



American Conference Institute's 3rd National Forum on

SATELLITE & SPACE EXPORT CONTROLS

DDTC Expectations for Successful License Applications

Anthony M. Dearth
Chief, Missile and Spacecraft Division
Directorate of Defense Trade Controls Licensing
U.S. Department of State

DTSA Policy, Licensing and Monitoring Update

Ramon Garcia
Director, Space Directorate
Defense Technology Security Administration
U.S. Department of Defense

Benchmark Your Compliance Practices with:

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International Space Brokers,
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Take away key updates and learn how to:

- Maximize technical collaboration for satellite manufacturing, operations and launch campaigns and prevent defense services export violations
- Comply with ITAR brokering rules in the context of satellite and space-related marketing and sales
- Control technical data from satellite manufacturing to the launch
- File a congressional notification and reduce the risk of satellite export, service and launch delays
- Classify satellite parts, components and related technical data
- Interpret and comply with license provisos
- Meet DTSA requirements for TTCPs, and encryption Technology Control Plans
- Manage collaborative research programs in a post-Roth environment and conduct cutting-edge research within ITAR boundaries
- Resolve contract, satellite failures and insurance claims disputes within the scope of ITAR restrictions

INTERACTIVE WORKING SESSION - SEPTEMBER 30, 2010
ITAR Licensing Do's and Don'ts for Satellite & Space Exports

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This is the Only Advanced, Practical Export Controls Compliance Event for the Satellite & Space Industries!

Satellite and component manufacturers, operators, launch service providers, universities, remote imaging firms and space entrepreneurs continue to face concrete, heightened U.S. **export enforcement risks**. While **export controls reform** hangs in the balance, DDTTC, DTSA, ICE, FBI and the U.S. Department of Justice continue to monitor space activities of U.S. and foreign companies and their trading partners, and enforce the *International Traffic in Arms Regulations*, or the “ITAR”.

Moreover, with the scope of potential policy changes uncertain to date, your organization must also **prepare for new, emerging compliance challenges**. Now more than ever, it is critical to stay up to speed on the **latest and upcoming policy developments**, how other companies are preparing, and **what potential changes could mean for your company’s bottom line**.

As competition in the satellite and space arenas intensifies, it is critical to continuously re-assess the strengths and weaknesses of your export compliance program. You cannot afford to miss **American Conference Institute’s 3rd National Forum on Satellite & Space Export Controls**. *Unlike other events, this is the only advanced, practical export compliance conference that is focused on the export compliance challenges that are unique to your industry!*

Learn from and **network** with leading experts from satellite and space companies and government agencies, who will provide you with **policy and enforcement updates**, and **practical compliance tools**. The agenda and speaker line-up have been fully updated for 2010! Topics to be covered will include:

- Satellite & space **export controls reform update** and what’s on the horizon
- Preventing **defense services** export violations: Maximizing **technical collaboration** for satellite manufacturing, operations and launch campaigns
- Complying with **ITAR brokering** rules in the context of satellite and space-related marketing and sales
- **Congressional notification**: Minimizing satellite export, service and launch delays
- **Classifying** satellite parts, components and related technical data
- Controlling **technical data** from satellite manufacturing to the launch
- **Space insurance**: Using **TAA**s and **DSP-5s** for multi-party relationships and communications
- Meeting **DDTC** expectations for successful license applications
- **DTSA** policy, licensing and monitoring update
- Meeting **DTSA** Requirements for **TTCPs**, and Encryption Technology Control Plans
- Managing **collaborative research programs** in a *Post-Roth* environment
- Interpreting and complying with **license provisos**

Join your peers and competitors at this one-of-a kind event. Based on the past success of this event, seats are expected to sell out! Register now by calling **1-888-884-2480**; by faxing your registration form to **1-877-927-1563**, or by registering online at www.americanconference.com/space.

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- **Satellite manufacturers and operators**
- **Launch services providers**
- **Systems engineering firms**
- **Investors in satellite communications**
- **Insurance underwriters and brokers**

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Day 1- Wednesday, September 29, 2010

- 8:00 Registration Begins & Coffee Served
- 9:00 **Opening Remarks from the Conference Chair**
John Ordway
Partner
Berliner, Corcoran & Rowe LLP
- 9:15 **Satellite & Space Export Controls Reform: What Recent Policy Developments, Plans and Priorities Mean for US Industry's Competitiveness**
Patricia Cooper
President
Satellite Industry Association
Pamela Meredith
Partner
Zuckert, Scoutt & Rasenberger, LLP
- 10:00 **Maximizing Technical Collaboration for Satellite Manufacturing, Operations and Launch Campaigns: Preventing Defense Services Export Violations**
Giovanna M. Cinelli
Partner
Patton Boggs LLP
Francis Baron
Director Export Control, Transports and Customs Import/Export
Thales Alenia (France)
- Scope of defense services associated with commercial and military space parts and components
 - Extent to which defense services can include technical data related to EAR-controlled items
 - Handling defense services related to Commerce-controlled or other commercial items involving space
 - How U.S. persons can engage in ITAR-controlled defense services by providing publicly available information
 - "Compilation" and how you define when public domain information is no longer "public domain"
 - Scope of services that do not require a license
 - Ensuring employees perform services within the scope of an authorization
- 11:00 Networking Coffee Break
- 11:15 **Meeting DDTC Expectations for Successful License Applications**
Anthony M. Dearth
Chief, Missile and Spacecraft Division
Directorate of Defense Trade Controls Licensing
U.S. Department of State
- 11:45 **Complying with ITAR Brokering Rules in the Context of Satellite and Space-Related Marketing and Sales**
Melissa Farrell
Vice President of Commercial Programs
Stellar Solutions Aerospace, Ltd
Nancy A. Fischer
Partner
Pillsbury Winthrop Shaw Pittman LLP

