

July 23, 2012

Subject: DTAG Transshipment Working Group Status

**Task - (attachment to June 14, 2012 letter from A. Shapiro to G. Sevier)**

Review the subparts ... [ § 123.11, §123.12, & §123.13] for clarity and usefulness in today's environment. Identify any changes recommended and the rationale for such changes. Any recommendations must:

- Preclude shipments through use of an exemption or policy that would allow the unlicensed export of defense articles to or through proscribed destinations
- If recommendations direct a relief from the reporting or other requirements, it must be specific to identified other control requirements (for example, the DTAG should recommend that a license not be required for certain transshipments, those circumstances should be delineated or if another party other than the pilot can file the paperwork required under 123.13, that party should be identified).

Identify any other subparts of the ITAR that may also require modification

**Working Group Members**

Marjorie Alquist – BAE Systems	Bryon Angvall - Boeing
Ginger Carney – GC Export Compliance	Mike Cormaney – Luks Cormaney
Sandra Cross - Huntington Ingalls	BJ Demery – Bell Helicopter
Barbara Dudas – Navistar	Andrea Dynes - GD
Larry Fink – SAIC	Jason Frye – American Systems
Greg Hill – DRS	Larry Keane - National Shooting Sports Foundation
Krista Larsen - Flir	Spence Leslie - Tyco
Christine McGinn - Cobham	Roger Mustian – Daniel Defense
Beth Mersch – Northrop	Brenda Nicacio – PPG Aerospace
Beth Parrish – Lockheed	Ramzi Robana - GLOBAL Integrated Security
Olga Torres – Braumiller Schulz LLP	Dana Goodwin – Trade Link Systems

**Working Group Goal**

- Transshipments of ITAR items through non 126.1(a) countries should be permissible without a DDTC license when the shipment of the item is authorized to the ultimate destination
- Both Continuous and non Continuous transshipments should be OK as long as items do not enter commerce of transit countries

## **Concerns**

### Destination Control Statement (123.9(b))

- Current destination control statement is saturated throughout shipping industry so changes will be cumbersome for industry to implement
- Destination control statement already allows continuous transshipments
- Conclusion – minimum changes necessary to clarify regulations and permit transshipments

### Continuous vs. non Continuous voyages

- Unexpectedly complex issues
- Variable definitions in regulations and industry
- Freight forwarder concerns about maintaining compliance on non continuous voyages
- Conclusion - Both Continuous vs. non Continuous voyages should be OK if:
  - all shippers are included in authorization
  - no diversion occurs
  - Not shipped through 126.1(a) country

## **Concepts the working group considered and rejected**

- Convince DDTC that current language in 123.9 already permitted transshipments through non 126.1 countries
  - Since DDTC thought regulatory language was insufficient, then it should probably be clarified
- Create a new exemption for transshipments
  - Too difficult to implement because a single transaction would require multiple authorizations and AES only can handle one
- Simply replace the word transshipment with diversion in the regulation since that is the risk item
  - Too simplistic a change that did not address all issues
- Simply omit transshipment from Destination control statement
  - Probably would have muddied the various interpretation even further
- Add note that specifies that transshipments to non 126.1(a) countries is OK
  - Too simplistic a change that did not address all issues

## **Working group Proposal**

- Define Transshipment in 120
- Revise 123.9,123.11, & 123.13 to permit transshipments without a DDTC license
  - Proposed Revised Language will be provided