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United States Government Accountability Office
Washington, DC 20548

April 7, 2005

The Honorable Henry J. Hyde
Chairman, Committee on International Relations
House of Representatives

Subject: *Defense Trade: Arms Export Control Vulnerabilities and Inefficiencies in the Post-9/11 Security Environment*

Dear Mr. Chairman:

In the aftermath of the September 11, 2001, attacks and the subsequent global war on terror, the nature of threats facing this country has changed, and as a result, policies and structures from previous decades need to be rethought. One area for reexamination in this changed security environment is the arms export control system. The State Department oversees this system to ensure that arms exports are consistent with U.S. national security and foreign policy goals. As such, the State Department is responsible for authorizing arms exports,¹ which is generally done through export licensing, and for monitoring exporter compliance with governing laws and regulations. In so doing, the department needs to balance complex and competing interests. Specifically, the State Department must limit the possibility that exports will erode the U.S. military's technological advantage and prevent U.S. arms from falling into the wrong hands. At the same time, the department needs to allow legitimate defense trade with allies to occur.

At your request, we are providing highlights from our most recent report on the arms export control system² and observations regarding weaknesses and inefficiencies in the system based on our larger body of export control work.³ Enclosure I contains summaries of our arms export-related reports from fiscal year 1999 to date, along with information on the status of implementation of our recommendations by the various departments involved with arms exports. Enclosure II lists related products we have issued over the last decade. These reports were prepared in accordance with generally accepted government auditing standards. Because this report and its enclosures are based on those prior reports, we did not request agency comments.

Summary

The State Department has not made significant changes to the arms export control system since the September 2001 terror attacks. State Department officials maintain that such changes are not needed. However, their position is not based on systematic evaluations of the effectiveness of controls. Over the years, we have identified weaknesses in the arms export control system and made corrective

¹"Arms" refers to defense articles and services as specified in 22 U.S.C. 2778.

²GAO, *Defense Trade: Arms Export Control System in the Post-9/11 Environment*, GAO-05-234 (Washington, D.C.: Feb. 16, 2005).

³This information was initially prepared for a hearing that had been scheduled for April 7, 2005.

recommendations, a number of which the departments involved have not yet implemented. Weaknesses include disagreements and poor coordination over whether certain items are controlled by the State Department, as well as limitations in the government’s ability to ensure that exports not needing prior government approval comply with export laws and regulations. These weaknesses are compounded by challenges facing the enforcement community, including constrained budgets and limited resources. Taken together, these weaknesses and challenges create vulnerabilities in the arms export control system and undermine assurances that the system is protecting U.S. interests.

To facilitate arms exports to allies, the State Department has sought over the last several years to reduce processing times for license applications. The department undertook efforts, such as reallocating staff and implementing initiatives, to streamline and expedite the processing of export license applications. However, the State Department’s median processing times⁴ for arms export cases⁵—after declining since fiscal year 1999—began increasing in fiscal year 2003. Further, the department’s streamlining initiatives have generally not met established goals and have not been widely used by exporters.

Background

The U.S. export control system for defense-related items involves multiple federal agencies and is divided between two regulatory bodies—one for arms and another for dual-use items that have both military and commercial applications (see table 1).

Table 1: Roles and Responsibilities in the Arms and Dual-Use Export Control Systems

Principal regulatory body	Mission	Statutory authority	Implementing regulations
State Department’s Directorate of Defense Trade Controls	Regulates export of arms by giving primacy to national security and foreign policy concerns	Arms Export Control Act ^a	International Traffic in Arms Regulations
Commerce Department’s Bureau of Industry and Security	Regulates export of dual-use items by weighing economic, national security, and foreign policy interests	Export Administration Act ^b	Export Administration Regulations
Other federal agencies			
Defense Department	Provides input on which items should be controlled by either the State Department or the Commerce Department and conducts technical and national security reviews of export license applications submitted by exporters to either the State Department or the Commerce Department		
Homeland Security Department	Enforces arms and dual-use export control laws and regulations through border inspections and investigations ^c		
Justice Department	Prosecutes suspected violators of arms and dual-use laws		

Source: Cited laws and regulations (data); GAO (analysis).

^a 22 U.S.C. 2751 *et. seq.*

^b 50 U.S.C. App. 2401 *et. seq.* Authority granted by the act terminated on August 20, 2001. Executive Order 13222 continues the export control regime established under the act and the implementing Export Administration Regulations.

⁴The median processing time is the point at which 50 percent of the cases took more time and 50 percent took less time. We are reporting the median processing time because the average, or mean, processing time can be significantly affected by a small number of cases that had much longer review times than the majority of cases.

⁵Arms export cases include applications for the permanent export of arms, the temporary export and import of arms, and agreements between U.S. industry and foreign entities to provide technical assistance or manufacturing capability, as well as requests for amendments to existing licenses and jurisdiction determinations.

^cThe Homeland Security Department shares responsibility with the Commerce Department for the enforcement of dual-use export control laws and regulations.

