Report to Congress on End-Use Monitoring of Defense Articles and Defense Services 22 USC 2785(c): End-Use Monitoring of Defense Articles and Defense Services

This report summarizes the Department of State's administration of the Blue Lantern end-use monitoring program for FY 2020. The Blue Lantern program fulfills requirements stipulated in section 40A of the Arms Export Control Act (AECA) (22 U.S.C. 2785) and delegated to the Department of State in Executive Order 13637 (March 8, 2013). The program monitors the end-use of defense articles, technical data, defense services, and brokering activities exported through commercial channels and subject to Department of State licenses or other approvals under section 38 of the AECA and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), which implement section 38 of the AECA. The Blue Lantern program is managed by the Country and End-Use Analysis Division (CEA), Office of Defense Trade Controls Policy, Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs.[1]

Blue Lantern's mission is to help ensure the security and integrity of U.S. defense trade. The program is designed to minimize the risk of diversion and unauthorized use of U.S. defense articles, combat gray arms trafficking, uncover violations of the AECA, and build confidence and cooperation among defense trade partners.

Blue Lantern end-use monitoring includes pre-license, post-license/pre-shipment, and post-shipment checks to verify the *bona fides* of foreign consignees and end-users, confirm the legitimacy of proposed transactions, and, to the extent possible, provide "reasonable assurance that:

(i) the recipient is complying with the requirements imposed by the United States government with respect to use, transfers, and security of defense articles and defense services; and

[1] Section 40A(c) of the AECA, requires the submission to the Congress of a report describing actions taken to implement the end-use monitoring of defense articles and defense services exported abroad, including a detailed accounting of the costs and number of personnel associated with the monitoring program. The end-use monitoring program for transfers made pursuant to direct commercial sales is commonly known as "Blue Lantern."

(ii) such articles and services are being used for the purposes for which they are provided."[2]

In FY 2020, six Department of State full-time employees and three contractors in CEA managed the Blue Lantern program, among other duties, at a total cost of $1,600,000. End-use checks are largely conducted by U.S. embassy personnel, who reported an estimated cost of over $41,500 for inquiries closed in FY 2020. In FY 2020, CEA's Blue Lantern Post Support Program, which facilitates end-use monitoring efforts by funding in-country travel costs associated with site visits, expended $4,800. CEA staff also conducted overseas outreach visits to meet with embassy personnel and host government officials and foreign businesses engaged in trade in ITAR-controlled items. These visits educated foreign defense trade partners about the Blue Lantern program and U.S. defense trade controls and policy. They also fostered increased cooperation and compliance with U.S. defense trade controls. In FY 2020, CEA expended nearly $40,300 conducting outreach trips to Indonesia, Japan, Germany, and Saudi Arabia.

Blue Lantern End-Use Inquiries Initiated in FY 2020

In FY 2020, DDTC approved 23,706 export authorization requests. CEA initiated Blue Lantern checks on 272 export licenses or license applications (68 pre-license, 198 post-shipment, and six that contained both pre-license and post-shipment elements) in over 70 countries – an increase of more than 45 percent from the previous fiscal year. The number of licenses or license applications subject to Blue Lantern checks in FY 2020 is around 1 percent of the license applications approved in FY 2020. Figures 1 and 2 illustrate the regional distribution of export authorizations and Blue Lantern inquiries, respectively.[3]

[2] Section 40A(a)(2)(B) of the AECA, 22 U.S.C. 2785(a)(2)(B).

[3] The regions are based on the areas of responsibility of State Department regional bureaus: AF for African Affairs (Sub-Saharan), EAP for East Asian and Pacific Affairs, EUR for European and Eurasian Affairs, NEA for Near Eastern Affairs (North Africa and the Middle East), SCA for South and Central Asian Affairs, and WHA for Western Hemisphere Affairs. "Other" in Figure 1 denotes licenses and other approvals that do not list a specific destination (e.g., requests to amend an approved license).

