

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 US export regulations, supporting U.S. law enforcement agencies in criminal investigations and prosecutions, and finally, the end-use monitoring of licensed transactions.

DTC currently consists of 71 full-time State Department personnel and about 30 contract personnel who ensure proper licensing and contribute to end-use monitoring efforts. DTC's operational budget for FY 2002 amounted to approximately \$9.5 million.

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 in some instances DTC personnel to verify the destination and specific end-use and end-users of U.S. commercial defense exports and transfers.

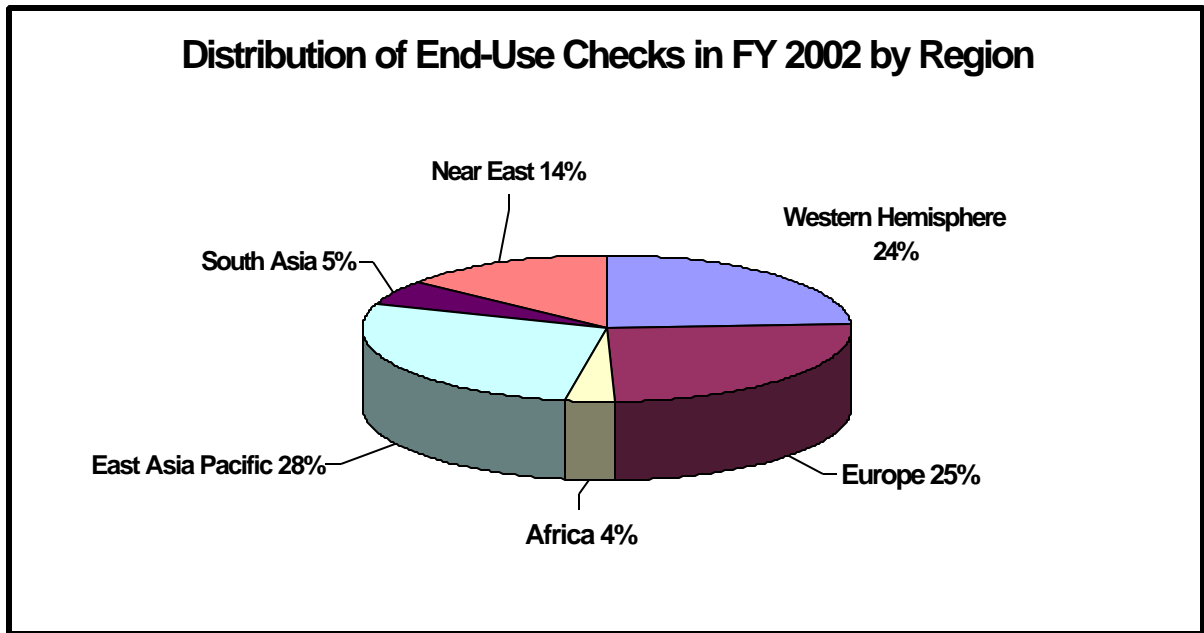
The verification of the destination and end-use of U.S. defense exports supports policy goals related to restraints placed on arms sales and facilitation of legitimate defense trade. These goals include:

- 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 technological advantages enjoyed by U.S. military forces and U.S. friends and allies over potential adversaries, and
- 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 2002

In FY 2002, DTC initiated 428 checks, exceeding last year's number of 410 checks. Blue Lantern checks performed in FY 2002 resulted in 50 unfavorable cases. A regional breakdown of the 428 checks performed follows in Table 1.

Table 1:



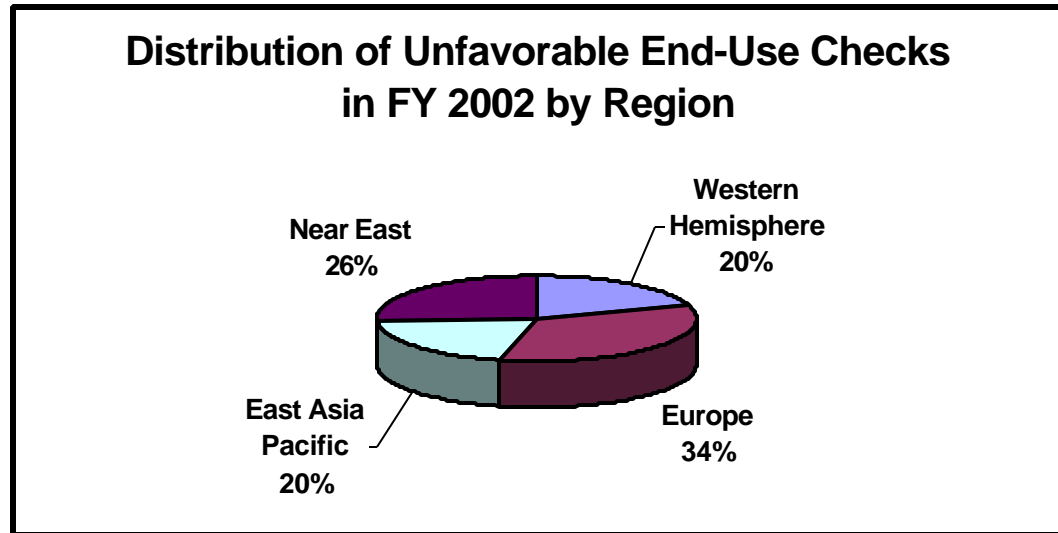
Analysis of Unfavorable Checks by Commodity:

