

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 Directorate of Defense Trade Controls, in the Bureau of Political-Military Affairs (PM/DDTC), Department of State, is responsible for administering the International Traffic in Arms Regulations (ITAR) that implement the AECA. DDTC's functions include registration of manufacturers, brokers, and exporters, licensing of commercial defense trade, overseeing compliance with U.S. export regulations, supporting U.S. law enforcement agencies in criminal investigations and prosecutions of AECA violations, as well as the end-use monitoring of licensed transactions. End-use monitoring entails pre license or post shipment checks on any party or other aspect of a defense trade transaction in order to verify its bona fides.

DDTC is currently authorized a full-time complement of 73 State Department personnel, which is supplemented by eight detailed military officers and more than 30 contract personnel who ensure proper licensing and contribute to end-use monitoring efforts. DDTC's operational budget for FY 2003 amounted to approximately \$10.6 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). U.S. mission personnel or in some instances DDTC personnel conduct Blue Lantern end-use checks abroad to verify the specific end-use and end-user of commercial defense exports and transfers controlled under the AECA.

The verification of parties to and end-use of 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 national security interests of the U.S. 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 our friends and allies over potential adversaries, and
- encouraging foreign government support for U.S. principles, laws, regulations, and practices concerning the responsible sale, retransfer, and end-use of defense equipment and services.

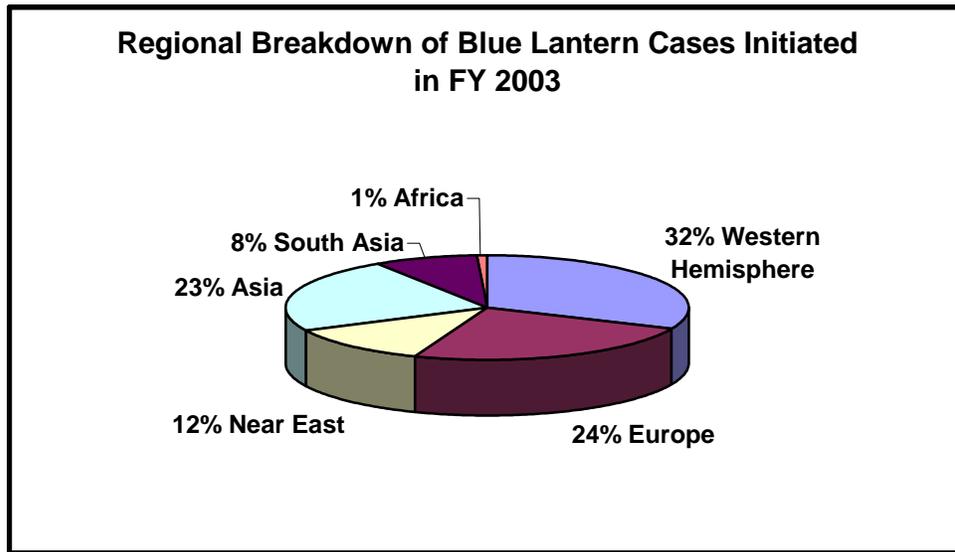
Although most commercial defense trade is legitimate, a small percentage of cases can fall prey to gray arms manipulations. The goal of the Blue Lantern program is to prevent gray arms

networks from relying on our export control process to obtain military items and technologies. The roughly 400 Blue Lantern checks conducted each year are the result of a targeted selection process to efficiently identify transactions that are most vulnerable to this type of diversion or misuse. License candidates for pre or post checks undergo review by Licensing and Compliance officers, who compare the facts of the case with specified, time-tested criteria to determine a transaction's suitability for a Blue Lantern check. Since DDTC reviews over 50,000 transactions annually, the knowledge and trend analysis derived from the 400 checks is used by DDTC to better assess the national security concerns associated with the export of specific defense articles controlled by the U.S. Munitions List.¹

Results of End-Use Checks in FY 2003

In FY 2003, DDTC initiated 413 checks, consistent with the average of 400 checks annually. Blue Lantern checks performed in FY 2003 resulted in 76 unfavorable cases, which is the highest number of unfavorable checks in the history of the Blue Lantern program. A regional breakdown of the 413 checks performed in 2003 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 together represented 49 percent (37/76) of unfavorable cases. Although the number of checks on firearms licenses also increased during FY 2003 (due to concerns over the proliferation of small arms and light weapons), these checks uncovered an unusually high number of firearms retailers that were either involved in criminal activity, diversion of firearms to unauthorized end-use, or were otherwise unreliable recipients of firearms. The percentage of unfavorable checks involving aircraft spare parts at risk of diversion to prohibited countries such as China and Iran (who actively seek spare parts to circumvent U.S. embargoes and to increase the operational readiness of military aircraft in their inventories), jumped from 18 percent in 2002 to 24 percent (18/76) in 2003. The increase in the percentage of