Implementing regulations for both the Departments of State and Commerce contain lists that identify which items each department controls and establish requirements for exporting those items. Exporters are responsible for determining which department controls the items they are seeking to export and what the requirements for export are. The two departments' controls differ in several key areas. In most cases, the Commerce Department's controls over dual-use items are less restrictive than the State Department's controls over arms. For example, many items controlled by the Commerce Department do not require licenses for export to most destinations, while State-controlled items generally require licenses to most destinations. Also, Commerce-controlled items may be exported to China while most arms exports to China are prohibited.

Arms Export Control System Fundamentally Unchanged Despite Vulnerabilities

After the September 2001 terror attacks, the State Department did not make fundamental or significant changes to the arms export control system, its objectives, or implementing regulations. State Department officials maintain that such changes are not needed because they regard the system as effective in keeping U.S. defense items out of enemy hands while ensuring that allies can obtain needed arms. However, the department's conclusions regarding the sufficiency of its controls both prior to September 2001 and afterward appear to be without basis. For example, the State Department has not provided evidence that it systematically assesses the effectiveness of its controls or its streamlining initiatives, which were introduced in 2000 and characterized as a major post-Cold War adjustment to the system.

Although the State Department has not performed systematic assessments, we have. Our current and prior reports have clearly documented weaknesses and challenges in the arms export controls system that point to vulnerabilities in the system and its ability to protect U.S. interests. The weaknesses we have identified relate to the most basic aspects of the arms export control system—which items should be controlled and when those items should be subject to government review prior to export. Weaknesses include a lack of clarity as to whether an item is State-controlled or Commerce-controlled, thereby increasing the risk that defense items will be improperly exported, and limitations in the government's ability to ensure that exports exempt from licensing requirements comply with laws and regulations. Exacerbating these weaknesses are various challenges to enforcement agencies' ability to carry out their responsibilities.

A number of our recommendations to address these weaknesses and challenges have not yet been implemented.

Weaknesses and Challenges in the Arms Export Control System

Fundamental to the U.S. export control system is the determination as to which items are controlled by the State Department and which are controlled by the Commerce Department. A lack of clear jurisdiction and improper decisions regarding jurisdiction create the risk that defense-related items will be exported without the proper level of government review and control to protect national interests. By not clearly establishing which department has jurisdiction over some items, the government leaves the determination of jurisdiction to the exporter, who by default can then determine which national policy interests are to be considered and acted upon when defense-related items are exported. As we have reported in the past, there are persistent disagreements between the Departments of State and

Commerce regarding jurisdiction and problems with the processes for deciding which department has jurisdiction. Jurisdictional disagreements involve sensitive defense items, such as those related to missiles and night vision. These jurisdictional disagreements and problems are rooted in differing interpretations of the regulations by the departments and minimal or inefficient coordination between the departments. In the end, the departments are not held accountable for making clear and transparent decisions about export control jurisdiction.

Once an item has been determined to be State-controlled, generally a State-issued license is required before the item can be exported. However, the State Department's regulations allow exemptions from licensing requirements under certain conditions. For example, some arms exports to Canada do not require licenses. When exemptions are used, the burden for ensuring the exports' legitimacy shifts from the State Department to exporters. To help ensure that exemptions are properly used and items are safeguarded, exporters need sufficient guidance to minimize the possibility of incorrect interpretations of the regulations and improper exports. As we have reported, a lack of regulatory clarity has resulted in exporters inconsistently implementing exemptions and related reporting requirements. State Department officials have, at times, provided conflicting information about the proper use of exemptions to exporters and enforcement officials.

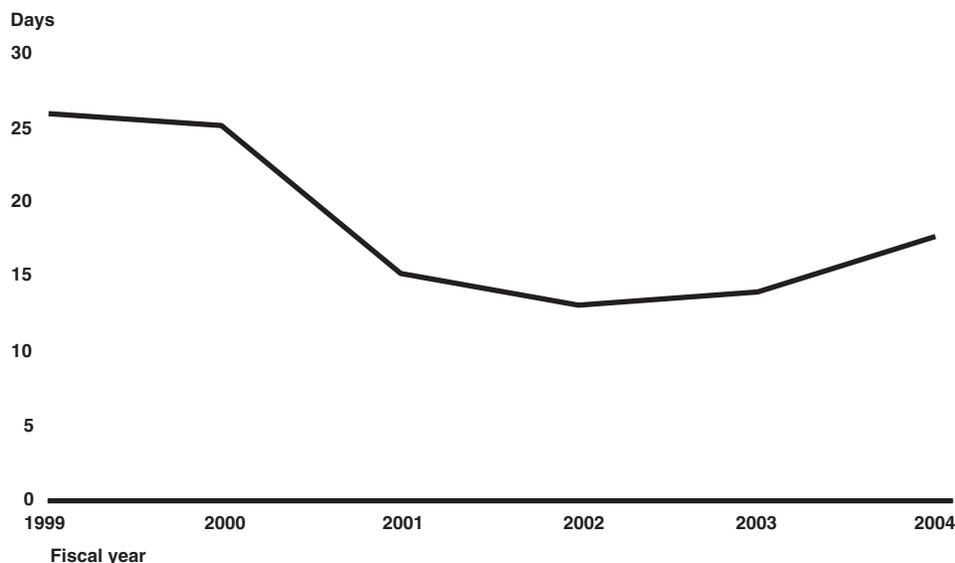
Enforcement officials have raised serious concerns regarding their ability to enforce the proper use of exemptions and identified other challenges. Homeland Security Department officials explained that they generally oppose licensing exemptions because items can be more easily diverted without detection, which complicates potential investigations. Justice Department officials also informed us that prosecuting export violations under an exemption is difficult because of the challenges in acquiring evidence of criminal intent, given the limited "paper trail" available to prove violations. In addition to these difficulties, enforcement officials cited other challenges in enforcing arms export control laws and regulations that include budgetary constraints, limited staff resources, and difficulties in hiring and retaining experienced staff.

