



United States Department of State
Bureau of Political-Military Affairs
Directorate of Defense Trade Controls
Washington, D.C. 20522-0112

In Reply Refer to
DDTC Case: GC 1249-16

OCT 27 2016

Johanna Reeves
Executive Director
F.A.I.R. Trade Group
1775 Eye Street N.W.
Suite #1150
Washington, D.C. 20006

**RE: Advisory Opinion Request for Congressional Notification Requirements
Related to Certain Defense Articles Controlled in the U.S. Munitions List**

Dear Ms. Reeves:

The Department of State is in receipt of your request, dated July 13, 2016, for an advisory opinion regarding congressional notification thresholds required by the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) (AECA) and its implementing regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130). Specifically, you have requested clarification regarding the application of those thresholds to items controlled in United States Munitions List (USML) Category I, paragraphs (e) through (g).

Section 36(c) of the AECA (22 U.S.C. 2776(c)) establishes a statutory requirement for the President to notify Congress of license applications for commercial exports of defense articles exceeding certain dollar thresholds. That requirement sets a threshold amount of one million dollars for notification of exports of “firearm[s] controlled under category I of the United States Munitions List.” The statute does not define the term “firearm.” Following prior legal and policy review, the Department determined that, in the absence of a precise statutory definition of “firearm” and considering the overall objective of the reporting requirement, the statutory requirement to notify firearms could reasonably be interpreted as applying to items identified in paragraphs (a),(b),(c),(d),(e), and (g) of USML Category I. That determination considered, in part, the treatment of the term “firearm” in other statutes and regulations.

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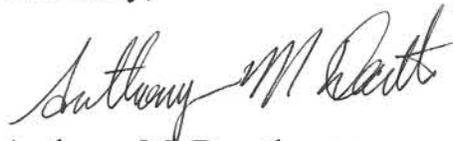
Therefore, DDTC's long-standing practice has been to notify Congress of export licenses for items in USML Category I paragraphs (a) through (e) and (g) that meet the statutory threshold.

As mentioned in your letter, USML Category I(j) contains an interpretation of "firearm" that is narrower than the definition we have established in relation to the Section 36(c) reporting requirement. This interpretation, however, is only applicable to the regulations. Similarly, DDTC's Firearms Guidelines are supplemental to the ITAR for USML Category I and are intended to assist in license application preparation. Any instruction in the Firearms Guidelines does not supersede the statutory notification requirement.

Your letter further notes that "the \$1 million dollar threshold assigned to firearms is far below all other congressional notification thresholds." DDTC notes that the congressional notification thresholds are established in the statute, and DDTC does not control the threshold amount.

Please direct any questions regarding this letter to Mr. Robert Warren at (202) 663-2725, citing the above DDTC case number. Refer to DDTC's website, www.pmdrtc.state.gov, for additional information.

Sincerely,



Anthony M. Dearth
Director of Licensing
Office of Defense Trade Controls