

End-Use Monitoring of Defense Articles and Services Government-to-Government Services

Introduction

In 1996, Congress amended [Public Law 104-164] Section 40A [22 U.S.C. 2785] of the Arms Export Control Act to require "...to the extent practicable, such program shall be designed to provide reasonable assurances that the recipient is complying with the requirements imposed by the United States Government with respect to the use, transfers, and security of defense articles and monitoring of U.S. arms transfers, and security of defense articles and services." Section 40A also requires an annual report to Congress on the actions taken to implement the end-use monitoring program, to include detailed accounting of costs and number of personnel associated with the monitoring program. This report describes the actions the Department of Defense is taking to comply with its end-use monitoring requirements in accordance with the Arms Export Control Act (AECA).

Department of Defense (DoD) End-Use Monitoring (EUM) - Golden Sentry

The Department of Defense Golden Sentry program is responsible for compliance with Section 40A of the AECA. Golden Sentry monitors government-to-government transfers to ensure that the defense articles and services get to the right purchasers and that defense articles and services provided by the United States Government (USG) are utilized and safeguarded in accordance with the terms and conditions for the transfers. Primarily, Golden Sentry's objectives are to minimize security risks to the U.S., its friends and allies, and to ensure compliance with the technology control requirements that are associated with U.S.-origin arms transfers via government-to-government programs.

EUM compliance of the AECA within DoD is a multi-phased process:

DoD Processes *Prior* to Any Transfer- Pre-checks and Vetting

There is no more thorough debate during a sensitive arms transfer than that which takes place within the Department of Defense and at State Department before we come to consensus in support of a sensitive arms transfer. In view of the serious consequences of the proliferation of dangerous weapons and technologies, we believe by 'front-loading' this array of processes and procedures we mitigate these risks.

Each proposed transfer is thoroughly vetted by many different organizations and offices to ensure releasability, disclosure, and other concerns are addressed. The most important restrictions placed on these exports, indeed the fundamental elements of the U.S. export control regime involve establishing the trustworthiness of the end-user and the actual "end-use" *before* approval of any defense article's transfer. Foreign customers' requests for significant military equipment are coordinated closely with the combatant commanders and the U.S. country team. The U.S. country team must assess several aspects of the transfer to include political impacts in the region as well as the ability of the host nation and the security assistance organization in country to properly perform their end-use monitoring responsibilities. The endorsement of the combatant commander and consistency with Theater Security Cooperation strategy and implementation plans are critical. During this "pre-sale" process, determinations are made as to whether a country has the will and the capability to secure, account for, and operate these systems within the requirements established by the United States. For some systems, approval must be obtained from the National Disclosure Policy Committee for release to each specific country. Finally, formal Congressional Notification is required prior to any offer being made and these notifications clearly identify the customer and the capability being proposed for transfer and provide an opportunity for further discussion or rejection of a proposed transfer.

DoD Processes *During* Transfer- Government-to-Government Agreements

When materiel, services, or training are provided under Foreign Military Sales, there is a government-to-government agreement (known in our terminology as a Letter of Offer and Acceptance or “LOA”) between the United States and the foreign government or international organization. This agreement spells out the type and quantities of items to be sold, as well as any unique end-use monitoring requirements that might be necessary based on the complexity or sensitivity of the actual equipment or technologies being provided. These notes or LOA conditions may require the country to secure, account for, and operate the systems in accordance with provisos that equal the requirements of the U.S. Military Departments. The conditions of the LOA may also inform the country that the USG may travel in country to physically inventory or otherwise monitor the use of specific types of equipment---either as part of routine visits or to verify reports of unauthorized use---and by signing the document they agree to these conditions. While we must be sensitive to issues of sovereignty with our foreign friends and allies, they must understand that our law mandates the need for the USG to monitor and ensure compliance with the provided articles and services. DSCA processed approximately 3,762 LOAs in FY05 for a total value of \$10.6B.

DoD Processes *After* Transfer - End-Use Monitoring and Compliance

The purpose of the “Golden Sentry” program is to scrutinize the foreign purchaser’s use of defense articles and services (to include training) to ensure their use is in compliance with the agreements under which they were provided. The “Golden Sentry” program is relatively new program. Implemented in 2001, we are still in the process of implementing procedures throughout the security assistance/cooperation community. The program levies monitoring and compliance requirements not only on the host nation, but also on our security assistance organizations as well as our military departments. It also provides for compliance visits where EUM “Tiger Teams” travel to countries to ensure proper end-use and accountability procedures are being used by our foreign partners and security assistance personnel.

