

Defending the U.S. Warfighters' Technology Advantage

[Presentation by James Hursch, Director (Acting) of the Defense Technology Security Administration, to the Society for International Affairs at its Volunteer and Speaker of the Year Business Luncheon on 28 January 2009 at the Hyatt Regency Crystal City]

Introduction

As I was preparing my impromptu remarks, a remark once made by Winston Churchill came to mind: "There are two things more difficult than making an after-dinner speech: climbing a wall which is leaning towards you and kissing a girl who is leaning away from you." As I stand here before you, it seems that the same thing surely could be said of an after-lunch speech.

First, let me thank the Society for International Affairs, and in particular its President Barbara Clark and her fellow Board members, for inviting me to speak at the annual Volunteer and Speaker of the Year Luncheon. Second, let me thank you for SIA's part in developing a long-standing and mutually beneficial relationship with DTSA, and let me assure you of our intent at DTSA to continue to build upon and strengthen our relationship with SIA, its membership, and other members of the export community.

I would be remiss if I failed to mention what an honor and privilege it has been for me to assume the position of Acting Director of DTSA when Beth McCormick stepped up to her new position at the Defense Security Cooperation Agency. Both I and Tony Aldwell, our new Deputy Director, believe we have inherited a well-run organization filled with professionals who are intelligent, responsible, well-educated, and highly competent.

In some ways, this is a particularly difficult time to talk policy; while we anticipate no dramatic change in our mission, we do not yet have clear signals from the new Administration on the issues which would affect DTSA's mission. Predictions would be speculation, and given that most officials have not even been named, it would be hard to even do that.

DTSA's Plans

So, what I would like to do is discuss what we at DTSA currently plan to do during this next year, by summarizing the important points of our brand new Strategic Plan 2009-2010, which you will find on our website at www.defenselink.mil/policy/sections/policy_offices/dtsa.

DTSA's mission is "to promote U. S. national security interests by protecting critical technology while building partnership capacity." This statement conveys both the oft perceived tension and the true "value added" of our organization. In earlier times, DTSA was often perceived as a "just say no" organization. Today, with the importance of coalition warfare so clear, we must build interoperability with our coalition partners and their capacity to operate efficiently and effectively with us while at the same time continuing to "ensure the edge" of our technological leadership and avoiding our warfighters having to face our cutting edge technologies employed on the battlefield by our enemies. This is an ethos which is a truly serious part of the way we do business and I spend a large part of my time harmonizing the two faces of this mission. To fulfill that mission, we have set five strategic goals:

- The first of which is "Preserve the U.S. defense edge by preventing the proliferation and diversion of technology that could prove detrimental to U.S. national security;"
- The second is "Engage U.S. allies and partners to increase interoperability and protect critical technology;" and
- The Third is "Facilitate the health of the U.S. industrial base;"
- The fourth strategic goal is "Align and utilize resources to support DTSA's mission;" and
- Our fifth and last goal is "Empower people and make DTSA a great place to work." Those goals merit a closer look.

Strategic Goal One

Our first strategic objective, "Preserve the U.S. defense edge by preventing the proliferation and diversion of technology that could prove detrimental to U.S. national security," can be thought of as the "bread" of DTSA while the analysis and recommendations concerning licensing is its "butter." Our objectives under this first goal are as follows:

- Identify critical military technologies to limit the transfer of dual-use and defense-related technology goods and services that would be detrimental to U.S. national security interests.
- Identify proliferation and diversion destinations of concern, organizations with a history of diversion, and end users with associations of concern.
- Shape export control policy and guidelines to preserve the U.S. critical military technology advantage.
- Conduct thorough, consistent, and expeditious reviews of international technology transfers, making recommendations commensurate with technology security policy and guidelines.

I don't want to tire you by recounting too many details, particularly since the entire plan soon will be on our website, but I do want to emphasize that we have translated our objectives into actionable performance goals, with associated benchmarks or metrics that set the standards for each. For example, for our first strategic goal, the first performance goal is "Conduct consistent and expeditious reviews of export licenses and other technology transfer requests, and provide informed recommendations for development of DoD positions within established timeframes." Among the benchmarks is this: "95% of license reviews and/or technical evaluations exceed the quality guidelines (complete technically proficient, relevant, and thorough) commensurate with national security interests and security policies."

We have set high standards for ourselves because we understand the need to balance restrictions on technology transfer that derive from national security concerns with the need of our companies to stay competitive in the global marketplace, so that we preserve the U.S. warfighters' edge. We intend to achieve that by keeping in mind the twin goals of avoiding "dysfunctionalization" of our U.S. defense industry's export competitiveness, because that would conflict with our strategic goal to "Facilitate the health of the U.S. industrial base," and of building partnership capacity in order to "Engage U.S. allies and partners to increase interoperability and protect critical technology."

