

End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2013

This report summarizes the Department of State's administration of its Blue Lantern end-use monitoring program in FY 2013. The program is operated in fulfillment of section 40A of the Arms Export Control Act (AECA) (22 U.S.C. 2785), as amended. It monitors the end-use of defense articles, defense services, and brokering activities exported through commercial channels and subject to Department of State licenses or other approvals under section 38 of the AECA and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), which implement the AECA. The Blue Lantern program is managed by the Research & Analysis Division (RAD), Office of Defense Trade Controls Compliance (DTCC), Bureau of Political-Military Affairs (PM). The program has existed since 1990.¹

Blue Lantern end-use monitoring entails pre-license, post-license, or post-shipment inquiries or checks undertaken to verify the *bona fides* of proposed foreign consignees and end-users, to confirm the legitimacy of proposed transactions, and to provide "reasonable assurance that –

- i) the recipient is complying with the requirements imposed by the U.S. government with respect to use, transfers, and security of defense articles and defense services; and
- ii) such articles and services are being used for the purposes for which they are provided.”²

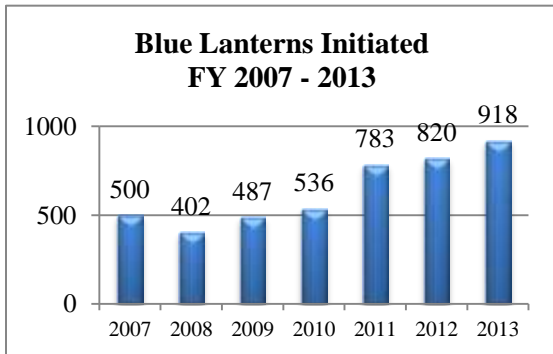
PM/DDTC currently has a full-time complement of approximately 70 State Department personnel, which is supplemented by 8 active-duty military officers, approximately 65 contract personnel, a Department of Homeland Security Investigations Special Agent, and a Federal Bureau of Investigations Special Agent. In FY 2013, PM/DDTC had a diplomatic and consular programs budget of approximately \$1.5 million and received approximately \$41 million in registration fees. Five State Department employees and one contractor currently manage the Blue Lantern program in RAD, among other duties. End-use checks are conducted by U.S. embassy personnel. RAD staff also travels to meet with embassy personnel, host government officials, and local businesses engaged in defense trade of U.S. ITAR-controlled items. These visits are designed to educate parties about

¹ Section 40A(c) of the AECA, as amended, requires the submission to the Congress of a report describing actions taken to implement the end-use monitoring of defense articles and defense services exported abroad, including an account of the costs and number of personnel associated with the monitoring program, known as "Blue Lantern."

² See section 40A(a)(2) of the AECA, 22 U.S.C. 2785(a)(2).

the Blue Lantern program and U.S. defense trade controls and policy, and to elicit cooperation with U.S. end-use monitoring. In FY 2013, RAD conducted outreach visits to India, Pakistan, Mexico, Peru, Chile, Norway, Sweden, and Paraguay. All countries, except Mexico and Chile, were first-time destinations for RAD outreach visits.

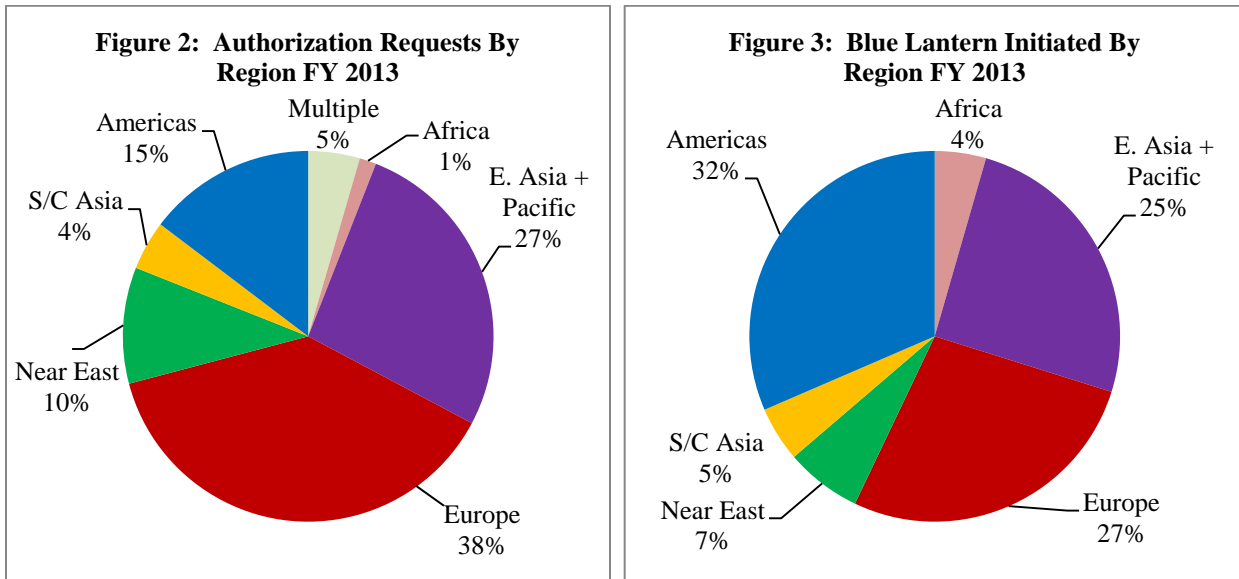
Blue Lantern End-Use Inquiries Initiated in FY 2013



