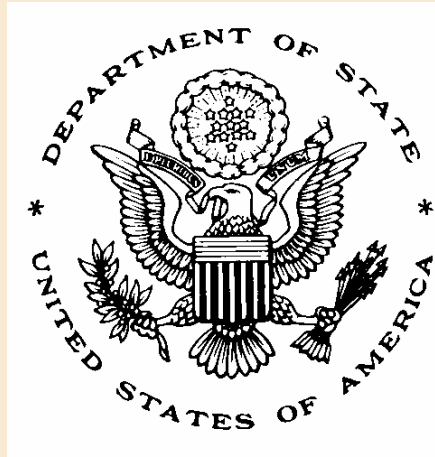


Department of State
Bureau of Political Military Affairs



Candace Goforth
Office of Defense Trade Controls
Licensing



Licensing & Compliance Responsibilities

- State
- Commerce
- Homeland Security (Customs)
- Justice (ATF)
- Department of Defense
 - DTSA, Armed Services, DSS



Bureau of Political Military Affairs

- Primary Goal: Regional Stability
 - Diplomacy is more cost effective than military action
 - PM is the principal link between the Department of State and the Department of Defense



Bureau of Political Military Affairs

- Diplomatic Support for the War on Terrorism
- Security Assistance Programs
- Humanitarian Mine Action
- Critical Infrastructure Protection
- International Crime Courts/article 98
- Consequence Management
- Export Controls



Directorate of Defense Trade Controls (DDTC)

Mission Statement

Advance National Strategic Objectives and U.S. Foreign Policy Goals through timely enforcement of defense trade controls and the formulation of defense trade policy.



Directorate of Defense Trade Controls (DDTC)

- As of January 2003, the Directorate of Defense Trade Controls replaced the Office of Defense Trade Controls
 - Four individual offices: licensing, compliance, management and policy
 - Better facilitate the DDTC mission statement



DDTC Organization

**Robert “Turk” Maggi
Deputy Assistant Secretary
Defense Trade**

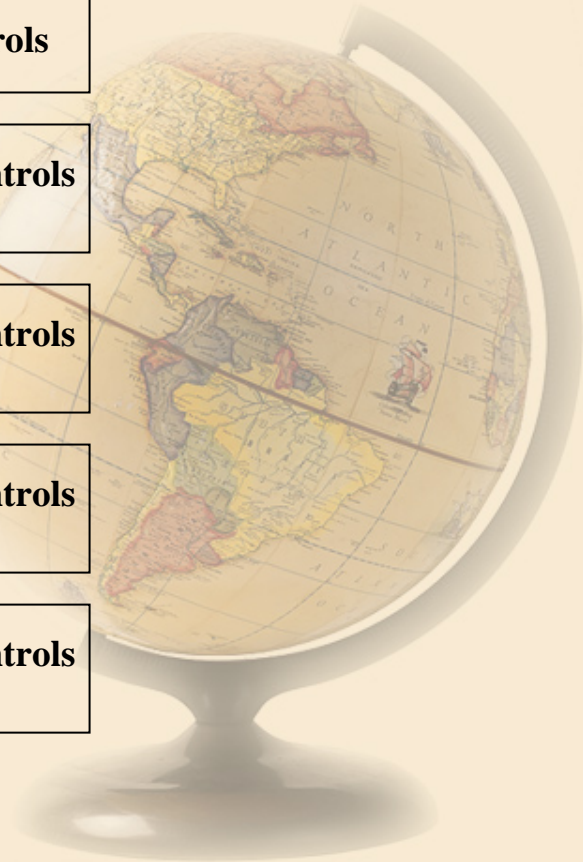
**Robert “Turk” Maggi
Managing Director
Directorate of Defense Trade Controls**

