

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 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. Further, as required by §38 of the AECA, DDTC reviews and acts upon registration requests from approximately 11,500 manufacturers, exporters, and brokers of defense articles and defense 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 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 exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 13637. These regulations are primarily administered by the Deputy Assistant Secretary for Defense Trade and Regional Security and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

Pursuant to ITAR part 122, 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 DDTTC. Pursuant to ITAR part 129, 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 DDTTC.

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 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.

Revision of ITAR parts 122 and 129 have the following impact on this information collection, regarding the information that must be provided by the respondent: identify if respondent is a U.S. person (foreign persons may register as brokers, but not as defense exporters or manufacturers, so this information will disable certain portions of the form for those intending to register as foreign brokers); identify the method of electronic payment; more clearly identify the structure of the company by providing information on intermediary and ultimate parents of the registering company, or subsidiaries and affiliates owned or otherwise controlled by the registering company; requirement by foreign person brokers to certify eligibility to engage in defense brokering activities; report if a brokering report is to be submitted, and specify that the report is attached to the registration form; and specify the additional types of documentation attached to the registration form.

Revision of ITAR part 129 will also allow a respondent to register as both a manufacturer/export and broker on the same form, rather than requiring the submission of separate forms and payments. The DS-2032 has been revised to accommodate this change. Because of this and other changes as described above,

the Department's estimate for the average time burden to complete a DS-2032 has increased from one to two hours.

As a result of the changes to the brokering regulations, the Department estimates there will be time burden and cost reductions to the public with regard to this collection. The Department estimates that approximately 1,300 of the currently-registered brokers will not need to maintain registration following implementation of the revised brokering regulation, and that approximately 300 brokers will be eligible to consolidate into their manufacture/exporter registration and no longer be required to pay a broker registration fee. This estimate is based on Department data on the number of foreign person brokers who are now registered but will not need to be so after implementation of the revised brokering regulation in the first instance, and the number of registered exporters who are also registered as brokers in the second instance. The submission of 1,600 fewer brokering-only registration applications would result in an annual time burden reduction of 3,200 hours for the public, based on the revised burden of two hours to complete a Statement of Registration. (The Department notes, though, that overall the annual time burden will increase, as the estimated average time to complete a Statement of Registration has increased from one to two hours.) In addition, this would result in the elimination of approximately \$3,600,000 in registration fees that otherwise would have been collected by the Department.

3. Submissions are made via a completed and signed DS-2032 and accompanying support documentation and payment. The DS-2032 may be accessed from the DDTC website (www.pmdtdc.state.gov) and filled out online. However, respondents must then print the form and submit the paper copy to DDTC. DDTC's preliminary plans to provide an electronic means of submission based on existing IT systems have changed. The current plan is to provide a fully-electronic means for submission of this form separate from the existing IT system. This plan is at the nascent stage of realization.

An interim step toward electronic submission is to enable the submission via e-mail of this information collection for those respondents who are renewing their registration. First time respondents will be required to submit a paper Statement of Registration. Implementation for this step is by the end of 2013.

A first step toward electronic submission of the registration application was enablement, in September 2011, of electronic payment of registration fees.

A copy of the revised form is attached.

4. The information provided on the Statement of Registration is not duplicated in other forms.
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 defense firms. 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.
7. The ITAR requires registrants to maintain records for a period of five years from the expiration of a license or written approval.
8. The Department has published notices in the *Federal Register* 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. In the proposed rule regarding revision of the brokering regulation published on December 19, 2011 (76 FR 78578), the Department described the proposed changes to this information collection. No comments specifically pertaining to the proposed changes to this information collection 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, 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 regulations, no promises of confidentiality have been made to the respondent.

11. This collection solicits information (i.e., social security number, date of birth) regarded as sensitive in nature or commonly considered private, for law enforcement reasons, as provided in law (§38(b) of the AECA), and by Executive Order 9397.

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 total number of registrants was 13,060 for CY 2012, with an estimated 13,060 of them responding. Frequency of use is once a year. The Department estimated that a registrant would need one hour to complete submission of the form; therefore, the estimated annual time burden was 13,060 hours based on the current number of registrants.

With implementation of the revised brokering regulation and the attendant changes to this information collection, the Department estimates that the number of registrants will decrease by 1,600, and the time burden to complete the form will rise to two hours. Therefore, the Department estimates that the number of registrants will be 11,500, with an annual hour burden of 23,000.

13. The cost burden to respondents for CY 2012 was \$54,658,356, the total sum collected as registration fees for that time period. With implementation of the revised brokering regulation, the Department estimates this cost burden will decrease by \$3.6 million, to \$51,000,000.

14. The 13,060 responses received by DDTC during CY 2012 accounted for approximately 10% of its budget of \$36 million. The estimated annualized cost to the Federal Government was \$3,600,000 for reviewing these Statements of Registration. Although DDTC collected approximately \$55 million in registration fees for CY 2012, DDTC is restricted in how registration fees may be spent. With implementation of the revised brokering regulation, the Department estimates it will receive 11,500 responses.

15. “Number of Respondents” and “Total Annual Responses” have been adjusted from 12,000 to 11,500. The number of respondents would have been 13,060 without the changes stemming from revision of the brokering regulation. However, for the reasons specified in item 2 above, the Department is reporting an increase in annual hour burden because the estimated time burden for completion of the form is now two hours rather than one. Therefore, “Total Annual Hours Requested” has been adjusted from 12,000 to 23,000. The cost burden has risen

during the last few years because the number of respondents has increased (each respondent pays a registration fee). Based on the cost burden for CY 2012, and factoring in the decrease of \$3.6 million because of the projected decrease in the number of respondents, the Department is adjusting “Annualized Cost to Respondents” to \$51,000,000.

16. Publication of the relevant information is not anticipated.
17. The Department of State will display the expiration date for OMB approval of the information collection.
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.