Arms Export Control System Hampered by Inefficiencies and Ineffective Initiatives

While many license applications appropriately take time to review because of the need to consider different viewpoints, State Department inefficiencies in the processing of applications have created unnecessary delays. Over the last several years, the State Department has initiated various efforts to reduce license application processing times in response to exporter complaints. For example, the department enlarged its staff of licensing officers, who review applications, and developed a new automated system for processing applications.

However, after declining since fiscal year 1999, median processing times for arms export cases began increasing in fiscal year 2003 (see figure 1). Data provided on the State Department's Web site indicate that processing times have continued to increase throughout fiscal year 2004 and the start of fiscal year 2005.

Figure 1: Median Processing Time for Cases, Fiscal Years 1999 – April 2004 (in days)



Source: State Department (data); GAO (analysis).

Although the State Department increased the number of licensing officer positions between fiscal years 2000 and 2003 to 37, it has since transferred 5 of these positions to other activities. This raises questions regarding the department’s commitment to its stated goal of reducing processing times. In addition, use of the State Department’s new automated system for processing applications is limited. While a senior department official described the new system as the most significant effort to improve efficiency, the State Department reported that only 6 percent of applications were processed using the new system one year after it was introduced.

As part of its efforts to reduce processing times, the State Department implemented a series of initiatives primarily designed to expedite the processing of license applications that meet certain criteria. However, we found that processing time goals for applications submitted under the initiatives have generally not been met. For example, only 19 percent of the applications submitted under the initiatives for Operations Enduring Freedom and Iraqi Freedom were processed within the goals set by the department.⁶ Additionally, several initiatives have not been widely used by exporters. For example, over the last 5 years, the State Department has received only three applications for comprehensive export authorizations that were intended to streamline licensing by providing advance approval for a range of exports associated with multinational defense efforts, such as the Joint Strike Fighter.

The initiatives’ lack of success is not surprising. When many of these initiatives were announced in 2000, we determined that there was no analysis of the problems that the initiatives were intended to remedy or demonstration of how they would achieve identified goals. As a result, there was little assurance that the initiatives would result in improvements to the arms export control system.

⁶This covers license applications processed between October 1, 2001, and April 30, 2004.

Conclusions

At a time of evolving threats and changing allied relationships, it is appropriate to ask how Congress can be assured that the arms export control system is achieving its intended purposes—protecting national security and promoting foreign policy interests. To accomplish such purposes, an export control system needs to clearly define what should be controlled and how, so that it is understandable by exporters and enforceable by the government. The system should also be able to readily prioritize which export applications can be approved quickly and which require greater scrutiny to consider the various national interests at stake. Our recent and past work casts doubts on the effectiveness and efficiency of the system. In our opinion, therefore, it is time to step back and rethink whether the current system can appropriately protect U.S. interests in the post-9/11 security environment.

We will send copies of this report to interested congressional committees. We will also provide copies to the Secretaries of Commerce, Defense, Homeland Security, and State; the Attorney General; the Director, Office of Management and Budget; and the Assistant to the President for National Security Affairs. In addition, this report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-4841. Key contributors to this report were Anne-Marie Lasowski, Johana R. Ayers, E. Brandon Booth, Masha Pastuhov-Pastein, and Lily J. Chin.

Sincerely yours,

A handwritten signature in black ink that reads "Katherine V. Schinasi". The signature is written in a cursive style with a large initial "K" and "S".

Katherine V. Schinasi
Managing Director
Acquisition and Sourcing Management

Enclosures

Enclosure I: Prior GAO Reports on Arms Exports

Over the last several years, we have issued numerous reports regarding exports of U.S. arms, which can be sold either directly by companies or by the U.S. government. Direct commercial sales of arms are regulated by the State Department's export control system, while U.S. government sales occur through the Foreign Military Sales (FMS) program.

For both methods of sale, we have identified weaknesses in two areas: (1) the U.S. government's controls on arms to ensure that U.S. interests are protected and (2) the mechanisms to ensure that these exports comply with U.S. laws and regulations. We have also identified inefficiencies in the administration and management of both the arms export control system and the FMS program. To correct those weaknesses and inefficiencies, we have made multiple recommendations. These recommendations have generally focused on clarifying regulations and guidance, improving interagency coordination, and obtaining sufficient information for decision making. Based on follow ups with the various departments, we determined that a number of these recommendations have not yet been implemented.¹ Tables 2 and 3 summarize what we found, what we recommended, and what actions, if any, the departments have taken to implement those recommendations.

