

Deemed Export Advisory Committee (DEAC) Report

Findings, Recommendations & Discussion

US Department of Commerce
Bureau of Industry & Security
April 15, 2008

DEAC Background

- The DEAC was chartered in 2006 in response to ongoing dialogue between industry, academia and government.
- DEAC was charged with a comprehensive review of deemed export policy.
- Membership by prominent representatives of industry and academia.
- The DEAC met six times around the country before publishing its report on December 20, 2007.

Deemed Export Rule in the Era of Globalization

- The DEAC observed the US is no longer preeminent in all areas of science and engineering.
- Foreign nationals are an integral part of US research and development, both within the US and abroad.
- Cutting edge research is mostly conducted in the private sector on potential dual-use technologies.

Deemed Export Rule in the Era of Globalization

- The committee highlighted the importance of the United States not building a “wall” around its scientific and technologic communities.
- Such a wall would serve to “deny the nation of the vast body of knowledge being accumulated elsewhere.”
- The United States should focus rather on building “high walls around small fields.”

DEAC Findings

- Current Deemed Export regulations have become increasingly irrelevant to the existing global commercial and technology paradigm.
- The current CCL is too wide-ranging.
- The existing regulations are complex and often vague to a non-government organization.
- Some regulations do not appear logical.

DEAC Findings

- Many academic and industrial entities appear to be unaware of the Deemed Export rules or have found means to conduct their business without being subject to them.
- There appear to be many escapements to the existing regulatory regime.
- The criteria for assessing the potential threat posed by a foreign national are superficial.

DEAC Recommendation #1

"Replace the current Deemed Export compliance process with a simplified new system that will both enhance national/homeland security and strengthen America's economic competitiveness."

DEAC Recommendation #1

- The new process should be based on the small list of technologies with greatest military utility or consequences. Zero-based annual review of list.
- Establish “Trusted Entities.”
- Criteria for determining allegiance and national affiliation for a foreign national should include country of birth.
- Simplify regulations to render moot certain distinctions, eliminate confusing terminology, and establish new technology transfer rules.

DEAC recommendation #2

“Extend the educational outreach program currently being conducted by BIS to assure that all parties potentially subject to compliance with the Deemed Export rules are familiar with those rules. The use of interactive, web-based, self-teaching programs could be particularly valuable in this regard.”

BIS Implementation

- Establish an Emerging Technologies and Research Advisory Committee (ETRAC).
- Clarify Export Administration Regulations (EAR) definitions, Q&A and Appendices.
- Expand and Refine BIS Outreach Program by conducting monthly or quarterly webinars.
- Comprehensive Review of the Commerce Control List (CCL).
- Establish an Intra-Company Transfer License Exception.
- Expand review criteria to include past and present nationalities and residences when authorizing deemed exports.

<http://tac.bis.doc.gov/2007/deacreport.pdf>

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