



# State Department/DDTC and the ITAR Suzanne Palmer

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# Contents

- Identify the Agencies, Key Offices and Players in the Licensing Process
- Do I Need to Register with State Department Directorate of Defense Trade Controls (DDTC)
- Notable Sections of the ITAR & Key Definitions



# Federal Agencies Controlling Imports/Exports

Export Compliance Solutions

## State Department

### Directorate of Defense Trade Controls

- Defense Articles
- Technical Data
- Defense Services

AECA

ITAR

USML

## Commerce Department

### Bureau of Industry & Security

- Commercial or Dual Use Equipment & Technology

EAA

EAR

CCL

Export Compliance Solutions

1767 Beachfield Rd

Annapolis, MD 21409

[www.exportcompliancesolutions.com](http://www.exportcompliancesolutions.com)



# Federal Agencies Controlling Imports/Exports

Export Compliance Solutions

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## State Department

Directorate  
of  
Defense  
Trade Controls  
(DDTC)

[www.pmdtcc.state.gov](http://www.pmdtcc.state.gov)

## Commerce Department

Bureau  
of  
Industry and Security  
(BIS)

[www.bis.doc.gov](http://www.bis.doc.gov)



# Regulation Comparison

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## ITAR/USML

- Heavily Regulated
- Most Transactions Require a License
  - Limited Exemptions & Exceptions
- Significant Military Equipment-Requirements
  - Longer for Approval
  - Congressional Notification

## EAR/CCL

- Pro-Exporter
- 95% of Commodities May Be Exported Under an Exemption or Exception
- Detailed Regulations Provide Answers
  - General Prohibitions
  - Special Rules for Encryption
  - Country Charts



# ITAR Part 121 U.S. Munitions List

- I – Firearms\*(fully)
- II – Guns & Armaments\*
- III – Ammunition\*
- IV – Launch Vehicles, Missiles\*
- V - Explosives, Propellants\*
- VI - Vessels of War\*
- VII -Tanks & Military Vehicles\*
- VIII – Aircraft\* & Associated Equipment
- IX - Military Training Equipment
- X - Protective Personnel Equipment
- XI - Military Electronics\*
- XII - Fire Control\*, Optical Guidance
- XIII - Auxiliary Military Equipment
- XIV – Toxicological Agents\*
- XV - Space Systems\*
- XVI - Nuclear Weapons\*
- XVII – Classified Articles\*
- XVIII – Directed Energy Weapons\*
- XIX - Reserved
- XX – Submersible Vessels
- XXI – Miscellaneous Articles

\*Includes Significant Military Equipment



# Commerce Control List (CCL) Categories

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- 0 – Nuclear Materials, Facilities & Equipment (and Miscellany)
- 1- Materials, Chemicals, Microorganisms
- 2 – Materials Processing
- 3 – Electronics
- 4 – Computers
- 5 – Telecommunications
- 6 – Sensors & Lasers
- 7 – Navigation & Avionics
- 8 – Marine
- 9 – Propulsion Systems, Space Vehicles & Related Equipment



# Registration Requirements

- Part 122 of the ITAR states:
- “Any person who engages in the United States 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.”



