penalty, and enforceable conditions, such as:
 - Appointment of a Special Compliance Official (SCO)
 - Review, audit, and reporting requirements
 - Compliance program improvements
 - Typically 3-4 years (substantial self-initiated measures often implemented before Agreement)
- Monitoring by DTCC
 - Review of audits and SCO reports
 - Company visits
- All PCLs and Consent Agreements are posted on DTCC website for public review



Recent Penalty & Oversight Agreements



Agreement Type	Company	Year	Penalty	# of Proposed Charges
Penalty + Oversight	Turi/TDG	2016	\$200,000+	2
	Esterline Technologies Corporation	2014	\$20,000,000+	282
	Raytheon Company	2013	\$8,000,000+	125
	BAE Systems plc	2011	\$79,000,000+	2,591
Penalty	Microwave Engineering Corporation	2016	\$100,000	1
	Bright Lights USA, Inc.	2017	\$400,000	11
Oversight	Rocky Mountain Instrument Company	2016	N/A	N/A

+ Penalty suspended in whole or in part.



Key Facets of A Compliance Program



- Company/organization commitment
- Management support of ITAR compliance
- Sufficient human, financial, and infrastructure resources
- Compliance policies, procedures, implementation
- Broad education and training for all; detailed education and training for some



Compliance -- A Corporate Ethos



- AECA/ITAR compliance is the underpinning of all defense trade activities
 - A competent compliance program is *essential* to maintain the Department's trust and obtain the export authorizations required to successfully conduct and grow business
 - Compliance shouldn't be relegated to the legal or global trade compliance organizations for sole responsibility – everyone is responsible for compliance!
 - Poor compliance will impede business development
 - Direct correlation between a solid compliance program and success in this industry



Tailored Program



- Best compliance programs are tailored to the company and its business
- Don't need to be complicated – they need to work
- For general guidelines, see:
http://www.pmddtc.state.gov/compliance/documents/compliance_programs.pdf



DDTC IT Modernization

Karen Wrege, Chief Information Officer

October 2017



DDTC IT Modernization Overview



- **Defense Export Control & Compliance System (DECCS)**
 - Replace DTrade, EFS, and MARY
 - Eliminate IBM Forms Viewer and PDF form fill, sign, scan, submit
 - Replace general correspondence paper submission
 - Eventually condense the multiple license forms
- **DECCS provides user friendly online interface**
 - Hosted on Microsoft's Azure Government (MAG) cloud and Service Now
 - Improved data entry validation and submission progress tracking
- **DECCS Improves Security**
 - Online enrollment; Username is your email address
 - Secure online payment through Pay.gov
 - Digital certificates will continue to be required

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IT Modernization Progress



Nov 2016 DECCS Release #1 - Complete

- DECCS Commodity Jurisdiction DS-4076

Winter 2017-18 DECCS Release #2 - In Progress

User Management

- DTrade Super Users will be migrated to DECCS as the Corporate Administrator
- Corporate Administrator will add new DECCS users
- Registration: Data Entry, Signature, Financial, Submitter, Track Status
- Licensing: Enrolled, Track Status, Reviewer, Submitter, Empowered Official, Track Status

Registration

- Statement of Registration (DS-2032)
- Material Changes (DS-7789)
- Fee payment using Pay.gov

Licensing

- Electronic DSP-5, -6, -61, -62, -73, -74, -85
- Re-export/Re-transfer (DS-6004)
- Licensing Notifications (DS-4295)
- Brokering Activity (DS-4294)

General Correspondence

- Advisory Opinions (DS-7786)
- Disclosures (DS-7787)

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DECCS PREVIEW



Defense Export Control & Compliance (DECCS)



Directorate of Defense Trade Controls (DDTC) – Defense Export Control & Compliance System



System Use Notification
 You are accessing a U.S. Government information system, which includes

- this information system;
- this information system's network;
- all information systems connected to this network;
- all devices and storage media attached to this network or to information systems on this network. This information system is provided for U. S. Government-authorized use only.

Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.

By using this information system, you understand and consent to the following:
 You have no reasonable expectation of privacy regarding any communications or data transiting or stored on this information system. At any time, and for any lawful government purpose, the government may monitor, intercept, and search and seize any communication or data transiting or stored on this information system.

Any communications or data transiting or stored on this information system may be disclosed or used for any lawful government purpose.
 Nothing herein consents to the search or seizure of a privately-owned information system or other privately owned communications devices, or the contents thereof that is in the system user's home.

