



Department of State Directorate of Defense Trade Controls

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Objectives

- Explain role of Dept. of State and DDTTC in regulating exports
- Review legislation and regulations
- Understand what the USML covers
- Explain purpose of controls and country policies





Objectives

- Explain the Commodity Jurisdiction process
- Explain different types of licenses
- Define terminology
- Review some exemptions
- Understand Compliance and Penalties





Foreign Policy Objectives

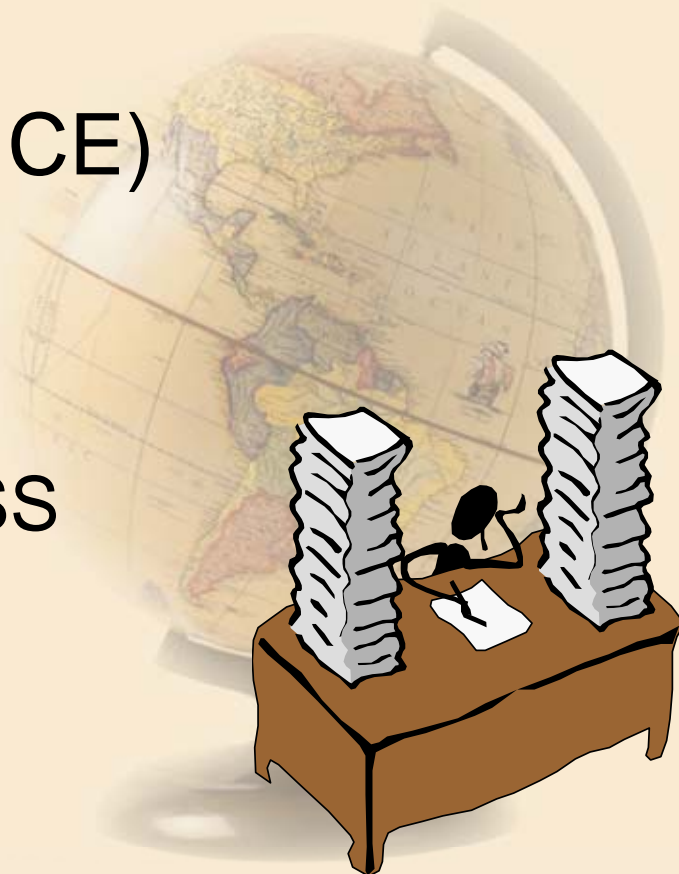
- Support allies in mutual foreign policy and national security goals
- Promote interoperability with allies
- Keep defense technology out of the hands of adversaries





Agency Roles

- State Department
- Commerce Department
- Homeland Security (CBP/ICE)
- Justice Department (ATF)
- Department of Defense
 - DTSA, Armed Services, DSS





DDTC Mission Statement

Advance national security objectives and U.S. foreign policy goals through timely enforcement of defense trade controls and the formulation of defense trade policy





Laws & Regulations

- Arms Export Control Act (AECA)
- International Traffic in Arms Regulations (ITAR)
 - 22 CFR Parts 120-130





Arms Export Control Act (AECA)

- Controls Exports/Imports of Defense Articles & Services
- Establishes Munitions List
- Mandates Registration of Manufacturers *and* Exporters
- Mandates Registration/Licensing of Brokers





Arms Export Control Act (AECA)

- Broad Authority of the Directorate to Approve, Deny, Suspend, Revoke and Halt Shipments from U.S. Ports
- Congressional Oversight – 36(c), 36(d) and 36(f)
- End Use and Retransfer Assurances





Arms Export Control Act (AECA)

- Require Monitoring/Reporting Fees, Contributions, and Commissions
- Confirm Bona Fides of End Use and Users
- Establishes Fines and Penalties
- Foundation of Regulatory Process





International Traffic in Arms Regulations (ITAR)

- 22 CFR Part 120 - 130
- Implements AECA
- Regulations for export of USML articles
- Contains the USML - designates defense articles/services subject to Department of State export jurisdiction
- Compliance and Enforcement - Violations & Penalties





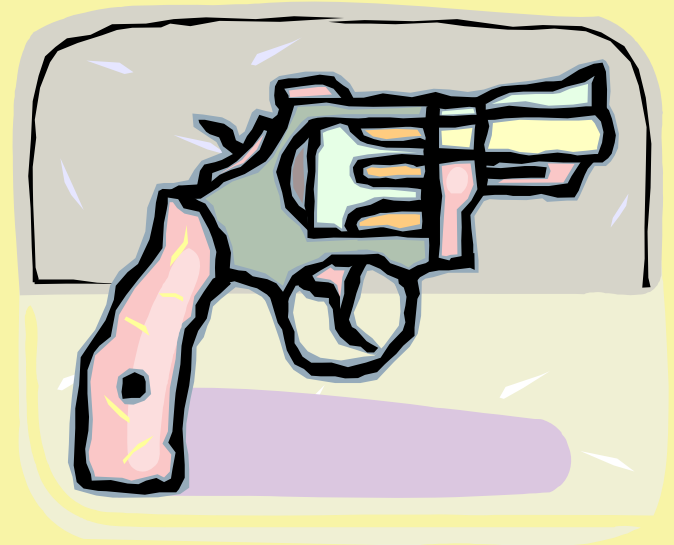
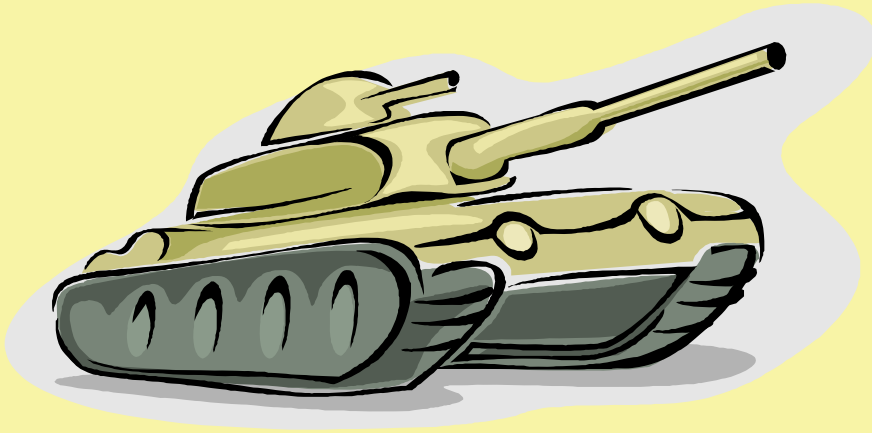
Delegation of Authority

