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Transfer of Defense Articles: Direct Commercial Sales (DCS)

Overview

The Direct Commercial Sales (DCS) program, authorized by Congress in the Arms Export Control Act (AECA; 22 U.S.C. §2751 et seq.), as amended, provides for the export of U.S. defense articles and services from U.S. companies to foreign countries and international organizations. Under DCS, the Department of State's (DOS's) Directorate of Defense Trade Controls (DDTC) approves or denies applications for export licenses and agreements proposed by private companies. This process makes DCS distinct from Foreign Military Sales (FMS), under which the U.S. government procures U.S. defense articles as an intermediary for international partners. In FY2024, the value of privately contracted DCS authorizations licensed by DOS totaled \$200.8 billion.

DCS: Policy and Guidance

Section 38 of the AECA (22 U.S.C. §2778) authorizes the commercial export of U.S. defense articles and services. The President has delegated export control authority provided by the AECA to the Secretary of State. Like FMS cases, the AECA requires advance congressional notification for DCS cases meeting certain criteria and sets end-use and retransfer conditions. Unlike FMS cases, DCS notifications typically are not presented publicly to protect market-sensitive information (pursuant to 22 U.S.C. §2778(e)). The Foreign Assistance Act of 1961 (FAA; 22 U.S.C. §2151, et seq.), as amended, mandates additional requirements governing transfer decisions. The Conventional Arms Transfer (CAT) policies have guided executive branch risk judgements and prioritization. The Trump Administration's April 9, 2025, Executive Order "Reforming Foreign Defense Sales to Improve Speed and Accountability" directed the Departments of State and Defense to reimplement the 2018 CAT policy (National Security Presidential Memorandum-10), along with directives aimed to make U.S. arms sales faster, more transparent, and more strategically responsive.

The International Traffic in Arms Regulations (ITAR; 22 C.F.R. Parts 120-130), issued by DOS, implements the AECA by establishing procedures and controls that govern the manufacture, export, reexport/retransfer, temporary import, and brokering of U.S. defense articles, defense services, and related technical data. The U.S. Munitions List (USML; ITAR Part 121) identifies articles, services, and technical data subject to DOS licensing requirement. ITAR requires potential U.S. exporters to register with DDTC (Part 122). The regulations also prescribe licensing procedures for exports of defense articles (Part 123), govern agreements and off-shore procurement of defense services (Part 124), govern licensing and exemptions for technical data and classified defense articles (Part 125), govern brokering activities (Part 129), and set reporting rules for political contributions, fees, and commissions (Part 130).

ITAR describes general policies and provisos, including country prohibitions, temporary suspensions, exceptions, and exemptions (Part 126). The regulations also define violations and penalties for unauthorized exports (Part 127) and describe administrative procedures for enforcement actions (Part 128).

DCS: Roles and Responsibilities

Within DOS, DDTC is organized around four core functions: Defense Trade Controls Licensing (DTCL) reviews and adjudicates license and agreement applications; Defense Trade Controls Policy (DTCP) issues policy and guidance and manages the Blue Lantern end-use monitoring program; Defense Trade Controls Compliance (DTCC) conducts civil compliance and enforcement actions under the AECA and ITAR; and Defense Trade Controls Management (DTCM) manages contracts and operations, outreach, and information technology. The Defense Technology Security Administration (DTSA) leads the Department of Defense (DOD) technical and national security review of export applications referred by DOS, provides technology-security risk analysis, and helps shape export control policies. (DOD is using a secondary Department of War designation under Executive Order 14347.) The Commerce Department's Bureau of Industry and Security licenses dual-use and certain military items under the Export Administration Regulations (EAR; 15 C.F.R. Parts 730-774); exports of ITAR-controlled items can include such items. The Treasury Department's Office of Foreign Assets Control administers and enforces U.S. sanctions; regulations concerning sanctions can independently prohibit or require separate DCS licenses.

Congress oversees DCS by reviewing notifications of proposed sales; requesting and requiring formal executive branch briefings, answers to committee inquiries, and updates before and after such sales; and enforcing AECA notification and review requirements concerning certain potential arms sales. Provisions in certain legislation, such as annual National Defense Authorization Acts (NDAA) or appropriations acts, may add program-specific authorities, limitations, or reporting requirements. For example, Section 1213 of the FY2026 NDAA (P.L. 119-60) required the executive branch to review and report to Congress on those U.S. defense articles on the FMS-only list that could instead be offered via DCS.

DCS Licenses and Agreements

The ITAR distinguishes between export licenses used primarily for defense articles and agreements used for defense services and broader technical data transfers. The Part 123 license forms are

- DSP-5 for permanent exports of defense articles (and, when permitted, unclassified technical data);

- DSP-61 for temporary imports of defense articles;
- DSP-73 for temporary exports of unclassified defense articles; and
- DSP-85 for exports or temporary imports involving classified defense articles or classified technical data.

