

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**Request for Commodity Jurisdiction (CJ) Determination
OMB No. 1405-0163
Form DS-4076**

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 (USML).

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 Regional Security and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

Pursuant to ITAR §120.4, a person may request a written determination from the Department of State whether a particular article or service is a defense article or defense service covered by the USML. DDTC's policy on designating and determining whether an article or service is a defense article or defense service covered by the USML is described in ITAR §120.3.

2. DDTC reviews and analyzes the submitted information for the purposes of deciding whether the described article or service is covered by the USML, and thus subject to the export licensing jurisdiction of the Department of State. Part of the process entails sharing the submitted information with, and soliciting the recommendations of, the Department of Defense and the Department of Commerce, and other government agencies as appropriate.

3. Respondents submit a request for commodity jurisdiction determination electronically. Form DS-4076 is accessible from DDTC's website, is completed online, accepts attachment of electronic files as supporting documentation, and is submitted to DDTC via the Internet.

4. The Department of State is unaware of any other U.S. Government programs that would require U.S. industry to duplicate this voluntary submission.

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. Submitting a "Request for Commodity Jurisdiction (CJ) Determination" is optional and does not apply to small businesses or small entities unless they are "in the business" of defense trade. Burdens have been minimized as much as possible.

6. The information required for the proper assessment of a request for commodity jurisdiction determination is reviewed on a case-by-case basis and is specific to the request under consideration. Absent this procedure for the collection of this information, the Department would not have a process of responding to requests on whether an article or service is a defense article or defense service covered by the USML.

7. The ITAR requires maintenance of records for a minimum period of five years. For a proper assessment of a request for commodity jurisdiction determination, a respondent may have to submit proprietary trade secret or other confidential information. DDTC has procedures in place to protect this type of information to the extent permitted by law.
8. The Department has published a notice in the *Federal Register* (77 FR 49054) 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. 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 ITAR §126.10, 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 statutes or regulations, no promises of confidentiality have been made to the respondent.
11. The Department of State is not soliciting any information regarding questions of a sensitive nature or matters commonly considered private.
12. The Department of State has reason to believe that the information required for a "Request for Commodity Jurisdiction (CJ) Determination" is already available to respondents as an aspect of their customary and usual business practices. An estimated 1,260 annual responses are expected from 1,260 respondents. The average time the respondent devotes to each submission is estimated to be ten hours. Therefore, the estimated annual hour burden is 12,600 hours.
13. There are no anticipated costs to respondents.
14. Processing the 1,260 responses received by DDTC during CY 2011 accounted for approximately 1.5% of its budget of \$36 million. The estimated annualized cost to the Federal Government was \$370,700 for reviewing these submissions.

15. “Number of Respondents” and “Total Annual Responses” have been adjusted from 425 and 465, respectively, to 1,260, reflecting the general increase in responses for most of DDTC’s information collections. As a result, “Total Annual Hours Requested” has been adjusted from 4,650 to 12,600.

16. DDTC will describe the article or service that is the subject of a commodity jurisdiction request, and provide its determination, on its website. A respondent may request that certain information (e.g., business proprietary information) not be disclosed in the description of the request provided by DDTC on its website.

17. DDTC will display the expiration date for OMB approval of the information collection on the form.

18. The Department of State does not seek any exception to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.