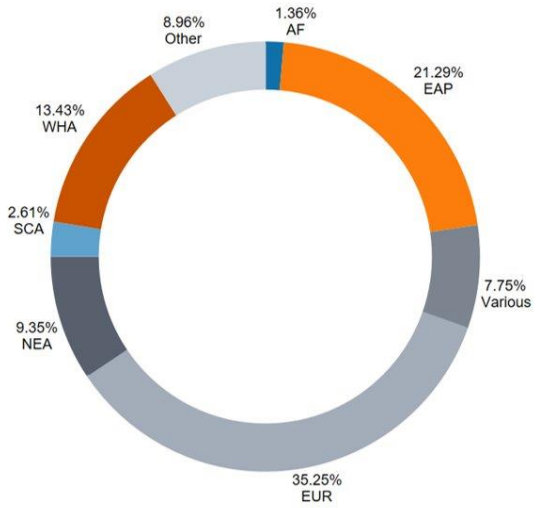


Figure 1 – FY 2020 DCS Authorizations by Region

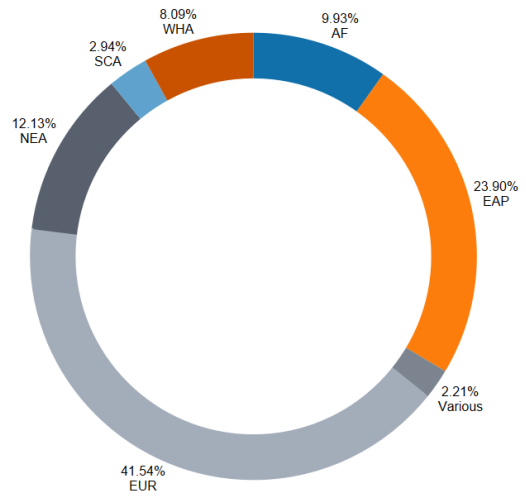
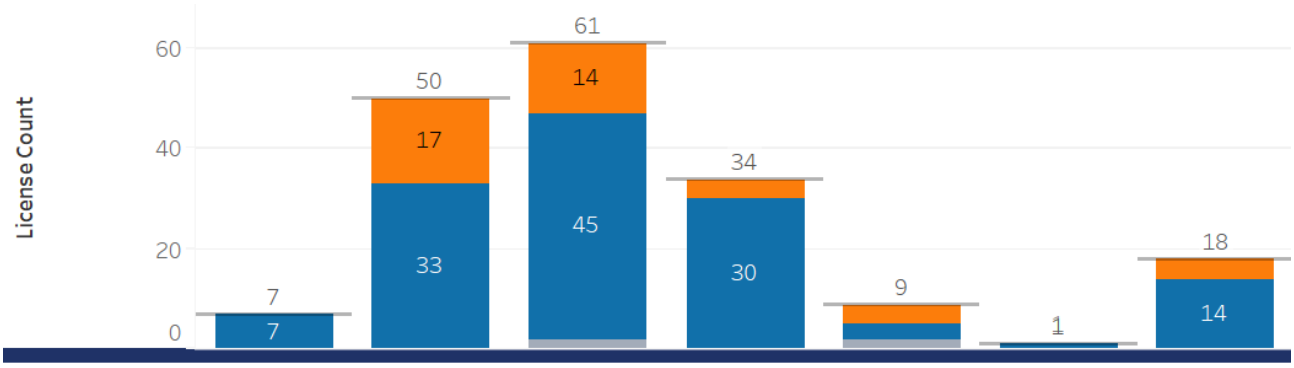


Figure 2 – FY 2020 Blue Lantern Checks Requested by Region

Blue Lantern End-Use Inquiries Closed in FY 2020

CEA closed 180 Blue Lantern cases in FY 2020. Figure 3 illustrates the number of Blue Lantern cases closed by region. Of these, 133 (74 percent) reported "favorable" results. These favorable checks verified defense articles were received and secured by authorized end-users, confirmed the bona fides of parties (primarily foreign intermediaries), and enhanced the parties' understanding of U.S. export laws and regulations.

Additionally, CEA closed four cases as "no action," as the relevant embassies were unable to complete a Blue Lantern check due to logistical challenges or other factors that did not necessarily indicate derogatory information on, or a lack of cooperation from, the foreign party. In those cases involving a pre-license check, CEA relied on other available information to make a recommendation on the disposition of the license application. In one case involving a post-shipment check, CEA employed other sources of information to gain confidence that the export was not at risk of diversion. CEA is working with post to schedule a follow-up check once the logistical challenges are overcome.