DSCA’s priority is the Enhanced EUM program that monitors: man portable air defense systems (MANPADS), such as Stinger Missiles and grip stocks; long range, highly capable man portable land attack missiles (such as JAVELIN and Tube-Launched, Optically-Tracked, Wire-Guided missile (TOW-2B)); and beyond visual range air-to-air missiles (such as the AIM-120 AMRAAM). Other items on the Enhanced EUM list include Night Vision Devices, Communications Security (COMSEC) Equipment, and Grant Assistance defense articles and services provided under the provision of Section 505 of the FAA, e.g., Military Assistance Program (MAP), Foreign Military Financing, et al. Additional Enhanced EUM items that were added in 2004 were the AIM-9X Sidewinder, the Harpoon Block II missiles and the entire family of precision guided munitions, i.e., the Joint Stand-Off Weapon (JSOW) and the Joint Direct Attack Munitions (JDAM). During recent EUM “Tiger Team” visits, DSCA have also assessed and inventoried the AGM-84 Harpoon and AGM-114 Hellfire missiles.

EUM Guidance

DSCA has published four policy memoranda to promulgate clearly the direction of the EUM Golden Sentry program; and the first four policy memoranda are incorporated into the Security Assistance Management Manual (SAMM). .

1. The first memorandum published was “End-Use Monitoring (EUM) Responsibilities in Support of the Department of Defense Golden Sentry EUM Program (DSCA Policy Memo 02-43),” dated 4 December 2002. This policy delineated the responsibilities of the security assistance/cooperation community in support of the Golden Sentry program.
2. The second policy memorandum was titled “Revised Guidance for Stinger/Man Portable Air

Defense Systems (MANPADS) (DSCA Policy Memo 03-10),” dated 4 June 2003. This memorandum increased the U.S. inventory requirement by the security assistance organizations from 5% to 100% annually of foreign Stinger missiles, grip stocks and essential components.

3. A third policy memorandum is titled “Golden Sentry End-Use Monitoring (EUM) Visits Policy (DSCA Policy memo 04-11) dated 2 April 2004. This memorandum provides defined guidance for the conduct of three types of EUM visits: Familiarization, Tiger Team and Investigative.
4. The fourth policy memorandum was titled Golden Sentry End-Use Monitoring (EUM) STINGER Missile and Grip stock Inventory Standardized Procedures (DSCA Policy Memo 05-10) dated 29 March 2005. This policy promulgates a more refined procedure for Stinger Missile and grip stock inspection requirements. Additionally, it mandates all USG representatives adhere to the standards within the checklist in the conduct of Stinger missiles and grip stock inventories.

Two additional policy memoranda are currently in staffing.

5. The fifth policy memorandum currently in staffing is titled End-Use Monitoring (EUM) Policy Guidance for Funding (DSCA Policy Memorandum 05-XX). Since resources are currently managed at HQ DSCA for unfunded EUM requirements, this policy will disseminate to the Security Assistance Community the proper procedures for obtaining resources for Program Element 27 (PE#27 EUM). PE#27 accounts for the resources needed to implement the Department of Defense’s Golden Sentry EUM program throughout the security cooperation community).
6. The sixth policy memorandum also in staffing is titled End-Use Monitoring (EUM) Policy Guidance for Shipment/Delivery/Inventory Reporting (DSCA Policy Memorandum 05-XX). This memorandum fulfills the requirement, IAW Section 40A of AECA, to report to Congress on the actions taken to implement the end-use monitoring program to include detailed accounting of costs via a Manpower/Resource utilization report.

In 2006, DSCA will refine its guidance for implementation of DoD responsibilities in support of the Golden Sentry End-Use Monitoring program by publishing the two latter policy memorandums currently in staffing. Once staffing is completed, policy guidance that addresses how the EUM community shall budget funding for new Enhanced EUM requirements, and end of year data reporting formats to more accurately meet future congressional reporting requirements for the Congressional Budget Justification will be promulgated.

