

U. S. Department of State Defense Trade Advisory Group 2004 Annual Report

November 18, 2004

Establishment

Created on February 28, 1992, the Defense Trade Advisory Group (“DTAG”) is a committee established under the Federal Advisory Committee Act (“FACA”) to advise the Assistant Secretary for Political Military Affairs (“PM” or the “Department”) within the Department of State on issues relevant to defense trade. Membership is comprised of individuals from industry, academia and consultancies whose expertise is looked to on issues involving U.S. laws, policies and regulations for defense trade.

Background

The DTAG generally holds one to two plenary meetings annually which are open to the public and announced via Federal Register notice. The DTAG maintains two subcommittees:

1. the Policy Working Group; and
2. the Regulatory/Technical Working Group.

Each subcommittee is tasked to collect facts and exchange information with the State Department, provide individual views where appropriate and to comment and report out to the DTAG on recommendations for policy and regulatory issues.

The DTAG Charter and Terms of Reference were modified in 2003 to reflect that the Political-Military Affairs Bureau, as opposed to the Office of Regional Security and Arms Transfers, acts as the DTAG Executive Secretariat. The Designated Federal Official (“DFO”) now resides within the Directorate of Defense Trade Controls (“DDTC”) within PM Bureau.

The DTAG was renewed in early 2004, and the advisory group’s membership rolls were modified and expanded through appointments by the PM Assistant Secretary for two-year terms (2004 - 2006). As of September 20, 2004, the DTAG has 47 members. The Department hosted an organizational meeting on June 3, 2004.

Objectives and Duties

1. The DTAG functions solely as an advisory body in compliance with the provisions of the FACA.

2. The DTAG's objective is to advise the Department's PM Bureau on its support for and regulation of commercial defense trade, helping to ensure that impediments to legitimate exports are reduced, while foreign policy and national security interests are protected and advanced in accordance with the Arms Export Control Act ("AECA"), as amended.
3. The DTAG advises the Department on questions involving:
 - a. policy issues on commercial defense trade and technology transfer;
 - b. regulatory and licensing procedures applicable to defense articles, services, and technical data;
 - c. technical issues involving the U.S. Munitions List ("USML"); and
 - d. questions relating to actions designed to carry out the AECA and International Traffic in Arms Regulations ("ITAR").
4. The DTAG provides advice to the Department regarding the matters outlined in Paragraphs 2 and 3 above. The committee's activities include the evaluation of and commentary on data and other information available from the Department, other reliable sources, and the members' own experience and resources.
5. The DTAG Chairperson submits to the Department an annual work plan with specific goals and objectives, as well as an annual report. This report includes a summary of DTAG activities during the year and any recommendations of the committee. Recommendations are also submitted throughout the year.
6. The DTAG serves on a continuing basis within the limitations of the FACA. The DTAG and its Working Groups shall terminate automatically on the date specified in the DTAG charter, unless the committee is renewed or extended by appropriate action prior to that date.

DTAG 2004 Activities

The DTAG participated in a number of activities over the last year at the request of the Department. Those activities included:

1. **ITAR Revisions – 22 C.F.R. § 126.13(b)(1)**

Request for comments on a draft proposed Federal Register final rule removing the exemption at 22 C.F.R. § 126.13(b)(1). Comments were submitted individually, rather than in the form of a consolidated DTAG recommendation. The initial position of the State Department was to remove the exemption. However, the comments provided by DTAG

members brought attention to the utility of the exemption for specific purposes and has prompted further consideration of the matter by the Department.

2. Registration Fees

Request for input on ITAR registration fees, including impact of changes to registration fees to which DTAG members responded individually. The Department reports that this feedback is being factored into its proposed modification of the registration fee schedule.

3. Export Reporting Requirements

Request for comment regarding the reporting requirements for technical data and defense services exports through electronic media, either the Automated Export System (“AES”), the proposed new system to be managed by the Department of Homeland Security/Customs and Border Protection, or the proposed system to be managed DDTC. DTAG members reviewed successive drafts of proposed ITAR amendments to implement mandatory AES filing, as well as requirements for the filing of technical data transfers with DDTC. The Department reports that, with the DTAG members’ contributions, development of electronic systems that will enable the reporting requirements to be fulfilled are well under way.

4. U.S. Munitions List Review

Ongoing reviews regarding the USML revision authorized pursuant to the 2000 DTSI. DTAG members reviewed proposals for revisions to USML Categories, IX, X, XIII and XVIII. Their comments were incorporated into the final Federal Register notice, published May 21, 2004. DTAG members have also reviewed similar proposals regarding USML Categories VI, VIII and XX, on which deliberations are still ongoing.

5. Commodity Jurisdiction Process

Members commented individually on the content of a new proposed electronic form for the commodity jurisdiction process. Many of the comments have been incorporated and the Department hopes, subject to meeting Paperwork Reduction Act requirements, to introduce the form in the next few months.

6. D-TRADE

DTAG members, many of the first in industry to sign up and participate in the electronic licensing system, continue to interface closely with State with the ongoing development of the system. Members have provided

comments regarding how to streamline D-Trade processes and expand the functional capabilities of the system to increase its effectiveness and encourage the use of the system by more companies in the defense industry.

DTAG - Topics for the Future

There has been extensive communication between the DTAG membership and the Department this year on procedural, as well as technical and regulatory matters, issues. To facilitate the continuation and expansion of this constructive dialogue, the DTAG Executive Secretariat has encouraged and welcomed contributions from DTAG members and working groups to identify discussion topics on policy, procedures, and practices and to explore various approaches for addressing these issues. While the Department continues to refer proposals and issues to the DTAG for its comments, it has also made clear that it welcomes the introduction of discussion items and initiatives that are generated internally in the DTAG, through such channels as the established working groups or “white papers.” To facilitate this positive interaction, the DTAG Executive Secretariat has made known that it is prepared to designate to the DTAG specific points of contact in DDTC to assist as necessary with administrative and procedural matters, and serve as a regular avenue of collaborative liaison with the PM and, as appropriate, other U.S. Government offices and agencies.