Strategic Goal Two

For our second strategic goal, "Engage U.S. allies and partners to increase interoperability and protect critical technology," there are four objectives:

- Foster bilateral and multilateral relationships to develop a shared view of technology security policy with international partners.

- Ensure that technology security policy is implemented consistently through flexible and agile security cooperation.
- Support interoperability among our partners and allies, while ensuring that disclosure of classified military information is consistent with technology security policies.
- Employ technology security policies to create additional force multipliers for coalition operations.

For this strategic goal, we have also established three performance goals with appropriate benchmarks. In fact, your invitation to speak to you today fits neatly with our second performance goal, “Build and foster relationships with foreign government and foreign and domestic industry representatives to identify common national security concerns and shape foreign defense technology requirements.” And one of the benchmarks for this performance goal is “Perform outreach activities in accordance with industry and country plan...” We are engaging bilaterally with our key foreign government counterparts in the United Kingdom, Australia, France, Israel, India, Brazil and Japan.

Strategic Goal Three

Our third strategic goal is “Facilitate the health of the US industrial base,” and this strategic goal is subdivided into four objectives:

- Mitigate U.S. national security risks associated with foreign investment in the U.S.-based defense industry.
- Facilitate U.S. industry competitiveness in the international marketplace without compromising national security imperatives.
- Ensure that technology security is considered in international acquisition programs.
- Assist U.S. industry in complying with applicable export control and technology security laws, regulations, and policies.

As I noted in my explanatory remarks on our first strategic goal, this third strategic goal is really the “butter” part of DTSA’s “bread and butter,” and to help us attain our four objectives, we have established four performance goals:

- Conduct consistent and expeditious reviews of export licenses and other technology transfer requests that provide informed recommendations for development of DoD positions within established timeframes.
- Provide the assistance required to facilitate industry compliance in accordance with laws and regulations.
- Provide decision-makers with timely processing, reviews, and recommendations regarding Committee on Foreign Investment in the United States (CFIUS) filings and issues.
- Monitor existing CFIUS mitigation agreements for company compliance by signatories (DoD and other U.S. agencies).

You can see how important this strategic goal is by looking at the metrics or benchmarks associated with each performance goal. For example, for our first performance goal, “Conduct consistent and expeditious reviews of export licenses and other technology transfer requests that provide informed recommendations for development of DoD positions within established timeframes” the metrics are:

- 95% of license reviews and/or technical evaluations exceed the quality guidelines (complete, technically proficient, relevant, and thorough) commensurate with U.S. national security interest and technology security policies.
- 95% of license reviews and/or technical evaluations are completed according to the guidelines and timelines published in appropriate directorate Standard Operating Procedures.
- 95% of industry Technology Transfer Control Plans (TTCPs) are developed in accordance with established DoD guidelines and policies within two or less iterations.

Strategic Goals Four and Five

Our last two strategic goals really have to do with the way we organize and manage ourselves within DTSA, and I will not burden you with details but merely tell you what they are: Number four is “Align and utilize resources to support DTSA’s mission” and number 5 is “empower people and make DTSA a great place to work.” This is a new focus for us. DTSA is staffed by people whom the great management “guru” Peter F. Drucker termed “knowledge workers.” In his book Management Challenges for the 21st Century, Drucker succinctly

summarized the aim of our last two strategic goals: “to make productive the specific strengths and knowledge of each individual.”

DTSA Metrics or “How Are We Doing?”

Let’s take a look at how DTSA is doing. In 2008, DTSA had a 50% increase in munitions licensing cases, from 23,879 in 2007 to 35,976 in 2008. For these cases, our average processing time decreased by four days, from 16 in 2007 to 12 in 2008. With regard to dual-use licenses, in 2008 we experienced a 4.5% increase in the number of cases, from 17,390 in 2007 to 18,178 in 2008. Our processing time for these cases decreased by one day, from 14 days in 2007 to 13 days in 2008.

Other Progress

After seeing a 50% increase in munitions license reviews by DoD in 2008, DTSA has taken a significant step toward improving the Munitions Tiger Team license review process by using a "Do Not Staff" list. After working closely with the State Department’s Directorate of Defense Trade Controls (DDTC) and reviewing more than six months of pre-screen licensing data, we have identified over 100 munitions commodities, various USML subcategories, and some very specific license types that have an extensive history of previous approvals, or are very minor in nature and pose no national security risk.

In a letter to the DDTC, I have provided a list of defense articles and services, commodities, and license types that no longer require DoD review. State’s DDTC has been using our "Do Not Staff" list in its staffing process since the first of the year. This is an ongoing process with our colleagues at State Department, and as heretofore DDTC retains the authority to staff cases that fall on our "Do Not Staff" list. If DDTC chooses to staff such cases, however, there will be a need for comments allowing DTSA reviewers to address any concerns. This will be an ongoing process, and we will continue to revise our "Do Not Staff" list by adding new commodities to it and better defining articles previously identified. Not only do we expect this to cut down on the number of licenses we have to review, but we are certain that by not staffing these licenses and commodities to DoD we become better able to concentrate on those items and systems that threaten our national security, as well as, allow DDTC to more quickly turn around your export license requests.