Security Assistance Organization (SAO) EUM Workload Surveys: EUM activity was added to the annual SAO tasking as a separate workload measure in 2003. A detailed explanation was developed to clarify which tasks performed by SAOs should be included in the EUM category, thereby capturing the resource expenditures associated with the performance of “Routine” and “Enhanced” EUM by the SAO.

EUM Workload Survey:

Actual for FY05

(\$ in thousands)

	EUM WORKLOAD SURVEY	TOTAL SAO FUNDING
CENTCOM	250.2	16,027.3
EUCOM	898.5	23,043.3
NORTHCOM	12.6	741.9
PACOM	430	8,477.3
SOUTHCOM	776.9	9,675.6
AIT	121.5	2,537.0
TOTAL	2489.7	60,502.4

Estimated for FY06

(\$ in thousands)

	EUM WORKLOAD SURVEY	TOTAL SAO FUNDING
CENTCOM	300.7	15,032.7
EUCOM	921.1	22,479.1
NORTHCOM	12.9	736.9
PACOM	431.7	8,875.7
SOUTHCOM	803.8	9,288.0
AIT	163.6	3,415.0
TOTAL	2633.8	59,827.4

Projected for FY07

(\$ in thousands)

	PROJECTED EUM WORKLOAD SURVEY	TOTAL SAO FUNDING
CENTCOM	304.4	15,217.5
EUCOM	943.1	23,028
NORTHCOM	14.5	3479.0
PACOM	394.5	9,859
SOUTHCOM	850.6	9,451
AIT	166.6	3,200.0
TOTAL	2673.7	64,234.5

The Way Ahead

Resources: For FY06, DSCA has budgeted and manages the \$1.4M for Enhanced EUM at its headquarters. In addition to the Program Manager hired in 2002, DSCA added four full-time civilian employees, one each in FY04, FY05 and FY06. Additionally, funding was provided for three additional contractors to expedite full deployment of the Security Cooperation Information Portal (SCIP) EUM Automation Support, e.g. SCIP SAO Toolbox/EUM.

EUM Automation Support: Begun in FY04, in 2005 DSCA increased funding for the completion of the SCIP SAO Toolbox/EUM. SCIP SAO Toolbox/EUM is an automation tool that incorporates end-use monitoring functions for the entire security assistance/cooperation community. The implementing agencies, the combatant commanders, the SAO and host nations are now able to input and read in a real-time secure” compartmentalized” environment their Enhanced EUM programs via the web. The EUM function also notifies users when: items are shipped, items are received, inventories are delinquent, inventories are performed, and provide a variety of other standard reports. The EUM application also allows authorized users to establish, update, dispose, delete and perform transfers of the Enhanced EUM items. DSCA will complete full deployment of the SCIP SAO Toolbox/EUM in 2006.

EUM Tiger Team visits: A cornerstone of the Golden Sentry EUM program is the Tiger Team visits. EUM Tiger Team visits: 1) to assess USG representatives and host nations’ compliance with transfer provisos and other conditions of sales, and/or 2) visits to follow-up potential violations of the AECA, FAA, or other transfer agreements, e.g., compliance visits. The visit objectives are to:

1. Assess a specific country team or regional command’s overall EUM compliance program.
2. Assess a country’s compliance with specific physical security and accountability agreements through facility visits, records review, and review of local security policies and procedures.
3. Conduct routine or special inventories of U.S.-origin defense articles and/or services.
4. Appraise possible violations of the AECA, FAA, and/or other transfer instruments, e.g., Bi/Multi-Lateral Memoranda of Agreement or Understanding and other Implementing Agreements.

Three EUM Tiger Team assessment visits were conducted in FY2005, one each to: CENTCOM, EUCOM and PACOM.

DSCA and the Defense Threat Reduction Agency (DTRA) On-Site Inspection Directorate Partnership: In 2004, DSCA and DTRA established a joint long-term support relationship, which will improve the DoD End-Use Monitoring program. DSCA will maintain overall operational authority and management responsibility for DoD’s EUM program. DTRA will assist DSCA with supplemental manpower support in the conduct of Enhanced EUM missions worldwide to the degree possible with its ongoing missions.