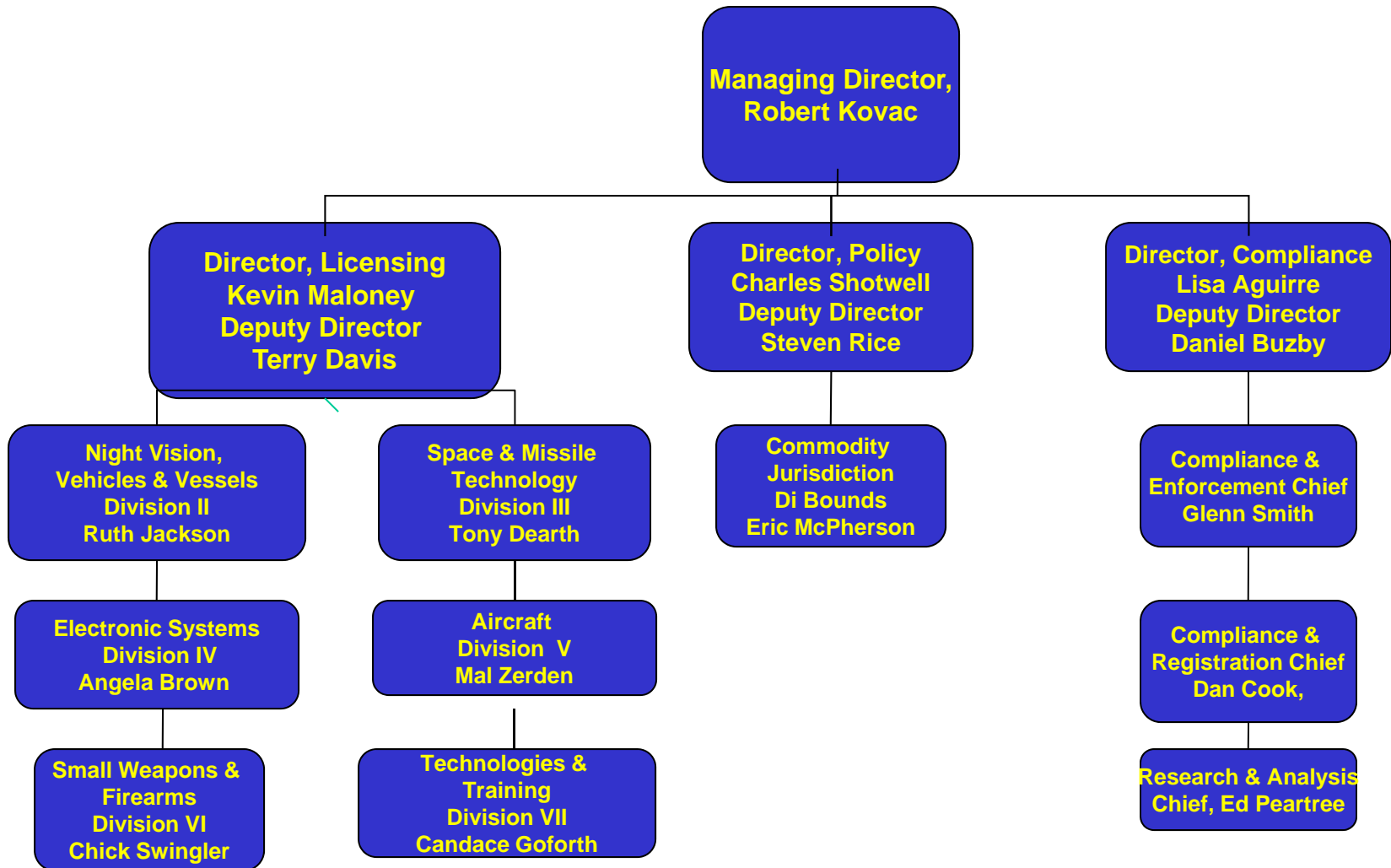
# Registration Requirements

- “For the purpose of this subchapter, engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only one occasion of manufacturing or exporting a defense article or furnishing a defense service. Manufacturers who do not engage in exporting must nevertheless register”



# Directorate of Defense Trade Controls (DDTC) Organization

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# Directorate of Defense Trade Controls (DDTC)

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- Response Team (202) 663-1282  
ddtcrestonseteam@state.gov
  - D-Trade Help Line (202) 663-2838
  - Managing Director
    - Robert Kovac (202) 663-2861
  - Licensing Directorate
    - Kevin Maloney (202) 663-2023
  - Policy Directorate
    - Charles Shotwell (202) 663-2792
  - Compliance & Enforcement Directorate
    - Lisa Studtmann (202) 663-2834
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# Licensing Directorate

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- Review License & Agreement Applications-84,000 last year
  - Majority licenses
  - Technical Assistance Agreements (TAA's)
  - Manufacturing Licensing Agreements (MLA's)
  - General Correspondence:
    - Retransfer requests
    - Advisory Opinions-provide guidance for specific defense articles or services to a particular country
- Licensing Officers approve 75% of all cases – State will then “staff”



# License Processing Times

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Month and Year	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08	Dec 08	Jul 09	Dec 09	Jan 10	Apr 11
Cases Received	6947	7728	6920	7063	7141	6644	6271	7249	6296	6859	6864
Cases Closed	7200	7438	7054	6779	7144	7014	6650	7182	6770	6989	6885
Cases Open at End of Month	3458	3720	3562	3822	3783	3389	2930	3136	2874	3583	4379
Average Processing Time (in Days)	15	15	15	15	17	16	16	15	16	18	17



