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Highlights

Highlights of GAO-12-613, a report to congressional requesters

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EXPORT CONTROLS

U.S. Agencies Need to Assess Control List Reform's Impact on Compliance Activities

Why GAO Did This Study

To protect its national security and commercial interests, the United States has implemented an export control system to limit sensitive technologies from falling into the wrong hands. The Department of State regulates U.S. defense exports and the Department of Commerce regulates dual-use exports that have commercial and military applications. Each agency uses a separate control list of items that may require a license to export. Agencies use compliance activities to prevent the diversion or misuse of exported items against U.S. interests or allies. Misuse can occur through illicit transshipment, the diversion of items from their origin through an intermediary country to an unauthorized destination. In 2010, the President announced reforms to the export control system.

This review examines (1) agencies' compliance activities to address transshipment risk and (2) the extent to which U.S. agencies assessed the impact of export control reforms on the resource needs for compliance activities. GAO analyzed U.S. licensing data for 13 transshipment countries and visited Hong Kong, Singapore, and the United Arab Emirates.

What GAO Recommends

GAO recommends that Commerce and State should assess the potential impact of control list reforms on the resource needs of their compliance activities. Commerce and State concurred with GAO's recommendation.

View GAO-12-613. For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

What GAO Found

U.S. agencies engaged in export controls use various compliance activities to prevent the diversion or misuse of exported items against U.S. interests or allies and reduce illicit transshipment risk. Compliance activities include (1) vetting transactions prior to export, (2) analyzing shipping data and monitoring the end use of items, and (3) educating companies and foreign governments about illicit transshipment risks. To vet transactions, agencies review license applications for the export of controlled items, consult multiple lists of entities known or suspected of violating export control laws or regulations, and screen foreign end users to determine their eligibility to receive items without a license. Agencies also review shipping records to identify patterns of abuse and to plan end-use checks—visiting foreign companies to verify the approved use and location of exported items on both licensed items and those eligible for export without a license. From 2008 to 2010, Commerce conducted 56 percent of its end-use checks on unlicensed exports. In the 13 transshipment countries, unlicensed exports accounted for about 94 percent of unfavorable end-use check determinations, which indicates that the end use or end user of an export were not appropriate. For example, some unlicensed items transshipped illicitly to Iran through Hong Kong were used to build improvised explosive devices used against Coalition troops in Iraq. When an unfavorable determination is made, the Department of Commerce (Commerce) or Department of State (State) may take further action, such as denying a license or referring involved entities to enforcement agencies for investigation and possible penalties. To educate U.S. companies and foreign governments about illicit transshipment risks, Commerce and State review the internal controls of companies' compliance programs; conduct outreach to U.S. companies to inform exporters of their responsibilities to comply with export control laws and regulations; and provide training to foreign governments.

Agencies have not fully assessed the potential impact that control list reforms may pose for the resource needs of their compliance activities. Agencies estimate that Commerce will receive between 16,000 and 30,000 additional license applications as a result of proposed reforms to move less sensitive items from State to Commerce. Agency documents state that this step would allow them to focus resources on items most critical to national security and may make compliance easier for exporters because Commerce imposes fewer requirements than State's controls. However, Commerce has not assessed the impact this added responsibility would have on its end-use check resource needs. Also, under the reforms, fewer items may require export licenses, thereby reducing uncertainty as to whether export sales will be approved. Some agency officials suggested potential risks, such as an increased need for more end-use checks and the loss of information from reviewing exports through the licensing process prior to export. The agencies have not yet assessed the impact of these potential risks on their resource needs.