

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS

Statement of Registration OMB No. 1405-0002 DS-2032

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with §§38-40 of the Arms Export Control Act (AECA) (22 U.S.C. 2778-2780) 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 agreement requests for defense trade exports and handling matters related to defense trade compliance, enforcement, and reporting. By statute, executive orders, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles and defense services covered by the U.S. Munitions List. Further, as required by §38 of the AECA, DDTC reviews and acts upon registration requests from approximately 10,400 manufacturers, exporters and brokers of defense articles and defense services and persons brokering defense articles and services.

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 appropriate 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.

1. Pursuant to Part 122 of the ITAR, 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 DDTC. Pursuant to Part 129 of the ITAR, any U.S. person, wherever located and any foreign person located in the United States or otherwise subject to the jurisdiction of the United States who engages in the business of brokering activities, is required to register with DDTC.
2. DDTC uses the information provided by registrants 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 and action on registration requests and to ensure compliance with defense trade laws and regulations. The DS-2032 has been used as evidence in legal cases involving violations of the AECA.
3. Submissions are made via a completed and signed DS-2032 and accompanying support documentation and payment. A copy of this form can be printed from DDTC's Web site (www.pmdtcc.state.gov). Currently, the collection of this information does not involve the use of automated, electronic, or other technological collection techniques. However, DDTC has developed electronic payment methods to be made via Automated Clearing House (ACH) and Society for Worldwide Interbank Financial Telecommunications (SWIFT). Additionally, the form has been revised to allow the respondent to electronically enter the requested information. A copy of the revised form, which implements these new processes and features, is attached.
4. The information provided by the respondent on the "Statement of Registration" is not collected elsewhere.
5. The AECA and ITAR are applicable equally to large and small businesses or entities. Only persons in the business of manufacturing and exporting defense articles, providing defense services, and brokering defense articles and services are

required to submit a Statement of Registration and the information provided is typically maintained by such persons for standard commercial reasons.

6. The AECA specifically requires registration of every person who engages in the business of manufacturing, exporting, or importing any defense articles or defense services. The ITAR establishes the frequency of information collection. It would be difficult to know the business backgrounds and connections of those engaged in defense trade without the required information. Thus, it would be extremely difficult for DDTC to meet its legally mandated responsibilities that include registering persons engaged in the business of manufacturing or exporting defense articles or defense services or the brokering thereof, without this information.

7. The ITAR requires registrants to maintain records for a minimum period of five years from the expiration of a license or written approval.

8. The Department has published a notice in the *Federal Register* (76 FR 10291, with correction at 76 FR 16588) soliciting public comments on this collection and notifying the public that this collection has been submitted to OMB for review and approval. One party filed a comment recommending changes. The commenting party requested the Department consider revising the DS-2032 Statement of Registration to eliminate the requirement to provide a Social Security Number (SSN) and date of birth in Block 7 of the form. The Department notes that the provision of a SSN is not a requirement, but is optional, as is disclosed in the instructions section of the form, under "Privacy Act Statement." To the extent a SSN is provided by the respondent, it is used to timely and correctly identify individuals for administrative/civil purposes. The date of birth and SSN are used to ensure the correct individual is identified in our various administrative/civil processes and actions. The Department cannot adopt the recommendation to eliminate the request for the SSN or to eliminate the requirement for the date of birth, as this information is often a helpful, and at times essential, tool for verification purposes to ensure compliance with 22 U.S.C. 2778. This same commenting party requested clarification on another aspect of the registration procedure not directly pertinent to this information collection. That comment will be addressed separately and directly to the commenting party.

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, temporarily importing, and/or manufacturing 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 Section 126.10 of the ITAR, which describes protection of confidentiality given to respondents' information as summarized below:

- Subchapter R of 22 CFR contains regulations on the availability to the public of information and records of the Department of State. The provisions of subchapter R apply to such disclosures by DDTC.
- Certain information of a confidential nature required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with §38(e) of the AECA (22 U.S.C. 2778) and, by reference, certain procedures in the Export Administration Act.
- Information required under Part 130 of the ITAR (i.e., political contributions, gifts, commissions, and fees) is protected from general public disclosure.
- Information may be disclosed to foreign governments for law enforcement purposes or in the context of multilateral or bilateral export regimes.

Furthermore, personal data such as home addresses, social security numbers, and date of birth are protected by the Privacy Act.

11. This collection solicits information (i.e., social security number, date of birth) that is commonly considered private for verification purposes, as provided in law (§38(b) of the AECA).

12. The Department of State has reason to believe that the information that is required for the registration process is already available to U.S. industry. The Department estimates that the total number of registrants is 10,440 with an estimated 9,600 of them responding each year. Frequency of use is once a year. Also, the Department estimates that a registrant would need one hour to complete this submission, a reduction from the previously reported two-hour time burden (see Block 15 for details). Consequently, it can be reasonably assumed that cost to industry in terms of time, money, and other resources is minimal. The Department estimates that the annual hour burden is 9,600 hours.

13. The cost burden to respondents for FY10 was \$40,875,466. This is the sum of all registration fees collected during the fiscal year. The Department does not anticipate the FY11 figure to be significantly different.

14. The 9,600 responses received by DDTC during FY 2010 accounted for approximately 9.5% of its budget of \$26 million. The estimated annualized cost to the Federal Government was \$2,471,300 for reviewing these Statements of Registration. Although DDTC collected approximately \$41 million in registration fees for FY10, DDTC is restricted in how registration fees may be spent.

15. For Item 13(a) of form DS-83-I, "Number of Respondents," has been adjusted from 4,900 to 10,440, and 13(b), "Total Annual Responses," has been adjusted from 3,900 to 9,600. Both increases reflect the requirement, as of October 2008, for respondents to submit applications annually, rather than have the option of registering biennially. The discrepancy between the number of respondents (10,440) and the total annual responses (9,600) is attributed to the continually-changing pool of registrants. (In any given calendar year, some registrants do not renew their registration. Also, new registrants are continually added to the list of registrants.)

Total Annual Hours Requested (Item 13(c)) has been adjusted from 9,800 to 9,600 to reflect both the increase in the number of annual responses and the reduction in estimated burden time from 2 hours to 1 hour. Revisions to the form consisted of implementing various pick lists to reduce both the amount of time previously used for manual data entry as well as the occurrence of data entry errors. In addition, the form eliminates the need to generate a transmittal letter for submission with the form. (A transmittal letter should contain information requested in ITAR 122.2(b), which is to be amended in line with the revised Statement of Registration form. Amended ITAR §122.2(b)(1) (proposed rule, 76 FR 10291) requests the same information from the respondent, but the information is to be provided on the revised form.)

Items 14b and 14c have also been adjusted to \$40,875,466 from \$8,575,000 reflecting the change in registration fees based on a pay tier system. Previously, all registrants paid a flat registration fee. The pay tier system instituted a registration fee system based on number of licenses submitted. For all registrants, the base fee increased, and for exporters with a high volume of licenses, the fee increased markedly.

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

17. Not applicable. The Department of State intends to display the expiration date for OMB approval of the information collection.

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

B. Collections of Information Employing Statistical Methods

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