

**Defense Trade Advisory Group (DTAG) Plenary Meeting Minutes**  
**May 20, 2021 (1:00-4:30 pm)**  
**Meeting held virtually (hosted by DDTC)**

Agenda:

- Welcome
- Personal Protective Equipment (PPE) Exemption Working Group
- Part 130 Reporting Working Group
- Compliance Requirements Working Group
- Part 125.4(b)(9) Exemption Micro-Tasking Review
- Wrap-up

Ms. Andrea Battista, Department of State, Directorate of Defense Trade Controls (DDTC) provided instructions to the audience on the virtual web connections for today's Plenary.

**Introductory Remarks by Ms. Andrea Dynes, DTAG Chair**

Ms. Andrea Dynes, DTAG Chair, brought the meeting to order at 1:00 pm, and welcomed everyone to the DTAG Plenary meeting.

Ms. Dynes noted that while still virtual given the pandemic, the DTAG is pleased to have the opportunity, once again, to meet with the Department of State to report on recent activities and recommendations with respect to the ITAR.

Ms. Dynes acknowledged several individuals who have been instrumental in preparing for this virtual plenary meeting, and extended thanks to the 47 DTAG members for their time and contributions over the past several months. She noted that the DTAG represents experts in defense trade from small, medium and large companies in the aerospace and defense industry, academia, law firms, and consultants. A full list of DTAG members is available on the DDTC website.

Special thanks was provided to Mr. Tom Donovan (DTAG Vice Chair), Ms. Melanie Fujiu (DTAG Recorder), Ms. Ashley Farhat (DTAG Membership Manager), and all the Working Group Co-Chairs.

Ms. Dynes also acknowledged the active engagement and support by Deputy Assistant Secretary of State for Defense Trade Controls, Mr. Michael Miller, the DTAG Designated Federal Officer (DFO), Mr. Neal Kringle, the DTAG Alternate Designated Federal Officer (ADFO), Ms. Shelly Atkinson at DDTC, Mr. Rob Hart, Regulatory & Multilateral Affairs Division Chief at DDTC, DDTC Office Directors, Ms. Catherine Hamilton (Licensing), and Mr. Jae Shin (Compliance), along with numerous others at DDTC, including Ms. Paula Harrison and Ms. Andrea Battista.

Ms. Dynes provided an overview of the agenda for the plenary meeting, starting with introductory remarks by Deputy Assistant Secretary (DAS) of State for Defense Trade Controls, Mr. Michael Miller. Then the DTAG Working Groups will present their reports and recommendations on the topics outlined in the Federal Register notice issued on April 15, 2021, as reflected in the tasking

outlined in DAS Miller's March 30, 2021, letter to the DTAG (identified in the above Agenda). There will also be reporting on DDTC's additional request to the DTAG to provide feedback on the use of the ITAR 125.4(b)(9) exemption relating to technical data exports.

Ms. Dynes provided an overview of the DTAG Charter including a description of its duties to advise the State Department on defense trade policy and regulations.

Additionally, it was noted that the DTAG Working Groups' formal presentations and "White Papers" (to be supplied later) will provide an overview of the efforts undertaken by the DTAG Working Groups to address the topics, issues considered, and recommendations, and will post at a later date.

Ms. Dynes introduced DAS Miller by noting that he has held an impressive career at the Department of State since 2009, holding various positions within the Bureau of Political Military Affairs, and has led DDTC since 2018. DAS Miller has been instrumental in advancing ITAR amendments that support legitimate defense trade, such as changes to ITAR Part 126.4, has overseen flexible operations during the ongoing pandemic, and has continued to bring forth positive changes to DDTC technological advancements and manpower with an open and collaborative approach to leadership. Ms. Dynes turned the meeting over to DAS Miller to provide opening remarks.

#### **Remarks by Mr. Michael Miller, Deputy Assistant Secretary of State for Defense Trade Controls**

DAS Miller thanked Ms. Dynes for the warm welcome, and thanked Ms. Dynes and Mr. Donovan for their continued leadership of the DTAG. DAS Miller also thanked the DTAG for their many helpful recommendations over the years and the member's dedication to work through multiple iterations on topics of interest. He noted that the DTAG has been invaluable in not only providing ground from an industry perspective on the realm of what's possible, but also in pushing for continual improvement. DAS Miller commended the DTAG in this regard.

DAS Miller commended the DTAG's leadership's efforts, which positively affects DDTC's ability to make the export control system more agile and modern, and best suited to meet national security and foreign policy objectives. He noted that both DDTC and regulated industry have benefited greatly from recommendations produced from plenary sessions like this one, and other ongoing work throughout the year to guide DDTC efforts. DAS Miller again offered thanks for this timely and impactful work.

DAS Miller noted that DDTC relies on the DTAG and other consultative mechanisms as new systems are developed and upgraded, in evaluating changes to regulations, and in considering the efficacy of DDTC's licensing procedures and compliance programs. He recognized that the partnership between the DTAG and DDTC is especially critical as DDTC develops goals and priorities for the next four years, which is not based just on formal plenary sessions and the contributions of its expert working groups, but is a dialogue throughout the year, building on collaborative work over the years.

State Department highlights since the October 2020 Plenary:

#### New State Department Leadership Team

- Tony Blinken, Secretary of State
- Wendy Sherman, Deputy Secretary of State
- Ambassador Bonnie Jenkins, nominee for Undersecretary for Arms Control and International Security
- Eliot Kang, Acting Undersecretary for Arms Control and International Security
- Tim Betts, Acting Assistant Secretary for Political-Military Affairs
- Jessica Lewis, intended nominee for Assistant Secretary for Political-Military Affairs
- DAS Mira Resnick, Regional Security and Arms Transfers (RSAT) and Security Assistance
- CIO Karen Wrege is taking on additional responsibilities in the Political-Military Affairs Bureau and will help set the tone and direction for the Bureau's IT strategy as a whole, in addition to her responsibilities in DDTC and DECCS.

