

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**Maintenance of Records by Registrants
OMB No. 1405-0111**

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, the provision of defense services and the brokering thereof which are 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 are consistent with 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.

To help meet this mandate, the Department of State has promulgated ITAR provisions (§§122.5 and 129.4 of the ITAR) to require that all persons subject to registration maintain records on defense trade-related transactions and make them available for U.S. Government review. Elimination of this provision would seriously undermine the U.S. Government's ability to enforce the AECA.

2. DDTTC 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 in the review of munitions export and brokering license applications and to ensure compliance with defense trade laws and regulations.

3. The provision is a record keeping requirement. While the Department of State has reason to believe, on the basis of informal discussions with U.S. industry, that much of this information is maintained in electronic files, it does not intend at this time to mandate the methods industry uses to maintain its records of defense trade-related transactions, so long as records are maintained in a fashion accessible to the U.S. Government, which might include methods other than electronic. Thus, record keeping as required by the ITAR can be fulfilled with hard copy documentation.

4. The Department of State is unaware of any other U.S. Government requirement for record-keeping that would fulfill the requirements outlined in items 1 and 2, above.

5. Export control law and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities. Only persons in the business of manufacturing or exporting defense articles, defense services and related technical data are required to register and are thus subject to this record keeping provision.

6. Absent this record keeping requirement, it would be extremely difficult for DDTTC to meet its legally mandated responsibilities to ensure defense trade exports

are consistent with foreign policy objectives, national security interests, and world peace.

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

8. The Department has published a notice in the *Federal Register* (76 FR 38450) 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 during the comment period.

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, are required to register 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 the respondent.

11. This is a record-keeping requirement; therefore, there are no questions of a sensitive nature.

12. The Department of State has reason to believe that the information that is required for maintenance of records concerning defense trade is already available to U.S. industry in some form due to other needs and requirements (e.g., business transactional records, tax records, quality assurance and productivity, and legal issues posed by other Federal laws). It is estimated that the 9,600 respondents devote approximately 20 hours per annum to this recordkeeping requirement. The estimated annual hour burden is 192,000 hours.

13. There are no anticipated additional costs to respondents.

14. DDTC reviewed the records of 750 registrants in CY 2010. These reviews account for approximately 0.6% of its budget of \$36 million. The estimated

annualized cost to the Federal government was \$220,635 for reviewing these records.

15. Item 13(a) of form DS-83-I, “Number of Respondents,” has been adjusted from 4,900 to 9,600. This increase is a reflection of the increase in the number of entities registered as defense manufacturers/exporters/brokers. Item 13(b), “Total Annual Responses,” has been adjusted to 9,600. Consequently, “Total Annual Hours Requested” (Item 13(c)) has been adjusted to 192,000. There are no changes to Item 14.

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

17. The Department of State proposes that an expiration date for OMB approval of the information collection not be displayed, as this is a recordkeeping requirement and does not involve the use of a form.

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.