Direct commercial sales: These sales are regulated through the arms export control system, which is overseen by the State Department under the authority of the Arms Export Control Act. The State Department maintains a list of the items subject to its export controls. Prior to exporting State-controlled items to either overseas companies or governments, companies generally need to obtain State-issued licenses. The Defense Department assists the State Department by providing input on which items should be State-controlled and by conducting technical and national security reviews of export license applications. The State Department's controls on arms exports are separate from those maintained by the Commerce Department on the export of dual-use items, which have both military and commercial applications. The State and Commerce Departments' controls differ in several key areas. For example, many items controlled by the Commerce Department do not require licenses for export to most destinations, and Commerce-controlled items may be exported to China while most arms exports to China are prohibited.

¹GAO's standard practice is to follow up with departments to periodically determine the status of open recommendations.

Table 2: 1999-2004 GAO Reports on the Arms Export Control System

**Export Controls: Clarification of Jurisdiction for Missile Technology Items Needed
(Oct. 9, 2001, GAO-02-120)**

Background:	GAO recommendations	Action taken
<p>The United States has committed to work with other countries through the Missile Technology Control Regime to control the export of missile-related items. The regime is a voluntary agreement among member countries to limit proliferation and consists of common export policy guidelines and a list of items to be controlled. In 1990, Congress amended existing export control statutes to strengthen missile-related export controls consistent with U.S. commitments to the regime. Under the amended statutes, the Commerce Department is required to place regime items that are dual-use on its list of controlled items. All other regime items are to appear on the State Department's list of controlled items.</p>	<p><u>Departments of Commerce and State</u></p> <ul style="list-style-type: none"> jointly review the listing of items included on the Missile Technology Control Regime list, determine the appropriate jurisdiction for those items, and revise their respective export control lists to ensure that proposed exports of regime items are subject to the appropriate review process 	<p>The Departments of Commerce and State have not implemented our recommendations despite initially agreeing to do so.</p>
<p>Main issues: The Departments of State and Commerce have not clearly determined which department has jurisdiction over almost 25 percent of the items that the United States agreed to control as part of its regime commitments. The lack of clarity as to which department has jurisdiction over some regime items may lead an exporter to seek a Commerce Department license for a militarily sensitive item controlled by the State Department. Conversely, an exporter could seek a State Department license for a Commerce-controlled item. Either way, exporters are left to decide which department should review their exports of missile items and, by default, which policy interests are to be considered in the license review process</p>		

Export Controls: Processes for Determining Proper Control of Defense-Related Items Need Improvement (Sept. 20, 2002, GAO-02-996)

Background: Companies seeking to export defense-related items are responsible for determining whether those items are regulated by the State Department or by the Commerce Department and what the applicable export requirements are. When in doubt about whether an item is State- or Commerce-controlled or when requesting a change in jurisdiction, an exporter may request a commodity jurisdiction determination from the State Department. The State Department, which consults with the Commerce and Defense Departments, is the only department authorized to change export jurisdiction. If an exporter knows an item is Commerce-controlled but is uncertain of export requirements, the exporter can request a commodity classification from the Commerce Department. The Commerce Department can refer classification requests to the State and Defense Departments to confirm that an item is Commerce-controlled.

Main issues: The Commerce Department has improperly classified some State-controlled items as Commerce-controlled because it rarely obtains input from the Departments of State and Defense before making a commodity classification. As a result, the U.S. government faces an increased risk that defense items will be exported without the proper level of government review and control to protect national interests. Also, the Commerce Department has not adhered to regulatory time frames for processing classification requests.

In its implementation of the commodity jurisdiction process, the State Department has not adhered to established time frames, which may discourage companies from requesting jurisdiction determinations. The State Department has also been unable to issue determinations for some items because of interagency disputes occurring outside the process.

GAO recommendations

Commerce Department

- promptly review existing guidance and develop criteria with concurrence from the Departments of State and Defense for referring commodity classification requests to those departments
- work with the Departments of State and Defense to develop procedures for referring requests that are returned to companies because the items are controlled by the State Department or because they require a commodity jurisdiction review

Departments of Commerce, State, and Defense

- revise interagency guidance to incorporate any changes to the referral process and time frames for making decisions
- assess the resources needed to make jurisdiction recommendations and determinations within established time frames and reallocate them as appropriate

Action taken

With a limited exception, our recommendations have not been implemented. In responding to our report, the State Department indicated it partially agreed with our recommendations, while the Departments of Commerce and Defense agreed to implement our recommendations.

- The Departments of Commerce and Defense have added staff to assist with their respective processes.

**Defense Trade: Lessons to Be Learned from the Country Export Exemption
(March 29, 2002, GAO-02-63)**

Background: The State Department's export regulations do not require licenses for the export of many defense items to Canada. In 2000, the U.S. government announced plans to extend similar licensing exemptions for exports to other countries. The State Department has negotiated agreements with the United Kingdom and Australia to provide a basis for license-free exports to those countries.