As you know, defense trade cooperation agreements between the United States and the United Kingdom and between the United States and Australia are currently pending before the Senate Foreign Relations Committee. I support the objectives of both the U.S.-U.K. and the U.S.-Australia Defense Trade Cooperation Treaties

and I believe they are in the national security interest of the United States and I hope that the Senate will ratify them at its earliest convenience.

Some Senators appear to be concerned that these two Treaties might rapidly proliferate into many similar treaties. That is clearly not the intent. If ratified, these two Treaties will allow, under specific, defined, and agreed upon conditions, the transfer of defense articles without prior written authorization. The intent in these specific cases is only to reduce the trade barriers to the exchange of defense hardware, technical data, and services. I believe the Treaties will strengthen U.S.-Australia/U.K. defense cooperation, increase interoperability, and lend greater support to current and future coalition operations. There will also be substantial benefit to the respective three industrial bases. The Treaties promise to enhance our bilateral government and industry research, development, and production efforts by providing a flexible, agile export control environment that will expedite the delivery of new technologies to our warfighters. Moreover, the Treaties will increase competition in the defense marketplace by creating an approved community of companies in all three nations, which will result in improved quality and reduced costs in the defense equipment we provide to the men and women of our armed forces.

As you may recall, at this time last year former President Bush signed two Presidential Directives revising munitions and dual-use export control policies and practices. These initiatives were designed to better support the National Security Strategy while facilitating U.S. economic and technological leadership. To date the Departments of State and Commerce have completed several initiatives in accordance with these Presidential Directives. Under the guidance of the new Administration, DTSA will continue to support these efforts and work with both Departments to ensure that future initiatives fulfill all the aspirations of the two directives.

Some of you may be aware of recent changes in the way we are conducting our space launch monitoring activities. These changes are primarily due to a revised legal interpretation of the authorizing law, and we are still in the process of formulating our corresponding licensing and monitoring practices. Here again we are experiencing the need to balance our duty to protect critical military technology with our equally important duty to maintain the defense industrial base by not unduly impeding the competitiveness of our companies.

And last but not least, in response to a requirement from the DoD General Counsel's Office, DTSA is working with the Military Departments and Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (OUSD AT&L) to revise current guidelines on the use of certain export license exemptions in the ITAR. The intent of this revised instruction and guidelines will

be to make them applicable to all DoD components. Once the revision is complete, DTSA will coordinate the guidelines with the Department of State.

Recommendations

President Obama noted the tough tasks that lie ahead for our country, our allies, and our friends. Limitations of time make it impossible to go into the details of the security situation we will face in the near and foreseeable future, but it is likely to be a tough environment. Let me recommend to you a study titled “The Joint Operating Environment 2008,” published last November by the US Joint Forces Command. (See:

<http://www.jfcom.mil/newslink/storyarchive/2008/JOE2008.pdf>) The study discusses and analyzes the trends influencing the world’s security in several areas: Demographics, Globalization, Economics, Energy, Food, Water, Climate Change and Natural Disasters, Pandemics, Cyber, and Space. As the release statement indicates, “It provides a perspective on future trends, shocks, contexts, and implications for ... leaders and professionals in the national security field.”

As for DTSA’s “Operating Environment,” we continue to encourage applicants to contact us directly if they have questions about license conditions and/or provisos which they believe originated with DTSA. Often we are the ones in the best position to explain the intent and purpose of these conditions/provisos. But that said, I must encourage you all to use the proviso reconsideration/clarification process via DDTC when the questions/considerations warrant it. We will continue to reach out to industry early and often on occasions when we are not clear about the scope of a license transaction. It is very helpful to us at DTSA if you always submit complete documentation in your license applications, especially when licenses involve the export of technical data. Within your license application or letter of explanation, clarify the scope of the transfer; state what data you are and are not sharing; provide a complete listing of foreign parties associated with the export; and be sure to identify the final end-users of controlled technology. This level of detail goes a long way toward satisfying our understanding, gets us to a greater level of comfort and facilitates a more expeditious review process.

As always, we are available to meet with you at any time, and we especially encourage you to do so before submitting an application that may be precedent-setting for your company or industry. We will work with you to clear up the tough issues, and that will go a long way toward expediting your license application.

Conclusion

I have the greatest confidence in our defense industry's ability to continue to provide the U.S. warfighters and those of our allies with the technologies needed to preserve and maintain their edge on the battlefield. Winston Churchill said, "Let our advance worrying become advance thinking and planning." I also agree with the inventor and founder of DELCO, Charles Kettering when he said, "In America we can say what we think, and even if we can't think, we can say it anyhow." Again, thank you for inviting me to speak at this event.