Outreach Programs: Golden Sentry continues its outreach program via attendance at conferences hosted by the Combatant Commands, hosting EUM “worldwide” and Regional AOR meetings, engaging in bi-lateral and other stakeholders’ meetings in various venues worldwide. This outreach has tremendously contributed to a greater understanding of the “Golden Sentry” program, thereby strengthening awareness of U.S. export controls. Additionally, outreach has proven to be a useful instrument in support of broader U.S. policy goals related to being a responsible arms provider.

Conclusion:

We recognize that more EUM work is yet to be done. However, you can see that there have been many achievements. The momentum is positive and the EUM Golden Sentry program direction is headed in the right direction. We look forward to further accomplishments in FY07.

End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2005

This report describes actions taken by the Department of State during the past fiscal year to implement the “Blue Lantern” end-use monitoring program. The Blue Lantern program is established under Section 40A of the Arms Export Control Act (AECA) to monitor the end-use of commercially exported 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. The Blue Lantern program is managed within PM/DDTC by the Office of Defense Trade Controls Compliance’s (DTCC) Research and Analysis Division (RAD). Blue Lantern end-use monitoring entails pre-license or post-shipment checks undertaken to verify the legitimacy of a transaction and to provide “reasonable assurance that –

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

DDTC is currently authorized a full-time complement of 76 State Department personnel, which is supplemented by 8 military officers, about 40 contract personnel, and a DHS/Immigration and Customs Enforcement Special Agent working on defense trade licensing and compliance (including end-use monitoring) efforts. DDTC’s operational budget for FY 2005, in addition to American salaries, was approximately \$8.7 million.

Overseas Monitoring: The Blue Lantern Program

Initiated in September 1990 and written into law under Section 40A of the AECA in 1996 as the USG’s first systematic end-use monitoring program, the Blue Lantern program has strengthened the effectiveness of U.S. export controls and has proven to be a useful instrument in: 1) deterring diversions to unauthorized end-users, 2) aiding the disruption of illicit supply networks used by governments under U.S. or international restrictions and sanctions and international criminal organizations, and 3) helping the Department to make informed licensing decisions and to ensure 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 combating the global “gray arms” trade. “Gray arms” refers to the use of fraudulent export documentation to acquire defense articles through legitimate channels for re-transfer to unauthorized end-users. U.S. embassy personnel, or, in some instances, DDTC personnel, conduct Blue Lantern end-use checks overseas to verify the *bona fides* of unfamiliar foreign companies, to ensure delivery of licensed United States Munitions List (USML)

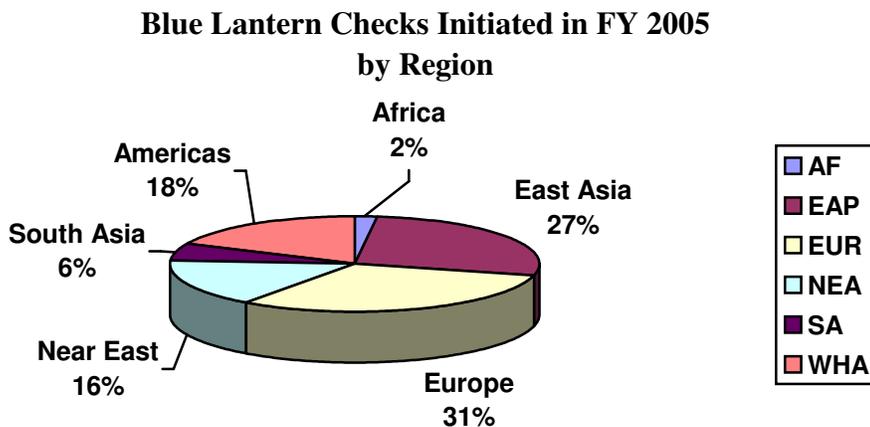
commodities to proper end-users, and to determine compliance with DDTC licensed agreements such as Technical Assistance Agreements and Distribution Agreements.