#### Foreign Policy Direction

- Pursue a foreign policy that renews democracy at home and abroad
- Focus on new, broader understanding of national security and a lockstep approach to foreign and domestic policy
- Reinvigorate and modernize our alliances and partnerships around the world as these collective influences are our greatest strategic asset
- Continue to be at the forefront of arms transfer decisions, with continued effort to facilitate arms transfers to responsible allies/partners who will use them in accordance with U.S. national interests and values, while denying transfers that could contribute to instability or human rights violations
- Emphasis on protecting human rights, and a more robust approach to cooperation in multilateral export control regimes to protect sensitive technology
- Treat MTCR Category I Unmanned Aerial Systems (UAS) with maximum airspeed less than 800 km/hr. as MTCR Category II systems subject to case-by case review under Conventional Arms Transfer policy, to ensure responsible exports and use of UAS
- Committed to a "return to normal order" and to work consultatively with Congress on all matters pertaining to arms sales and foreign policy
- Actively engaging Hill on key matters since new Administration took office, and expect that trend and cooperation to continue

#### Business Continues

- DDTC Licensing office as well as Management staff have maintained an in-office presence through most of the pandemic to keep authorization requests moving
- In FY 2020, adjudicated over 28,000 license applications with an average processing time of 48 days, down from 36,000, supporting potential sales of \$124 billion in defense trade
- Although no longer available, temporary reduction in Tier I/Tier II registration fees saved industry over \$24M this past year; reviewing current fee structure and will seek public feedback

- Registrants did not decline; currently 14,000 registrants
- Could not have accomplished all this without DECCS, a necessary modernization effort that supports gathering industry data, facilitates Congressional reporting and the sharing of regulatory statistics
- Technology Jurisdiction and Analysis Division working with the Department on emerging technologies to ensure their proper control; updating United States Munitions List (USML) in light of emerging and maturing technologies; those that provide critical advantage warranting an addition to the USML, and those that have been adapted to normal commercial use warranting a removal from the USML
- Strive to craft regulations to protect national security and foreign policy objectives while supporting excellence in innovation and R&D
- Pursuing interagency coordination on USML revisions on Category IV (launch vehicles, missiles, rockets, torpedoes and bombs) and XV (spacecraft) as well as portions of Category XI (military electronics); encourage feedback during public comment process
- Close to publishing first rule to improve overall content and organization of the ITAR, consolidating and improving organization of definitions without changing meanings
- Working to make modified definition of regular employee permanent to ensure teleworkers continue to fit within ITAR definition

#### Turkey CAATSA Sanctions

- In response to Turkey taking delivery of S-400 surface-to-air missile system from Russia, sanctions imposed pursuant to Section 231 of the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA)
- Sanctions include prohibition on granting U.S. export licenses and authorizations for any goods or technology involving SSB, which manages Turkey's domestic defense industry.
- Prohibitions do not apply to subsidiaries of SSB, however licenses which name SSB are still subject to case-by-case review.
- DDTC will not approve any export or re-export authorization request if SSB is a party to the transaction, or if the Government of Turkey is named as party to the transaction, without further specifying the Department representing the Turkish Government.
- This prohibition applies to export and re-export authorizations including amendments to licenses and agreements but does not apply to temporary import authorizations or to current, valid, non-exhausted export and re-export authorizations.

#### Russia ITAR126.1 Addition

- On March 1, 2021, Secretary Blinken determined that Russia used chemical weapons in violation of international law, and the Department announced its intent to amend ITAR 126.1 to include Russia in the list of countries subject to a policy of denial.
- On March 18, 2021, ITAR 126.1 was formally amended to include Russia with two exceptions:
  - 1) An exception to allow for, on a case-by-case basis, exports to Russia that support government space cooperation

- 2) An exception, valid for six months from March 1, to allow for a case-by-case review of exports when in support of commercial space launches
- FAQs have been published on DDTC's website. Questions can also be addressed to the Response Team or Policy staff if not addressed in the FAQs.

#### Blue Lantern

- Found creative and collaborative ways to address Blue Lantern end-use monitoring to verify bona fides during pandemic
- In FY 2020, an estimated 272 Blue Lantern license checks were initiated in over 70 countries, and over 180 cases were closed.
- Foreign partner compliance with U.S. export controls appears to be on the rise. Of the 180 cases closed, only 24% were deemed unfavorable, down from a five-year average of 31%
- Engaged in cooperation with DoD in how this work is done, and looking to expand cooperation with Commerce as well

#### Industry Compliance

- State Department relies on everyone who deals with defense articles to help protect sensitive technologies
- Parties engaged in defense trade are advised to establish and maintain an ITAR compliance program and to know their business, compliance obligations, and risk areas
- DTAG Taskings such as the Compliance Risk Matrix and updated guidelines are important in protecting national security interests.
- If violations occur, companies are encouraged to disclose to DDTC. In FY 20, DDTC received 602 voluntary disclosures and initiated 38 directed disclosures
- Most common trends involve unauthorized exports of technical data, unauthorized provision of defense services and violations concerning license terms, conditions, and provisos
- Recently concluded a \$13M administrative settlement with Honeywell International, Inc., to resolve alleged violations of the ITAR, following an extensive compliance review
- DDTC is currently monitoring five consent agreements in the Department's role in strengthening U.S. industry by protecting U.S.-origin defense articles and related technical data from unauthorized exports

DAS Miller concluded by noting that this has been a very busy year for all of us. He is proud that DDTC can meet its mission while also delivering innovation in its policy approaches and programs, and recognized that the DTAG continues to be hugely valuable in this regard. DAS Miller thanked the DTAG for its partnership with DDTC and looks forward to the Working Group presentations and additional presentation that will provide feedback on the use of the 125.4(b)(9) technical data exemption. He again thanked the DTAG for its time and diligence in DTAG efforts, and turned the meeting over to Ms. Dynes.

## **Personal Protective Equipment (PPE) Exemption Working Group Presentation**

Ms. Andrea Dynes introduced the Personal Protective Equipment (PPE) Exemption Working Group co-chaired by Ms. Candace Goforth and Mr. Arthur Shulman. A copy of the slide presentation can be found on the DDTC webpage (under the *About DDTC* tab, look for DTAG).

### Background of the Tasking:

- DDTC is reviewing the International Traffic in Arms Regulations (ITAR) exemption for Personal Protective Equipment (PPE) in §123.17 to gain insight into potential revisions that would improve its utility.

### The Working Group Tasking Summary:

- DDTC requests that the DTAG provide recommendations for revisions to §123.17, or other general advice or observations regarding attempted use of the exemption, or other general advice or observations that would inform a potential amendment of this exemption. DDTC requests input principally to ensure that the exemption allows for the export of a modern and complete set of PPE, and to provide an appropriate exemption for PPE given the inability to use the §126.4 exemption for certain transfers to proscribed destinations. Additionally, DDTC requests input from the DTAG on whether the §123.17 exemption should be bifurcated to separately address transfers by companies under contract with the U.S. Government and individuals (e.g., non-governmental organizations or journalists) without such relationship with the U.S. Government.