**Office of Defense Trade Controls
Management (PM/DTCM)**

**Office of Defense Trade Controls
Licensing (PM/DTCL)**

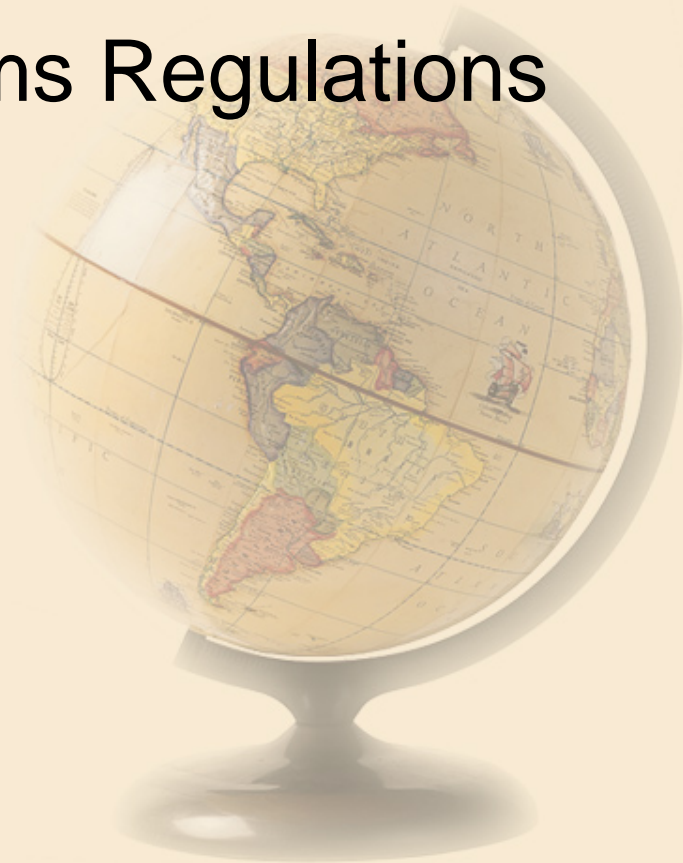
**Office of Defense Trade Controls
Compliance (PM/DTCC)**

**Office of Defense Trade Controls
Policy (PM/DTCP)**



Laws & Regulations

- Arms Export Control Act (AECA)
- International Traffic in Arms Regulations (ITAR)
 - 22 CFR Parts 120-130



Arms Export Control Act (AECA)

- Overall legislation governing arms sales
- Delegation of authority
- Register and license any person who engages in manufacturing, exporting, brokering of defense articles and services
- Implementing regulations:
 - International Traffic in Arms Regulations (ITAR)



International Traffic in Arms Regulations (ITAR)

- Contains the U.S. Munitions List (USML) that designates defense articles/services subject to Department of State export jurisdiction
- Licensing Policy and Procedures
- Compliance and Enforcement
 - Fines and Penalties



Office of Defense Trade Controls Licensing (DTCL)

- Review and adjudicate export applications to ensure compliance with the ITAR and take into consideration national security and foreign policy concerns
- Provide guidance and information to the licensing community:
 - Instruction in completing applications
 - Supporting documentation