Conditions of User | Privacy Note

Username:

Password:



DECCS Landing Page



Directorate of Defense Trade Controls (DDTC) – Defense Export Control & Compliance System Welcome: Phillip, Rain [Logout]

Home



REGISTRATION & MATERIAL CHANGES
create, edit, or cancel a registration application.

[Conditions of User](#) | [Privacy Note](#)



Registration



 **U.S. DEPARTMENT OF STATE**
DIRECTORATE OF DEFENSE TRADE CONTROLS

Quick Links

- [DS-2032 - File New Registration](#)
- [DS-7769 - File Material Change](#)



U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

Home Back Next Save

1 2 3 4 5 6 7 8 9 10 11

Application: . Username: | Role: | new

Electronic Form Version Number: 2.0

OMB APPROVAL NO. 1405-0002
EXPIRATION DATE: 02/28/2019
* ESTIMATED BURDEN: 2 HOURS

U.S. Department of State
DS-2032 STATEMENT OF REGISTRATION
(SEE INSTRUCTIONS PAGE)

* PAPER WORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 4 hours per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (PM/DDTC) Washington, D.C. 20037.

Classified information must not be included, or referred to, in the form. For issues that may pertain to classified information, contact the DDTC Response Team.

1. [Applicant is U.S. Person](#)
2. [Registration Action](#)
3. [Foreign Ownership](#)
4. [Applicant's Organizational Type](#)
5. [Applicant's Legal Name and Address](#)
6. [Directors / Senior Officers / Partners / Owners](#)
7. [U.S. Munitions List Categories](#)
8. [U.S. or Foreign Subsidiaries or Affiliates](#)
9. [Applicant Parent Entities](#)
10. [ITAR Compliance](#)
11. [Statement of registration](#)

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Form Completion



U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

Home Back Next Save Logout

1 2 3 4 5 6 7 8 9 10 11

Application: 38, Username: Phillip Rain | Role: Industry User | new

* Applicant is a U.S. Person ⓘ

Yes No

Save Next

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Registration Home Page



U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

Logout

UserName: | Role:

Welcome Back!

Recent Activity

Status	Authorize ID	Authorize Type	Action
Awaiting Senior Officer Signature	45	Registration	View

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Registration Home Page



U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

Logout

UserName: Sam Doe | Role: Signature Authority | Company Name: Via Corp

Welcome Back!

Recent Activity

Status	Authorize ID	Authorize Type	Action
Awaiting Analyst Review	45	Registration	View

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Redirected to Pay.gov



DECCS: DDTC Registration Fees

Please select a payment method:

- I want to pay with a withdrawal from a checking or savings account (ACH) 
- I want to pay with my Amazon account 
- I want to pay with my PayPal account 
- I want to pay with a debit or credit card      

[Cancel](#)

[Continue](#)

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Payment Form



DECCS: DDTC Registration Fees

Please provide the Credit or Debit Card Information below
* indicates required fields

Agency Tracking ID: 38
 Payment Amount: \$2,250.00
 * Country:
 * Billing Address:
 Billing Address 2:
 * City:
 State/Province:
 ZIP/Postal Code:
 * Account Holder Name:



* Card Number:
 * Expiration Date:

[Previous](#) [Cancel](#) [Continue](#)

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Payment Confirmation



The screenshot shows a web interface for the U.S. Department of State, Directorate of Defense Trade Controls. At the top, there is a navigation bar with 'Home', 'Back', 'Next', 'Save', and 'Logout' buttons. Below this is a progress indicator with 11 numbered steps, where step 1 is checked. The user information is displayed as 'Application: 38, UserName: Sam Doe | Role: Signature Authority | new'. The main content area features a 'Thank You for your payment.' message, stating that the payment has been successfully processed. The following information is provided:

- PayGov Tracking ID: 3FPB2SC4
- Agency Tracking ID: 38
- Transaction Type: Sale
- Payment Type: PLASTIC CARD
- Payment Amount: \$2,250.00
- Payment Date: 2017-09-06
- Payment Status: Success

The page number '57' is visible in the bottom right corner of the screenshot.



DDTC IT Contacts



Karen Wrege, CIO: WregeKM@state.gov

PM/DDTC Project Team email: PM_DDTCProjectTeam@state.gov

IT Modernization: www.pmdtcc.state.gov/outreach/itmod.html



Contact Information



- DDTC's website: www.pmdtcc.state.gov (lots of resources)
- Generic Questions: DDTC Response Team, 202-663-1282
DDTCResponseTeam@state.gov
- DTC IT Issues: DDTC Help Desk, 202-663-2838
dtradehelpdesk@state.gov
- Case status: <http://elisa.dtsa.mil/>



Q & A



Questions?