### Key Items Discussed

- The WG's approach to this tasking was to:
  - Review the current exemptions to see if anything needs to be removed or revised
  - Discuss firsthand experiences with the exemption. Several WG members had used the exemption and had specific concerns
  - Review and discuss guidance provided by DDTC and DoD concerning the temporary export of PPE in support of USG contracts
  - Review and discuss implementation of the exemptions contained in §126.4 for exports "by or for the U.S. Government" in light of prohibited destinations
  - Review May 2108 DTAG proposal to amend the PPE exemption. Are there still concerns?
  - Review other ITAR exemptions, comparing their provisions and requirements to those of §123.17

### Concerns Identified

- Ms. Goforth identified the WG's concern that the scope of the exemption is outdated and does not account for variation in personal protective equipment.
  - The exemption currently lists specific defense articles and quantities, but does not include all of the items currently issued to contractor employees who deploy through

the CONUS Replacement Center (decontamination kit, detection paper).

- Non-contractor entities, such as media or humanitarian workers, would be similarly limited. What needs to be identified for them vs. those supporting the U.S. Government?
- The current exemption places compliance responsibilities and onus on individual travelers rather than their employer.
- Export and import rules in the current exemption are unnecessarily restrictive.
  - The requirement that PPE accompany a specific traveler, either as a hand-carried item or checked luggage, is at odds with the challenging deployment circumstances and timeframes.
    - No other ITAR exemption imposes such restrictions on exports of defense articles.
    - The restriction complicates the ability of U.S. companies and organizations to manage PPE overseas to address common workforce issues.
    - PPE may be seized under local customs laws during transit. This risk is reduced or eliminated through the use of freight forwarders to transfer the items.
  - Traveler must present the PPE and an ITN number for the export to a CBP officer for inspection prior to departure, and it is often difficult, or even impossible, to accomplish that. Officers may not be available. And again, greater risk for exemption use on individual rather than on company.
  - Contractor personnel may be required under USG contracts to transit from one foreign country to another, and must first get a separate General Correspondence re-export authorization from DDTC. The current exemption does not allow exemption users to transit to another country. Personnel may change companies during their time abroad, and current exemption does not address this.

#### Recommendations by the Working Group

- Mr. Shulman thanked DDTC for being open to changes to this exemption.
- The DTAG recommends bifurcating the exemption to address transfers by entities made pursuant to the U.S. Government separately vs. those not associated with the U.S. Government.
  - The current exemption treats all PPE exports uniformly, so it is the most restrictive temporary import or export exemption in the ITAR.
  - DTAG proposal:
    - Preserve the current, appropriate restrictions on private parties' transfers of PPE that are unrelated to the U.S. Government, such as limits on the quantity and type of PPE permitted. Better served by separate treatment.
    - Authorize more flexible treatment for transactions pursuant to U.S. Government direction and oversight for quantity and type of PPE.
- Broaden the scope of the exemption for transfers pursuant to U.S. Government direction, to cover PPE in USML Categories X and XIV rather than subcategories or specific defense articles.

- Accommodate changes to the CRC equipment list
  - Permit the USG to address contractor safety based on specific circumstances
  - Permit shipments under the exemption of PPE articles and kit components that are subject to the U.S. Export Administration Regulations, as USML paragraph (x) items.
- Permit shipments under the exemption in addition to personal carry.
  - This would allow flexibility to address logistical requirements beyond the exporter's control, and reduce or eliminate the risk of seizure or detainment by local customs inspections.
  - Par with other ITAR exemptions for temporary imports and exports
- Eliminate CBP physical inspection and ITN presentment requirements.
- Permit entities, not solely individuals, to be the exporters or transferors
  - Facilitate transfers of PPE among an organization's personnel
  - Facilitate transfers of personnel with the PPE between contractor entities
- Permit re-export and retransfer of PPE under exemption without a GC
  - To countries and entities directed by the U.S. Government (in a contract or otherwise) or otherwise to eligible U.S. persons
  - Enable U.S. government contractor personnel (and other eligible persons) to travel and transit with their PPE
  - Facilitate transfer of contractor employees in theater from one U.S. company to another
- Continue allowing transfers to proscribed destinations under ITAR 126.1, but clarify transfer not authorized to any persons/entities who are citizens/nationals of those destinations.
- Retain the requirement to report to DDTC (Licensing vice Compliance) when items are transferred outside the exemption's authority and/or cannot be returned to the U.S.
  - DTAG recommends that ITAR registrants, due to their pre-existing compliance obligations and regular contact with DDTC:
    - Be permitted to satisfy this requirement via aggregated semi-annual or annual reporting similar to Canadian exemption
    - Be permitted to retain records in lieu of reporting, for items not returnable due to being consumed, expended or destroyed during use (or due to deterioration)
- Rename the exemption provision to 'personal protective equipment' vs 'gear'

#### Proposed Language

Ms. Goforth discussed the WG's proposed language, including the bifurcation of the exemption, noting that it is focused on not only U.S. person use, but also on foreign person employees (FPEs) of U.S. persons, and removed requirement for presenting an ITN. Many ITAR statements were re-stated throughout the exemption to assist those users not as familiar with ITAR.

- **123.17 Exemption for personal protective equipment**

**(a) *Support of the U.S. Government.*** A license is not required for the temporary export of personal protective equipment (PPE) on the U.S. Munitions List, including to proscribed destinations under §126.1 of this subchapter (but not to any persons subject to the prohibitions in that section), by a U.S. person (§120.15), or a foreign person employee of a U.S. person, provided:

- 1) The items are for the exclusive use of an individual who is a U.S. person (§120.15), or a foreign person employee of a U.S. person; and
- 2) Items are limited to U.S. Munitions List Categories X and XIV; and
- 3) The items are for use at the official written request or directive of the U.S. Government as identified in a valid U.S. Government contract, subcontract, task order or official policy directive.

**(b) *Other scenarios.*** A license is not required for the temporary export of personal protective equipment (PPE) identified on the U.S. Munitions List, including to proscribed destinations under §126.1 of this subchapter (but not to any persons subject to the prohibitions in that section), by a U.S. person (§120.15), or a foreign person employee of a U.S. person, provided:

- 1) The items are for the exclusive use of an individual who is a U.S. person (§120.15), or a foreign person employee of a U.S. person; and
- 2) The items are limited to U.S. Munitions List Categories X(a)(1), X(a)(6) and XIV(f)(4); and
- 3) The items comprise a single set of PPE usable by an individual, plus a single set of spares.

**(c) *Reexports and Retransfers***

Temporary reexports and retransfers of PPE temporarily exported pursuant to this subchapter are permitted to U.S. persons (§120.15), or a foreign person employee of a U.S. person, without a license provided the recipient retains effective control of the PPE and complies with the requirements of this section.