Each year, DDTC receives and reviews over 60,000 license applications and other export requests, most of them routine and legitimate. A small percentage of cases, however, may be subject to unauthorized or illicit activity. Blue Lantern checks are not conducted randomly, but are rather the result of a careful selection process to identify transactions that appear most at risk for diversion or misuse. License applications and other requests undergo review by licensing and compliance officers, who check case details against established criteria for determining potential risks: unfamiliar foreign parties, unusual routing, overseas destinations with a history of illicit activity or weak export/customs controls, commodities not known to be in the inventory of the host country's armed forces and other indicators of concern. The information derived from Blue Lantern checks help DDTC licensing officers and compliance specialists to assess risks associated with the export of certain defense articles to various countries and regions, and provides significant insight into the reliability of companies and individuals involved in defense procurement overseas.¹

Blue Lantern End-Use Checks in FY 2005

In FY 2005, DDTC initiated 562 end-use checks, a record number in the history of the program. Five hundred and five Blue Lantern cases were closed in FY 2005, with 80 designated as “unfavorable.” A regional breakdown of the 562 checks initiated in 2005 follows in Figure 1. Compared to FY 2004, numbers of checks in Europe, the Near East and East Asia increased slightly, and Africa, the Americas, and South Asia declined. The Americas declined most significantly, from 23% in FY 2004 to 18% in FY 2005.

Figure 1:



¹ Because Blue Lantern checks are selected based on potential risk and not a random sampling across all DDTC licenses, data on unfavorable checks should not be regarded as basis for statistically rigorous quantitative analysis.

Analysis of Unfavorable Checks by Region

Several significant changes were observed in the global distribution of unfavorable checks closed in FY 2005. Europe, which had declined as a locale of unfavorable checks in FY 2004, shot up from 9% to 34% in FY 2005. East Asia again led all regions for the highest percentage of unfavorable checks at 36%, but actually declined (from 45% in FY 2004). A major drop in unfavorable cases was registered in the Americas (from 34% in FY 2004 to 12.5% in FY 2005).

Figure 2:

Unfavorable Blue Lanterns by Region (Total numbers 2004-2005)

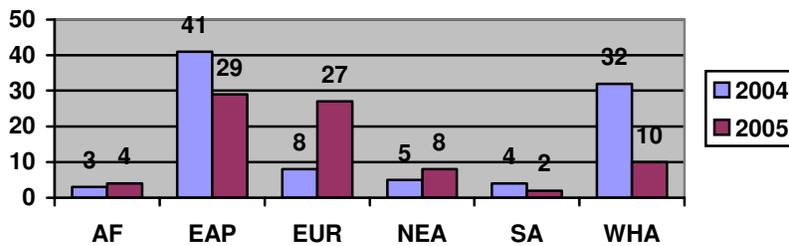
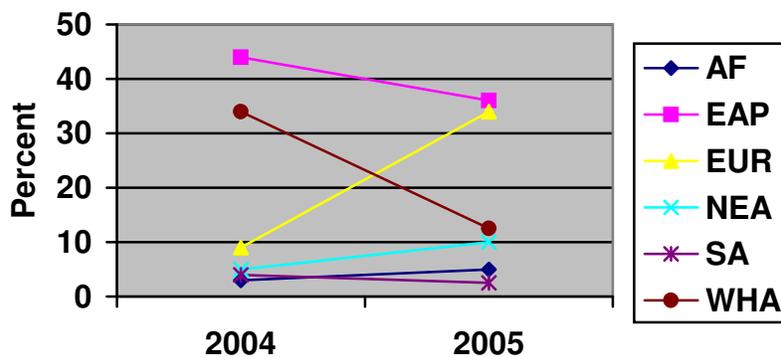


Figure 3:

Unfavorable Blue Lanterns By Region (Percentage of Total 2004-2005)



Analysis of Unfavorable Checks by Commodity

The top six commodity groups for Blue Lantern checks were: Aircraft spare parts; helicopters/spare parts; electronics and communications; firearms/ammunition; night vision devices; and missile spare parts. Overall, unfavorable cases were more evenly distributed across different commodities than last year, and numbers of unfavorable cases for aviation spares, electronics/communications and firearms/ammunition all dropped significantly compared to FY 2004. Other commodities that were the subject of unfavorable Blue Lantern checks included satellite spare parts, inertial navigations systems, oscillators, military computer

components, tank components/spares, riot control chemicals, and parachutes.

- The commodity group with the highest number of unfavorable checks was electronics and communications (12 unfavorables out of 72 total checks).
- The commodity group with the highest percentage of unfavorable checks was missile spare parts (4 out of 14; see Figure 5).
- By comparison, 100 firearms and ammunition cases were closed in FY05 but only 8 were found unfavorable.

