International Traffic in Arms (ITAR)

Mose Lewis, Consultant to EME
What is the ITAR?

The Regulations that Rule Exports and Imports

Failure to Comply =

- Fines
- Debarment
- Jail Time
Scope of Presentation

- Introduction, Mission & Topics
- Department of State (DOS), Directorate Defense Trade Controls (DDTC)
- Defense Security Cooperation Agency (DSCA)
- Defense Technical Security Agency (DTSA)
- U.S. Army Security Assistance Agency (USASAC)
- Department of Commerce (DOC)
Scope of Presentation (Cont.)

- Licensing
- Compliance
- Recent changes
- Helpers
AGENCIES

DEPARTMENT OF STATE (DIRECTORATE DEFENSE TRADE CONTROLS)

DEPARTMENT OF COMMERCE

DEFENSE SECURITY COOPERATION AGENCY

DEFENSE TECHNOLOGY SECURITY AGENCY

USARMY SECURITY ASSISTANCE COMMAND
BASICS

EXPORTERS MUST REGISTER – (DDTC)

MUST DESIGNATE AN “EMPOWERED OFFICIAL”

MUST SUBMIT LICENSE APPLICATIONS

MUST OBEY ITAR
EXSPORT CONTROL

System of Licensing - Forms

DSP-5 Permanent Export
DSP-73 Temporary Export
DSP-61 Temporary Import
DSP-83 End Use Certificate
Certificate of Empowered Official

Technical Assistance Agreement

Manufacturing Licenses Agreements
When Does an Export Occur?

Obviously when shipping info, documents or items overseas.

May also create an export when:
- Talk or send emails to a foreign National
- Handout flyers at a trade show
- Create company web sites
- Give briefings when foreigners are present
- Carry company samples overseas

USG compliance is aimed at control of Technology
Clearly State who-what-when-where-why-how of export

- Provide relevant documents and where to go if additional info is needed
  - Have knowledgeable Governmental POC
  - Have relevant graphics, demonstrate logic for approval with relevant prior approvals
- Define the Scope of Export:
  - State unequivocally what will not be exported

Courtesy of Navy IPO
Ask for everything, USG will tell us what we can’t have

Have conflicting statements, e.g.,
- Cover letter vs. support documents

Have Government POC’s who retired last year

Courtesy of Navy IPO
Characteristics of Poor Licenses (Cont.)

- Use Soviet approach to supporting documentation:
  - “Quantity has quality all it’s own”

- Do not exhibit graphics, clarity, logic for release and on relevant prior approvals

- Don’t have anyone in the company who can answer questions.

Courtesy of Navy IPO
What is Technical Data?

+ Classified Info on defense articles & services
+ Info covered by an invention secrecy order

+ Info in any form directly related to design, engineering, development, production, repair, of defense articles/systems
+ Blue prints, drawings, photos, etc.

+ Does not include general science, math, engineering taught in academia
+ Does not include marketing info on general defense systems
RESEARCH & DEVELOPMENT

• Exchange of basic research not defense-specific does not require an export license

• Government financial program level of 6-2 is uncontrolled 6-3 is a gray area

• Dual use technology biased toward commercial application is controlled by DOC
State makes the call whether defense or DOC

National Academy of Sciences reports the issues

Defense research is exportable with a TAA
Current System is Broken – must be restructured

System harms National Security

Reduces economic prosperity

Many controls do not improve security

Best research is undermined by USG Regulations

Cannot fix the system below Presidential level
RECOMMENDATIONS

A NEW COORDINATION CENTER AT NATIONAL SECURITY LEVEL – REVIEW LICENSES

APPEALS PANEL TO RESOLVE ISSUES
A review of DOS Munitions export license process found many deficiencies:

Two examples:

1. DDTC is inefficient & unnecessarily burdensome

2. Process lacks tracking resulting in lost or misplaced applications
The ITAR “TAINT” is one small component, like a radio mount, can result in a whole system falling under ITAR control.

A space heater for an arctic tent is classified as “significant military equipment” and therefore cannot be moved to another country without an export license.
SEC DEF GATES REFORM THE ITAR

- President has directed review of export control regime
- Syst. failed to prevent export of harmful technology
- Wasting resources controlling tech available at Radio Shack
SEC DEF GATES

REFORM THE ITAR (Cont.)

• EXPORT CONTROL OF SMALL PARTS OF A WHOLE SYSTEM ALREADY APPROVED

• TOO MANY AUTHORITIES, ROLLS, MISSIONS IN DIFFERENT PARTS OF USG

• CONFUSION ABOUT JURISDICTION
SEC DEF GATES

REMEDIES

• SINGLE EXPORT CONTROL LIST OF ONLY CRITICAL ITEMS

• SINGLE LICENSING AGENCY OVER MUNITIONS & DUAL USE ITEMS

• SINGLE ENFORCEMENT COORDINATION AGENCY

• SINGLE UNIFIED IT STRUCTURE TO REDUCE REDUNDANCY & WASTE

• CHANGES WILL REQUIRE CONGRESSIONAL ACTION
RECENT CHANGES

• LICENSE PROCESSING – FASTER!

• ALL APPLICATIONS – ELECTRONIC

• STAFF INCREASED AT DDTC

• BROKERING REGISTRATION - CASE BY CASE

• IRAQ MOVING TOWARD U.S. EQUIPMENT/AMMO
HELPERS
When you have questions – Don’t know what to do, call for Help:

DDTC WEB Page – http://pmddtc.state.gov
DDTC Response Team – 202 663-1282
DSCA – Brett Floro 703 604-6626
DTSA – Patrick Merryman 703 325-4297
USASAC – Col. David Dornblaser 703 806-2292
SIA – Senior Advisor: Gregory Creeser, 703 597-2517
Email: http://siaed.org/publications.cfm
DOD INFO/Security – Donald Kluzic, 703 695-9580
EME Consultant – Mose Lewis, 703 534 5412
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