**(d) *Filing and Reporting of Export Information***

- 1) *Shipments of PPE.* PPE may be shipped pursuant to this section. When shipping PPE from the United States, the filing of export information through CBP's electronic system(s) must be made per §123.22 of this subchapter. Invoices for PPE shipments pursuant to this section must be annotated: "This shipment is authorized for export pursuant to §123.17."
- 2) *Exported with Personal Effects.* When PPE is not shipped but is exported, reexported or retransferred pursuant to this section with an individual's baggage or effects, whether accompanied or unaccompanied, the individual must carry a letter documenting use of the exemption for the transfer.

**(e) *Recordkeeping and Reporting***

- 1) The information required per §123.26 of this subchapter must be maintained for all instances of exemption use. This information should also document all instances of items reexported or retransferred to another person and/or not returned to the United States by the exporter.

- 2) If an article is temporarily exported, reexported, or retransferred pursuant to this section, a subsequent transfer (or change in end-user or end-use) not authorized pursuant to this section or this subchapter must be reported to the Office of Defense Trade Controls Licensing, with information specified in §123.9(c) of this subchapter. DDTC registrants may satisfy this requirement via aggregated semi-annual or annual reporting. DDTC registrants may also retain records pursuant to paragraph (e)(1) in lieu of reporting for articles not returnable due to being consumed, expended or destroyed during use (or due to deterioration). ITAR violations may be reported pursuant to §127.12 of this subchapter.

**(f) Registration**

Registration with the Department of State pursuant to part 122 of this subchapter is not required in order to use the exemption in this section.

Questions posed to the PPE Exemption Working Group

- *Rob Hart, DDTC* expressed his appreciation for the Working Group's efforts. He noted the Working Group did a wonderful job and he appreciated the work on these slides. He commented that mailing PPE is a reasonable recommendation and agreed with replacing the word 'gear' in the regulations!
- *Rob Hart, DDTC* asked if the WG's proposal was to include all of Categories X and XIV for eligibility in the use of this exemption (for transactions related to the U.S. government). *Ms. Goforth responded*, the WG's intent was for a broader catch and for the ability of paragraph (x), items subject to the EAR, to be brought in. The WG's concern is that the exemption as currently written is too limiting. *Mr. Shulman clarified*, it was only applicable to the PPE found in Categories X and XIV.
- *Rob Hart, DDTC*, asked if the WG discussed using more general terminology or umbrella terms for the covered PPE, so that when USML Categories or content of common PPE kits change, the regulations don't continually need to be amended. *Ms. Goforth responded*, the WG did discuss this, however they did not find anything better than to link to the contract (or other U.S. government direction). *Mr. Shulman added*, if terminology was more specific/limited it would take away flexibility for special circumstances. The WG's intent was to capture the best of both worlds.
- *Rob Hart, DDTC*, commented that he didn't want everything in the contract to be eligible for the exemption. He again thanked the WG for their efforts on this tasking.

Mr. Tom Donovan explained that due to the virtual nature of the Plenary, the DTAG was asked to vote earlier in the week for approval of the presentation. The vote passed in favor of the presentation and it is submitted to DDTC for the record.

The PPE Exemption Working Group "White Paper" will expand on the presentation and will be made available on the DDTC website (under the *About DDTC* tab, look for DTAG).

## **ITAR Part 130 Reporting Working Group Presentation**

Ms. Andrea Dynes introduced the Part 130 Working Group co-chaired by Ms. Ashley Farhat and Ms. Giovanna Cinelli. A copy of the slide presentation can be found on the DDTC webpage (under the About DDTC tab, look for DTAG).

### Background of the Tasking:

- DDTC is interested in further analysis on the subject of “Relook[ing] at Part 130 Reporting,” as addressed at the May 2020 DTAG Plenary meeting. When DDTC originally promulgated ITAR Part 130 in 1976, it adopted an approach of requiring Arms Export Control Act Section 39(a) reporting on a sale-by-sale basis for certain exports of defense articles or defense services satisfying specific dollar thresholds. See 41 Fed. Reg. 40608-11 (Sept. 20, 1976). DDTC would like comprehensive information on the relevant legal and other implications of altering this process.

### The Working Group Tasking Summary:

- DDTC requests the DTAG to continue to build upon the White Paper created in support of the October 2020 Plenary related to ITAR Part 130. DDTC requests that the DTAG incorporate relevant legislative and treaty requirements into its analysis on an alternative reporting approach, paying particular attention to which reporting requirements mandate DDTC to report contributions, gifts, commissions, or fees offered; versus paid, or both.

### Key Items Discussed

- Ms. Farhat thanked not only the current WG, but the entire DTAG since many members participated in past iterations of this tasking and provided valuable input.
- This is a follow up tasking to both the May 2020 and October 2020 Plenaries:
- May 2020 Plenary
  - The DTAG recommended an alternative periodic reporting approach for Part 130 of the ITAR as well as substantive amendments to Part 130 to increase accuracy, transparency, and compliance.
    - Industry feedback from diverse respondents confirmed one of the complications of Part 130 was the need for estimations.
  - DDTC requested the DTAG to recommend forms that could be used to support such an alternative reporting approach (*e.g.*, annually) to ensure that the reports capture relevant information.
- October 2020 Plenary
  - The DTAG recommended an alternative approach to Part 130, and the WG built on the prior WG’s approach:
    - Notification to indicate Part 130 information will be reported annually through existing DSP-5
    - Proposed guidelines for annual Part 130 reports and format with two tables as part of annual registration renewal package

- Offered option for sale-by-sale reporting

## Methodology

- Built upon May and October 2020 DTAG Part 130 Working Groups' observations and findings:
  - o Surveyed DTAG members regarding Part 130 reporting and compliance practices and challenges
  - o WG consulted with DDTC to obtain further refinement of tasking, and to obtain additional details on DDTC reporting requirements to Congress.
  - o Reviewed, considered and discussed factual and legal issues, challenges, and aims of Part 130 reporting to see if an alternative to current Part 130 reporting requirements would affect DDTC Congressional reporting.
    - Reviewed relevant treaties
    - Evaluated AECA requirements, legislative history, to the extent it existed
    - Evaluated Congressional record statements regarding fees and commission payments
  - o Guided by principal goal as described in the May 2020 tasking, follow-up tasking in October 2020, and this current tasking:
    - The WG recommends annual Part 130 reporting in substance and form
    - Reporting annually enhances industry reporting, enhances DDTC reporting, and allows for more accurate, transparent and compliant reporting
  - o In order to understand DDTC needs for reporting to Congress, the WG:
    - Reviewed AECA requirements for reporting
    - Reviewed DDTC's reporting requirements to Congress
    - Evaluated the approach and utility of data collection for the Part 130 reports