- President of the United States
- Secretary of State
- Undersecretary for Arms Control and International Security
- Assistant Secretary for Political Military Affairs
- Deputy Assistant Secretary for Defense Trade Controls
- Managing Director of Defense Trade Controls





US Munitions List





U.S. Munitions List - 121

- Designates articles, services, and related technical data as defense articles and defense services subject to Department of State export approval
- Items preceded by an asterisk are designated as “significant military equipment” (SME)





U.S. Munitions List - 121.1

- I Firearms
- II Guns and Armament (over .50 cal)
- III Ammunition/Ordnance
- IV Launch Vehicles, Guided Missiles, Rockets, Torpedoes, Bombs, Mines
- V Explosives and Energetic Materials, Propellants, Incendiary Agents







Commodity Jurisdiction (CJ)

- Purpose of CJ
- Policy criteria
- Process

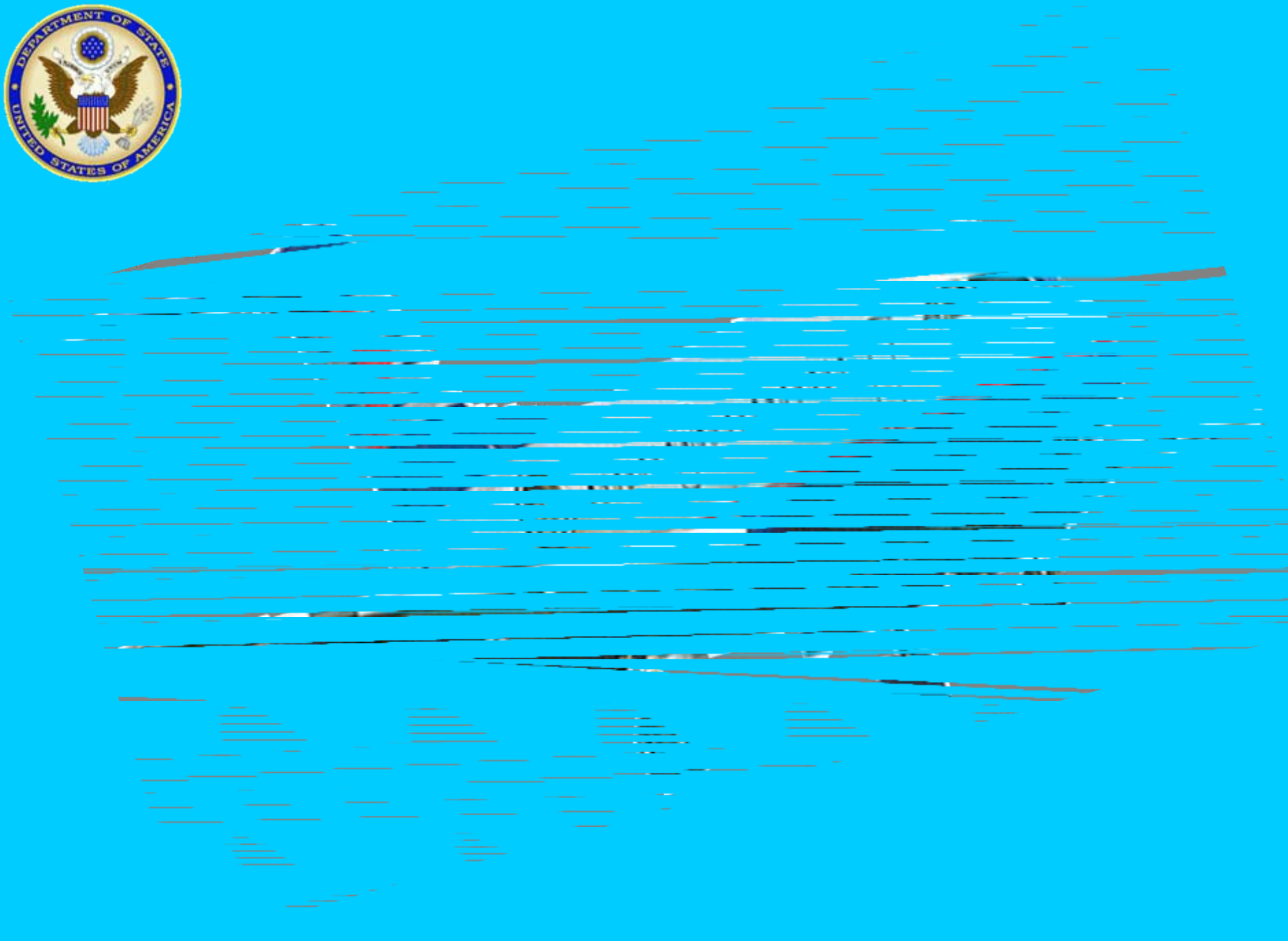


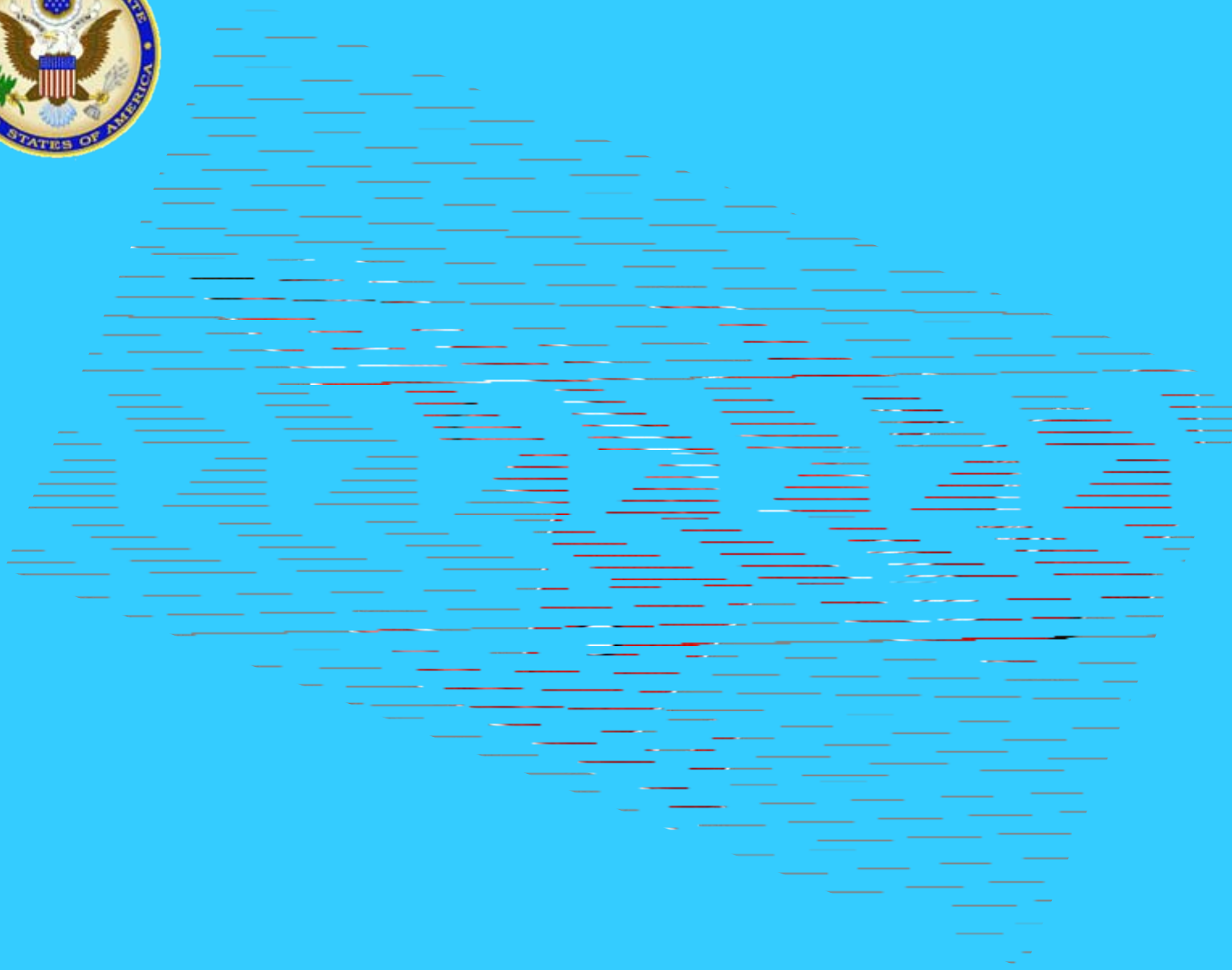


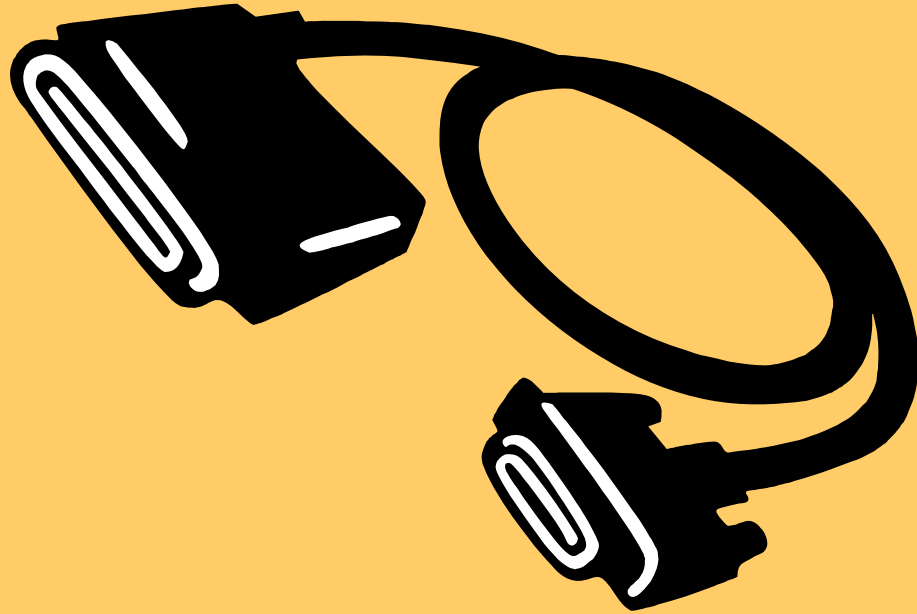
Commodity Jurisdiction 120.4

- Purpose
 - To make a determination as to whether an article is considered to be a defense article covered by the USML











Designating/Determining Defense Articles - 120.3

- Policy criteria
 - specifically designed or modified for military application
 - does not have predominant civil application
 - does not have performance equivalent to an article used for civil application





Designating/Determining Defense Articles - 120.3

- Policy criteria
 - specifically designed, developed, configured, adapted, or modified for military application
AND HAS
 - significant military or intelligence applicability such that ITAR control is necessary





Commodity Jurisdiction

- Process
 - Registration is not required prior to submission of a CJ
 - Request submitted by letter
 - Request reviewed by CJ officer
 - Case staffed to DOC and DOD
 - Replies received and analyzed by CJ officer





Commodity Jurisdiction

- If disagreement – CJ officer reconciles positions or if he can't
- Escalation of decision making
- Decision made
- Determination reply letter to requestor





Registration - 122.1

- Any person who engages in the U.S. in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Directorate of Defense Trade Controls
- Manufacturers who do not engage in exporting must nevertheless register





Definitions

- Export – 120.17
- Defense Article – 120.6
- Significant Military Equipment – 120.7
- Technical Data – 120.10
- Defense Service – 120.9





Purpose of Controls

- Foreign Policy
- National Security
- Human Rights
- Regional Stability
- Proliferation





