

# ITAR's, Industry Issues, Export Control Reform

FLC Northeast Region Meeting

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# Companies



# The Laws

- Arms Export Control Act (“Military Items”)
  - State Department (Directorate of Defense Trade Controls)  
DDTC
    - Control over export/import of defense articles
    - Authority to establish USML and issue export licenses
    - Administers and controls the ITAR
- Export Administration Act (“Dual Use Items”)
  - Department of Commerce (Bureau of Industry and Security)  
BIS
    - Control Export of “Dual Use” items
    - Authority to establish ECCN’s and issue export licenses
    - Administers and controls the CCL

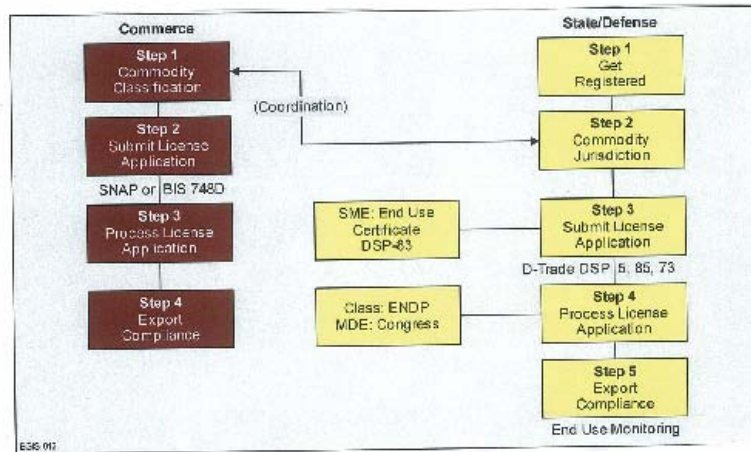


# The Regulations

- **The ITARs (International Traffic in Arms Regulations) includes the USML or “Military Items”**
  - Issued and Administered by State Department (DDTC)
  - Includes the USML (21 Categories)
  - Uses General Descriptions,
  - States Policies and Provisions
  - Defines Significant Military Equipment, Technical Data, Major Defense Equipment.
- **The EAR (Export Administration Regulations) includes the CCL (Commodity Control List) “Dual Use Items”**
  - Issued and Administered by the commerce Department
  - Uses Technical Parameters
  - Has Structure (Equipment, Test Equipment, Materials, Software and Technology)
  - Uses Export Control Classification Numbers (ECCN’s)