## Legislative and Treaty Findings

- The WG reviewed both the U.S.-UK Defense Trade Cooperation Treaty and the U.S.-Australia Defense Trade Cooperation Treaty. The WG found no information that would impact annual reporting of Part 130 information, no additional timing provisions, and ensured there was no requirement for DDTC to contemplate a more restrictive approach.
  - o 126.17(m) of the U.S.-UK Defense Trade Cooperation Treaty sets forth the requirement that Part 130.10 information is required for exports valued in the amount of \$500k or more, which is the same threshold as defined under 130.2 and 130.7. Treaty exemptions are subject to the same Part 130 requirements as license applications.
  - o 126.17(l)(xii): Requirements for recordkeeping are consistent with requirement outlined in 130.14.
- Review of the U.S.-Australia Defense Trade Cooperation Treaty also found no information that would impact annual reporting of Part 130 information.
  - o 126.16(m) sets forth the requirement that Part 130.10 information is required for exports valued in the amount of \$500k or more, which is the same threshold as

defined under 130.2 and 130.7. Treaty exemptions are subject to the same Part 130 requirements as license applications.

- o 126.17(l)(xii): Requirements for recordkeeping are consistent with requirement outlined in 130.14.
- Arms Export Control Act (AECA) of 1976
  - o The WG revisited legislation in Section 39(a) of the AECA and found no new findings from prior DTAG reporting.
  - o Congress did not impose more specific requirements in relation to “timely reporting of political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with”.
  - o AECA supports conclusion that:
    - Congress provided the Department with flexibility and discretion to vary from the requirement that Part 130 reports be submitted on a sale-by-sale basis, and
    - Congress intended that the Department would implement regulations most conducive to accurate reporting
- Foreign Corrupt Practices Act (FCPA)
  - o The WG revisited the FCPA and found no new findings from prior DTAG reporting. There are no specific limitations that would prevent the Department from implementing an alternative approach.

#### Prior Principle Findings of Prior Working Groups

Ms. Cinelli noted the prior principle findings as follows:

- Industry education through updates to December 2013 Part 130 guidance with FAQs and additional illustrative examples to limit confusion and ensure same baseline interpretations
- Substantive amendments to Part 130 to update and clarify reporting rules:
  - o Increase sales threshold to \$1 million from \$500,000
  - o Clarifications to (i)§130.5(b)(4) exclusion for “Technical, Operational or Advisory Services” and (ii)§130.11(a)(2) “Subsequent Developments” indicate Part 130 Report “no longer accurate or complete” (e.g., prior estimate of offered/agreed upon payment)
- Periodic/annual Part 130 reporting rather than transactional or sale-by-sale reporting. No ‘one size fits all’. This would accommodate industry variations.
- Annual Part 130 reporting is permitted by statute under the current AECA §39, and Congress currently provides DDTC with discretion to set timing of Part 130 reporting (“timely reporting”).
- Annual reporting helpful to improve accuracy and transparency of reports and understanding of reporting obligations by defense trade:
  - o Transactional Part 130 reporting often leads to inconsistent and inaccurate reporting (over-estimate or under reporting of payments) due to unavailability of actual data.
  - o Reporting tied to DCS license applications and FMS contract awards often requires estimates of future payments and contributes to duplicative reporting of Part 130

payments.

- o Annual reporting should lessen confusion of reporting obligations and allow reporting based on actual amounts paid rather than estimates, which would contribute to more accurate reporting.
- o Annual report with registration renewal provides consolidated and improved availability of information to various government offices concerning payments and third parties promoting and soliciting sales of defense articles/services. The WG found no legislative impediments to this and it meets Part 130 requirements.

#### Tasking Recommendations by the Working Group

- Notification to indicate Part 130 information will be reported annually
  - o Recommend notification through DSP-5 vehicle in conjunction with the Letter of Transmittal.
  - o Standard statement of notification
- Annual Part 130 Report
  - o Propose guidelines for annual Part 130 Reports which include description of obligations, definitions and tables to minimize confusion and increase clarity.
    - Recommendations do not restrict DDTC's ability to request additional information from registrant.
  - o Propose two tables for reporting to be submitted with registration renewal to cover preceding 12 months of activities to increase consistency:
    - **Table A:** Part 130 payments "made" (paid) on covered sales or activities to reflect what actually happened rather than what an applicant thinks will happen.
    - **Table B:** Part 130 payments "offered or agreed" (but not paid). There is always an element of estimation here. Tried to address duplication and designed to provide information available at that time, when there is no concrete data to be presented
- Notification of Annual Reporting
  - o Notification to DDTC of annual Part 130 reporting through DSP-5 vehicle and Letter of Transmittal/Explanation
  - o Add option to DSP-5 vehicle to provide:
    - Notice of annual Part 130 reporting or re-define the fourth option to provide notice to DDTC
    - Options in place regarding Part 130 information (DSP-5 vehicle, DS-6004)
  - o Add a standard statement to a Letter of Transmittal or Explanation such as:  
*Information regarding whether the applicant or its vendors have paid, offered or agreed to pay political contributions, fees or commissions in amounts specified in 22 CFR 130.9(a) in respect of any sale for which this application is submitted shall be included within the applicant's annual Part 130 Report accompanying its registration renewal.*

- Guidelines for Annual Part 130 Report
  - Modeled after December 2013 Part 130 Guidelines by DDTC
  - Content to include:
    - Description of reporting process and report content
    - Instructions for completion of annual report
    - Explanatory notes
    - Illustrative annual reports
- An example of the *Guidelines for Annual Reports of Information Pursuant to 22 CFR 130* can be found in the slide presentation
- An example of **Table A** to report payments “made” (paid) and an example of **Table B** to report payments offered/agreed to be made (not paid) can also be found in the slide presentation.