A chart comparing Blue Lantern cases closed favorably versus unfavorably by commodity group can be found in Figure 4.

Figure 4:

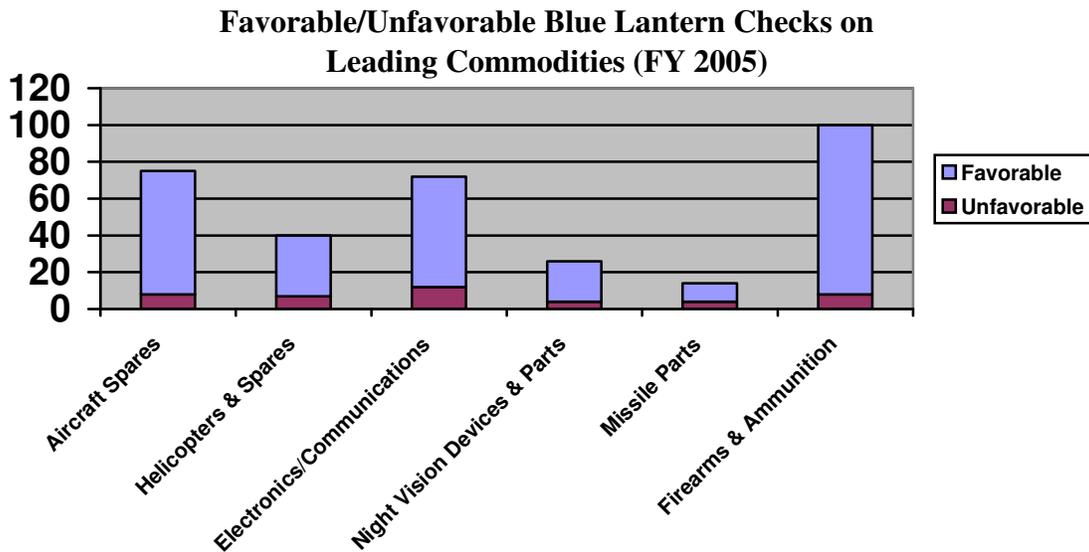
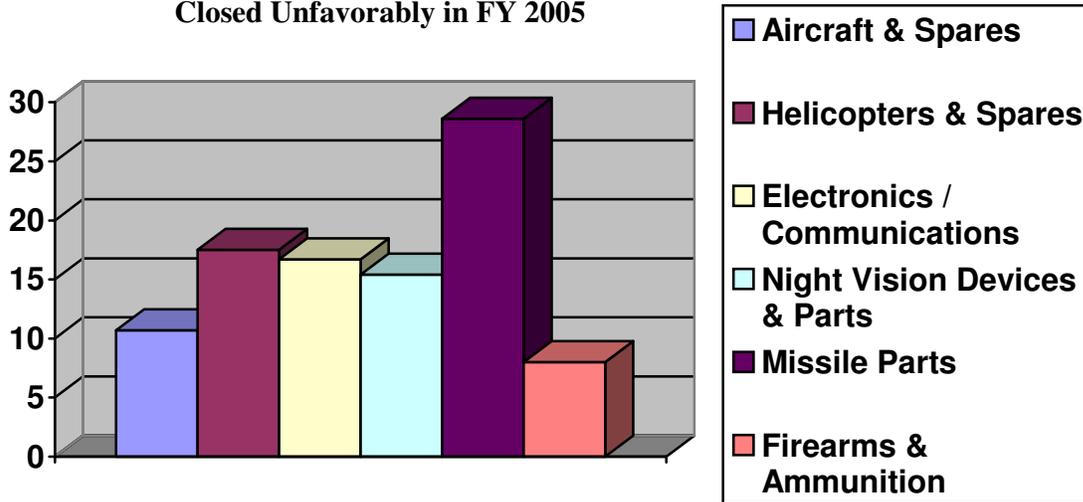


Figure 5:

**Percentage of Checks Within Leading Commodities
Closed Unfavorably in FY 2005**



Reasons for Unfavorable Checks in FY 2005

- In 45% of the unfavorable cases closed in 2005, the end-use or end-user could not be confirmed or justified during the Blue Lantern check.
- In 10% of cases, a foreign end-user reported that they had not ordered the items on the license – indicating possible intent on the part of the exporter or other parties to violate the ITAR and AECA.
- In an additional 10%, there was clear-cut evidence of illicit diversion or unauthorized re-export of the items.
- In 9% of cases, parties to the license could not be contacted or located.
- In 6%, the check revealed derogatory information about one or more parties; also in 6% of cases, the foreign end-user was judged by the Blue Lantern case officer to be an unreliable recipient of USML.
- 6% of cases were closed unfavorably because one or more parties refused to cooperate with the Blue Lantern inquiry.

