

## **End-Use Monitoring of Defense Articles and Defense Services Commercial Exports**

This report describes the actions the Department of State took in the past fiscal year under Section 40A of the Arms Export Control Act (AECA) to implement end-use monitoring of the commercial export of defense articles, services, and related technical data subject to licensing under Section 38 of the AECA. The Office of Defense Trade Controls in the Bureau of Political-Military Affairs (PM/DTC), Department of State, is responsible for administering the International Traffic in Arms Regulations (ITAR) that implement the AECA. DTC's functions include registration of manufacturers, brokers, and exporters, licensing of commercial defense trade, overseeing company compliance with U.S. export regulations, supporting U.S. law enforcement agencies in criminal investigations and prosecutions, and, finally, the end-use monitoring of licensed transactions.

### Overseas Monitoring: The Blue Lantern Program

Initiated in September 1990 as the first systematic end-use check program, the Blue Lantern program has strengthened export controls and has proven to be a useful instrument in: (1) deterring diversions, (2) aiding the disruption of illicit supply networks used by rogue governments and international criminal organizations, and (3) helping the Department make informed licensing decisions and ensuring compliance with the AECA and the ITAR. End-use checks performed under the Blue Lantern program have significantly encouraged compliance with legal and regulatory requirements and have proven particularly effective in addressing the growing problem of gray arms trade – the use of fraudulent export documentation to acquire defense articles through legitimate channels for end-users inimical to U.S. interests. Blue Lantern end-use checks are conducted by U.S. mission personnel abroad or DTC personnel to verify the destination and specific end-use and end-users of U.S. commercial defense exports and transfers.

The verification of the destination and end-use of U.S. defense exports supports policy goals related to restraints placed on arms sales and facilitation of legitimate defense trade. These goals include:

- Impeding access to military items and technologies by persons and organizations who do not have the best interests of the United States or our friends and allies in mind, including those which contribute to the proliferation of weapons of mass destruction.
- Preserving continued technology advantages enjoyed by U.S. military forces and U.S. friends and allies over potential adversaries.
- Encouraging foreign government support for U.S. principles, laws, regulations, and practices concerning the responsible sale, transfer, and end-use of defense equipment and services.

### Results of End-use Checks in FY 2001

In FY 2001, DTC initiated 410 checks, exceeding the average of roughly 400 checks per year maintained since the inception of the program.

Blue Lantern checks in FY 2001 resulted in 71 unfavorable determinations. Twenty-six percent of these unfavorable cases involved aircraft spare parts that would have been diverted to prohibited countries (i.e., China, Iran, and Iraq) that seek these spare parts to circumvent U.S. military embargoes enforced by DTC in order to increase the operational readiness of military aircraft in their inventories. The remaining unfavorable checks involved commodities such as electronics, communications equipment, and firearms.

Overall, the program in this past fiscal year reflects improved targeting of cases based upon a comprehensive approach in selection process. Multiple indicators (i.e., commodity, end-use country, prior transaction records of end user, intelligence/enforcement information, etc.) are currently critical to the selection of Blue Lantern end-use checks as the international gray arms market becomes increasingly sophisticated.

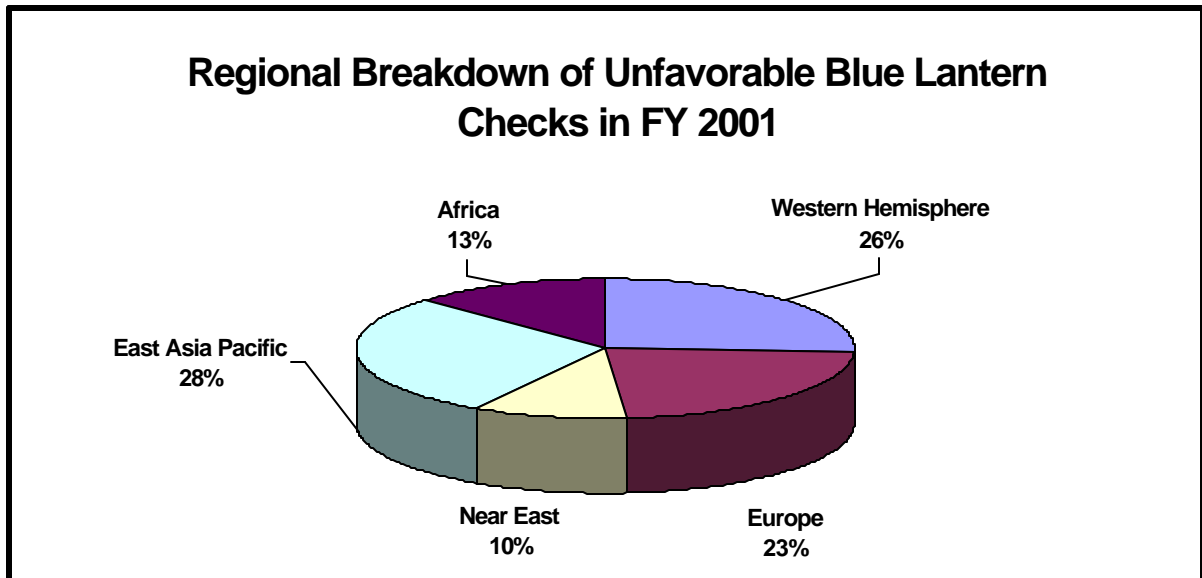
The following examples illustrate the effectiveness of the Blue Lantern Program in FY 2001:

- Possible misuse of warfare training technical data was thwarted when a Blue Lantern pre-license check found that the existence of the purported end-user in Asia could not be confirmed.
- Two companies were removed from a license for the export of technical data to a Middle Eastern country when a Blue Lantern post-license check discovered that these companies were not registered to conduct business in that country.
- Two licenses were denied involving the possible diversion of Chinook helicopter spare parts upon detection that the government of an Asian country had no procurement relationship with the intermediary listed on the license application.
- Diversion and misuse of sensitive communications equipment to an Eastern European country was exposed when a post-license check uncovered that the government of that country had never agreed to purchase the equipment and the individual who signed the non-transfer and use certificate was not a legitimately empowered official. (The case is under criminal investigation.)
- Diversion of explosives from a Latin American country was prevented when a Blue Lantern pre-license check determined that the commodity would be re-exported to an embargoed country.

A notable trend revealed by Blue Lantern checks over the past three years is the incidence of West European based intermediaries involved in suspicious transactions (Table 1). In FY 2001, 23 percent of unfavorable checks, mostly for the export of aircraft spare parts, involved possible transshipments through allied countries. In absolute terms, the number of unfavorable checks involving European based intermediaries increased.

Results of Blue Lantern inquiries indicate that some of the major operations for arms trafficking and companies in the gray arms market (i.e., illicit transactions whose initial stages are conducted through legitimate channels) are based in Asia, as well as Western Europe. In FY 2001, about 28 percent of the unfavorable checks involved intermediaries in Asia.

Table 1:



Sales to U.S. friends and allies, including members of NATO, who have legitimate requirements for many U.S.-origin spare parts and components, also offer the appearance of legitimacy to illicit transfers. Most rogue countries, international criminal organizations, and other entities involved in fueling conflicts in Africa and other regions of the world, depend directly upon the gray market for ready supplies of spare parts to maintain their aging inventories of U.S.-origin equipment. Foreign brokers who manipulate the international system by jumping from one country's jurisdiction to another are key players in facilitating these illicit transactions and making them difficult to detect. Because such intermediaries initially rely upon legitimate, legal channels to execute their deals, the Blue Lantern program has proven to be particularly useful in helping to prevent various gray arms transfers by uncovering bogus transactions and end-users.

Compliance/Enforcement: State-USCS Cooperation

State-U.S. Customs Service cooperation (USCS has the responsibility for investigating criminal violations of the AECA) also plays a vital role in tackling and inhibiting gray arms activity. In Fiscal Year 2001, cooperative programs between State and U.S. Customs facilitated more than 325 commercial arms seizures at U.S. ports of exit totaling more than \$13 million.

The Office of Defense Trade Controls has limited personnel (71 FTE) and resources (\$9 million budget) to perform its mission. Effective enforcement and compliance with U.S. regulations could not be possible without the existence of cooperation with U.S. Customs. As part of this cooperative effort that has as its goal the verification of licensed exports and the compliance of exporters, DTC electronically provides licensing data to all Customs Officers. This information allows for accurate, real-time monitoring by U.S. Customs officials of commercial arms moving in and out of the United States. Through the U.S. Customs Service's Operation Exodus, the Office of Defense Trade Controls also provides authoritative opinions, rulings, and advice on a daily basis to U.S. Customs concerning licensing and other regulatory requirements.