
Joint State-Commerce Report on Improving Export Watchlists

By The

Departments of State and Commerce

[The following is a reprint of a new, annual joint report on strengthening U.S. export control mechanisms by the Secretaries of State and Commerce. Section 1324 of the National Defense Authorization Act for FY 1996 (P.L. 104-106, 110 Stat 480, February 10, 1996), requires that this report be prepared by the Secretaries of State and Commerce, in consultation with the Secretary of Defense, for submission to the Congress not later than April 1 of each of 1996 and 1997. The report addresses three categories of measures to be taken by the Secretaries of State and Commerce to strengthen U.S. export controls.]

The Departments of Commerce and State have extensive watchlists which they use to review export licenses. They update these lists constantly, exchange relevant information on a periodic basis, and consult regularly with other agencies about parties of concern to ensure that their respective watchlists include all relevant known parties of concern.

This report responds to three questions included in Section 1324 "Annual Reports on Improving Export Mechanisms and on Military Assistance" of the National Defense Authorization Act for FY 1996. The questions and the Departments of Commerce and State answers are as follows:

. . . Set forth measures to be taken to strengthen United States Export Control mechanisms, including—

[Question #1]

(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing data received from the other Secretary into the watchlist of that Secretary's department;

[Answer to Question #1]

A 1994 report by the General Accounting Office (EXPORT CONTROLS: License Screening and Compliance Procedures Need Strengthening, GAO/NSIAD-94-178) suggested that the Departments of State and Commerce tighten procedures for ensuring that their compliance watchlists are properly updated and monitored. As a result of the GAO review and a June 1994 Congressional hearing, the Commerce and State Departments agreed to:

- (a) formally assign watchlist data entry responsibilities among staff and establish procedures and guidance to ensure data entries are complete and up-to-date;
- (b) exchange the relevant portion of each agency's watchlist on a regular basis and incorporate the relevant portion into each agency's watchlist; and
- (c) redesign State's screening system to (1) create an automated licensing tracking system that documents review by the Compliance Division, Office of Defense Trade Controls (DTC), of

munitions export license applications involving watchlist parties; (2) automatically inform DTC's Arms Licensing Division if any party on a license application is on the watchlist; and (3) prevent a license from being issued until compliance staff have completed their review via a process known as the "license lock-up" system.

The Departments of State and Commerce have fully implemented these recommendations. Both agencies maintain watchlists with over 35,000 parties whose appearance on or association with a registration, export license application, or other request for approval triggers closer examination. This list, which is constantly updated, is compiled from a number of sources including DoD, Justice, Treasury, U.S. Customs, GSA, Commerce, State, the Intelligence Community, the Administrative Office of the Courts, open source materials, and other information developed or collected by Department of State and Commerce offices (including compliance/enforcement activities such as end-use checks). Parties appearing on defense trade and dual-use export license applications are reviewed daily against those persons or entities on the watchlist. Final action on license applications are held until a full review is completed.

State and Commerce are now exchanging all relevant watchlist information on a periodic basis, and each agency has added all of the parties and other relevant information to its watchlist. State and Commerce have held technical expert-level discussions to determine what information each agency holds that is mutually relevant and how it can be exchanged in an effective and efficient manner. State and Commerce also exchange information regarding export policies and departmental sanctions. In addition, State and Commerce have instructed agency personnel at all diplomatic posts abroad to inform both agencies of all unfavorable responses to State ("Blue Lantern") or Commerce end-use checks, and have agreed to exchange listings of all unfavorable end-use checks on a periodic basis to verify receipt of such information from overseas posts.

To enhance the sharing of watchlist data, State and Commerce are exploring the feasibility of electronic exchange of relevant watchlist information. These exchanges will allow State and Commerce personnel to receive watchlist data on a more frequent basis.

[Question #2]

(2) Set forth the steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service;

[Answer to Question #2]

Although the Department of Defense and the U.S. Customs Service, which are not licensing agencies, do not maintain "watchlists," Commerce and State regularly seek and receive export-related information from them.

Commerce reviews information daily from various components of the Department of Defense (DIA, DTSA, etc.) and places pertinent information on its watchlist. Further, based on a December 1995 Executive Order, DoD may now review any export license application received by the Commerce Department.

Pursuant to a 1993 Memorandum of Understanding between Customs and Commerce, Commerce provides Customs with all export license data on approvals and denials. Additionally, Commerce has given customs the ability to place parties on Commerce's watchlist and Customs has done so periodically.

Defense and Customs regularly review a substantial amount of State licensing information. Customs also reviews, for law enforcement concerns, registration submissions by defense manufacturers and exporters. Results of daily activity reports compiled by the Customs liaison officers at DTC are reflected, as appropriate, on the State watchlist. In addition, the Intelligence Community identifies parties of concern based on its daily review of end-users and foreign consignees listed on State Department and Commerce Department license applications.

[Question #3]

(3) Set forth a description of such further measures to be taken to strengthen United States export-controls mechanisms as the Secretaries consider to be appropriate.

[Answer to Question #3]

Principal goals of U.S. export control policy include:

- impeding potential adversaries' access to militarily significant items and technologies, including those which contribute to the proliferation of weapons of mass destruction;
- promoting a capable defense industrial base to ensure global competitiveness and continued technology advantages enjoyed by U.S. military forces over potential adversaries;
- encouraging foreign government support for U.S. export control principles, laws, regulations, and practices;

Measures to be taken to strengthen export controls and further these national objectives:

- intensify investigations and other actions against suspected violators of export controls, including joint efforts by Commerce, State, Customs, and other enforcement agencies;
- seek more useful information from classified and open sources on the plans and activities of foreign programs to produce weapons of mass destruction by acquiring U.S. products and technology;
- hold more seminars and training sessions with the U.S. exporting and defense community to ensure authoritative guidance regarding export policies, procedures, and practices, with the aim of improving private sector compliance with laws and regulations; and
- work with the Congress to enhance both State and Commerce enforcement capabilities through a new EAA (Export Administration Act) and revisions of the AECA (Arms Export Control Act), which would authorize prosecution of off-shore brokering of arms inconsistent with U.S. foreign policy interests.