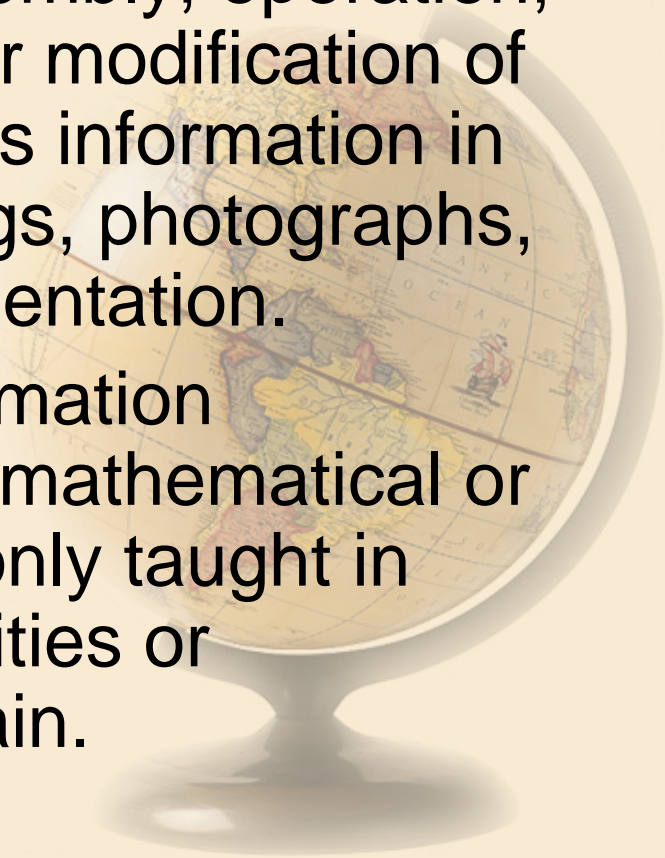
What DDTTC Controls

- Policy for Designating/Determining Defense Articles on the USML
 - specifically designed, developed, configured, adapted, or modified for military application
 - AND HAS
 - significant military or intelligence applicability such that ITAR control is necessary



What is Technical Data?

- Information, other than software, which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation.
- This DOES NOT include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain.



What is a Defense Service?

- Furnishing of assistance (including training) to foreign persons
 - Whether in the United States or Abroad
 - Encompasses design, development, engineering, manufacture, production, assembly, testing, repair, modification, operation, demilitarization, destruction, processing, installation, integration, training, or use of defense articles
- Furnishing to foreign persons any technical data controlled under the USML
- Military Training of foreign units and forces



What is an Export?

- Sending or Taking a Defense Article out of the United States
- Disclosing, by any means, or transferring a Defense Article to a Foreign Person in the United States or Abroad.
- Performing a Defense Service on behalf of, or for the benefit of, a Foreign Person in the United States or Abroad.



Intangible Exports

- E-mail
- Phone conversations
- Faxes
- Internet web-sites



Purpose of Arms Sales

Per the Foreign Assistance Act (FAA) and the Arms Export Control Act (AECA) defense articles and services shall be furnished or sold solely for:

- Internal security;
- Legitimate self-defense;
- To permit recipient country to participate in regional or collective arrangements consistent with the Charter of the United Nations; or
- In less developed friendly countries for public works.



Purpose of Controls

- Foreign Policy
- National Security
- Human Rights
- Regional Stability
- Proliferation



Types of Export Licenses

- DSP-5
 - DSP-61
 - DSP-73
 - DSP-85
 - Permanent Export
 - Temporary Import
 - Temporary Export
 - Classified Exports/Imports
-
- Licenses are valid for four years
 - A license expires whenever:
 - Total value authorized has been shipped; or
 - Total quantity authorized has been shipped; or
 - Date of expiration is reached



DSP-5 Permanent Export

- Unclassified permanent export of defense articles
- unclassified export of technical data - 125

All exports of technical data
are permanent!!!



DSP-61 Temporary Import

- Required for the temporary import and subsequent export of unclassified defense articles
 - unless exempt, see 123.4
- Applies to temporary imports of unclassified defense articles to be:
 - returned directly to country from which shipped; or
 - in-transit to a third country



DSP-73 Temporary Export

- Temporary export of unclassified defense articles
- Valid only if:
 - exported for less than four years
 - will be returned to the U.S.
 - transfer of title will not occur



DSP-85

Classified Exports/Imports

- Classified export
 - temporary & permanent
- Classified import
 - temporary only
 - ATF regulates permanent imports
- Classified materials (supporting documents) submitted with application must follow requirements of Defense Industrial Supply Manual
 - DOD Manual #5220.22-M



Types of Agreements

- Technical Assistance Agreement (TAA)
 - Discloses technical data and provides technical assistance
 - Assembly of defense articles
 - No manufacturing know-how may be provided
 - No manufacturing or production rights are provided
- Manufacturing License Agreement (MLA)
 - Grants foreign person(s) authorization to manufacture defense articles abroad
 - Automatically includes technical assistance



Activities Requiring Agreements

- Providing Defense Services
- Exchange of Technical Data with Discussions
- Release of Manufacturing Data and/or Rights
- Ongoing Exchanges with Foreign Party
- Supporting Foreign Military Sales (FMS)
- Supporting Government sponsored contracts with a foreign party



