

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS

Annual Brokering Report OMB No. 1405-0141

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 et seq.) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), has the principal missions of taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulations and collecting various types of reports. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles and provision of defense services covered by the U.S. Munitions List.

Under the AECA, the President is charged with the review of munitions license applications and technical assistance and manufacturing license agreement requests to determine, *inter alia*:

- Whether the transactions further U.S. foreign policy objectives, national security interests, and world peace;
- Eligibility of parties (*e.g.*, applicants, consignees, end-users) to participate in U.S. defense trade;
- Appropriate end-use of commodities subject to U. S. Government approval of munitions exports and transfers;
- Whether law enforcement concerns have been adequately addressed; and
- Whether the appropriateness of offers or payment of political contributions, gifts, commissions, and fees, have been adequately addressed.

The statutory authority of the President to promulgate regulations with respect to the export and the temporary import of defense articles and the provision of defense services was delegated to the Secretary of State by Executive Order 11958, as amended. These regulations are primarily administered by the Deputy

Assistant Secretary of State for Defense Trade and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

In accordance with Part 129 of the ITAR, U.S. and foreign persons required to register as a broker shall provide annually a report to DDTC enumerating and describing brokering activities by quantity, type, U.S. dollar value, purchaser/recipient, and license number for approved activities and any exemptions utilized for other covered activities.

2. DDTC uses the information provided by respondents to meet the mandate described in item 1 above. As appropriate, such information may be shared with other U.S. Government entities. This information is currently used in the review of munitions export and brokering license applications and to ensure compliance with defense trade statutes and regulations.

3. Currently, there is no option of electronic submission of this information. Submissions are made via hardcopy documentation. Before these reports are due, DDTC posts a reminder notice on its Web site of the upcoming reporting deadline. DDTC is working on an electronic form that applicants may use for this reporting requirement. Eventually, the applicant will be able to access this form from the DDTC Web site, complete it online, and submit it via the Internet. A draft of this form is included with this submission. DDTC plans to have it available for public use for reporting 2011 brokering activities.

4. The Department of State is unaware of any other U.S. Government requirement that would cause respondents to duplicate this reporting requirement.

5. The statute and regulations are applicable equally to large and small businesses or entities. Only persons in the business of brokering defense articles and defense services are required to register and are thus subject to this reporting provision.

6. Absent this reporting requirement, or if reports were submitted less frequently than annually, the Department of State would find it difficult to provide policy and enforcement oversight for the brokering of regulated defense transactions. Thus, it would be extremely difficult for DDTC to meet its legally mandated responsibilities to ensure defense trade is in furtherance of foreign policy objectives, national security interests, and world peace.

7. The ITAR (22 CFR §122.5(a); 22 CFR §129.4(c)) requires maintenance of records for a minimum period of five years from the expiration of the brokering written approval.
8. The Department has published a notice in the *Federal Register* (75 FR 77041) in accordance with 5 CFR 1320.8(d) soliciting public comments on this collection and notifying the public that this collection has been submitted to OMB for review and approval. No comments were received.
9. Not applicable. No payment or gift has been or will be provided to any respondent.
10. Respondents are engaged in the business of exporting or temporarily importing defense articles/services or brokering thereof, have registered with DDTC pursuant to the ITAR (22 CFR Subchapter M), and correspondingly use the ITAR in the regular course of business. Thus, respondents would be familiar with §126.10 of the ITAR, which describes protection of confidentiality given to respondents' information. Other than provisions for confidentiality or nondisclosure included in the Freedom of Information Act, the ITAR, or other Federal regulations, no promises of confidentiality have been made to respondents.
11. Not applicable. This collection does not solicit any information regarding questions of a sensitive nature or matters commonly considered private.
12. The Department of State anticipates 1,515 responses, with 3,030 total annual hours requested. The Department has reason to believe that the information that is required for a brokering report is already collected by and available to respondents due to other needs and requirements (*i.e.*, business transactional records, tax records, quality assurance and productivity, and legal requirements imposed by other federal laws). The Department estimates that the number of respondents for FY 2010 is 1,515 (on average 1,515 entities were registered as brokers in that time period). The frequency of reporting is once a year. Also, the Department estimates that not more than two hours per year for each respondent is devoted to this specific reporting effort. Consequently, it can be reasonably assumed that the cost to industry in terms of money, time, and other resources is minimal. The Department anticipates amending the regulations pertaining to brokering in 2011, which will further provide that all registered brokers must submit an annual brokering report regardless of brokering activity.
13. There are no anticipated additional costs to respondents.

14. The estimated annualized cost to the Federal Government for processing the 1,515 responses for CY 2009 was \$126,000. This corresponded to approximately 1.6% of DDTC's budget of \$28 million.

15. For Item 13(a) of OMB Form 83-I, "Number of Respondents," has been adjusted from 980 to 1,515, and 13(b), "Total Annual Responses," has been adjusted from 600 to 1,515. Both changes result from the increase in the number of registered brokers. As a result of the latter change, "Total Annual Hours Requested" (Item 13(c)) has been adjusted from 1,200 to 3,030.

16. Not applicable. Publication of the relevant information is not anticipated.

17. DDTC is planning to display the expiration date for OMB approval of the information collection on the form.

18. Not applicable. The Department of State does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.

B. Collections of Information Employing Statistical Methods

Not applicable. This collection of information does not employ statistical methods.