Main issues: Because of unclear guidance, some exporters have implemented the Canadian exemption inconsistently and have misinterpreted requirements to report their export activities to the State Department. The State Department has provided inconsistent answers to exporters and U.S. Customs Service^a officials when questions were raised about the exemption's use in specific situations.

The State Department encourages exporters to voluntarily disclose violations but relies primarily on U.S. Customs to enforce export control laws and regulations, including use of the Canadian exemption. U.S. Customs' ability to enforce the proper use of exemptions is weakened by a lack of information and resources, difficulties in investigating suspected violations, and competing demands, such as terrorism prevention and drug interdiction.

GAO recommendations

State Department

- review guidance and licensing officer training to improve clarity and ensure consistent application of the exemption and provide the guidance to U.S. Customs to ensure that consistent information is disseminated to exporters
- work with the Justice Department and U.S. Customs to assess lessons learned from the Canadian exemption and ensure the lessons are incorporated in future agreements

U.S. Customs

- assess the threat of illegal defense exports along Canadian border and evaluate whether reallocation of inspectors or other actions are warranted to better enforce export regulations
- update, finalize, and provide guidance on inspection requirements to all inspectors

Action taken

The State Department has not implemented our recommendations. In its response to our report, the State Department said it would provide training and guidance but did not indicate how it would ensure that the guidance and training are clear and understood by those who need to use them. The department also said it would work with law enforcement agencies to assess lessons learned but did not identify how it would do so. The agreements with the governments of the United Kingdom and Australia were drafted before the department conducted a lessons learned assessment.

U.S. Customs has implemented our recommendations.

Export Controls: Reengineering Business Processes Can Improve Efficiency of State Department License Reviews (Dec. 31, 2001, [GAO-02-203](#))

Background: The U.S defense industry and some foreign government purchasers have expressed concern that the arms export control process is unnecessarily lengthy. While the export licensing process can be lengthy because of foreign policy and national security considerations, other factors may also affect processing times.

Main issues: The State Department lacks formal guidelines for determining which agencies and offices should review arms export license applications and does not have procedures to monitor the flow of applications through the process. As a result, thousands of applications have been delayed while no substantive review occurred and hundreds more have been lost.

GAO recommendationsState Department

- develop criteria for determining which applications should be referred to which agencies and offices for further review, develop formal guidelines and training for reviewing organizations so they clearly understand their duties
- establish timeliness goals for each phase of the licensing process and mechanisms to ensure that applications are not lost or delayed
- implement these recommendations before proceeding with a planned upgrade to the department's electronic business processing system

Action taken

Our recommendations have been implemented.

- Use of the State Department's new electronic system for processing and tracking applications has been limited.

Joint Strike Fighter Acquisition: Cooperative Program Needs Greater Oversight to Ensure Goals Are Met (July 21, 2003, [GAO-03-775](#))^b

Background: The Joint Strike Fighter, a next-generation fighter aircraft, is being developed and produced by the United States and eight partner countries.

Main issues: International participation in the Joint Strike Fighter program involves the management of numerous export authorizations to share project information with partner governments, solicit bids from foreign suppliers, and execute contracts. Authorizations for exports to critical foreign suppliers need to be planned for, prepared, and acted on in a timely manner to help avoid program schedule delays. Without proper planning, there could be pressure to expedite approvals to support program goals, which could lead to inadequate license reviews. The contractor has not fulfilled a requirement to complete a long-term plan that could anticipate the export authorizations necessary to execute the program's use of foreign suppliers to design and manufacture key parts of the aircraft.

GAO recommendationsDepartment of Defense

- ensure that contractor's international industrial plan:
 - identifies contracts involving the transfer of sensitive data and technology to partner suppliers
 - evaluates the risks that unfavorable export decisions could pose for the program
 - develops alternatives, such as using U.S. suppliers, to mitigate the risks of unfavorable decisions

Action taken

The Defense Department has tasked the contractor to develop a technology transfer "road map" as an initial step in implementing the recommendations.

- GAO is currently evaluating the extent to which this road map fulfills the recommendations.

Export Controls: Better Interagency Coordination Needed on Satellite Exports
(Sept. 17, 1999, [GAO/NSIAD-99-182](#))

Background: U.S. export controls over commercial communications satellites are complicated and have changed frequently over the years. Starting in 1992, the Departments of Commerce and State shared licensing responsibility for satellite-related exports. However, in 1998, Congress transferred licensing responsibility for satellite-related exports to the State Department because of concerns that the Commerce Department had weakened controls over satellite exports. The Defense Department also plays a role by reviewing satellite-related export applications and monitoring sensitive launch activities. To help protect sensitive technologies during a satellite launch, the U.S. government entered into formal agreements with the governments of China, Russia, Kazakhstan, and Ukraine that give the United States the right to take steps to safeguard U.S. technology. The Departments of Commerce and State have attached conditions to export licenses to reflect these agreements.