# ITAR 126.1

## Prohibited Destinations

- Afghanistan
  - Belarus
  - Burma\*
  - China (PR)\*
  - Congo (DRC)\*
  - Cote D'Ivoire
  - Cuba \*\*
  - Cyprus-129.5
  - Eritrea
  - Haiti\*
  - Iran \*\*
  - Iraq
  - Lebanon
  - Liberia\*
  - Libya
  - North Korea\*\*
  - Sierra Leone
  - Somalia\*
  - Sri Lanka
  - Sudan\*/\*\*
  - Syria \*\*
  - Venezuela
  - Vietnam
  - Yemen-129.5
  - Zimbabwe
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- Denial
  - \*Arms Embargo
  - \*\* Terrorism



# ITAR 126.1 Prohibited Destinations

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- No exports of defense articles, technical data or defense services
- No proposals or brokering activities including the Embassies and Consulates
- No shipments on vessels, aircraft or other means of conveyance which is owned, operated or leased from a proscribed country
- Cannot use ITAR exemptions without prior approval from DDTTC
- Exercise Due Diligence



# Policy Directorate

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- Commodity Jurisdiction (CJ) - Determine whether an article or service is covered on the USML
- National security issues-how a particular country may be affected by the sale of cutting edge equipment
- Policy Decisions-Waivers of Tiananmen Square sanctions
- Adding ITAR Exemptions - Expanding beyond NATO, Japan & Sweden
- Establishing common ground on export controls internationally



# Compliance Directorate

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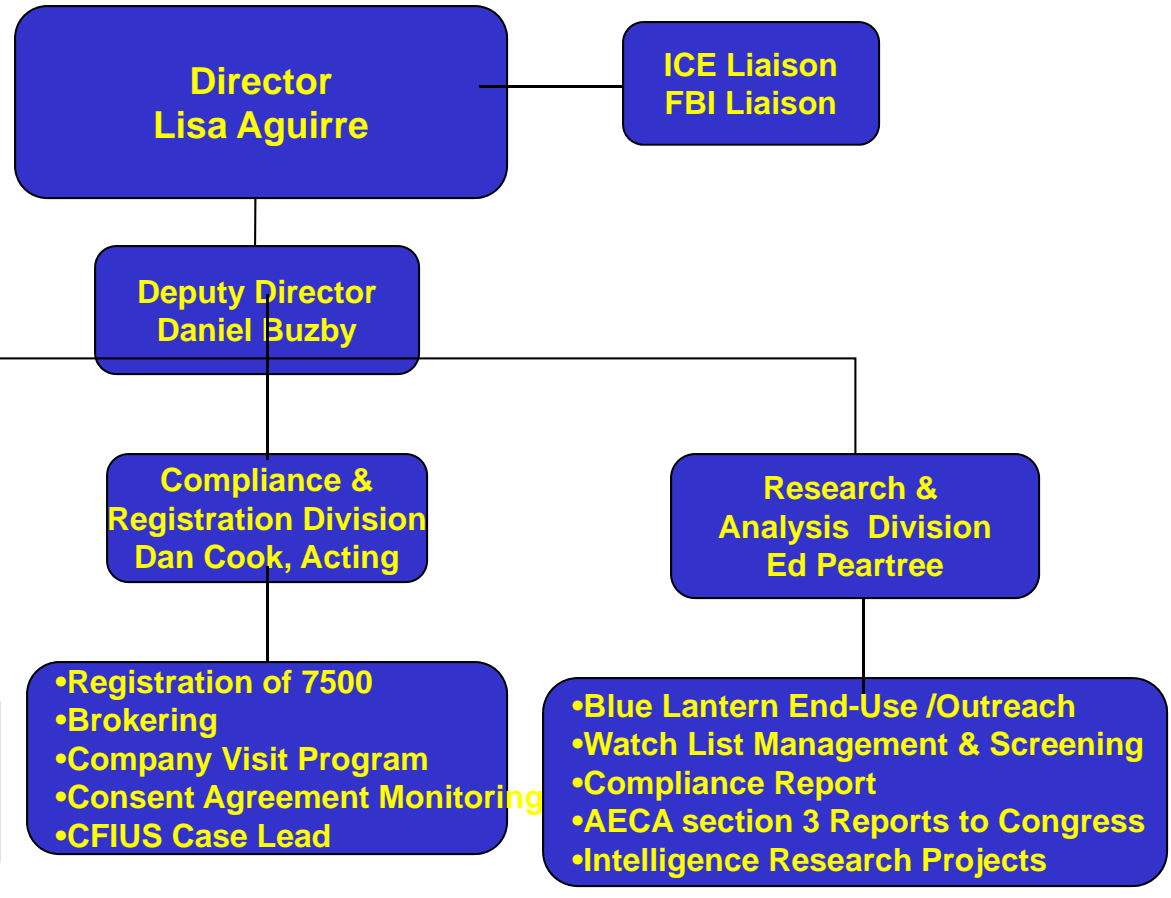
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- Monitor defense trade activities and review companies for eligibility
- Gather data for Charging Letters, Orders, and Consent Agreements
  - Compliance & Enforcement Branch
  - Research & Analysis Division-Watchlist
  - Registration-Maintain information for Registration Mergers & Acquisitions
  - Criminal case support team