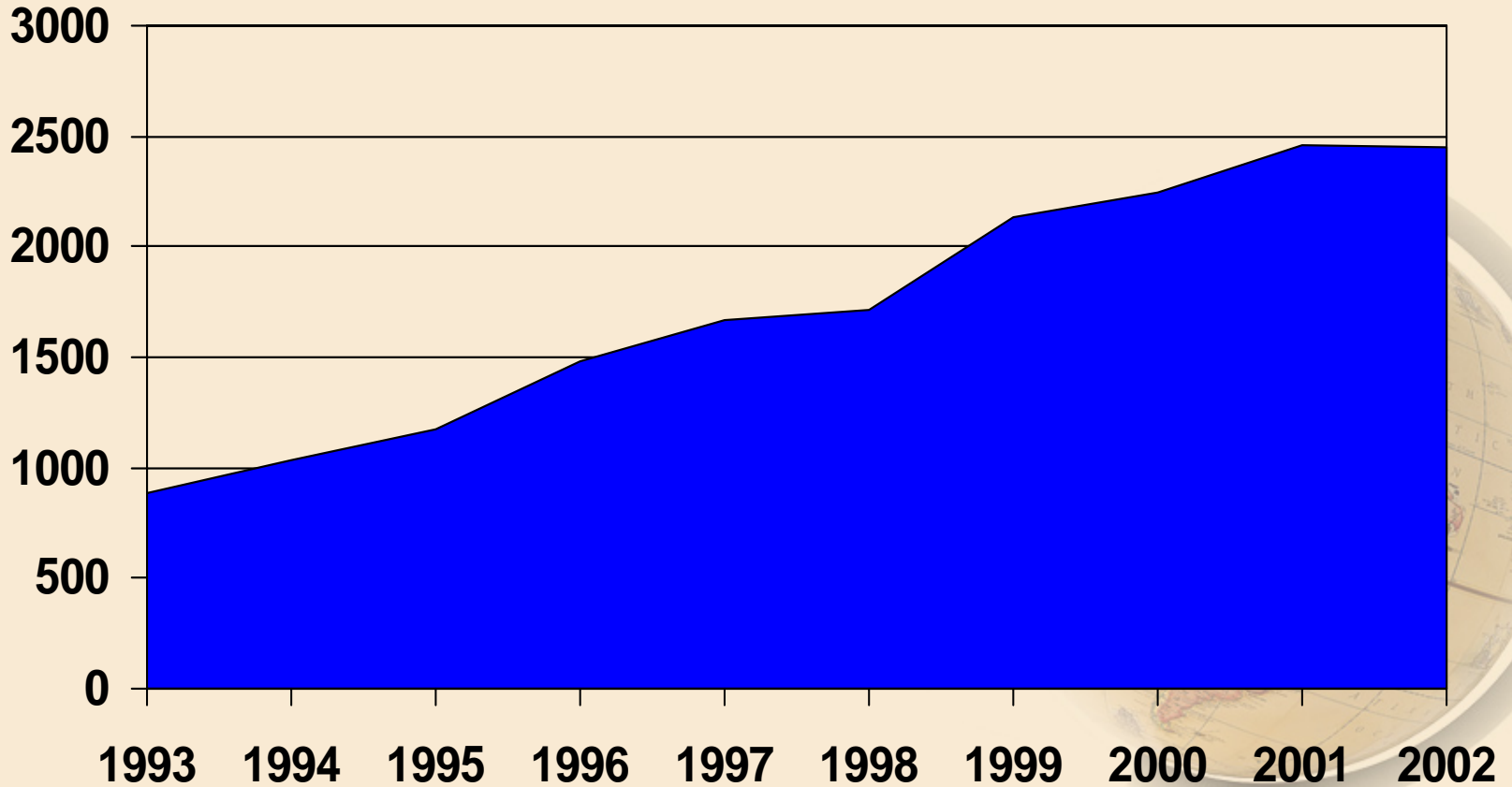
Export Trends

- An increasing shift from shipping defense articles to transferring technical data/performing defense services to facilitate the assembly, co-production and/or manufacture of defense articles abroad.



