



US Export Control Reforms

A UK Government Perspective



Warren Bayliss
Assistant Head
International Relations Group
Defence Equipment & Support

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Objectives of this Session

- ***Update on US Export Control Reforms.***
- ***Update on recent ITAR Rule Changes (including Dual & Third Country Nationals and movement of USML items to CCL).***
- ***Impact of reforms on the US UK Defence Trade Cooperation Treaty.***
- ***HM Government Policy towards reforms & relationship with EGAD.***
- ***Questions & Answers.***

Obama's Export Control Reforms



“While there is still more work to be done, taken together, these reforms will focus our resources on the threats that matter most, and help us work more effectively with our allies in the field. They’ll bring transparency and coherence to a field of regulation which has long been lacking both. And by enhancing the competitiveness of our manufacturing and technology sectors, they’ll help us not just increase exports and create jobs, but strengthen our national security as well.”

President Obama, Department of Commerce Annual Export Controls Update Conference, August 30, 2010



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US Export Controls – Why Change?

- **Diverging views in the US – Those against change argue:**
 - **Most successful tool in safeguarding US National Security Interests.**
 - **Stopped USSR, China and other enemies gaining access to sensitive US Technology.**
 - **Prevents terrorist attacks against US interests.**
 - **Prevents proliferation of arms.**
 - **Maintain global & regional ‘balance of power’.**
 - **Fully supports US Foreign Policy objectives.**
 - **Further US industrial & commercial interests.**
 - **There should be no ‘liberalisation’ of the controls.**



US Export Controls – Why

- **Those in favour of change argue:**
 - **Export control system is rooted in the Cold War.**
 - **Must be updated to address current threats & realities.**
 - **Threats & Technology have evolved.**
 - **US no longer only nation with cutting edge technology?**
 - **New civil technologies can be easily converted into military end use?**
 - **Current system does not allow timely or flexible cooperation with key allies.**
 - **Prolonged US inter-agency deliberations.**
 - **Past reforms have been too ‘conservative’.**

Update on US Export Control Reforms

- **Presidential Study Directive (2009)**
- **Interagency Task Force Formed**
- **Report to National Economic/Security Councils (Jan 2010)**
- **Determined fundamental reform required in four key areas:**
- **Known as the four 'singles'**
 - **One Control List**
 - **One Licencing Agency**
 - **One Enforcement Agency**
 - **One IT System**



Former Defense Secretary – Robert Gates



- **Reform must be driven by national security.**
- **National security & efficiency are not mutually exclusive.**

“we need a system that dispenses with the 95% of ‘easy’ cases and lets us concentrate our resources on the remaining 5%”.

“By doing so, we will be better able to monitor & enforce controls on technology transfers with real security implications while helping to speed the provision of equipment to allies and partners who fight alongside us in coalition operations”.

Basic Principles of Reform

- **Protect the ‘crown jewels’ of US Technology.**
- **Higher Walls Around Fewer Things.**
- **Protection of key assets that give US war-fighters critical military edge.**
- **Expedite Technology Sharing & cooperation with allies.**
- **Increase collaboration with allies on new programmes.**
- **Enhance & improve enforcement, monitoring & intelligence.**
- **Deny exports to countries & entities of concern.**



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Challenges of Reform

- **Single Control List requires Congressional Approval.**
 - *Is this likely?*
- **Single Agency requires Congressional action & legislation.**
 - *Staffers & congressional leaders currently considering draft legislation, but will they cooperate or 'water down'?*
- **Single IT System (based on DoD USXPORTS) requires Executive Branch action - Report by 31 Oct 2011.**
 - *Can you deliver new system without Congressional approval of single list?*
- **Single Agency Enforcement = Executive Branch action.**
 - *Will there be inter-agency rivalry over who takes control over what. Work on-going.*
- **Secretary Gates has now left office. No more 'champion'?**

Biggest Challenge = US Congress

“a compelling case has not been made for the wholesale restructuring of our current system, especially one that would include the creation of a costly and perhaps unaccountable new federal bureaucracy.”