Part 124 authorizes three types of agreements for the provision of defense services and the disclosure of technical data to international purchasers:

- Technical Assistance Agreements (TAA) authorize furnishing defense services or disclosing technical data (e.g., training, design support) to foreign persons;
- Manufacturing License Agreements (MLA) authorize a foreign party to manufacture U.S.-origin defense articles abroad, often with transfer of production know-how or rights; and
- Warehouse and Distribution Agreements (WDA) authorize the establishment of an international warehouse or distribution point for unclassified defense articles under specified controls.

Defense articles exported in support of an approved Part 124 agreement still require a separate license under Part 123. For DCS transactions that involve brokering (i.e., arranging a sale for another party) rather than exporting, Part 129 may require prior approval by DDTC. This is a separate authorization and can apply even if no physical shipment occurs.

ITAR Exemptions

The ITAR includes multiple exemptions that allow U.S. companies to make certain transfers without a license when strict conditions are met. ITAR exemptions exist for specified unclassified hardware (Part 123.16), defined categories of technical data (Part 125.4) and government or country-specific situations such as U.S. government transfers (Part 126.4), the Canadian exemption (Part 126.5), and the Authorized-User exemption for the United Kingdom and Australia (Part 126.7). In some cases involving cooperative weapons programs, such as the F-35 Joint Strike Fighter program, a comprehensive export authorization (Part 126.14) allows DDTC to replace case-by-case licenses with one tightly conditioned, long-duration authorization for eligible U.S. allies. The ITAR exemptions do not apply to certain defense items with stricter controls, such as Missile Technology Control Regime items (see Parts 123.16, 125.4, 126.4-126.7). The ITAR exemptions generally do not apply to embargoed destinations or persons (see Part 126.1), with certain exceptions (Part 126.1(a)).

DCS Process

U.S. companies that manufacture, export, temporarily import, or furnish defense services, or conduct brokering activities involving defense articles and services, are required to register with DDTC before they can apply for a license or other approval. Registration is annual. U.S. companies must submit requests for renewal 30-60 days before the expiration date and are required to submit registration fees as per an ITAR tiered schedule. U.S. companies may include subsidiaries and/or controlled affiliates on the same registration. Prior to filing export licenses or agreements, U.S. companies must confirm the jurisdiction (ITAR or EAR) and classification (USML or

CCL) of what it intends to transfer. If an exporter is unable to determine a proposed export's proper categorization, the firm can file a Commodity Jurisdiction (CJ) request with DDTC. The Defense Export Control and Compliance System (DECCS) is DDTC's industry portal used to submit and manage ITAR business with the U.S. government, including company registration and CJ requests. DECCS also serves as a single system of record for both U.S. companies and DDTC to file and track licenses, agreements, advisory opinions, retransfer requests, voluntary disclosures, and related case correspondence.

DOS begins its policy reviews after a company files its license or agreement in DECCS, and DDTC confirms the filer is eligible and the application is complete. During the reviews, DDTC tasks DOS's regional and functional bureaus with determining whether the transfer is consistent with U.S. foreign policy and national security. In parallel, DDTC may verify end-users before license adjudication and refer the case to DTSA for a technology and security assessment. If applicable, DOS completes a congressional notification and cannot issue a license or agreement until the congressional review period expires. Once the DCS case clears all reviews, DDTC issues one of four dispositions: approved; approved with provisos/conditions; return without action, which means the case does not meet requirements but has been deemed correctable; or denied on policy, national security, or legal grounds and cannot be corrected. The ITAR provides that licenses/approvals may be denied, revoked, suspended, or amended when required by statute or policy (Part 120.18).

After DDTC issues the license or agreement, U.S. companies must implement any DOS-issued license provisos and also complete preexport filings. Export licenses are valid for four years unless the exporter delivers the authorized value or quantity of defense articles before that time. For Part 124 agreements, applicants set an agreement term; DDTC will approve up to 10 years. After 10 years, DDTC approves extensions via amendments to the agreement. ITAR requires registered companies and brokers to keep complete records for five years from the expiration of the license/approval—or from the date of transaction if an exemption was used.

Blue Lantern End-Use Monitoring (EUM)

DDTC implements DOS's EUM program, known as Blue Lantern, for DCS transfers. Mandated by Section 40A of the AECA (22 U.S.C.A. §2785), the program verifies that foreign persons comply with U.S. requirements on end-use, end-user, retransfer, storage, and security, and observe license provisos. DDTC initiates pre-license checks; U.S. embassy personnel typically conduct post-shipment EUM via site visits, document reviews, and direct engagement with end users and intermediaries.

Related CRS Products

CRS In Focus IF11437, *Transfer of Defense Articles: Foreign Military Sales (FMS)*

CRS Report RL31675, *Arms Sales: Congressional Review Process*

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