Blue Lantern Case Studies FY2005

The following examples illustrate the effectiveness of the Blue Lantern Program in FY 2005. In cases where derogatory information was sufficient, investigative leads were passed on to law enforcement or intelligence authorities:

- A post-shipment check of Global Positioning Systems/Inertial Navigation Systems (GPS/INS) to a company in the Persian Gulf region revealed that some of the items had been illegally re-exported to a third country. In cooperation with the host government, the company's owner was detained, remaining GPS/INS units were seized, and the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE) obtained a warrant for the arrest of the company's owner for AECA violations.
- A pre-license check on satellite components sought to determine the *bona fides* of an end-user identified as a university professor in an East Asian country. The Blue Lantern check found no record of the individual on the rolls of the university's faculty, or any evidence of any other association with the university. It also determined that the university specialized in medical education and had no satellite-related programs of any kind. The license application was denied.
- A pre-license check on helicopter spare parts to the armed forces of a country in Southeast Asia revealed that the officer who signed the end-use certificate was no longer in the military and instead was working for a private foreign company. The foreign company employing the former officer was believed to be operating on behalf of another foreign company with a long record of illicit gray arms activities. The license application was denied, and all parties were placed on the DDTC watchlist.
- Another pre-license check in a Persian Gulf country revealed an end-user that had no record of ordering the commodity (oscillators) on the license application. A subsequent check by the U.S. embassy on the foreign intermediate consignee in the transaction revealed that the company had no known address and no working contact number. The license application was denied and the foreign intermediate consignee was placed on the DDTC watchlist.
- A pre-license check on an application for 300 handguns to a private company in Latin America confirmed the legitimacy of the private company. Upon review of the proposed transaction, however, the host government determined that the number of guns was excessive given the high incidence of lost and stolen firearms involved in a recent surge in violent crime. The quantity of guns on the license was subsequently reduced.
- A pre-license check on ITAR-controlled military computer components destined for a former Soviet republic determined that the components would be used in a nuclear power plant rather than for meteorological measurement – as stated on the license application. The foreign end-user was placed on the watchlist and the license was denied.
- A Blue Lantern check on a temporary export of coastal defense equipment to an East Asian country confirmed that the foreign consignee was continuing to hold the equipment (in violation of the terms of the original license) and refusing to return it to the United States.
- A post-shipment check on 305 smoke pistols (for riot control) ordered by a police department in a West African nation could not confirm delivery of the pistols to the end-user. As a result of the Blue Lantern, the foreign intermediate consignee was suspected of diversion and placed on the watchlist. Future license requests for the foreign government in question will be subjected to extra scrutiny and any approval will require post-shipment verification to the USG.

Targeting: Efforts to Continue Improvements in Blue Lantern Selection Process

Due to reports of illicit diversion of night vision devices (NVDs), DDTC has initiated an increasing number of Blue Lantern checks for NVDs and related equipment. During FY 2005, DDTC closed 26 cases

involving NVDs and related components; 4 of these cases were designated unfavorable. Significantly higher numbers of checks on NVDs are anticipated in 2006. DTCC/RAD compliance specialists continue to refine and improve a knowledge base derived from licensing data, past Blue Lantern checks, and external (both classified and unclassified) sources to better guide Blue Lantern targeting by commodity and region.

Greater Coordination with Intelligence Community

The U.S. intelligence community (IC) is a critical resource in support of an effective and secure U.S. defense trade licensing regime. DDTC requires IC support to help understand international “gray arms” trends, information about foreign corrupt practices, individuals and companies believed to be involved in illicit arms trafficking, and information about ITAR-controlled commodities sought by embargoed states, terrorist organizations and criminals. DTCC/RAD has sought to deepen contacts and increase information exchanges with the IC during the past year. DTCC/RAD will continue the effort to establish collection and analysis requirements for defense trade intelligence during 2006.