	AF	EAP	EUR	NEA	SCA	Various	WHA
Favorable	100.00%	66.00%	73.77%	88.24%	33.33%	100.00%	77.78%
Unfavorable		34.00%	22.95%	11.76%	44.44%		22.22%
No Action			3.28%		22.22%		

Figure 3 – Checks Closed in FY 2020 by Region

Unfavorable Checks in FY 2020

CEA closed 43 cases (or 24 percent of all closed cases) as "unfavorable." This finding applies to cases where the findings of fact are inconsistent with information in the license application, or where certain information cannot be verified. Common reasons for closing cases as "unfavorable" include the unresponsiveness of a foreign party or the identification of discrepancies between the information provided by the foreign party and what was authorized in the license.

FY 2020 unfavorable findings were lower than the average rate of unfavorable outcomes for the past five fiscal years (31 percent) though in line with historic norms when FY 2019 data are excluded.[4] Blue Lantern checks are selected based on several risk factors, including unfamiliar foreign parties, sensitivity of the technology involved in the transaction, and unusual shipping patterns. Because the selection process is risk-based, transactions targeted for closer scrutiny are more likely to result in unfavorable findings than a random sampling of license applications.

[4] FY 2019 saw an unusually high unfavorable rate of 44 percent. The average unfavorable rate for the five-year period ending in FY 2018 was 26 percent.

Figure 4 depicts the number of checks closed as unfavorable for each reason. Because a case may be designated "unfavorable" for a variety of factors, the cumulative total for this table exceeds the total number of unfavorable cases recorded for the year. In FY 2020, the leading cause of an unfavorable finding was ***derogatory information/foreign party deemed unreliable recipient of USML*** (21 checks), meaning the end-use check generated information that called into question the foreign party's ability to comply with the ITAR. The second most common reason for an unfavorable check was ***unlicensed party*** (10 checks), where the check detected the participation of an entity not listed on the license or authorization request. The third most common reason was ***inability to confirm order or receipt of goods*** (six checks). This broad category includes cases where the information provided by the foreign consignee or end-user did not correlate with the details in the authorization request. Examples include documented inconsistencies between quantities ordered and those reported as accounted for by the end-user. For FY 2020, CEA documented no instances of ***indications of potential or actual diversion*** (i.e., involving intentional actions to change end-use or end-user for nefarious purposes) and two instances of ***unauthorized reexports/retransfers*** (i.e., poor compliance arising from a misunderstanding of the ITAR).

Derogatory information/unreliable foreign party	**21**
Unlicensed party	**10**
Unable to confirm order or receipt of goods	**6**
Refusal to cooperate	**5**
Lack of secure storage facilities	**3**
Unauthorized reexport/retransfer	**2**
Other	**2**

Figure 4 – Reasons for Unfavorable Results and Number of Instances (FY 2020)[5]

Unfavorable Blue Lantern cases resulted in several types of actions, including returning or denying license applications, removing parties from licenses, updating the DDTC Watch List, or referring cases to DDTC's Office of Defense Trade Controls Compliance (DTCC) and/or U.S. law enforcement agencies for appropriate civil and/or criminal enforcement investigation and action. Blue Lantern checks and DDTC Watch List screening led CEA to recommend denial, removal of an entity, revocation, or return without action on 83 license applications. CEA referred four unfavorable Blue Lanterns to DTCC.

[5] Multiple instances may be associated with a single case.

Regional Distribution of Unfavorable Cases in FY 2020

Twelve percent of all checks conducted in the **NEA** region in FY 2020 were closed as unfavorable. As in FY 2019, checks were often closed as unfavorable due to derogatory information on a foreign party. The **SCA and EUR** regions saw unfavorable rates of over 44 and 23 percent, respectively, with cases being closed as unfavorable primarily due to derogatory information on the foreign party. The unfavorable rate for the **WHA** region was 22 percent due to a range of reasons, with derogatory reporting and a lack of secure storage facilities as the most notable. Lastly, the unfavorable rate for the **EAP** region was 34 percent, with the most frequent reason being the identification of active parties not listed on license applications. Note, there were no cases closed as unfavorable in the **AF** region in FY 2020, where the majority of checks this fiscal year were based on the sensitive nature of the commodities involved rather than derogatory reporting on foreign parties identified in the licenses or license applications.