Agreement Applications

1993-2002



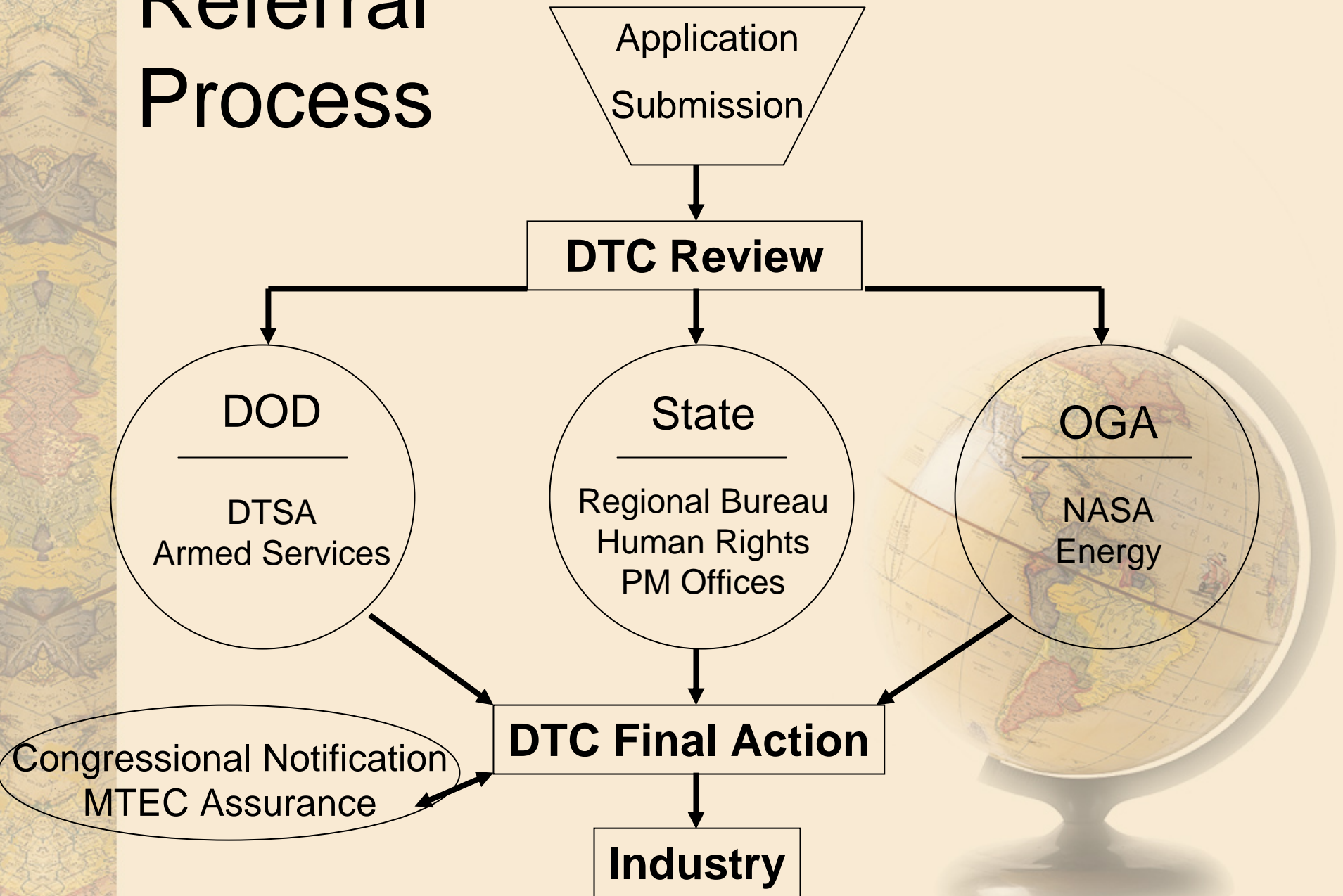
(Nearly tripled)

What do we review?