#### Recommendations by the Working Group

- This DTAG Part 130 Working Group supports the May 2020 and October 2020 DTAG Part 130 Working Group recommendations:
  - Institute consolidated annual Part 130 reporting at the time of registrant’s renewal of registration
  - Follow recommended annual Part 130 report as outlined in the tables
  - Publish Guidelines for annual Part 130 reporting
  - No new legal or treaty-based impediments that would restrict DDTCs ability to modify the timing of Part 130 reports
  - Make substantive changes to the ITAR to enhance Part 130 process
    - Increase threshold to \$1,000,000
    - Exclude third parties who are not retained solely for a particular sale
    - Define “substantially different in amount” to mean a change of 20% or more to bring some concrete elements to the regulations

#### Questions posed to the Part 130 Reporting Working Group

- *Catherine Hamilton, DTCC*, thanked the Working Group for the third iteration of Part 130 reporting requirements, and noted that it is a testament to the DTAG’s desire to change course for Part 130. She noted benefits to both the annual reporting and transactions-based reporting, and expressed the need to explore recommendations internally, such as DSP-5 option. All three program offices plus management and IT will need to be involved. Ms. Hamilton looks forward to working with her colleagues to see what is in the realm of possibility for Part 130 reporting.
- *Catherine Hamilton, DTCC*, asked what the vehicle for would be for submitting Part 130 reporting for treaties tied to exemption. *Ms. Cinelli responded*, the WG did discuss this generically, however, was hesitant to recommend a particular vehicle. *Ms. Farhat added*, this can be expanded on in the White Paper.
- *Catherine Hamilton, DTCC*, again thanked the DTAG for taking this on. She noted that

Congressional leaders must be involved in the implementation of any reporting changes, and she likes to have all relevant information available when asked by Congress. *Ms. Cinelli asked*, is this something that would also be worth expanding on in the White Paper? *Ms. Hamilton, DDTC, responded* yes, it would be appreciated if this could be further explored in the White Paper.

- *Virtual “Chat” question posed by the audience:* If an applicant pays fees in a preceding year, does the applicant have to reference that prior payment in the current report? *Ms. Cinelli responded*, it would be helpful to report what you had previously reported to avoid duplication. *Ms. Farhat concurred*, it is best to reference what you had already reported.

Mr. Donovan identified that due to the virtual nature of the Plenary, the DTAG was asked to vote earlier in the week for approval of the presentation. The vote passed in favor of the presentation.

The Part 130 Reporting Working Group “White Paper” will expand on the presentation and will be made available on the DDTC website (under the *About DDTC* tab, look for DTAG).

### **Compliance Requirements Working Group Presentation**

Ms. Dynes introduced the Compliance Requirements Working Group co-chaired by Ms. Michelle Avallone and Ms. Jessa Albertson. A copy of the slide presentation can be found on the DDTC webpage (under the *About DDTC* tab, look for DTAG).

#### Background of Tasking:

- DDTC is interested in developing a comprehensive list of ITAR citations for use to help create an effective compliance program. DDTC’s work on the Compliance Program Guidelines and Compliance Risk Matrix is ongoing and is based on discussions from DTAG meetings in May and October 2020. These efforts provide long-term solutions to help industry reduce risk and improve their compliance programs.

#### The Working Group Tasking Summary:

- DDTC proposes that the DTAG develop comprehensive ITAR citations of the various compliance requirements that could be used to assist companies and universities to develop robust ITAR compliance programs.

#### Key Items Discussed

- Ms. Avallone noted that this is the third tasking on this subject, and provided an overview of prior compliance taskings:
  - In the May 2020 plenary, DTAG was tasked to provide recommendations to improve general compliance guidelines, including a section on specific compliance elements to enhance export controls at universities.
    - Provided near-term, mid-term and long-term recommendations to enhance

- current ITAR compliance guidelines
  - DTAG noted that regulatory requirements were not referenced in current ITAR guidance
  - “Guidance needs to be aligned with regulations to avoid scope issues”
  - Recommended follow-on tasking: “ITAR deep-dive to link citations to compliance requirements”
- o The October 2020 DTAG plenary was an outgrowth of the May tasking in which DTAG was tasked to help develop a comprehensive compliance risk matrix (CRM) that could be used by various business functions to help prevent ITAR violations and diversions.
  - DTAG developed a draft CRM identifying low-, medium- and high-risk characteristics within four risk categories and university-specific concerns.
  - The October 2020 Plenary noted that the CRM was not intended to serve as comprehensive guidance on ITAR requirements.
  - Emphasized that CRM should be issued within context of broader compliance guidance that provides important definitions, regulatory requirements and expectations, as recommended by the May 2020 DTAG Plenary

## Methodology

- Reviewed DTAG’s Compliance Guidelines White Papers from May 2020 and October 2020 plenaries
- Spoke with DDTC to clarify scope and deliverable to accurately understand what DDTC wanted as a deliverable
- Established parameters for compliance requirements
- Assigned each WG member a section of the ITAR for “deep dive” review
- Compiled compliance requirements and corresponding citations into table
- Cross-checked table with “Relevant ITAR Requirements” sections in published consent agreements to “fact check” ourselves

## Working Group’s Goals

- Create a document that is useful to both industry and to universities
  - o For inclusion into/enhancement of industry’s and universities’ internal compliance programs
  - o As a quick reference for industry/university compliance personnel to assist with quickly identifying/locating compliance requirements within the ITAR
- Ensure that the document includes requirements within the ITAR only
  - o Compliance obligations not within the ITAR and compliance requirements not subject to the ITAR, such as NISPOM, are not included
- Avoid creating a document that summarizes ITAR compliance requirements or that could be perceived as providing compliance guidance

## Compliance Requirements

- A provision in the ITAR that requires affirmative action by the exporter
  - o Includes
    - Requirements relating to use of an exemption
    - Requirements for submissions/notifications to DDTC
  - o Excludes
    - Obligations agreed to under consent agreements or steps taken to enhance compliance programs at DDTC's request
    - Compliance best practices
    - ITAR provisions describing definitions, purpose, scope, policy, jurisdiction
    - USML
    - Non-exporter requirements, such as certain congressional notification provisions
- Challenges
  - o Ms. Albertson noted that the WG faced 3 main challenges:
    - 1) To determine the amount of detail to include in compliance requirement entries without summarizing the compliance obligations
    - 2) How to treat exemptions
      - Although there is no requirement to use an exemption, there are requirements when an exemption is used
    - 3) Consistency among sections
      - Each ITAR section was reviewed and revised *multiple* times by assigned WG members and WG co-chairs to harmonize what was included and excluded from each section to ensure compliance requirements are consistently identified across sections, and to ensure that exemptions are similarly treated across sections.

## Review Process – Examples

- **123.23 Monetary value of shipments**

Port Directors of U.S. Customs and Border Protection shall permit the shipment of defense articles identified on any license when the total value of the export does not exceed the aggregate monetary value (not quantity) stated on the license by more than ten percent, provided that the additional monetary value does not make the total value of the license or other approval for the export of any major defense equipment sold under a contract reach \$14,000,000 or more, and provided that the additional monetary value does not make defense articles or defense services sold under a contract reach the amount of \$50,000,000 or more.

**Conclusion:** Section does not include affirmative action to be taken by exporter (e.g. “compliance requirement”) and is not included in final table.