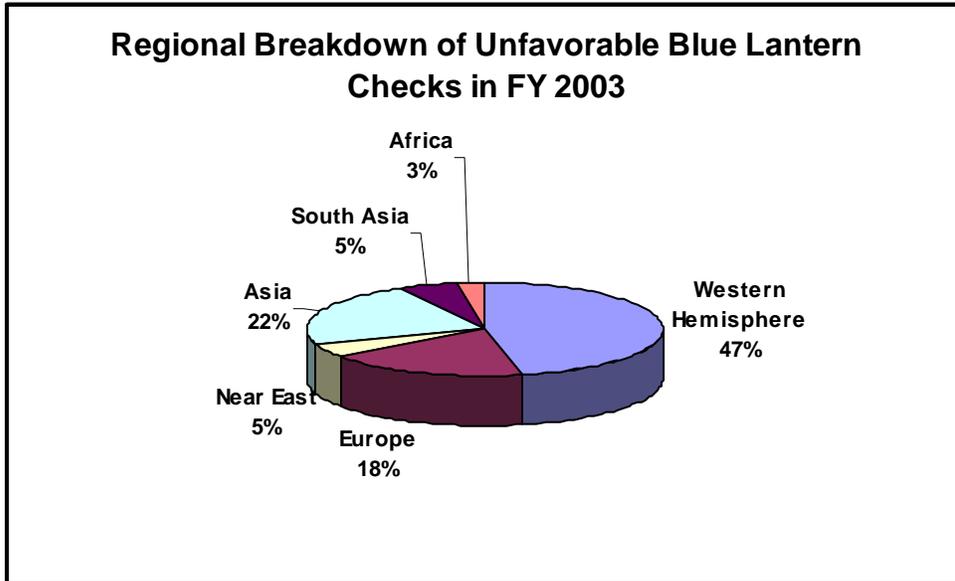
¹ Due to the targeted approach of the Blue Lantern Program, caution must be used when using this data for statistical purposes.

unfavorable checks involving aircraft spare parts is also noteworthy because, unlike checks on firearms and ammunition, which increased significantly in 2003, the number of checks conducted on aircraft spare parts decreased in 2003. The next category, electronics and communications equipment, captured seventeen percent (13/76) of the unfavorable cases. The remaining unfavorable checks involved commodities such as missile spare parts, military training equipment, and night vision equipment.

Analysis of Unfavorable Checks by Region:

In FY 2003, countries in Latin America, Canada, and the Caribbean (Western Hemisphere) comprised 47 percent of the unfavorable checks. However, this high proportion may be attributed to the greater number of checks conducted in this region in FY 2003. The region of Asia, in which 97 checks were conducted, continues to generate a high proportion of unfavorable cases (22 percent).

Table 2:



Generally, the unfavorable cases in the Western Hemisphere region involved commodities such as firearms, ammunition, and explosives. Asia’s unfavorable cases revealed aircraft and helicopter spare parts, as well as electronics and communications equipment, to be in high demand.

Reasons for Unfavorable Checks in FY 2003:

In 31 percent of unfavorable cases in 2003, the foreign entities involved in the proposed transactions were not legitimate entities or were otherwise found ineligible to receive the items requested. Twenty-seven percent of the unfavorable cases revealed an unauthorized end-use or possible diversion of subject items. In 12 percent of the unfavorable cases, the purported end-user did not order the items that were the subject of the inquiry. In 8 percent of unfavorable cases, the foreign end-user could not adequately justify the purchase of what was established by DDTC to be an excessive quantity of items requested. Also in 8 percent of the unfavorable cases, the foreign company was not found or the responsible officers did not cooperate with the inquiry.

The following examples illustrate the effectiveness of the Blue Lantern Program in FY 2003:

- A pre-license check conducted on helicopter spare parts to an Asian country via a European intermediary discovered that the parts were in fact destined for an embargoed country. Case is under investigation by the Compliance and Enforcement Division.
- Possible diversion and misuse of electronics and communications equipment was precluded by a Blue Lantern pre-license check, which found that the Asian end-user did not have a relationship with the intermediary who ordered the parts. The intermediary then admitted that the equipment was intended for its own research. The license was denied.
- A post-shipment check for helicopter parts to a European government revealed that the government had returned the parts to the intermediary because it was not satisfied with them. When embassy attempted to contact the intermediary, the company could not be found. The results were reported to our Compliance and Enforcement Division for appropriate action.
- A license for helicopter spare parts destined for an Asian country was not issued when the intermediary to the transaction did not respond to embassy inquiries. The company appeared to be operated by one man who visited the office about twice a week.
- A pre-license check conducted on firearms and ammunition to a retailer in Central America revealed that the owner of the company had been involved in criminal activity. The license application was denied.
- A license request for pistols and revolvers to a Caribbean country was not issued because the Blue Lantern pre check found that the end-user company who had purportedly ordered the firearms could not be located.

End-Use Monitoring and Outreach

The profile of the Blue Lantern Program has been enhanced by DDTC's outreach efforts to US embassies, US exporters, and foreign governments. In FY 2003, DDTC officers presented Blue Lantern briefings at various US embassies throughout Asia and Central America to provide additional guidance to posts on the implementation 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. DDTC's visit to several countries in Central America directly addressed concerns over the proliferation of small arms in those countries. Furthermore, DDTC 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. DDTC plans to continue outreach efforts in the future.

Compliance/Enforcement: State-ICE Cooperation

Cooperation between State and Immigration and Customs Enforcement at the Department of Homeland Security (DHS/ICE 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 2003, cooperative programs between State and ICE facilitated more than 665 commercial arms seizures

at U.S. ports of exit totaling almost \$106 million, a significant increase from the \$65 million reported in FY 2002.

Effective enforcement and compliance with U.S. regulations could not be possible without the existence of cooperation between DHS/ICE and the Directorate 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, DDTC electronically provides licensing data to all ICE Officers. This information allows for accurate, real-time monitoring by ICE officials of commercial arms moving in and out of the United States. Through ICE's Operation Exodus, DDTC also provides authoritative opinions, rulings, and advice on a daily basis to ICE concerning licensing and other regulatory requirements.