



**United States Department of State**

***Bureau of Political-Military Affairs  
Directorate of Defense Trade Controls***

***Washington, D.C. 20520-0112***

**JUN 12 2017**

Mr. William O. Wade  
Chair, Defense Trade Advisory Group  
Vice President, International Licensing & Compliance  
L-3 Communications  
201 12<sup>th</sup> St., Suite 800  
Arlington, VA 22202

Dear Mr. Wade:

Since the last Defense Trade Advisory Group (DTAG) plenary meeting in March 2017, the Directorate of Defense Trade Controls (DDTC) has determined that it can benefit from input from the various working groups of the DTAG on the issues addressed in the attached.

The DTAG should be prepared to present its recommendations at one of the next two DTAG plenary sessions, which will be provisionally scheduled in early September and early December. Please provide the DTAG recommendation for which topics should be presented in which upcoming plenary so DDTC can plan accordingly.

As we did in advance of the March meeting, we would be pleased to meet with you to walk through each of the topics in the attached.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Nilsson", with a long horizontal flourish extending to the right.

Brian H. Nilsson  
Deputy Assistant Secretary of State  
for Defense Trade Controls  
Designated Federal Official

1 Attachment – DDTC Issued DTAG Tasks (June 2017)

## DDTC Issued DTAG Tasks (June 2017)

### 1. One-Form Electronic Filing

DDTC is considering options for making electronic filing more cost-effective and efficient for industry. The DDTC One-Form (DS-7788) is envisioned to replace all currently required unclassified licensing forms (DSP 5, 6, 61, 62, 73, and 74). The State Department solicited comments on this proposed form beginning June 20, 2016 via 81 *Federal Register* 39994. The One-Form user interface would be question based (similar to Turbo Tax) and would allow applicants to enter all data currently required by existing forms, transmittal letters, agreement documents, and other supporting documentation and to electronically sign the application. The system would also continue to allow users to provide data on a machine-to-machine basis (currently referred to as “batch filing”). Users would be allowed to make corrections after submittal during the DDTC review process. Once DDTC has reviewed and approved the application, the system would produce a license that provides information for the applicant and foreign parties to ship against it.

**Tasking:** DDTC requests feedback and recommendations from the DTAG regarding a One-Form approach as follows:

- Would industry benefit from a single interagency form where the data elements needed by DDTC, BIS, and OFAC are collected using a single system user interface or single machine-to-machine data interface? If so, how does a cost-benefit analysis support this recommendation?
- Would expanding the current license based batch filing (to include registration filings and updates, notifications, CJ, etc.) positively impact industry, and if so, how does industry want DDTC to prioritize this expansion and does a cost-benefit analysis support this recommendation?
- Would modifying user access/authentication process from current Identrust Certifications to other modern access/authentication procedures positively impact industry, and if so, what are your specific modification recommendations and does a cost-benefit analysis support this recommendation?

### 2. Defense Services Definition

Defense services was identified as the “number one” issue during the November 15, 2016 DTAG plenary by the regulatory and policy working group. The DTAG noted confusion about servicing EAR items integrated into a larger defense article and the difficulty to establish “proof of knowledge”.

**Tasking:** DDTC requests DTAG identify key areas of concern with the proposed definition in 80 Fed. Reg. 31525 (Jun. 3, 2015). Please include any aspects of the proposed definition that would constitute positive change, and make recommendations as appropriate.

### 3. Definition of Manufacturing (post-revision of firearms rule)

**Tasking:** Considering the possibility of revisions of Cats I-III and removal of most commercial firearms and related activities from the ITAR, DDTC requests DTAG to review and provide feedback to accurately and effectively define “manufacturing” (and distinguish from other related activities like assembly, integration, installment, various services) for remaining defense articles and services.

#### **4. Exports, Re-exports and Foreign Citizenship/Permanent Residence**

The June 3, 2016 Federal Register Interim Final Rule (81 Fed. Reg. 35611, 35616) revising the definition of “reexport” added a new subparagraph (b) to ITAR § 120.19 stating: “Any release outside the United States of technical data to a foreign person is deemed to be a reexport to all countries in which the foreign person has held or holds citizenship or holds permanent residence.” The Department confirmed this in the preamble of the September 8, 2016 final rule (81 Fed. Reg. 62004, 62005), stating that “any release to a foreign person is a controlled event that requires authorization to all countries where that foreign person holds or has held citizenship or is a permanent resident, and that such authorization or authorizations must authorize all applicable destinations.” Based on feedback from industry, however, DDTC understands that it may be difficult or impossible – or in some countries illegal – to fully ascertain whether individuals have contacts with countries listed in ITAR § 126.1 arising from citizenship or residency, which would preclude export authorizations. This may be particularly problematic for temporary employees of foreign companies/U.S. subsidiaries, and has raised questions about implications for U.S. dual-nationals. Additionally, DDTC understands from dialogues with industry that certain U.S. subsidiaries overseas are disadvantaged with respect to the § 126.18 exemption for dual/third-country nationals as it applies only to foreign business entities.

**Tasking:** DDTC requests DTAG examine the challenges of compliance with the current rules on releases of technical data to foreign dual-nationals and identify alternative options which sufficiently facilitate risk assessment and risk mitigation.

#### **5. 10 Year Standard for Agreement Expiration Date**

DDTC is considering a 10-year fixed standard for agreement expiration dates. The current system as per section 3.1a of the Guidelines for Preparing Agreements (GFA) states that proposed expiration dates on proposed agreements cannot exceed 10 years in duration. GFA section 3.1b then further directs the proposed expiration month to coincide with a table based on Registered Company Name. This system was designed to avoid an overwhelming number of proposed amendments for extensions at the end of the calendar year. The current system is efficient for DDTC, but may not be efficient for applicants as it requires any given company to renew all expiring licenses during their designated calendar month.

**Tasking:** DDTC requests DTAG’s assessment, including a cost-benefit analysis, of DDTC standardizing the expiration date for all new agreements to a fixed 10 year period from the date of initial approval.