***Ileana Ros-Lehtinen (R-FLA), Chair HFAC
30 April 2011***



Successful completion of the Initiative will require Congressional action. Given possible implications of the reform efforts on outsourcing of U.S. manufacturing jobs, increased trade with China (including trade in items currently subject to the U.S. arms embargo on China), and for various other political reasons, Chairman Ros-Lehtinen’s remarks may be only the beginning of opposition to the Initiative in Congress.

The Last 12 months

- Nov 7 – State publishes rule revising USML Cat VIII
- Nov 7 – Commerce issues proposals for aircraft and related items no longer warranting control under USML.
- July 15 – Commerce publishes rule on process for controlling items no longer required under USML control.
- June 16 – Commerce publishes final rule on establishing Strategic Trade Authorisation.
- May 16 – State publishes final rule change amending ITAR for Dual and Third Country Nationals.
- April 13 – State proposes to amend ITAR to update policy on defense services.
- Dec 2010 – DDTTC seeks public comments on revisions to USML that would make a ‘positive list’.



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Progress on Reform Initiatives

Completed

- **Dual & Third Country Nationals Rule Change (May 2011)**
- **Encryption Regulation (June 2010)**
- **Strategic Trade Authorisation (June 2011)**

On-going

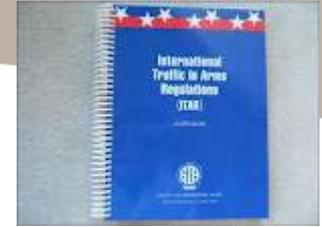
- **Single licence application form.**
- **Harmonisation of definitions.**
- **Review of Technology Security & Foreign Disclosure.**
- **US Munitions List Changes.**

Dual & Third Country Nationals

- **New rule into force – 15 Aug 2011.**
- **New licence exemption for transfers of defense articles to Dual & TCN employees for foreign end-users.**
- **Subject to end users having screening regime in place.**
- **HMG has agreed Exchange of Notes with USG confirming Baseline Personnel Security Standard meets requirements.**
- **Also agreed:**
 - **Technology Security Plan;**
 - **Non-Disclosure Agreement; and**
 - **Question & Answer Matrix.**
- **Published guidance for UK End Users & Consignees.**



US Munitions List Changes



- **Significant step.**
- **Following inter-agency review, some technologies will be moved off the USML to the CCL. Good news for UK PLC?**
- **Strategic Trade Authorisation (STA) license exceptions?**
- **Reduce number of licenses & USML items significantly.**
- **If approved STA would allow exports of such items for ultimate end use by govt bodies that qualify for exception.**
- **New rule already looked at for military use vehicles.**
- **Now aircraft & related articles also being considered (7 Nov refers).**
- **New rules not yet taken effect – may need Congressional approval.**

US UK Defence Trade Cooperation Treaty

- How will the export control reforms impact on the DTCT?
- Will the transfer of USML items to CCL impact on utility of DTCT?
- DTCT Exempted Technology List will require US ITAR Rule Change?

Be warned !!

- DTCT already approved by Congress.
- Full package of Export Control Reforms have not.
- In the meantime, let's work with what we've got!!



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HMG Policy

- **Fully support Export Control Reforms.**
- **Sceptical that reforms will be fully delivered in short term.**
- **Therefore really important to work with Treaty.**
- **Must fully test utility of Treaty & ensure it can deliver maximum benefits.**
- **But still have significant work to do & challenges to overcome.**
- **Closely monitor ITAR Rule Change on Dual & TCNs.**
- **Important role of EGAD.**
- **Need to work closely on all aspects of US Export Controls.**
- **Work more closely with other European allies (LoI Treaty).**

Questions

- ***Further information:***

***Warren Bayliss
Assistant Head
International Relations Group
Defence Equipment & Support
MoD Abbey Wood
Bristol
BS34 8JH
Tel: 0117 913 0271
Email: Warren.Bayliss915@mod.uk***