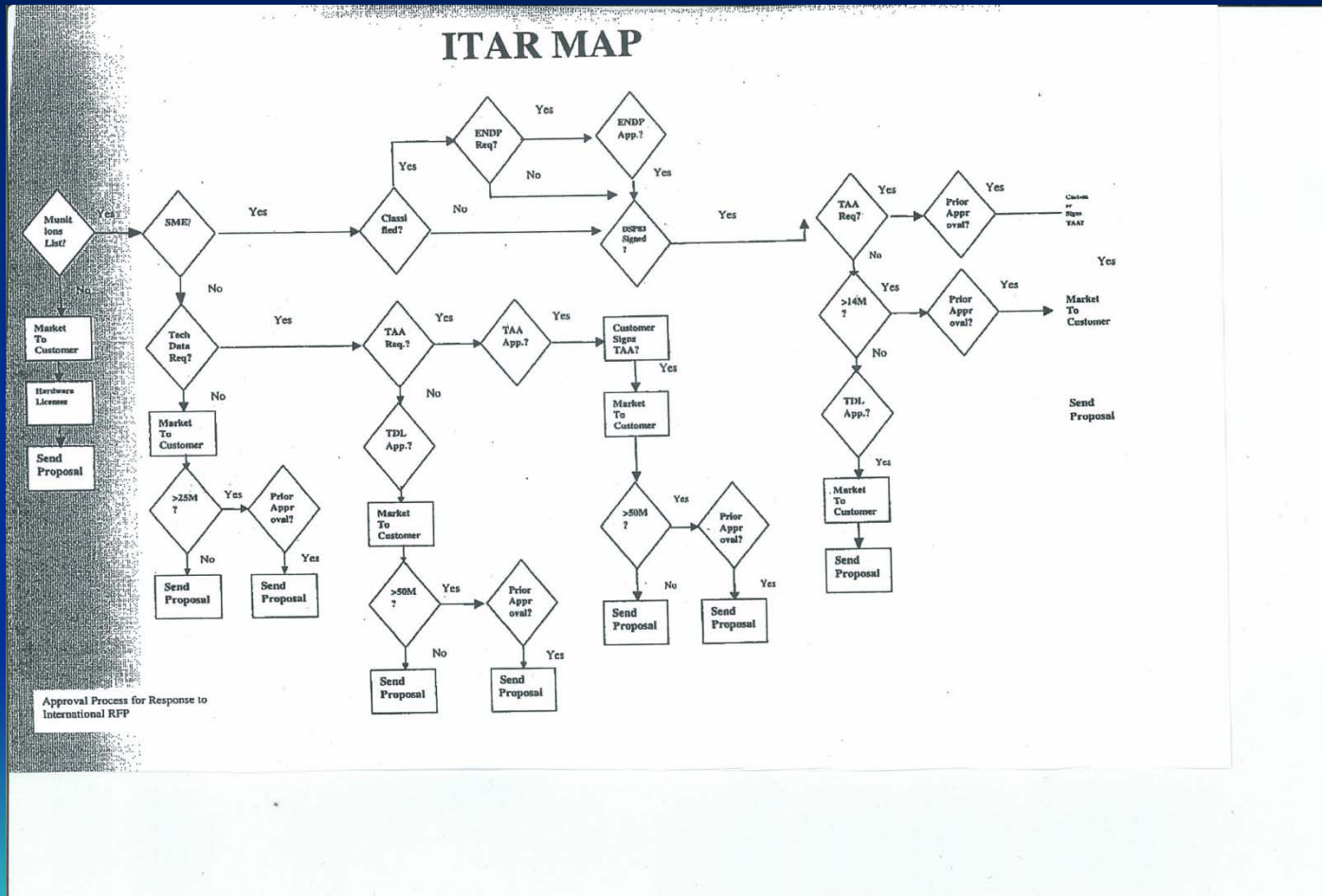


# Licensing



# The ITAR Map

## Approvals to Market



# Export Planning

<b>RFP Response</b>	<b>Reviewer</b>	<b>Planning Time</b>
Hdwe (non-SME)	DDTC	20 days
Hdwe (SME)	DDTC +End User	30 Days
T Data + Hdwe (SME)	DDTC+DoD+End User	60 Days
TAA	DDTC+DoD+End User	90-120 days
Mfg L. Agreement	DDTC+DoD+End User+Congress	180-250 days
Joint Venture/MDE	DDTC+DoD+CFIUS+ Congress	300-500 days

# Industry Issues

- Regulations are overwhelming
- Processing Times
- Pre-Approval Requirements
- Dual National and Third Country Nationals
- Countries Driven to "ITAR Free" Solutions
- Reduced Incentive to Export
  - High Risk of Non-compliance
  - Penalties are Severe



# Findings of National Academy of Sciences Report January 2009

- **Current System now harms our national and homeland security**
- **Technology base supporting military also supports civilian economy**
  - Many controls do not improve national or homeland security
  - Current controls reduce economic prosperity
- **Cannot fix current system below presidential level**
  - No agreement (in 20+ yrs) on policy between executive and legislative branch
  - Current list based systems are overly proscriptive and unwieldy
  - Lack of multinational consensus on export controls
- **National security depends of global engagement in science**
  - US has lost leadership in certain areas
  - Strategy of “run faster” incompatible with current regulations
- **Best Practices for Research are undermined by government regulations**
  - Freedom of inquiry, freedom to pursue knowledge, collaborate and publish
- **Current System restricts access to talent from outside US**



# Export Control Reform

- Phase I and Phase II
  - Step 1—Review each USML Category and Related ECCN Separately
  - Step 2---Structure USML similar to CCL
  - Step 3---Describe Defense Articles in a Positive Way
  - Step 4---Recommend Tier of Control
- Create a “Bright Line” between Items for State and Items for Commerce control
- Merge ITAR and CCL into a Single List
- Seek Congressional Approval for:
  - Single Licensing Agency
  - Single Enforcement Agency
  - Single Data Base