Country Licensing Policies





Prohibited Destinations

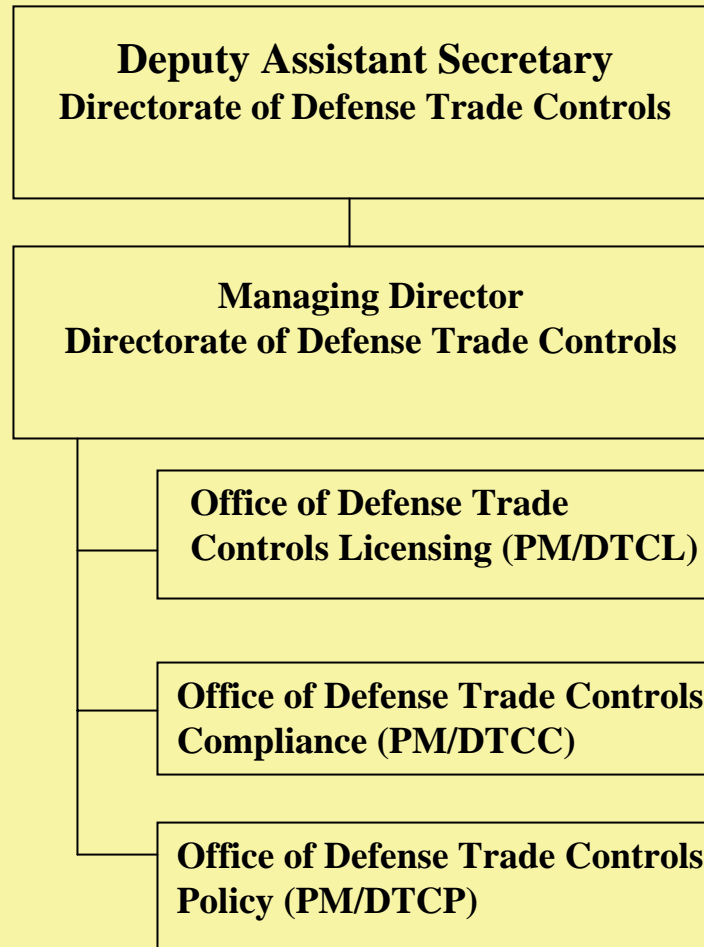
126.1

- U.S. arms embargo
- U.N. arms embargo
- countries supporting international terrorism
- policy of denial





DDTC ORGANIZATION





Office of Defense Trade Controls Licensing

**Military Vehicle &
Naval Vessel Division**

Space & Missile Division

Aircraft Division

**Electronic Systems
Division**

Firearms Team



License Review Statistics

- Approx. 78,000 cases received in 2007
- Approximately 40 officers in licensing office plus administrative staff





Application Process





Application Process





Types of State Dept. Licenses

- DSP-5
- DSP-61
- DSP-73
- DSP-85
- Permanent Export
- Temporary Import
- Temporary Export
- Classified Exports/Imports





Other State Dept. Approvals

- DSP-119 Amendment to License
- GC General Correspondence
- Offshore Procurement
- Agreements
 - Technical Assistance
 - Manufacturing License
 - Distribution





DSP-5 Permanent Export

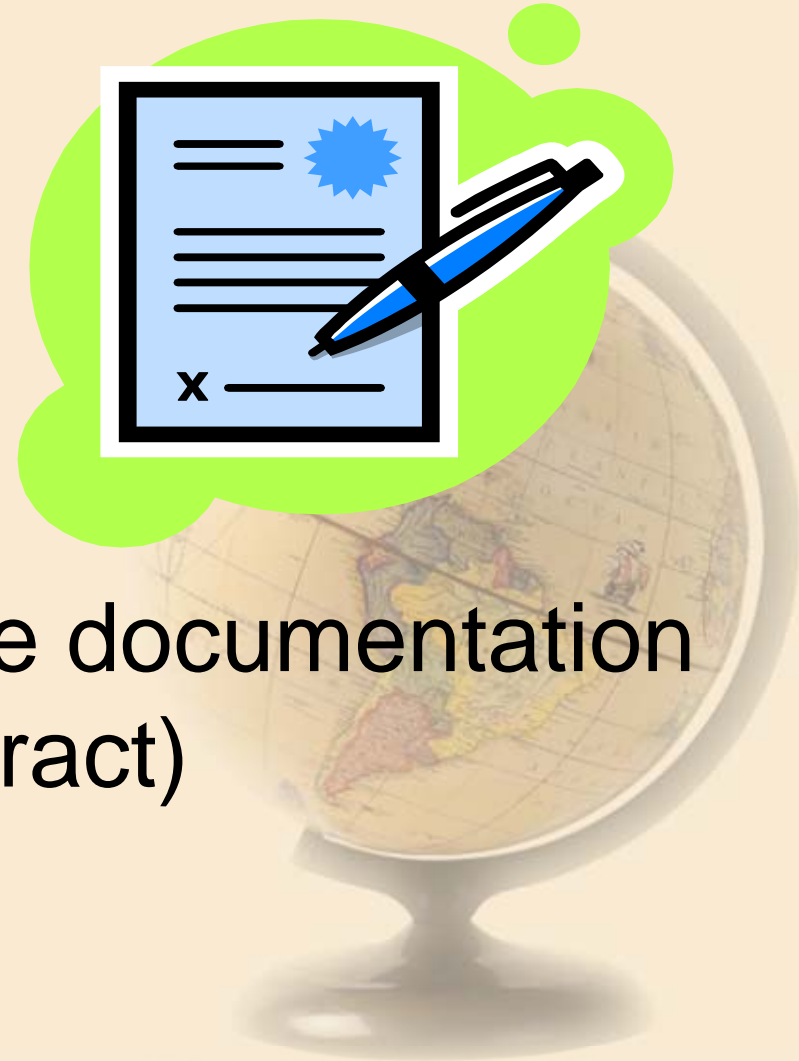
- Unclassified permanent export of defense articles
- unclassified export of technical data - 125





Documentation Requirements

- Purchase order
- Letter of intent
- Other appropriate documentation (e.g. signed contract)