In terms of the commodities involved in unfavorable determinations, the most prevalent are firearms and ammunition, which represented thirty-eight percent (19/50) of unfavorable cases. Twenty-four percent (12/50) involved the sale of electronics and communications equipment. Eighteen percent (9/50) of the unfavorable cases involved aircraft spare parts that were at risk of being diverted to prohibited countries (e.g. China, Iran, and Iraq). These prohibited countries actively seek these spare parts to circumvent U.S. military embargoes and to increase the operational readiness of military aircraft in their inventories. The remaining unfavorable checks involved commodities such as missiles spare parts, bombs, spare parts for tanks and military vehicles, and night vision equipment.

Analysis of Unfavorable Checks by Region:

As in previous years, the incidence of Western European-based intermediaries involved in suspicious transactions continues to be notable. In FY 2002, 26% of the 50 unfavorable checks, mostly for the export of aircraft spare parts, involved possible transshipments through allied countries. Possible transshipments through Europe as a whole accounted for 34% of the unfavorable checks (Table 2).

Table 2:



Generally, the unfavorable checks involving European companies tended to include aircraft spare parts as well as communications and electronics equipment. Unfavorable cases in Latin America involved commodities such as firearms, ammunition, and explosives. No discernable commodity trend was found in the unfavorable checks involving companies in Asia or the Near East.

Reasons for Unfavorable Checks in FY 2002:

In 34% of the unfavorable cases in FY 2002, the foreign entities involved in the proposed transactions were not legitimate entities or were otherwise found ineligible to receive the items in question. Similarly, in 22% of the unfavorable cases, the purported end-user did not order the items in question. In 8% of unfavorable cases, the foreign end-user could not adequately justify the purchase of what was deemed by DTC to be an excessive quantity of items requested.

- The following examples illustrate the effectiveness of the Blue Lantern Program in FY 2002:
- Possible diversion and misuse was precluded by a Blue Lantern pre-license check which found that the Central Asian company participating in a technical agreement was not a reliable recipient of US technical data and equipment.
- A Blue Lantern pre-license check conducted on a license for aircraft spare parts revealed that the Western European government end-user never had a contract with the intermediary listed on the license. The case is now the subject of bilateral negotiations with this country in order to shut down the operations of the intermediary.
- A pre-license check conducted on the export of aircraft spare parts to a Middle Eastern country discovered that the government end-user did not have a contract with the European intermediary involved in the transaction. The case is now the subject of a U.S. Customs investigation.

- A pre-license check conducted on the export of an excessive amount of propellants to a Latin American country revealed that the quantity of the order could not be justified by the end-user. The quantity approved was therefore reduced by a significant amount.
- A license for a significant amount of firearms was not issued due to information retrieved through a Blue Lantern pre-license check, which revealed that the company in Asia was re-exporting US –origin firearms to other countries without authorization from the Department.
- A post-shipment check for export of helicopter parts to a European country revealed that not all of the parts went to the end-user listed on the license, but to another company not authorized on the license. The case is currently under investigation.
- A pre-license check on the proposed export of M16 parts to an Asian country indicated that the company involved was not authorized to import such items. As a result, the license was not issued.

End-Use Monitoring and Outreach

The profile of the Blue Lantern Program has been enhanced by DTC’s outreach efforts to US embassies, US exporters, and foreign governments. In FY 2002 DTC officers presented Blue Lantern briefings at various embassies in Europe in order to provide additional guidance to posts on the implementation and conduct of end-use checks. Briefings were also given to relevant host government officials to make them aware of the goals and purpose of the program as well as to facilitate its implementation abroad. Furthermore, DTC officers also attended conferences in the US and abroad in order to increase understanding of the program by foreign governments and US exporters and to emphasize the utility of end-use monitoring in fighting the gray arms trade. DTC plans to continue these outreach efforts in the future.

Compliance/Enforcement: State-U.S. Customs Service (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 2002, cooperative programs between State and USCS facilitated more than 662 commercial arms seizures at U.S. ports of exit totaling more than \$65 million, a significant increase from the 325 seizures reported in FY 2001.

Effective enforcement and compliance with U.S. regulations could not be possible without the existence of cooperation between USCS and the Office of Defense Trade Controls. 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 USCS officials of commercial arms moving in and out of the United States. Through the U.S. Customs Service’s Operation Exodus, DTC also provides authoritative opinions, rulings, and advice on a daily basis to USCS concerning licensing and other regulatory requirements.