Main issues: Most of the licensed satellite launch campaigns by China, Russia, and Ukraine from 1989 to 1999 included license conditions to protect sensitive U.S. technology. However, the Commerce Department approved eight launch campaigns that omitted most license safeguard conditions, and neither the State Department nor the Defense Department requested the conditions be included. Documents from the Departments of State and Defense show that monitoring problems, unauthorized transfers of technology, and other violations of export control regulations possibly occurred in 14 launch campaigns in China, Russia, and Ukraine, including some of the campaigns where license conditions were omitted. Recent legislative changes address some causes of past export licensing problems but do not fully resolve the implementation problems by the Departments of Commerce, State, and Defense.

GAO recommendations

State Department

- consult with Departments of Commerce and Defense to establish clear roles and responsibilities for all agencies and overseas posts in implementing the government-to-government technical safeguards agreements and ensuring U.S. exporter compliance with U.S. satellite export regulations

Action taken

Our recommendations have been implemented.

Defense Trade: Analysis of Support for Recent Initiatives
(Aug. 31, 2000, GAO/NSIAD-00-191)

<p>Background: In 1999, the Defense Department compiled a list of 81 defense cooperation initiatives intended to enhance cross-border defense trade and investment. Several initiatives were part of an ongoing effort to reinvent the FMS program, while other initiatives were to help streamline processes and/or change policies considered important for defense cooperation, such as export controls. Building on the 81 initiatives, the Departments of State and Defense announced 17 measures, collectively known as the Defense Trade Security Initiative (DTSI), to adjust the export control system.</p> <p>Main issues: The Defense Department developed its initiatives on the basis of incomplete data and inadequate analysis to determine underlying causes for problems it identified. It is unclear whether the department's initiatives will achieve the desired outcomes of improving U.S. and foreign forces' ability to operate together in coalition warfare scenarios, reducing a gap in military capabilities between the United State and its allies, and ensuring that U.S. companies successfully compete in overseas markets. Further, there was no demonstration of how DTSI measures would achieve identified goals and no analysis of existing problems. As a result, there is little assurance that any underlying problems with the U.S. export control system have been sufficiently analyzed to determine whether DTSI will remedy any existing problems.</p>	<p>GAO recommendations No recommendations</p>	<p>Action taken Not applicable</p>
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Export Controls: State and Commerce Department License Review Times are Similar
June 1, 2001, GAO-01-528)

<p>Background: The U.S. defense industry and some U.S. and allied government officials have expressed concerns about the amount of time required to process export license applications.</p> <p>Main issues: In fiscal year 2000, the State Department took an average of 46 days to reach a decision on license applications, while the Commerce Department took 50 days. Both departments approved more than 80 percent of license applications.</p>	<p>GAO recommendations No recommendations</p>	<p>Action taken Not applicable</p>
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Source: GAO analysis of prior work.

^aThe U.S. Customs Service is now part of the Homeland Security Department's Customs and Border Protection and Immigration and Customs Enforcement.

^bThis report addresses international program management issues in addition to arms export controls.

FMS program: Eligible foreign governments may purchase arms from the U.S. government through the FMS program. While the FMS program is overseen by the State Department, which must approve all sales, the Defense Department’s Defense Security Cooperation Agency is responsible for overall administration of the program, and the military departments execute the individual sales agreements that are signed with foreign governments. The program is governed by the Arms Export Control Act.

Table 3: 1999-2004 GAO Reports on the Foreign Military Sales Program

Foreign Military Sales: Actions Needed to Provide Better Controls over Exported Defense Articles (June 5, 2003, GAO-03-599) FOR OFFICIAL USE ONLY

Main Issues:	GAO recommendations	Action taken
<p>GAO identified a number of weaknesses related to the government’s ability to ensure that items exported through the FMS program are authorized, received by the appropriate foreign government, or properly monitored. Citing the sensitivity of the information contained in the report, the Homeland Security Department directed that the report not be made publicly available.</p>	<p><u>Departments of Defense, Homeland Security, and State</u></p> <ul style="list-style-type: none"> multiple recommendations to improve the security of FMS exports and enhance end-use monitoring efforts 	<p>While the departments have taken some action to implement the recommendations, most have not yet been implemented.</p>

Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems (May 13, 2004, GAO-04-519)^a

Background:	GAO recommendations	Action taken
<p>The proliferation of man-portable air defense systems (MANPADS), shoulder-launched surface-to-air missile systems, has been of growing concern to the United States and its allies. The U.S. government has sold MANPADS—the Stinger—through the FMS program since 1982. To prevent proliferation, U.S. law requires the Defense Department to conduct annual inspections to ensure that Stinger systems are being used and stored as required under the FMS program. Countries that purchase Stingers are legally bound to cooperate with these inspections.</p>	<p><u>Defense Department</u></p> <ul style="list-style-type: none"> establish standardized record-keeping requirements for all U.S. organizations responsible for maintaining records on Stinger systems sold overseas issue standardized inventory and physical security inspection procedures for officials responsible for conducting inspections 	<p>The Defense Department has begun implementing our recommendations.</p>
<p>Main issues: The disposition of Stingers sold overseas is unknown because the Defense Department’s Stinger inventory inspection process is flawed. The department does not require inspecting organizations to maintain records on the number and destinations of Stingers. Records are neither complete nor reliable. Also, the Defense Department lacks procedures for conducting inspections, which has resulted in inconsistent inspection processes. As a result, the department lacks the ability to periodically account for Stingers sold through the FMS program, compare the results against credible control records, and examine exceptions to what was authorized.</p>		