1. Eligibility of Applicant
2. End Use and End User
3. National Security
4. Foreign Policy
 1. Regional Stability
 2. Human Rights
 3. Multilateral Control Regimes
5. Commodity/Quantity
6. Blue lantern Check
7. Multilateral regimes



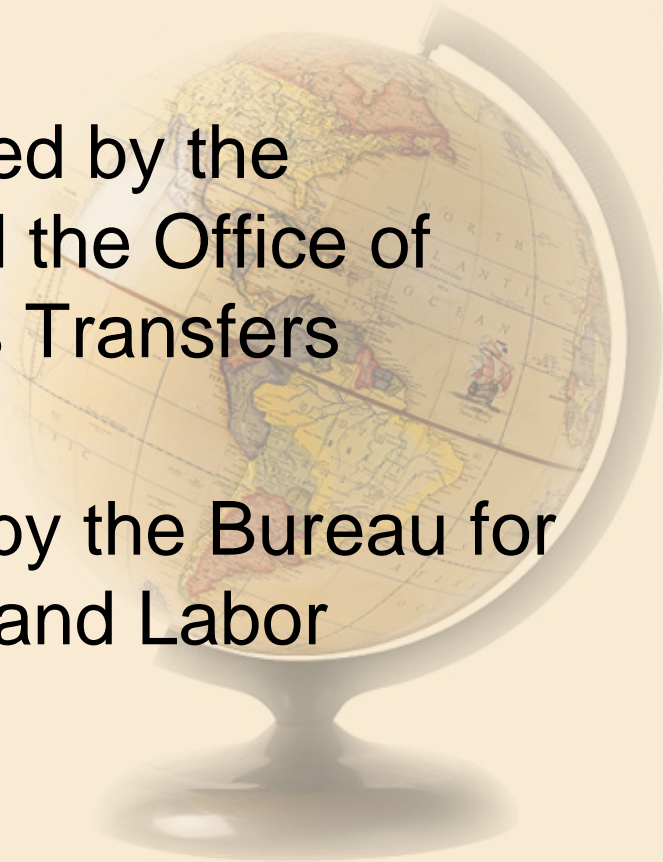
Referral Process



Intra-agency Review Process

Applications are reviewed for foreign policy by other offices in the Department of State

- Regional Stability is assessed by the respective country desk and the Office of Regional Security and Arms Transfers (located in the PM Bureau)
- Human Rights is assessed by the Bureau for Human Rights, Democracy and Labor



Interagency Review Process

- Applications are reviewed for national security and technical content by the Department of Defense
- Applications are also sent to other government agencies such as the Department of Energy and NASA as appropriate.



Congressional Oversight

The Arms Export Control Act requires that DDTTC:

- Provide annual and quarterly reports of authorizations to Congress
- Notify Congress of certain proposed export approvals
- Notify Congress of unauthorized transfers



Notifications to Congress

NATO, Japan, Australia and New Zealand:

- Sales of Major Defense Equipment for \$25 million or more; or Significant Military Equipment for \$100 million or more
- Manufacture abroad of any Significant Military Equipment