Required Information

- specific article
- quantity
- value
- ultimate end-user
- end-use





DSP-83 Non-transfer & Use Certificate - 123.10

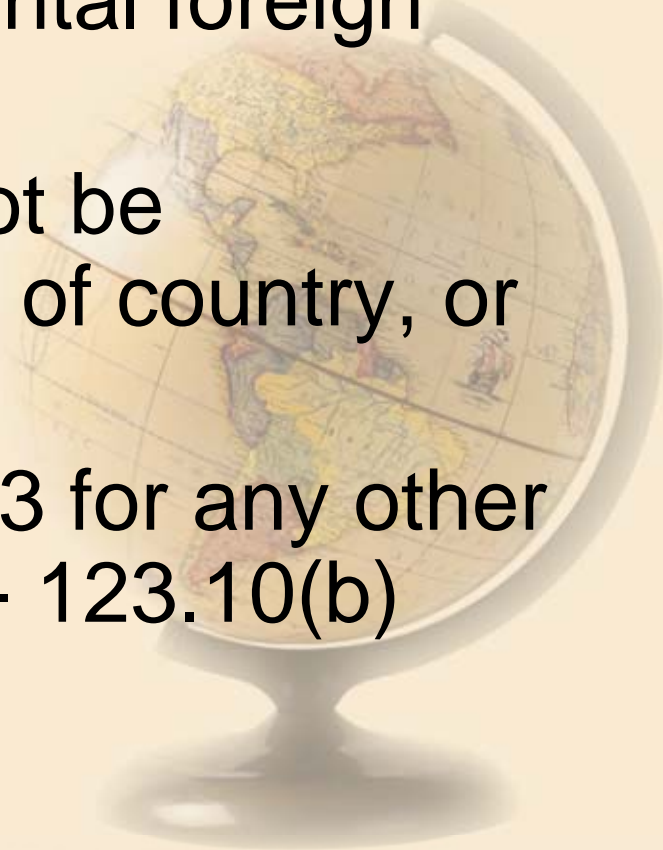
- DSP-83 is required for
 - permanent export of significant military equipment (* in USML) - 123.10
 - export of all classified hardware & data - 125.7
- Must be executed by foreign consignee, foreign end-user, *and applicant* - 123.10





DSP-83 Non-transfer & Use Certificate - 123.10

- DDTC may also require foreign government official to sign DSP-83 when export is to non-governmental foreign end-user - 123.10
- Stipulates that SME will not be reexported, resold outside of country, or to any other person
- DDTC may require DSP-83 for any other defense article or service - 123.10(b)





General Correspondence

- Advisory opinion
- Reexport request
- Reconsideration of proviso
- ITAR interpretation question





Agreements

- Technical Assistance
- Manufacturing License
- Distribution





DTRADE

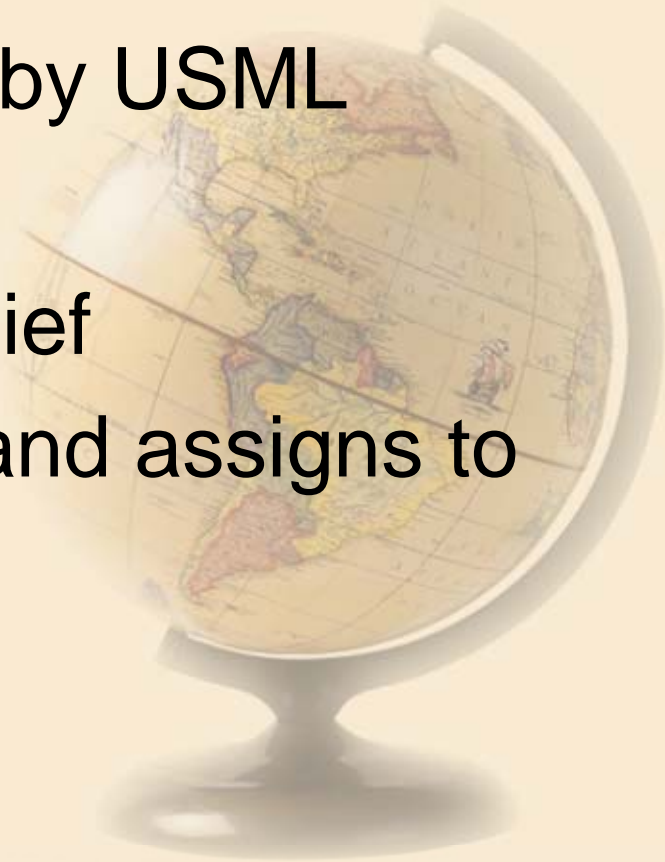
- DDTC's Automated Export Licensing System
 - DSP 5, 61, 73
 - soon to accept amendments
 - eventually will include TA/MA/DA/GC
 - cases reviewed by DDTC's computer system