Blue Lantern Checks on Firearms Closed in FY 2020

Of the 180 Blue Lantern checks closed by CEA in FY 2020, 42 cases involved U.S. Munitions List (USML) Category I (Firearms). Eight of these cases were closed as unfavorable. Figure 5 depicts the regional breakdown of firearms cases. The unfavorable rate for checks involving Category I articles (19 percent) was lower than the rate of unfavorable cases involving all USML categories (24 percent) for FY 2020. With the transition of many types of firearms to the Commerce Control List in March 2020, the remaining defense articles in USML Category I were primarily exported to security forces who were generally found to have implemented effective security measures.

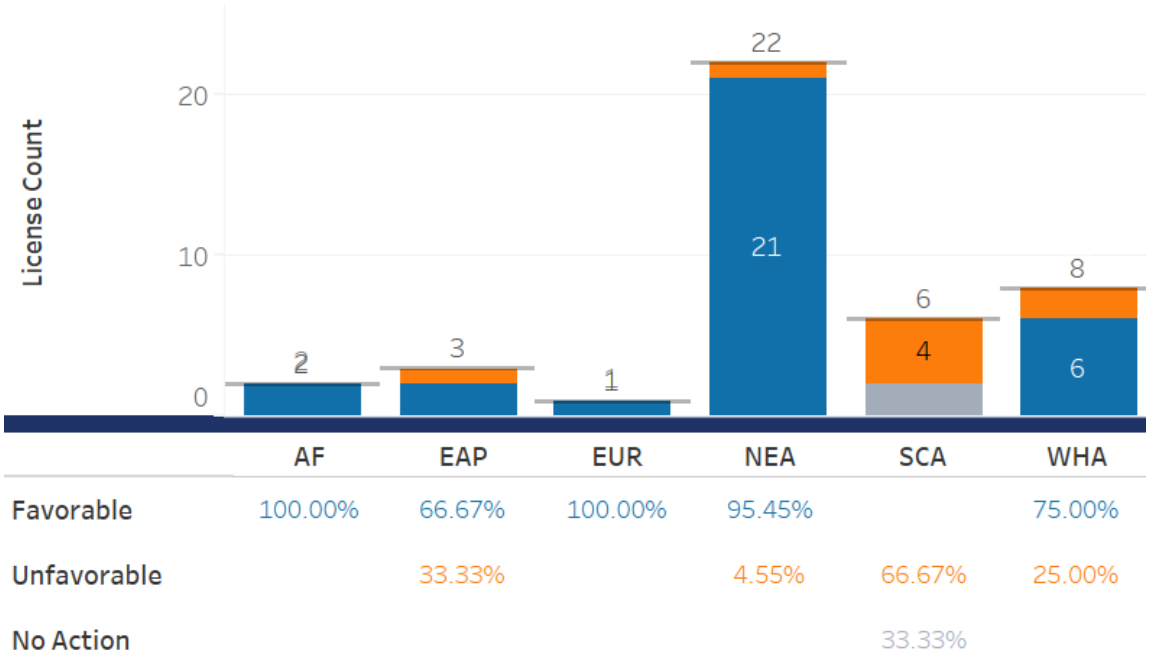


Figure 5: Checks Closed by Region (USML Category I)

DDTC Watch List

In FY 2020 CEA reviewed 34,076 DDTC Watch List name matches, or "hits" (including false hits), and made 1,978 new entries and 1,127 modifications to the DDTC Watch List. DDTC's Watch List is an internal screening tool containing over 227,500 entities, ranging from the entities to which CEA would like to apply extra scrutiny should they appear as a party on a license application, to the suspect or sanctioned. CEA uses this database to flag export authorization applications for possible Blue Lantern checks. In FY 2020, CEA also began systematically sharing the DDTC Watch List with the Department of Commerce's Bureau of Industry and Security. This sharing improves Commerce's ability to regulate items it controls, especially those items formerly controlled on the USML.