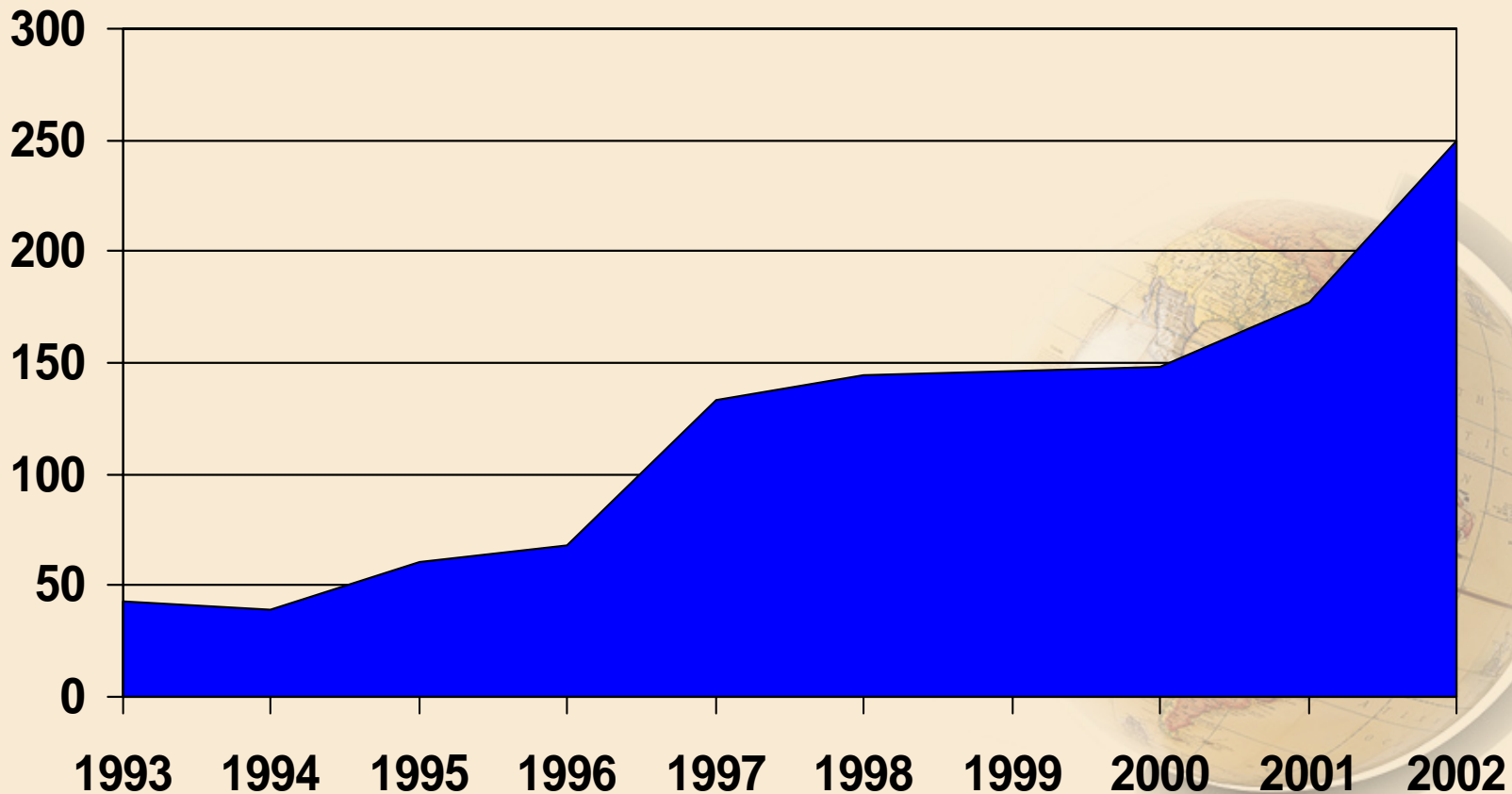
Any Other Country:

- Sales of Major Defense Equipment for \$14 million or more; or Significant Military Equipment for \$50 million or more
- Manufacture abroad of Significant Military Equipment



Congressional Notifications

1993-2002



(Nearly six-fold)

Office of Defense Trade Controls Compliance (DTCC)

- Help ensure that defense exports support our national security and foreign policy goals
- Provide assistance and information during the licensing process
 - Registration, Watch List, Blue Lantern
- Work to ensure exports are made in compliance with the terms of the export authorization
 - Deterrence – civil and criminal penalties
 - Prevention – work with companies to improve export compliance procedures



Registration

The Arms Export Control Act (AECA) requires that:

- Any person who engages in the U.S. in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Directorate of Defense Trade Controls through the Office of Defense Trade Controls Compliance
- Manufacturers who do not engage in exporting must nevertheless register



Watch List

- Mandated to enforce the provisions of the Arms Export Control Act (AECA)
- A database of entities of concern
- About 7,000 entities on Watch List
 - About 500 added or modified each month
- Entries based on Intel and other sources