In FY 2013, DTCC/RAD initiated 918 Blue Lantern checks (Figure 1). These checks were conducted in 93 countries. The Department adjudicated approximately 83,000 license applications and other license application requests. Figures 2 and 3 illustrate the regional distribution of license application requests and Blue Lantern inquiries, respectively. For

statistical purposes, DTCC/RAD attributes a Blue Lantern check to the country of the end-user listed on the license application request. Blue Lantern inquiries, however, may be initiated on or determined to be “unfavorable” due to foreign intermediaries in third countries.

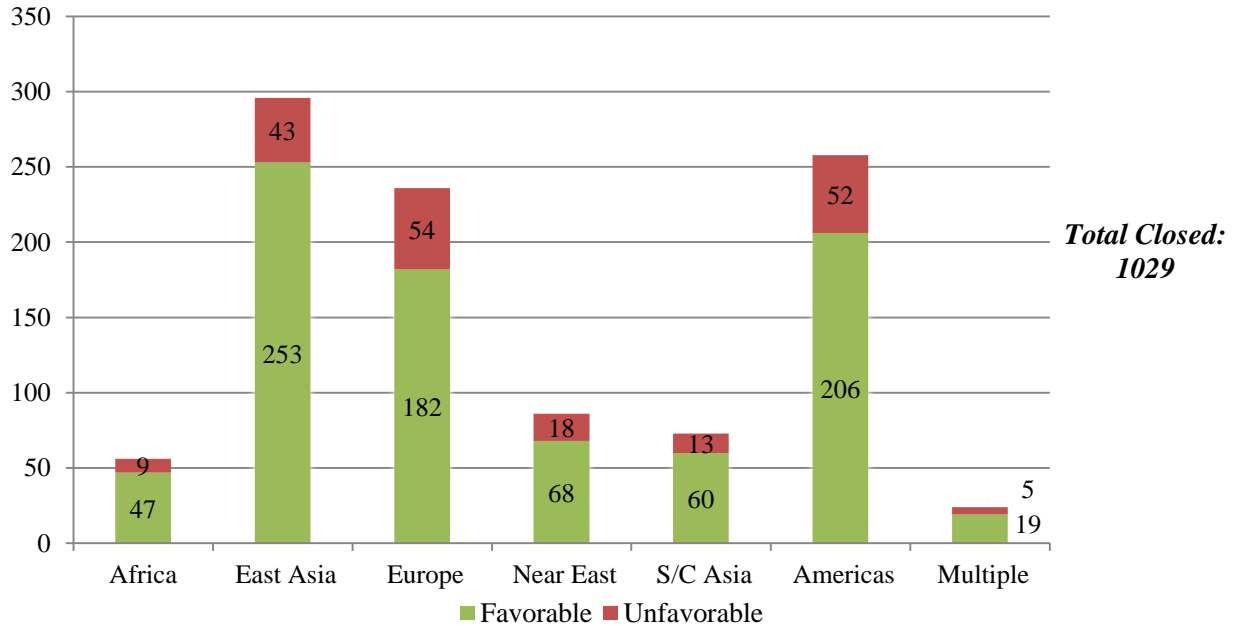
Figures 2 and 3 illustrate that the ratio of Blue Lantern checks to license application requests was relatively low in European countries with long-established U.S. defense trade relationships. The highest ratio of Blue Lantern inquiries to license application requests was in Africa and the Americas because of concerns over unfamiliar foreign parties and the effect on regional security and stability of firearms and ammunition exports. For most of the rest of the world, checks were proportionate with license application requests. This pattern has been consistent for several years.



Blue Lantern End-Use Inquiries Closed in FY 2013

Figure 4 illustrates the number of Blue Lantern cases closed, broken down by region. In FY 2013, DTCC closed 1,029 Blue Lantern cases, over 300 more than the previous fiscal year. Of the cases closed, 194 (19 percent) were determined to be “unfavorable,” meaning the findings of fact were not consistent with information in the license application request. Blue Lantern checks are not conducted randomly but rather are selected based on several risk factors, including unfamiliar foreign parties, sensitive technology, or unusual shipping routes. Because of this risk-based selection process, transactions targeted for Blue Lantern checks are more likely to result in unfavorable findings than a random sampling of license application requests.

Figure 4: FY 2013 Blue Lanterns Closed By Region



Unfavorable Blue Lantern cases may result in the return or denial of a license application, removal of a party, revocation of a license, update to the DTCC Watch List, or referral to DTCC’s Enforcement Division (END) for appropriate action. In FY 2013, pre-license checks led DTCC to recommend the denial of 31 license application requests and the return-without-action of 29. Post-shipment checks led DTCC to recommend the revocation of seven licenses. In FY 2013, RAD referred nine unfavorable Blue Lanterns to END, which in turn directed companies to disclose information related to suspected ITAR violations. DTCC referred five unfavorable Blue Lanterns to U.S. law enforcement agencies, which are using the information to support ongoing criminal investigations.

