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## ***Special Commercial Satellite Licensing Regime***

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### **BACKGROUND**

- Section 1309(a) of the FY 2000 Foreign Relations Authorization Act authorized the Department of State to establish a regulatory regime for the expeditious export licensing to U.S. allies of commercial satellites, satellite technologies, their components, and systems to NATO allies and major non-NATO allies, while ensuring priority to “national security and U.S. obligations under the Missile Technology Control Regime.”
- The Defense Trade Advisory Group (a federal advisory committee to the State Department) has been meeting with ODTC and DTRA to design an approach that meets the objectives of the legislation. A conceptual framework and many of the details have been developed for consultation with the interested Committees of Congress and U.S. aerospace companies preparatory to promulgation of an amendment to the ITAR.

### **MAIN ELEMENTS OF THE REGIME**

- The regime will focus on priority areas: (1) the supply of satellite components and associated technical data, including off-shore procurement; (2) technical information needed to respond to bids, to requests for quotations, plant visits, acceptance testing of equipment and the like; and (3) technical data for satellite insurance purposes, including for on-orbit anomalies. (The permanent export of satellites for delivery abroad or foreign launch, which generally require prior notification to Congress, has proceeded without serious issues (see attachment).
- The regime’s main feature will be the ability to use high volume export licenses for components and technical data (known in the trade as ‘bulk’ licenses), which will be valid for four years for multiple shipments to any of the NATO or major non-NATO allies. Another important feature is that it will not be necessary to provide in advance the details of purchase orders or contracts or re-transfer and end use certificates where they may be required.
- While all of this documentation will continue to be mandatory, it will only be required to be furnished to ODTC within 15 days following shipment from the United States, at which time U.S. companies will report the appropriate shipping information and furnish electronic images of the required documentation.

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- In this respect, ODTC will implement the satellite licensing regime for U.S. allies concurrently with another mandate provided by Congress in the same legislation: the requirement for reporting by the U.S. defense industry of all USML exports from the United States within 15 days of shipment, for which ODTC will also provide an electronic reporting procedure.
- Within the defined territory of “NATO plus 8”, re-transfers of most U.S. origin components and technical data licensed for export under this regime also would be permitted without prior USG consent for an approved list of satellite programs involving U.S. allies and for use by an approved list of allied aerospace firms, all of which will be scrutinized within the USG before they are approved. Both lists will be kept up to date and posted publicly on ODTC’s web site.
- For more sensitive components, such as MTCR-controlled items, ODTC’s long standing controls, including non-transfer and end use certificates, parts control plans and the like, will continue to be required. But, a means will be provided by which this documentation can be furnished electronically, in most cases post hoc, provided the transfers are limited to approved projects and for use by approved firms. (Restrictions may also be imposed on the license in certain cases, in view of the specific items proposed for export and whether the destination involves countries that are not MTCR members.)
- None of the special procedures will apply should the transaction at any stage involve an activity beyond the territories of U.S. allies, such as space launches from the PRC or Russia. In those cases, ODTC will continue to require case-by-case licensing and all of the rigors of existing law and regulation.

### TIMETABLE

- Regulations implementing the special regime for allies have been approved and are being readied for publication.