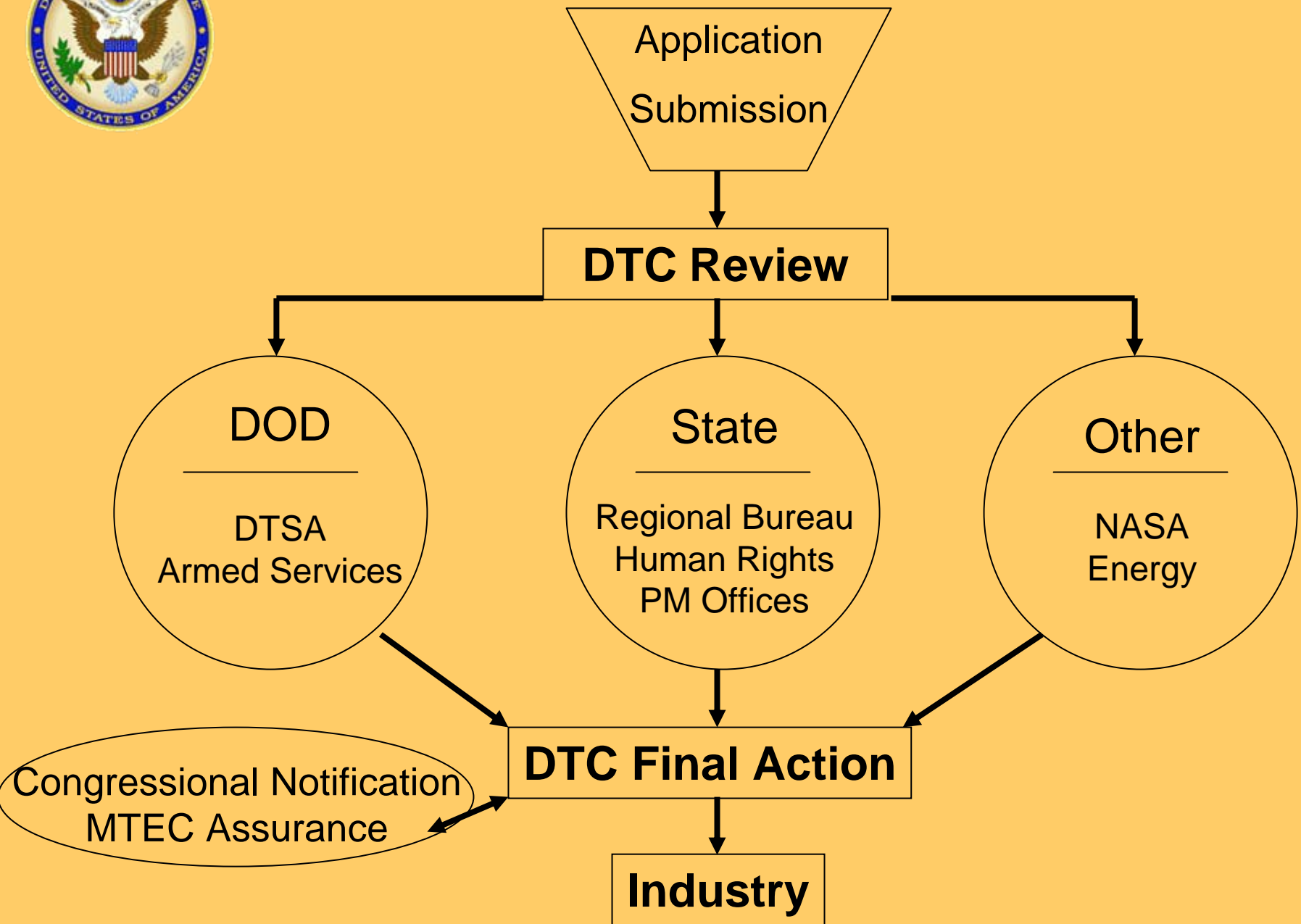




DTRADE

- rejected if submission isn't properly completed
- automatically assigned by USML Category
- assigned to Division Chief
- Division Chief reviews and assigns to LO's







Congressional Notification

- 30 calendar days notice
(countries other than NATO members,
AS, JA, NZ)
- Manufacture abroad of SME
- Major Defense Equipment \$14 million or
more
- Defense articles/services \$50 million or
more
- Firearms \$1 million or more





Congressional Notification

- 15 calendar days notice
(NATO, AS, JA, NZ)
- Manufacture abroad of SME
- Major Defense Equipment \$25 million or more
- Defense articles/services \$100 million or more
- Firearms \$1 million or more





Reexport/Retransfers

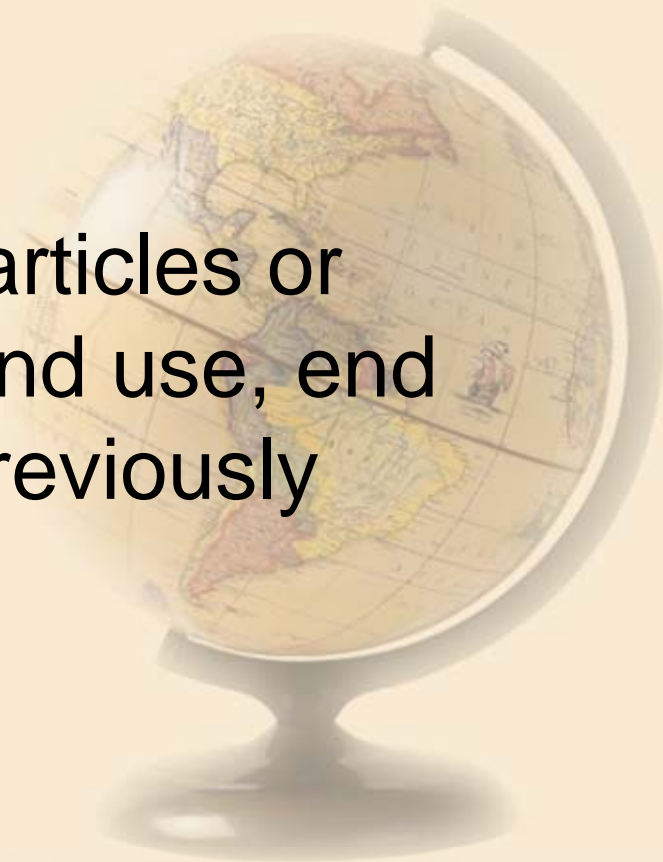




Reexport/Retransfer

Definition – 120.19

- “the transfer of defense articles or defense services to an end use, end user or destination not previously authorized”





Reexport/Retransfer

All reexports/retransfers
require prior approval from
DDTC pursuant to the ITAR

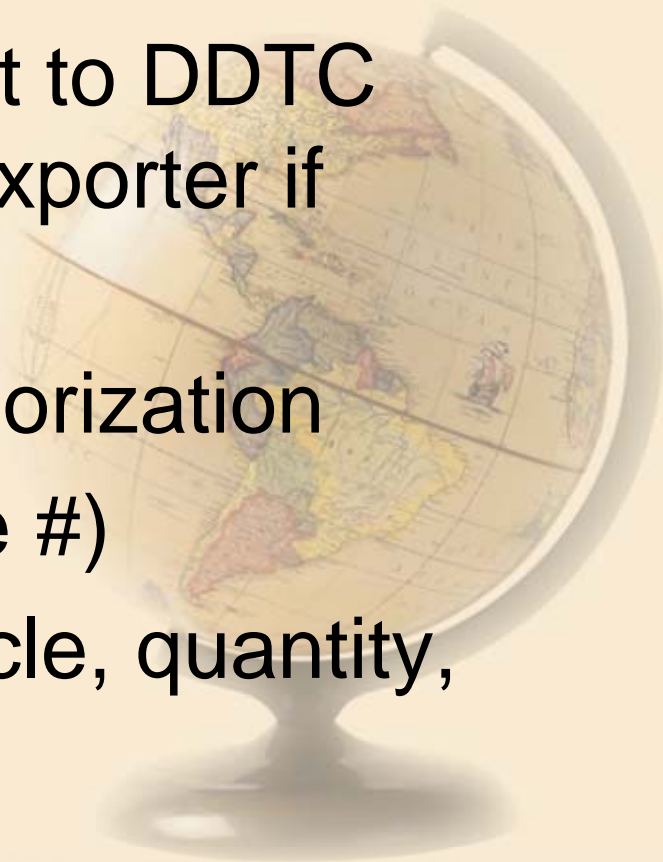
- new end-use
- new end-user
- new destination





Reexport/Retransfer

- submit written request to DDTTC (submit through U.S. exporter if possible)
- provide previous authorization evidence (e.g. license #)
- describe defense article, quantity, value





Reexport/Retransfer

- describe new end-user
- describe new end-use
- provide any other details of transaction