- Status of proposed changes to ITAR brokering regulations
- Proposed brokering language/requirements that are unique to the space context: Aftermath of DTAG comments
- What constitutes a "broker", "brokering" and "facilitation", and the application to foreign persons otherwise subject to U.S. jurisdiction
- To what extent commercial space activities are captured by brokering rules
- When a consultant, underwriter, foreign employee or salesperson can be a "broker"
- When marketing, third party technical assistance and setting up meetings can trigger brokering requirements
- What is a "commission"?
- Complying with "prior notification" requirements and exemptions
- Securing license and other approvals for brokers

12:30 Networking Luncheon for Speakers and Attendees

1:45 **Keynote Address: DTSA Policy, Licensing and Monitoring Update**

Ramon Garcia
Director, Space Directorate
Defense Technology Security Administration
U.S. Department of Defense

2:15 **Controlling Technical Data from Satellite Manufacturing to the Launch**

Kent D. Bossart
Director, Trade Compliance
Intelsat Corporation

Kimberly T. Kho-Knee
Director, Government Relations & Licensing
ILS International Launch Services, Inc.

- When foreign-origin data provided to a foreign entity can be captured by the ITAR
- How technical data used for ground activities can become ITAR-controlled
- Complying with restrictions governing "technical" discussions: Scope of permitted discussions under DSP-5s vs. TAAs
- Determining whether technical data is included or excluded from an authorization
- DTSA restrictions on transfers to foreign nationals in and outside of the U.S.
- Implementing IT & physical controls to enhance ITAR compliance
- Flagging technical data issues before they occur: Compliance procedures to identify when/if you have crossed the line

3:15 Networking Refreshment Break

3:30 **Congressional Notification: Reducing the Risk of Satellite Export, Service and Launch Delays**

Darrell J. Putnam, Jr.
Manager, Export Licensing
Space Systems/Loral, Inc.

Franceska O. Schroeder
Partner
Fish & Richardson P.C.

- When and how to notify Congress for satellite launches, exports and related services and under what circumstances
- When Congressional notification is required for re-transfers of satellites previously exported and notified to Congress
- Critical steps to take before the formal notification: Statutory requirements and informal Congressional practices
- Timeline for applications and how to get information from Congress about the status of your case
- Political factors that can affect your application

4:15 **Classifying Satellite Parts, Components and Related Technical Data**

Gary Stanley

Global Legal Services, PC

- Preventing ITAR “taint” on satellite parts and components
- Scope of ITAR application to launch activity support systems and sub-systems
- How to deal with EAR/ITAR items that are similar or are used for comparable applications
- When and how to reclassify items and technologies
- Classifying encryption for launches and satellites
- Determining ITAR jurisdiction over new and innovative technologies: Conducting market and IT functionality analyses
- How much does DOD funding or input matter to classification of space parts and components
- When you need a CJ vs. when to self-classify
- How to prepare a CJ request: What you need to submit, what supporting material to include and other key elements
- Driving factors in CJ determinations: Trends in CJ determinations in the satellite and space contexts
- How to interpret CJ determinations
- Documenting internal and “official” commodity jurisdiction determinations
- What you can do with the CJ after you get it: How not to abuse the determination

5:30 **Conference Adjourns**

Day 2- Thursday, September 30, 2010

9:00 **Opening Remarks from the Chair**

9:05 **Space Insurance: Using TAAs and DSP-5s for Multi-Party Relationships and Communications**

Tim Rush

Managing Director

International Space Brokers, AON Risk Services

Keil J. Ritterpusch

Partner

Pierson & Ritterpusch, LLP

- When to obtain a TAA vs. DSP-5 for dealing with foreign underwriters
- Scope of permitted discussions under DSP-5s: When DDTC will permit limited “back and forth” in the space insurance context
- Preparing space insurance TAAs: Meeting specific DDTC guidelines
- When and how often to amend TAAs
- Preventing ITAR violations in the course of multi-party discussions

- Complying with license requirements for transferring technical data to underwriters and insurance brokers
- Insuring ground operations, launches and in-orbit activities: Key differences and trends in terms and conditions, rates, and risk factors
- What to do in the event of a satellite launch or in-orbit failure

9:45 **Interpreting and Complying with License Provisos**

Steve Iris

Senior Analyst, Policies and Regulatory Affairs

Canadian Space Agency (Canada)