Foreign Military Sales: Changes Needed to Correct Weaknesses in End-Use Monitoring Program (Aug. 24, 2000, GAO/NSIAD-00-208)

<p>Background: Since 1996, the Arms Export Control Act has required an end-use monitoring program for items sold through the FMS program. To the extent practicable, the end-use monitoring program is to provide reasonable assurance that the recipient of defense articles and services is complying with U.S. government requirements to safeguard these defense articles. The act also requires the Defense Department to report annually to Congress on the implementation of the end-use monitoring program.</p> <p>Main issues: The Defense Department has not effectively implemented the requirement that it observe and report on foreign governments' use of U.S. defense articles and services sold through the FMS program. Field personnel have not received the guidance needed to conduct end-use checks. Also, the department relied on host country records to maintain accountability for certain weapons systems, such as Stinger missiles, but these records have discrepancies. As a result, the end-use monitoring program cannot provide assurances that foreign governments are adhering to conditions placed on U.S. arms sales.</p> <p>The Defense Department has not complied with the act's reporting requirements to track cost and personnel information used in the end-use monitoring program. As a result, Congress may be limited in its ability to evaluate the end-use monitoring program or to determine if additional resources are needed.</p>	<p>GAO recommendations</p> <p><u>Defense Department</u></p> <ul style="list-style-type: none"> • issue specific guidance to field personnel on what activities need to be performed for the routine observation of U.S. defense equipment and additional guidance for the monitoring of specific weapon systems • reconcile discrepancies in foreign governments' Stinger missile inventories • comply with the 1996 end-use monitoring amendment of the Arms Export Control Act by reporting required information to Congress 	<p>Action taken</p> <p>The Defense Department has implemented our recommendations regarding guidance and reporting requirements. It has recently begun implementing our recommendation regarding Stinger missiles.</p>
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Foreign Military Sales: Review Process for Controlled Missile Technology Needs Improvement (Sept. 29, 1999, GAO/NSIAD-99-231)

<p>Background: The U.S. government relies on a complex process with many participants to determine what items may be transferred through the FMS program.</p> <p>Main issues: The U.S. government has not established a process for ensuring that certain controlled items are fully and systematically identified when reviewing or approving foreign military sales agreements. As a result, items controlled as part of the Missile Technology Control Regime have been sold under the program without proper review and approval.</p>	<p>GAO recommendations</p> <p><u>Departments of State and Defense</u></p> <ul style="list-style-type: none"> • establish a process to identify all items on proposed FMS sales agreements controlled under the Missile Technology Control Regime or other nonproliferation agreements and to refer the information to the State Department so it can review proposed sales to ensure compliance with nonproliferation agreements. 	<p>Action taken</p> <p>Our recommendations have been implemented.</p>
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Foreign Military Sales: Efforts to Improve Administration Hampered by Insufficient Information
(Nov. 22, 1999, [GAO/NSIAD-00-37](#))

Background: The Arms Export Control Act requires the Defense Department to recover the full estimated cost of administering foreign military sales from foreign customers. Because of budget pressures and customer complaints about program inefficiencies, the Defense Department has begun reinvention efforts to improve the management and implementation of the FMS program.

Main issues: The Defense Department does not have sufficient information to determine the administrative costs for the FMS program. It is, therefore, unable to use actual costs as a basis to determine what charges should be applied to sales and does not know if the percentage charged to customers on the dollar value of individual sales is appropriately recovering program costs. As a result, the department estimates future sales and uses the administrative account balance to plan future budgets and adjust administrative charges, but these projections are subjective. Reinvention efforts could help better identify costs, but the initiatives lack a common approach and are unlikely to provide complete and consistent information about the costs of administering sales.

GAO recommendations

Defense Department

- use a comprehensive and consistent definition of administrative tasks to collect cost information and issue guidance to the military services on the consistent application of program management charges
- assess the amount of administrative funds needed to complete existing sales and use excess funds, if any, on other program costs

Action taken

Our recommendations have been implemented.

Source: GAO analysis of prior work.

^a This report also addresses international efforts to limit MANPADS proliferation and efforts to develop countermeasures to minimize the MANPADS threat to aircraft.

Enclosure II: Related GAO Products

Defense Trade: Arms Export Control System in the Post-9/11 Environment. [GAO-05-234](#). Washington, D.C.: February 16, 2005.

Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems. [GAO-04-519](#). Washington, D.C.: May 13, 2004.

Defense Acquisitions: DOD Needs to Better Support Program Managers' Implementation of Anti-Tamper Protection. [GAO-04-302](#). Washington, D.C.: March 31, 2004.

