

**Testimony Before the
Committee on Governmental Affairs
United States Senate
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**Interagency Review of Dual-Use and
Munitions Export Licensing Processes**

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Mr. Chairman, Members of the Committee, I am pleased to appear before you today to discuss the role of the United States Customs Service (Customs) in export license control. The Office of Inspector General of the Department of the Treasury recently participated in the Interagency Review of Export Licensing Procedures. This was a multiple agency review of export license controls performed at the request of this Committee, which included the Departments of Commerce, Defense, Energy, State, Treasury and the Central Intelligence Agency.

The Committee requested the six Inspectors General (IG) to update a 1993 special interagency review of the export licensing process and to answer 14 questions. It should be noted that the Treasury IG did not participate in the 1993 review. Most of the questions focused on the license review and approval process and end-use checks. One question, however, dealt with assessing the procedures used to ensure compliance with conditions placed on export licenses. While this question was primarily concerned with issues such as retransfers without U.S. consent, replications and peaceful use assurances, our review expanded this area to include Customs' role as the last check point to ensure that what was shipped is what was approved, and to

prevent any attempts to ship munitions and dual-use items without a properly approved license.

One method Customs uses to carry out this enforcement role is through an operation known as EXODUS. Operation EXODUS is an intensified enforcement program established in 1981 to intercept illegal exportations of munitions, strategic technology, and shipments bound for sanctioned countries. Through this and other efforts, Customs seized nearly 1,800 shipments of illegal exportations of dual-use items and munitions during Fiscal Year (FY) 1998. Investigative efforts resulted in hundreds of arrests, indictments, and convictions.

Despite these results, there are vulnerabilities which could lead to unlicensed shipments of munitions and dual-use items or licensed shipments that do not comply with the terms and conditions of the license. In our report, we made 11 recommendations to Customs for actions it should take within its own organization and in coordination with the Departments of Commerce and State, to strengthen enforcement operations and reduce the vulnerabilities. Due to the sensitive nature of the weaknesses we identified, I cannot provide specific information to describe all of them in this open hearing. However, we have made our full report available to the Committee, and I will briefly summarize our findings for you in this statement.

Our report contains four major findings:

1. Untimely export reporting data constrain targeting efforts;
2. Customs' export license enforcement efforts need strengthening;
3. Enforcement of Department of Commerce licenses is hindered; and
4. Departments of Commerce and State license applications were not routinely screened against
the Treasury Enforcement Communication System (TECS) database.

With regard to the first finding, we found that Customs' ability to effectively target unlicensed export shipments is constrained by current law applicable to the Department of Commerce's Bureau of Census and Bureau of Export Administration regulations. Due

to the law enforcement sensitivity of this issue, I cannot provide more detail in this hearing. However, this issue poses significant risk since unlicensed exports comprise about 95 percent of the approximately 20 million export transactions that occurred during FY 1998.

With regard to the second finding, our audit identified other areas not constrained by law or regulation where Customs' enforcement effectiveness can be improved. For example, most EXODUS team members we surveyed were unaware of the availability of Commerce licensing data in the TECS database. Access to such data is necessary to assist in cargo clearance and enforcement procedures because the only license information available to Customs Inspectors on export reporting documents is the license number itself. More access to this data, as well as increased awareness of its existence and usefulness, needs to be provided to Customs inspectors.

Our audit also identified that there may be a need to increase Outbound enforcement staffing levels at land border ports. Failure to provide continuous coverage for all outbound traffic results in some shipments being exported without review or inspection. Also, operation EXODUS enforcement efforts can be strengthened by reducing the frequency with which inspectors assigned to EXODUS teams rotate, and by developing a national EXODUS training program. Some EXODUS teams have experienced a turnover rate as high as 50 percent. Coupled with the fact that EXODUS team members receive very little specific training, this can result in staffing EXODUS teams with high levels of inexperienced personnel, thereby reducing enforcement effectiveness.

Another area of vulnerability identified by our review involves controls over foreign military sales exports. While I cannot describe the specifics surrounding this control weakness, it has the potential of allowing exports of foreign military sales shipments that are in excess of licensed amounts. Finally, in carrying out their enforcement efforts, Customs inspectors, when necessary, will make license determination queries to the Departments of Commerce and State. We found that this is a manual process which is inefficient and contributes to internal processing delays. We recommended that Customs determine the feasibility of automating this process.

Regarding our third finding, we found that enforcement of Department of Commerce licenses is more difficult for Customs

than licenses granted by the Department of State. Two weaknesses contribute to this. First, Commerce regulations and licensing procedures do not require control, tracking, and closure similar to those required for State licenses. As a result, Customs is unable to ensure that authorized export amounts are not exceeded on Commerce licenses. Second, Commerce does not always respond to Customs' license queries in a timely manner. Responses to queries we sampled took an average of 24 days. This can cause Customs to detain shipments for extended periods, unnecessarily interrupting the flow of trade.

Finally, with regard to our fourth finding, we found that license applicants and related parties were not always screened against the TECS law enforcement database. Neither Commerce nor State were routinely referring applications, including related parties to the transaction, to Customs. This increases the potential that licenses could be granted to exporters or their affiliates who have derogatory backgrounds. While primary responsibility for referring applicant data for screening against TECS rests with the licensing agencies, Customs has a role to play with the support it provides for this process. We believe resource requirements are a major reason why the screening of all applicant data is not being conducted. The IG at Commerce also reported this issue. We recommended that Customs work with Commerce and State officials to review the adequacy of license screening support.

In conclusion, the interagency review has identified a number of weaknesses in the munitions and dual-use license application review, approval, and end-use check process. Numerous recommendations have been made to improve the licensing process. However, enforcement of the license provisions is equally important, and unlicensed exports can also pose a significant risk. Our review has identified some vulnerabilities in these areas that need to be addressed as well. Customs has agreed to take action on all of our recommendations and to coordinate its efforts, where appropriate, with the licensing agencies. This concludes my remarks. I will be happy to answer any questions you or other Members of the Committee may have.