Lonnie Washington

Senior Manager, Export Administration

& Empowered Official

Satellite Development Center and Space Exploration

The Boeing Company

- Recent changes in DDTC and DTSA provisos, including TAA provisos for orbit, programs, insurance, and launch services
- Top 10 license provisos and how they are interpreted by the agencies
- Reconciling contradictory provisos within the same license
- When you can be subject to a directed disclosure for misinterpreting provisos
- Under what circumstances you can get a proviso deleted
- Ensuring TAA compliance by engineers and technical personnel
- Incorporating provisos into your security plan, and establishing special databases for access control and data protection
- Explaining provisos to customers, and managing the impact of provisos on doing business

10:30 **Networking Coffee Break**

10:45 **Meeting DTSA Requirements for TTCPs, and Encryption Technology Control Plans**

Lt Col Mark Skosich

Space Systems Engineer

Defense Technology Security Administration (DTSA)

U.S. Department of Defense

Quinn Howard

Group Export/Import Control Officer

ATK Space Systems

- Identifying when a TTCP is required
- Incorporating DDTC and DTSA expectations into a TTCP
- Space -related considerations for foreign vs. U.S. companies when drafting TTCPs
- Preparing on-orbit TTCPs: Unique considerations
- How to work with DTSA to prepare your TTCP: Scope of DTSA flexibility
- Monitoring and assessing the effectiveness of your TTCP: Scope, extent and frequency of employee training to ensure compliance
- Dealing with TTCP violations: How to respond, who to call at DTSA and under what circumstances
- Incorporating an encryption technology control plan into your TTCP: Who develops the plan, what is required, how to secure NSA approval and what information to provide DTSA

11:30 **Managing Collaborative Research Programs in a Post-Roth Environment: Conducting Cutting-Edge Research within ITAR Boundaries**

Olga King

Export Compliance Manager, Empowered Official
Jet Propulsion Laboratory

Jahna M. Hartwig

Associate General Counsel
Johns Hopkins University Applied Physics Laboratory

John F. Hall, Jr.

Director, Export Control and Interagency
Liaison Division
NASA Headquarters

- Extent to which universities are willing to accept ITAR restrictions, and safeguard ITAR-controlled data and hardware
- Impact of the Roth case on the negotiation and structuring of collaborative research programs: Tailoring rules of engagement, guidelines and protocols
- When and how to secure DSP-5s and TAAs for foreign, dual and third country national researchers: Impact of current DDTC policy on determining nationality
- Using the “fundamental research” exemption for your collaborative efforts
- Applying ITAR exemptions for technical data transfers to international and university partners
- How universities and research institutes are approaching export compliance in light of the Roth case
- Designating a university gatekeeper for managing controlled technical data, research, IT and physical controls
- Designing collaborative research programs to facilitate DDTC license approvals
- Monitoring compliance by university and international partners

12:15 **Resolving Disputes within the Scope of ITAR Restrictions: Special Considerations in the Satellite & Space Contexts**

Christopher T. W. Kunstadter

Senior Vice President
XL Insurance

John Ordway

Partner
Berliner, Corcoran & Rowe

- Securing appropriate DDTC license approvals for informal dispute resolution, arbitration and litigation
- Meeting DDTC guidelines for arbitration TAAs
- What you can disclose without a license
- Complying with license provisos impacting disclosure of technical data in the course of document reviews, discovery, depositions and testimony
- Preventing delays in dispute resolution due to ITAR considerations
- Recent dispute/litigation trends regarding breach of contract, satellite failures and insurance claims
- When disputes are arbitrated vs. litigated, and how to reduce costs
- When to get outside counsel involved

1:00 **Chair’s Closing Remarks and Conference Concludes**

Interactive Post-Conference Working Session
2:00 p.m. – 5:00 p.m.
(registration begins at 1:30 p.m.)

ITAR Licensing Do’s and Don’ts for Satellite & Space Exports: When and How to Prepare DSP-5s and TAAs

Franceska O. Schroeder

Partner
Fish & Richardson P.C.

- Nuts and bolts of drafting, structuring, and valuing TAAs, MLAs and DSP-5s
- Determining nationality: Using “country of birth” vs. “last place of citizenship” to determine nationality
- Anticipated timelines for approval and how to expedite the process
- Structuring licenses for sub-contractors, consultants and service providers, and how much you need to “prep” government before submitting the application
- Complying with re-transfer application requirements
- Screening and employing non-US persons at launch sites: When and how to get a DSP-5
- When you can secure one license approval for all satellite manufacturing activities vs. specific licenses
- Key reasons for RWA (Returns without Action) or license denials, and how to prevent them
- Using ITAR exemptions for satellite and space activities, components and related technologies
 - status and impact of changes to 126.4 (shipments by and for US government) exemption
 - how the Canadian exemption applies to satellite and space activities
 - using exemptions for NASA and DoD contractors
 - exemptions for technical/collaborative discussions and scientific personnel

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American Conference Institute's 3rd National Forum on

SATELLITE & SPACE EXPORT CONTROLS

INTERACTIVE
WORKING SESSION
SEPTEMBER 30, 2010

ITAR Licensing
Do's and Don'ts
for Satellite & Space Exports

Hear from senior representatives at

- DDTC
- DTSA

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