

## JUSTIFICATION FOR EMERGENCY REVIEW

### **Open General License Pilot Program, OMB Number 1405-0173.**

The Department of State, Directorate of Defense Trade Controls (DDTC) is launching a pilot program pursuant to its authorities under section 38 of the Arms Export Control Act (AECA) and its implementing International Traffic in Arms Regulations (ITAR), specifically section 126.9(b), in order to assess the concept of an Open General License (OGL) mechanism by which it may authorize certain transfers of defense articles to predetermined parties. OGLs would eliminate the need for the Department to review and approve certain lower-risk transactions involving certain known recipients on a case-by-case basis.

DDTC designed the OGL pilot program chiefly to support the efforts of Australia, Canada, and the United Kingdom to maintain, repair, and store defense articles in their existing inventories. These allies were chosen because of the unique measures in place in these countries to protect U.S-origin defense articles.

During the development of the OGL pilot program, Russia launched an unanticipated full-scale invasion of Ukraine. Due to Ukraine's robust response, the war has continued for some time. Australia, Canada, and the United Kingdom responded, and continue to respond, by providing substantial quantities of arms collectively valued at hundreds of millions of dollars to Ukraine for its self-defense. As detailed in open press reports, arms transferred to Ukraine are sometimes returned to the donating country for repair or maintenance purposes.

Given the dramatic uncertainty regarding the future of the situation in Ukraine, it is impossible to anticipate the full scope of our Allies' future arms transfers to Ukraine or the impact that those transfers will have on our Allies' ability to defend themselves. Open press reports indicate that transfers to Ukraine may necessitate careful attention to ensure that supplying partners retain adequate stocks for their own self-defense. Since individual export authorizations add to the time needed to conduct maintenance and support activities, the need to implement ways to streamline maintenance and support activities is more pressing than ever. More fluid and responsible licensing mechanisms would reduce public harms by supporting Ukraine's self-defense efforts, better ensuring our Allies' supply and sustainment of their own defensive weapons, and maintaining the operability of transferring partners' retained stocks.

Regulating the export, including the reexport and retransfer, of defense articles for foreign policy and national security reasons is DDTC's statutory mission, satisfying 5 C.F.R. § 1320.13(a)(1)(ii) of the emergency processing requirements. Accordingly, the recordkeeping collection of information in the OGLs, designed to mirror existing requirements that would accompany a submission for authorization to reexport or retransfer, is essential prior to the time period normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act (PRA), satisfying 5 C.F.R. § 1320.13(a)(1)(i) of the emergency processing requirements. Information collection burdens on the public have been minimized by parallel recordkeeping requirements. And DDTC intends to submit a routine (PRA) submission in short order. In the meantime, in response to Russia's unanticipated prolonged war of aggression, this emergency processing request will reduce public harms by having the OGLs provide critical time-saving benefits and better support the supply and sustainment of our Allies' defensive capabilities, satisfying 5 C.F.R. § 1320.13(a)(2)(i) and (ii) of the emergency processing requirements.

As agreed upon pursuant to 5 C.F.R. § 1320.13(d), OIRA will waive all requirements to post this emergency processing request in the *Federal Register* prior to it going into effect. However, pursuant to its agreement and precoordination, DDTC has, within its tentative *Federal Register* notice regarding the OGL pilot program, included a statement that the Office of Management and Budget has approved the information collection revision under emergency processing and that in the coming weeks DDTC will begin the process for a standard PRA clearance.

In light of the foregoing, the Department of State requests OMB's formal emergency review and approval of this information collection.

/s Michael F. Miller

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*Department of State.*