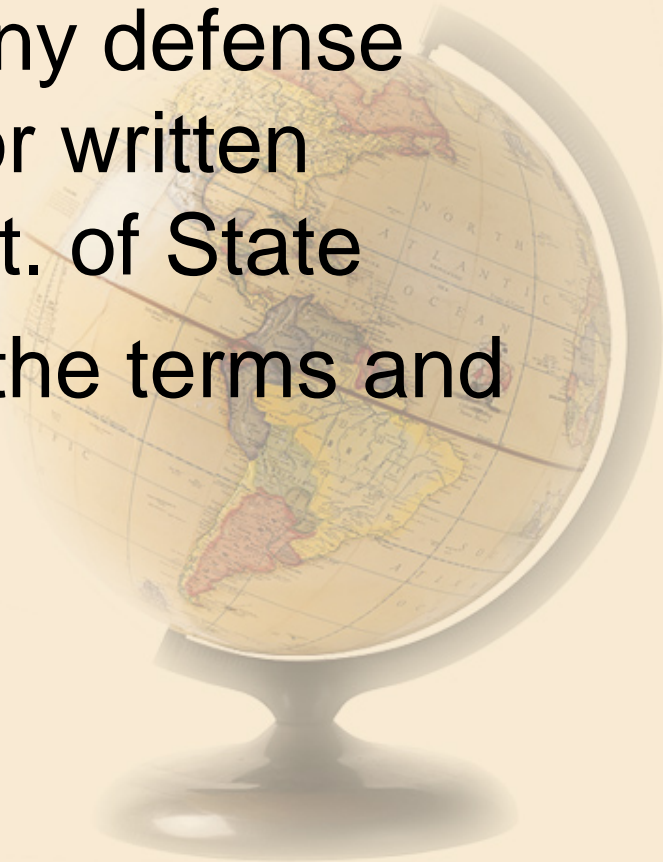
Blue Lantern Program

- Mandated by the Arms Export Control Act (AECA) and is dependent on Embassy support and commitment
- Key program in assuring that our exports do not end up in the Grey Market
- Pre- or post-check of end-users or intermediaries
- About 400 checks last year – approx 70 negative



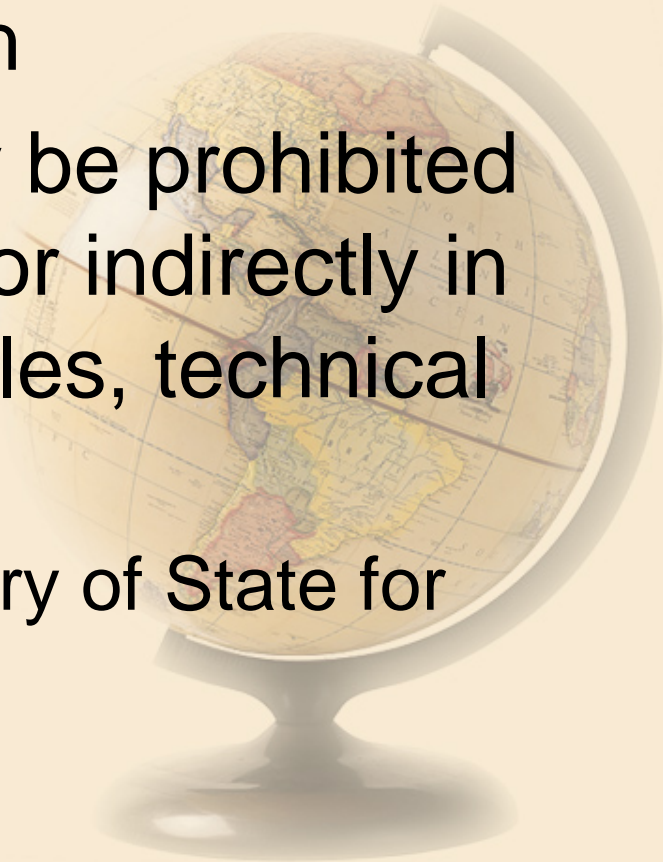
Violations

- Unlawful to import/export or to attempt to import/export any defense articles / technical data or furnish any defense service without a license or written approval from the US Dept. of State
- Unlawful to violate any of the terms and conditions of the ITAR



Penalties

- Any person who willfully violates a provision of the ITAR may be subject to fine, imprisonment, or both
- Person and company may be prohibited from participating directly or indirectly in the export of defense articles, technical data, or services
 - determined by Ast. Secretary of State for Political-Military Affairs



Penalties

- Criminal penalty
 - each violation a fine of not more than \$1,000,000, or imprisonment not more than 10 years, or both
- Civil penalty
 - each violation a fine of not more than \$500,000



Voluntary Disclosure

- Strongly encouraged if company discovers a violation
- Could be considered a mitigating factor in determining penalties
- must be made prior to USG awareness and inquiry into the activity



Conclusion

- Intangible Exports
- Intra/Inter-agency coordination
- Congressional oversight
- Strong compliance plan