Provide Appropriate Documentation

- Purchase Order or Signed Contract
- DSP-83
- Descriptive Literature
- Part 126.13 Statement





Reexport/Retransfer

- DDTTC will provide written reply

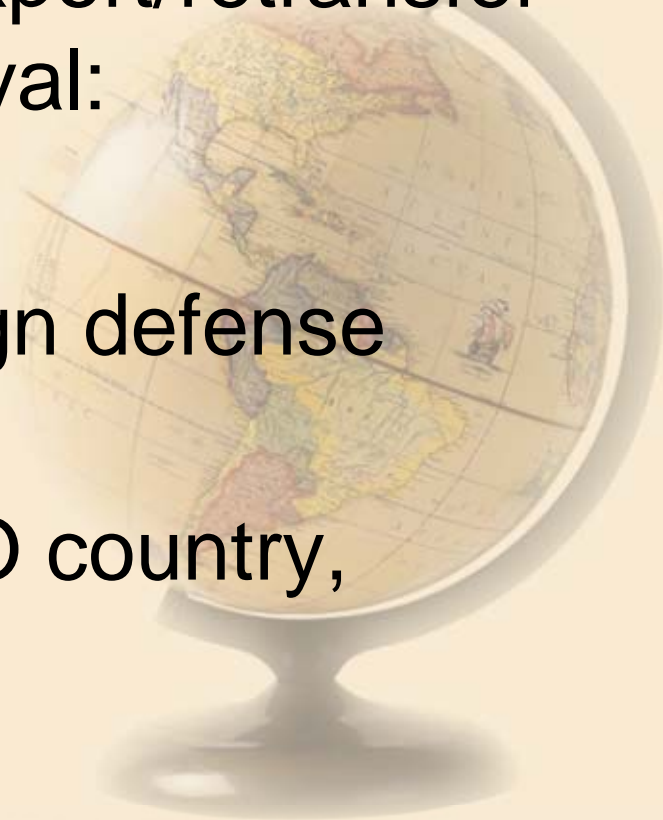




Reexport Exemption

ITAR 123.9(e) allows re-export/retransfer without prior written approval:

- US origin components
- Incorporated into a foreign defense article
- For government of NATO country, Australia or Japan

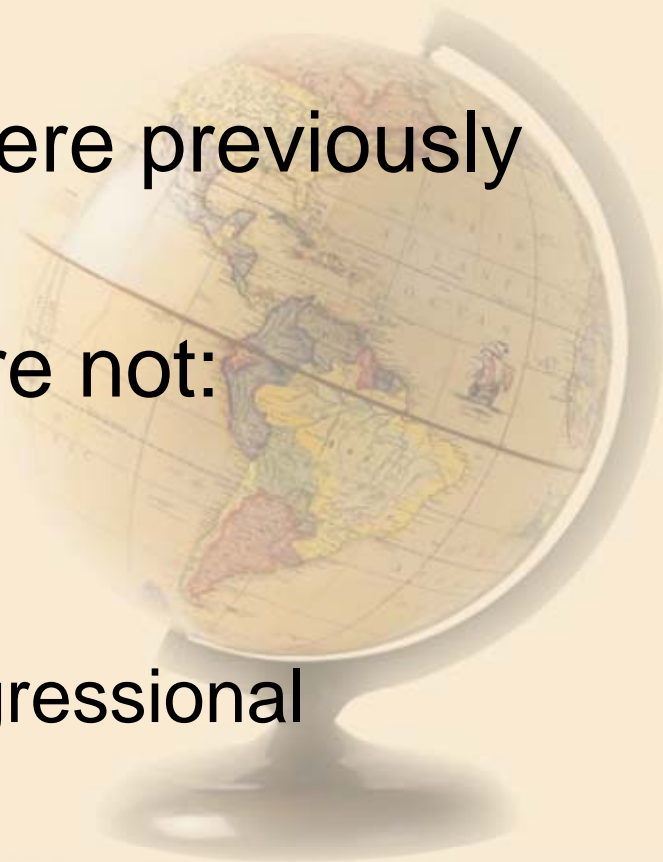




Reexport Exemption

Conditions:

- US origin components were previously authorized for export
- US origin components are not:
 - SME
 - MTCR items
 - Of a value triggering congressional notification





Reexport Exemption

Reporting Requirement:

- Written notification to DDTC within 30 days' of reexport
- Specify articles re-exported and recipient government





Temporary Import License Exemption - ITAR 123.4

- US origin, unclassified hardware
 - Repair, overhaul, replacement, calibration, testing or reconditioning
 - Incorporation in to hardware already approved for export
 - Demonstration/marketing in US
 - Rejected for permanent import
 - Approved under Foreign Military Sales program





Temporary Import License Exemption - ITAR 123.4

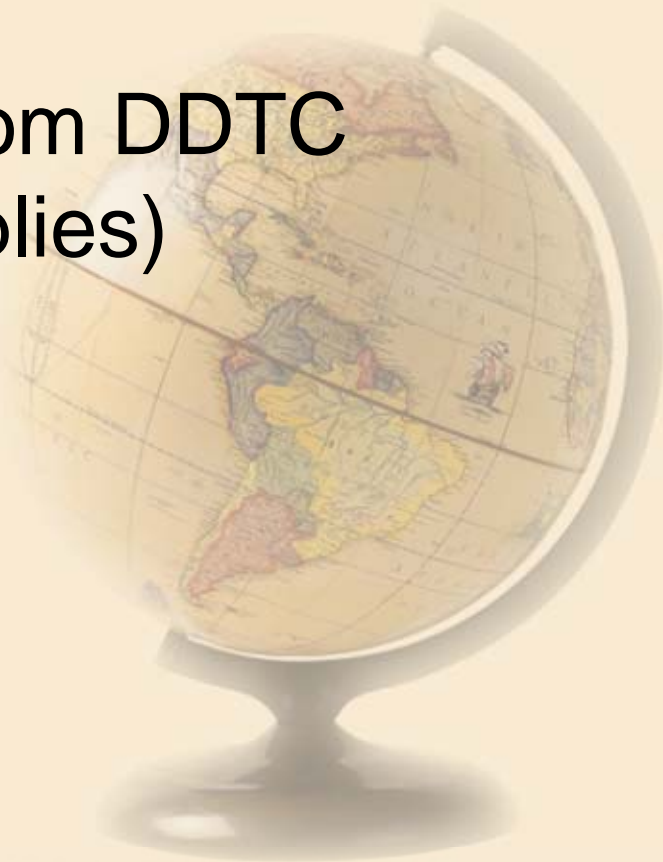
- U.S. company must declare import prior to import
- Foreign company must notify U.S. company before sending the defense article to the U.S.