- **125.4 Exemptions of general applicability**

(b) The following exports are exempt from the licensing requirements of this subchapter.

(1) Technical data, including classified information, to be disclosed pursuant to an official written request or directive from the U.S. Department of Defense;

(2) Technical data, including classified information, in furtherance of a manufacturing license or technical assistance agreement approved by the Department of State under part 124 of this subchapter and which meet the requirements of §124.3 of this subchapter;

(3) Technical data, including classified information, in furtherance of a contract between the exporter and an agency of the U.S. Government, *if the contract provides for the export of the data and such data does not disclose the details of design, development, production, or manufacture of any defense article.*

**Conclusion:** (b)(1) and (b)(2) describe the exemption but do not include compliance requirements, so excluded from final table; (b)(3) includes required condition for use of the exemption, and is included in the final table.

- **126.1 Prohibited exports, imports, and sales to or from certain countries**

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. The exemptions provided in this subchapter, except §§123.17, 126.4(a)(1) or (3) and (b)(1), and 126.4(a)(2) or (b)(2) when the export is destined for Russia and in support of government space cooperation, and §126.6, or when the recipient is a U.S. Government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. (See §129.7 of this subchapter, which imposes restrictions on brokering activities similar to those in this section).

**Conclusion:** (a) describes policy of denial for exports destined to certain countries but does not contain compliance requirement, so excluded from final table.

#### Final Product

- The WG compiled a table of compliance requirements with corresponding ITAR citations.
- Included tags to aid in organization and searchability of the table
  - o Tags allow users to reconfigure table according to their needs
  - o Tags are broad categories of compliance requirements
    - Brokering, Contributions, Exemptions, Licensing, Recordkeeping, Registration, Reports, Violations
- The WG identified two organizational schemes:
  - 1) A sequential organization which follows the ITAR
  - 2) A compliance category organization in a table sorted by tags
    - **Brokering:** Requirements for engaging in brokering activities
    - **Contributions:** Requirements related to the payment of political contributions, fees and commissions

- **Exemptions:** Requirements necessary to use an exemption
  - **Licensing:** Requirements associated with licenses or other approvals
  - **Recordkeeping:** Requirements related to registrations with DDTC
  - **Reporting:** Requirements to provide reports and/or notifications to DDTC
  - **Violations:** Requirements associated with known or suspected violations
- o A sample Sequential Organization Example Table and a sample Compliance Category Organization Example Table can be found in the slide presentation.

#### Recommendations by the Working Group

- DTAG recommends that DDTC make the compliance requirements tables available on its website.
- Organizing compliance tables according to alternate organizational schemes may increase usefulness for industry/universities (e.g., organize according to steps required to export defense article).
- Include additional information on DDTC's website that increases transparency into frequent compliance errors.
- Follow-on tasking: Incorporate compliance requirements citations into enhanced Compliance Program Guidelines and Compliance Risk Matrix, as previously recommended by DTAG.
- Consistent with May 2020 and October 2020 recommendations, engage DTAG as DDTC develops more comprehensive compliance guidance.

#### Questions posed to the Compliance Requirements Working Group

- *Jae Shin, DTCC*, thanked the Working Group members for the presentation, especially the co-chairs, and noted that the presentation was very methodical and informative, and helped with understanding and differentiating requirements vs. best practices. He believes this will help industry develop their compliance programs, and he likes the table and tag idea, the sorting capability, and the creativity that went into this.
- *Jae Shin, DTCC*, asked how industry and universities could effectively leverage this product. *Ms. Albertson responded*, many users don't know what they don't know. This product shows the various requirements that users may not be familiar with vs. overwhelming them with entire ITAR. *Ms. Avallone concurred*, noting that many universities do not regularly do a deep dive of the ITAR, and would find a quick reference guide helpful to remind them that compliance requirements don't end when the license is received. This product would help those that are not as familiar with ITAR requirements, such as some universities and smaller businesses.

Mr. Donovan stated that after a DTAG wide vote, the presentation is approved and hereby formally submitted to DDTC.

The Compliance Requirements Working Group "White Paper" will expand on the presentation and will be made available on the DDTC website (under the *About DDTC* tab, look for DTAG).

## **Review of ITAR Part 125.4(b)(9) – Technical Data Exports Exemption**

Ms. Dynes introduced the DTAG review of ITAR Part 125.4(b)(9) exemption related to technical data exports, co-chaired by Ms. Brenda Nicacio and Ms. Hillary Doll. This “micro-tasking” includes industry’s use of this exemption and recommendations for clarifications or other changes.

A copy of the slide presentation can be found on the DDTC webpage (under the *About DDTC* tab, look for DTAG).

### DDTC Request:

- DTAG is requested to provide input to §125.4(b)(9). DTAG will research how industry applies it in practice (i.e., real world use cases and scenarios) and whether the DTAG has input on improving the list of “security precautions” in the exemption, noting that the list is not exhaustive and doesn't seem to us to ensure that adequate security measures are in fact in place. This research is important since implementation of the end-to-end encryption rule.

### Key Items Discussed:

- Ms. Nicacio discussed the WG’s approach to the request:
  - Formed a small working group comprised of DTAG volunteers to organize observations
  - Solicited additional information from DDTC to better understand the request
  - Conducted a round-table discussion with working group members and DDTC focused on two main areas:
    - 1) Industry’s use of 125.4(b)(9)
    - 2) Impact on 125.4(b)(9) use, security protocols under 125.4(b)(9) and broader technical data protections
- Ms. Doll noted that while this exemption is familiar to industry, DDTC has less insight into industry’s use of this exemption.
- As part of the roundtable, the WG provided industry input into typical use of the exemption which revealed that industry applies 125.4(b)(9) to authorize the transfer of technical data from a U.S. Person (or authorized FPE of a U.S. Person) to a U.S. Person (or authorized FPE of a U.S. Person) who is temporarily in another country, provided the recipient is not in a 126.1 country.
- Although 120.54 exists, industry is still primarily using 125.4(b)(9). Examples include:
  - International travel of employees on business travel
  - International travel of employees on personal travel with business assets
  - Short term deployment of U.S. Persons on overseas assignment to non-126.1 countries
  - Transmitting data to employees while they are temporarily outside the U.S.
  - Working with other U.S. contractors outside the United States