Nonproliferation: Improvements Needed to Better Control Technology Exports for Cruise Missiles and Unmanned Aerial Vehicles. [GAO-04-175](#). Washington, D.C.: January 23, 2004.

Export Controls: Post-Shipment Verification Provides Limited Assurance That Dual-Use Items Are Being Properly Used. [GAO-04-357](#). Washington, D.C.: January 12, 2004.

Joint Strike Fighter Acquisition: Cooperative Program Needs Greater Oversight to Ensure Goals Are Met. [GAO-03-775](#). Washington, D.C.: July 21, 2003.

Defense Trade: Better Information Needed to Support Decisions Affecting Proposed Weapons Transfers. [GAO-03-694](#). Washington, D.C.: July 11, 2003.

Nonproliferation: Strategy Needed to Strengthen Multilateral Export Control Regimes. [GAO-03-43](#). Washington, D.C.: October 25, 2002.

Export Controls: Processes for Determining Proper Control of Defense-Related Items Need Improvement. [GAO-02-996](#). Washington, D.C.: September 20, 2002.

Export Controls: Department of Commerce Controls over Transfers of Technology to Foreign Nationals Need Improvement. [GAO-02-972](#). Washington, D.C.: September 6, 2002.

Export Controls: More Thorough Analysis Needed to Justify Changes in High Performance Computer Controls. [GAO-02-892](#). Washington, D.C.: August 2, 2002.

Export Controls: Rapid Advances in China's Semiconductor Industry Underscore Need for Fundamental U.S. Policy Review. [GAO-02-620](#). Washington, D.C.: April 19, 2002.

Defense Trade: Lessons to Be Learned from the Country Export Exemption. [GAO-02-63](#). Washington, D.C.: March 29, 2002.

Export Controls: Issues to Consider in Authorizing a New Export Administration Act. [GAO-02-468T](#). Washington, D.C.: February 28, 2002.

Export Controls: Reengineering Business Processes Can Improve Efficiency of State Department License Reviews. [GAO-02-203](#). Washington, D.C.: December 31, 2001.

Export Controls: Clarification of Jurisdiction for Missile Technology Items Needed. [GAO-02-120](#). Washington, D.C.: October 9, 2001.

Defense Trade: Information on U.S. Weapons Deliveries to the Middle East. [GAO-01-1078](#). Washington, D.C.: September 21, 2001.

Information Security: Weaknesses Place Commerce Data and Operations at Serious Risk. [GAO-01-751](#). Washington, D.C.: August 13, 2001.

Export Controls: State and Commerce Department License Review Times are Similar. [GAO-01-528](#). Washington, D.C.: June 1, 2001.

Export Controls: Regulatory Change Needed to Comply with Missile Technology Licensing Requirements. [GAO-01-530](#). Washington, D.C.: May 31, 2001.

Export Controls: System for Controlling Exports of High Performance Computing Is Ineffective. [GAO-01-10](#). Washington, D.C.: December 18, 2000.

Defense Trade: Analysis of Support for Recent Initiatives. [GAO/NSIAD-00-191](#). Washington, D.C.: August 31, 2000.

Foreign Military Sales: Changes Needed to Correct Weaknesses in End-Use Monitoring Program. [GAO/NSIAD-00-208](#). Washington, D.C.: August 24, 2000.

Defense Trade: Status of the Department of Defense's Initiatives on Defense Cooperation. [GAO/NSIAD-00-190R](#). Washington, D.C.: July 19, 2000.

Foreign Military Sales: Efforts to Improve Administration Hampered by Insufficient Information. [GAO/NSIAD-00-37](#). Washington, D.C.: November 22, 1999.

Foreign Military Sales: Review Process for Controlled Missile Technology Needs Improvement. [GAO/NSIAD-99-231](#). Washington, D.C.: September 29, 1999.

Export Controls: Better Interagency Coordination Needed on Satellite Exports. [GAO/NSIAD-99-182](#). Washington, D.C.: September 17, 1999.

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China: Military Imports From the United States and the European Union Since the 1989 Embargoes. [GAO/NSIAD-98-176](#). Washington, D.C.: June 16, 1998.

Export Controls: Change in Export Licensing Jurisdiction for Two Sensitive Dual-Use Items. [GAO/NSIAD-97-24](#). Washington, D.C.: January 14, 1997.

Export Controls: Sensitive Machine Tool Exports to China. [GAO/NSIAD-97-4](#). Washington, D.C.: November 19, 1996.

Export Controls: Sale of Telecommunications Equipment to China. [GAO/NSIAD-97-5](#). Washington, D.C.: November 13, 1996.

Export Controls: Concerns Over Stealth-Related Exports. [GAO/NSIAD-95-140](#). Washington, D.C.: May 10, 1995.

Export Controls: Some Controls Over Missile-Related Technology Exports To China Are Weak. [GAO/NSIAD-95-82](#). Washington, D.C.: April 17, 1995.

Export Controls: License Screening and Compliance Procedures Need Strengthening. [GAO/NSIAD-94-178](#). Washington, D.C.: June 14, 1994.

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