Reminder

- Reexports/retransfers require prior approval
- Approval will be a letter from DDTC (unless the exemption applies)





Compliance & Enforcement





Office of Defense Trade Controls Compliance

- Registration
- Watchlist
- End-use checks
- Audits of U.S. companies





Office of Defense Trade Controls Compliance

- Support Licensing Office with intelligence
- Liaison with Customs (ICE) & FBI
- Work with US attorneys on court cases involving violations of AECA





Responsibilities

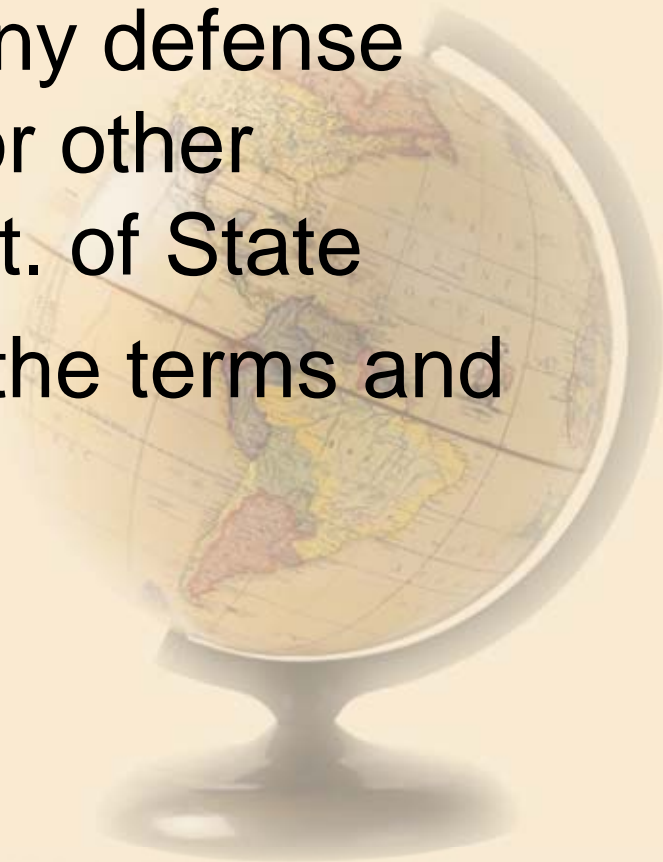
- Licensees are responsible for acts of their employees, agents, and all authorized persons to whom possession of licenses and/or licensed articles have been entrusted regarding use, operation, possession, transportation, and handling





Violations

- Unlawful to import/export or to attempt to import/export any defense articles / technical data or furnish any defense service without a license or other approval from the US Dept. of State
- Unlawful to violate any of the terms and conditions of the ITAR





Violations

- Unlawful to make a false statement or misrepresent on export/import documentation
 - Purchase order
 - Foreign import certificate
 - Bill of lading
 - Nontransfer and use certificate





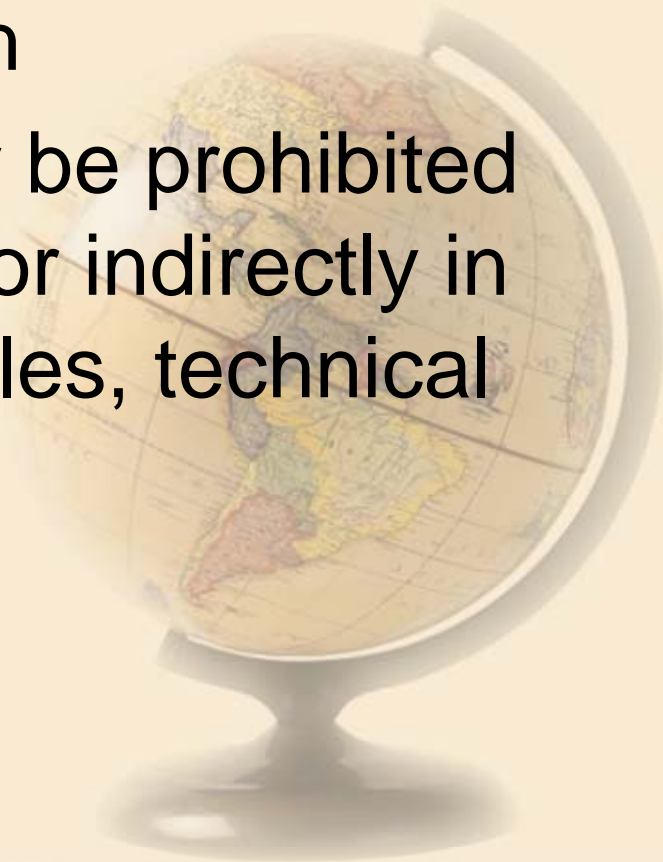
Penalties





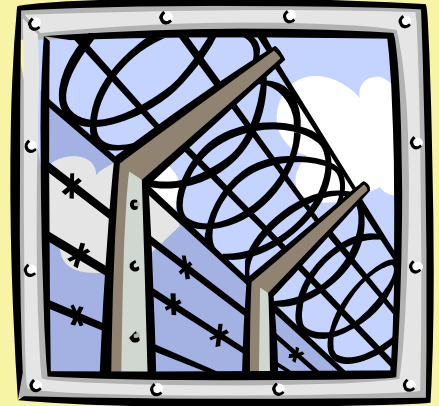
Penalties

- Any person who willfully violates a provision of the ITAR may be subject to fine, imprisonment, or both
- Person and company may be prohibited from participating directly or indirectly in the export of defense articles, technical data, or services





Penalties



- Criminal penalty
 - each violation a fine of up to \$1,000,000, or imprisonment up to 10 years, or both
- Civil penalty
 - each violation a fine of not more than \$500,000





Voluntary Disclosure - 127.12

- Strongly encouraged if company discovers a violation
- Could be considered a mitigating factor in determining penalties
- Must be made prior to USG awareness and inquiry into the activity





Summary

- Understand export control regulations
- Provide U.S. party and/or USG with all pertinent information
- Comply with export control laws/policies/procedures