- 125.4(b)(9) may also be used to cover technical discussions between U.S. Persons in a foreign country, although this is not an export per 120.54.
- Industry continues to use exemption as we have historically, despite availability of 120.54.
- Impact of new “end-to-end encryption rule” in Section 120.54 has reduced some use of 125.4(b)(9) by clarifying when certain electronic data transfers are not “exports”.
- However, industry still frequently invokes 125.4(b)(9) for transfers of technical data where 120.54 is not applicable or all of the prerequisites of 120.54 are not present, such as the requirements that 120.54(b)(2) imposes on a “recipient”.
- In addition, as noted on the prior slide, industry invokes the 125.4(b)(9) exemption to cover transfers between U.S. Persons, even though such transfers may not technically constitute an “export” under 120.54, as it simplifies implementation.
- Should additional “security precautions” be added to 125.4(b)(9)?
  - DTAG believes that additional security precautions may not have the intended benefit. Existing security expectations found elsewhere in the ITAR make the addition of specific additional precautions in 125.4(b)(9) unnecessary and potentially duplicative.
  - ITAR-regulated entities and individuals are already obligated to ensure they protect all ITAR-regulated technical data, software and hardware from unauthorized exports, re-exports and transfers.
    - These existing requirements may be more meaningful than modifying the exemption, which would then apply only to that specific exemption.
    - These requirements are implemented through tailored policies specific to each authorized individual/entity.
  - Adding specific security precautions to 125.4(b)(9) would duplicate these existing requirements and programs without measurably enhancing security.
  - If specific security precautions were to be added to 125.4(b)(9), they would apply only to transfers pursuant to 125.4(b)(9).
    - Contrast this with the encryption standards and other protocols specified in 120.54, which define an exception to what is \*not\* an “export” under the ITAR, but do not seek to set forth a comprehensive list of all security requirements.
  - A new set of requirements to address electronic transfers could conflict with many other existing cyber protection requirements or cause confusion as industry seeks to apply multiple, overlapping requirements.

#### Recommendations by the Working Group

- Instead of adding additional requirements to the list, point to what is already required elsewhere.
- DTAG submits that 125.4 (b)(9) is not the appropriate vehicle for a specific list of security precautions that apply to the proper handling and transmission of ITAR technical data.
  - Existing requirements in the ITAR already clearly set forth the standard protection that DDTC expects industry to achieve.

- Accordingly, instead of expanding the non-exclusive list of “security precautions” in the existing 125.4(b)(9) exemption, DDTC should consider its removal to avoid duplication and potential confusion.
- In addition, 125.4(b)(9) and (ii) should be modified as follows to make clear that it applies only to authorized FPEs:
  - “(i) Foreign person *employees* may only export, re-export, retransfer, or receive such technical data as they are authorized to receive through a separate license or other approval.”
  - “(ii) The technical data exported, re-exported, or retransferred under this authorization may only be possessed or used by a U.S. Person or authorized Foreign Person *employee*.”
- DTAG recommends that DDTC consider adding an exemption similar to 125.4(b)(9) to allow authorized non-U.S. Persons with ITAR technical data on their devices to travel with such data for their own personal use, provided they are not traveling to a 126.1 country. This would allow them more flexibility and not require them to leave their work behind if on international travel.
- Next steps
  - Provide White Paper summary
  - Prepared to assist further

#### Questions posed to the ITAR 125.4(b)(9) Technical Data Exports Exemptions Micro-tasking

- *Rob Hart, DDTC*, thanked the group and noted that this was a different tasking as DDTC was asking for a ‘look behind the curtain’ as well as recommendations. He noted that the presentation was very useful, and that DDTC got what it was looking for out of this tasking. He commented on a good round table discussion and will discuss the WG’s recommendations internally. Mr. Hart noted particular interest in having an analogous exemption for non-U.S. persons. He appreciated the work, discussion, and looks forward to the White Paper. No further questions.

Mr. Donovan noted that the micro-tasking was above and beyond the normal taskings, so thanks to the Working Group and to Mr. Hart.

Mr. Donovan indicated that due to the virtual nature of the Plenary, the DTAG was asked to vote earlier in the week for approval of the presentation, the vote passed favorably.

The Review of ITAR 125.4(b)(9) “White Paper” will expand on the presentation and will be made available on the DDTC website (under the *About DDTC* tab, look for DTAG).

#### **Wrap-Up and Concluding Remarks**

Ms. Dynes led the **Wrap-Up** discussion.

Ms. Dynes expressed that she is looking forward to continuing work on important issues to facilitate legitimate defense trade in alignment with U.S. foreign policy and national security interests. She again thanked the Working Groups and co-chairs for their efforts, as well as DDTC for their support and valuable input.

Ms. Dynes turned the meeting over to Mr. Michael Miller, Deputy Assistant Secretary (DAS) of State for Defense Trade Controls, for final comments.

DAS Miller thanked the DTAG members and co-chairs once again for their efforts on the formal taskings and the micro-tasking, as well as the various DDTC respondents for their active participation. DAS Miller also thanked Mr. Kringle, Ms. Atkinson, Ms. Harrison and Ms. Battista at DDTC for their support.

DAS Miller noted that some tasks are on their third iteration, and there may be additional follow-on. This reflects the seriousness of these efforts, which are vital issues to DDTC and their operations. DAS Miller noted the importance of making use of DTAG expertise, which is especially true of the PPE exemption, and appreciation was expressed for the proposed language. The Part 130 presentation provides a lot to think about and explore internally, an effort which will require all of DDTC, with substantial interest from Congress. DAS Miller is excited about the Compliance Requirements recommendations, and is a believer in easing the compliance burden on industry where appropriate; not easing requirements, but making those requirements well known, especially for those not daily immersed in the ITAR. DAS Miller expressed appreciation for DTAG's flexibility in taking on the requested sub-task, to make sure DDTC is taking into account industry use cases associated with this exemption. In closing, DAS Miller thanked the DTAG for the clear and cogent presentations, and looks forward to the White Papers.

- *Virtual “Chat” question posed by the audience:* When do you anticipate a regulatory extension of the telework waiver? *DAS Miller responded,* a temporary extension will be in place by the end of June to ensure there is no gap in coverage while DDTC pursues a permanent change.

Ms. Dynes concluded the session.

No written comments from the public were received by the Department of State prior to the plenary meeting as permitted by the Federal Register Notice announcing the plenary meeting. Any additional Q&A from the public should be sent to DTAG Recorder, Ms. Melanie Fujiu at [melanie.a.fujiu@ulalaunch.com](mailto:melanie.a.fujiu@ulalaunch.com). Alternatively, additional questions or comments can be sent to [DTAG@state.gov](mailto:DTAG@state.gov).

DDTC will publish the DTAG presentations, Plenary Meeting Minutes and White Papers on its website in short order.

Plenary Meeting concluded at 4:30 pm.

Meeting minutes recorded by Ms. Melanie Fujiu.

Approved on June 14, 2021 by:

Andrea Dynes  
Chairman