# State/DTCC-Compliance Organization

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# Notable ITAR Sections

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- **Part 120** - Definitions
- **Part 121** - USML
- **Part 122** - Registration Requirements
- **Part 123** - Procedures for Licensing/Exemptions
- **Part 124** - Agreements, Offshore  
Procurement/Defense Services
- **Part 125** - Technical Data & Exemptions
- **Part 126** - Prohibited Destinations & General  
Policies
- **Part 127** - Violations & Penalties
- **Part 129** - Registration & Licensing for Brokers
- **Part 130** - Political Contributions



# An Export ITAR §120.17

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- Sending or taking an article out of the U.S.
- Disclosing or transferring any technical data to an Embassy, an agency of a foreign government or a foreign person whether in the U.S. or abroad
- Performing a defense service for a foreign person whether in the U.S. or abroad



# Examples of How an Export Can Occur

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- Delivering hardware under a contract or a purchase order
- Making a marketing presentation to international customers at your U.S. facility
- Sending a mock-up or demonstration unit of a defense article to a trade show
- Providing training or other defense services
- Conducting studies or performing analysis of a foreign made defense article
- Offering a quote to a foreign company beyond budgetary



# Examples of How an Export Can Occur

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- RFQ's
- E-mail & fax
- Conversations





# U.S. Person ITAR §120.15

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A “Lawful Permanent Resident”

- U.S. Citizen or National
- **Permanent Resident Alien (Green Card Holder)**

A “Protected Individual”

- Refugees and persons granted asylum
- A temporary resident under amnesty provisions
- An entity incorporated to do business in the U.S.



# Foreign Person

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## ITAR §120.16

- Natural person who is not a lawful resident or protected individual.
  - Includes any foreign corporations or businesses not incorporated or organized to do business in the U.S.
  - Includes international organizations, foreign governments and any agency or subdivision of a foreign government.



# Defense Article

## ITAR §120.3

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- Is specifically designed, developed, configured, adapted, or modified for a military application, and
- Does not have a predominant civil applications, and
- Does not have performance equivalent (defined by form, fit and function) to those of an article or service used for civil applications



# Defense Service ITAR §120.9

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- The furnishing of assistance, including training, to foreign persons, whether in the U.S. or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles



# Defense Service ITAR §120.9

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- Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise and military advice



# Empowered Official

## ITAR §120.25

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U.S. person who:

- (1) Is directly employed by the applicant or a subsidiary in a position having authority for policy or management within the applicant organization; and
- (2) Is legally empowered in writing by the applicant to sign license applications or other requests for approval on behalf of the applicant; and
- (3) Understands the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability and administrative penalties for violating the Arms Export Control Act and the International Traffic in Arms Regulations; and



# Empowered Official ITAR §120.25

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## 4) Has the independent authority to:

- (i) Inquire into any aspect of a proposed export or temporary import by the applicant, and
- (ii) Verify the legality of the transaction and the accuracy of the information to be submitted; and
- (iii) Refuse to sign any license application or other request for approval without prejudice or other adverse recourse





# Types of ITAR Licenses/ Authorizations

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<b>Description</b>	<b>Authorization</b>	<b>Validity</b>
DSP-5: Hardware & Technical Data	Permanent Export	4 years
DSP-73: Hardware Only	Temporary Export	4 years
DSP-61: Foreign Origin Hardware	Temporary Import	4 years
TAA/MLA: Technical Data/Defense Services	Permanent Export	10 Years
WDA: Warehousing Hardware Overseas	Permanent Export	4 years
DSP-85: Classified Hardware & Technical Data	Import Export	4 years



# Summary

- Reviewed controlling authorities for exports/imports
- Familiar with the differences between USML & CCL
- Know the responsibilities of the Directorates in State/DDTC
- Reviewed key sections of the ITAR
- Understand what constitutes an export
- Understand the duties associated with an Empowered Official