In FY 2013, Europe and the Near East had the highest rate of unfavorable checks, 23 percent and 21 percent, respectively. Europe traditionally has had the lowest unfavorable rate, but several cases, especially in Russia, have caused an uptick in this year’s numbers. There were also several unfavorable cases involving commercial foreign consignees in Spain. The Near East’s unfavorable rate increased by seven percent compared with the previous year. The East Asia and Pacific region had the lowest unfavorable rate at 14.5 percent.

Figure 5 provides a breakdown of unfavorable Blue Lantern checks by region and commodity. In East Asia, the majority of unfavorable Blue Lanterns involved military electronics and aircraft parts. In the Americas, the combination of

firearms, ammunition, and armor was the leading category of unfavorable checks. Firearms and ammunition represent a significantly high proportion of defense articles authorized for export to Latin America. In Europe, unfavorable checks involved a broader array of commodities, including aircraft, spacecraft systems, night vision, and electronics/communications.

**Figure 5: FY 2013 Unfavorable Blue Lanterns:
Commodity Types by Region**

	Africa	Europe	Americas	Near East	S/C Asia	East Asia
Aircraft	5	13	7	4	1	10
Night Vision / Fire Control Systems	--	10	5	4	9	6
Electronics / Communications	--	7	--	--	1	14
Multiple	--	--	2	1	1	--
Explosives, Rockets, Propellants	--	1	--	2	--	4
Firearms, Ammo, and Armor	3	2	33	2	--	5
Spacecraft Systems	--	11	--	1	--	1
Miscellaneous Articles	2	6	1	1	--	1
Naval and Ground Vehicles	--	4	4	3	--	--
Training Equipment	--	--	--	--	--	2

Reasons for Unfavorable Checks in FY 2013

The reasons for unfavorable Blue Lantern findings in FY 2013 are illustrated in Figure 6. While the unfavorable findings of most Blue Lantern cases fall into a single category, some fall into more than one.

The leading cause of an unfavorable finding in FY 2013 was *derogatory information / foreign party deemed unreliable* (70 cases), which was an increase of 30 cases from FY 2012 (40 cases). This broad category includes criminal records, derogatory information from various sources, and concerns regarding a company's *bona fides*. For example, a post-license/pre-shipment check involving firearms to the Philippines revealed that the foreign consignee never received a purchase order from the end-user. DTCC assessed that this shipment would likely have been diverted.

A second example involved a Hong Kong foreign consignee that attempted to broker and procure aircraft for a Malaysian end-user; Consulate Hong Kong determined that the foreign consignee did not have a physical presence in Hong Kong.

Derogatory information/ foreign party deemed unreliable recipient of USML	70
Indications of diversion or unauthorized retransfer or re-export	47
Refusal to cooperate	38
Unable to confirm order or receipt of goods by end-user	25
Foreign party involved in transaction but not listed on license/ application	21
Violations of license terms	4
Unauthorized brokering	3
Lack of secure storage facilities	2
Inability to confirm existence of a foreign party	1

Figure 6: Reasons for Unfavorable Results and Number of Instances Based on Licenses (FY 2013)

The other leading categories for unfavorable determinations in FY 2013 were generally similar to those seen in previous years. Checks continued to reveal the involvement of unauthorized foreign parties (21 instances this year compared to 28 in FY 2012). While in some cases including unauthorized parties appeared to have been an administrative oversight, identifying all involved parties is a critical element in maintaining a secure chain of custody from U.S. exporter to foreign end-user. Lack of transparency on involved parties increases the risk of diversion to unauthorized end-users and end-uses.

DTCC saw a significant increase in the number of *indications of diversion or unauthorized retransfer or re-export* (36 more than FY 2012). In several post-shipment inquiries in North America, foreign consignees sold defense articles to private entities rather than the law enforcement agencies authorized under the terms of licenses. DTCC placed the involved foreign consignees on the Watch List and prevented them from obtaining future licenses. Two separate pre-license inquiries in East Asia and Europe revealed that university students from a proscribed country would have had access to ITAR-controlled technical data and hardware. DTCC denied these licenses and prevented the unauthorized foreign persons from access.

The number of Blue Lanterns closed unfavorable due to *refusal to cooperate* decreased from the previous year (49 to 38 instances). In FY 2012, 30 of the 49 *refusals to cooperate* involved a single entity; thus, in FY 2013, more foreign entities refused to cooperate with checks compared with FY 2012. Unlike the previous year, three instances of unfavorable results resulted from *unauthorized brokering* and four unfavorable checks are attributable to *violation of license*

terms. In FY 2013, in an effort to complete inquiries in a more timely fashion, RAD closed checks as unfavorable if foreign parties did not respond to repeated requests for verification of end-use inquiries.