

**REPORT FOR CONGRESS:
END-USE MONITORING OF EXPORTS OF CERTAIN SATELLITES
AND RELATED ITEMS**

Introduction

Section 1264(a) of the National Defense Authorization Act for Fiscal Year (FY) 2013 (NDAA) requires the President to provide for the end-use monitoring (EUM) of satellites and related items that become subject to the Export Administration Regulations (EAR) as a result of the enactment of Section 1261(a) of the NDAA. Section 1264(b) requires the Secretary of Commerce, in consultation with other agency heads as appropriate, to submit to the Congress a report describing the actions taken to implement Section 1264(a), including identification of resource shortfalls or other constraints on effective EUM of such items.

In consultation with the Departments of State and Defense, the Department of Commerce has established a process to update its existing EUM program to adequately cover any satellites and related items that are transferred from the United States Munitions List (USML) to the Commerce Control List (CCL) pursuant to § 1261(a) of the NDAA. Commerce's plan for EUM of exports of satellite-related items is based on the establishment of a new series of Export Control Classification Numbers (ECCNs) in the CCL—the 515 series—that contains tailored controls for satellites and related items transferred from the USML to implement the prohibitions of § 1261(c) of the NDAA, other restrictions related to destinations subject to U.S. arms embargoes, and safeguards for the export of relevant items under License Exception Strategic Trade Authorization (STA).

Current End-Use Monitoring (EUM) Programs

The Department of Defense (DoD) will continue providing on-site satellite launch monitoring. The Administration stated its intent in the Section 1248 Report (a report required by section 1248 of the National Defense Authorization Act for Fiscal Year 2010) to retain "launch services" as defense services subject to the USML. Therefore, DoD will continue its current monitoring program for the launch of U.S. satellites on launch vehicles from countries that are not members of NATO or major non-NATO U.S. allies, regardless of whether the U.S. satellite itself is an EAR item or ITAR item. Under that program, the Defense Technology Security Administration's (DTSA) Space Directorate implements special export controls (SECs). SECs consist of the review and approval of technical data and Technology Transfer Control Plans, and the monitoring of in-person technical assistance services provided for satellite integration and launch campaigns. By implementing these SECs, the DTSA Space Directorate mitigates the risks of unauthorized technology transfer. There may be additional synergies between this program and the existing Department of Commerce EAR EUM activities, which the two departments will explore as we move forward.

The Department of Commerce EAR EUM program accounts for items subject to the EAR, whether or not such items are subject to license requirements. This monitoring involves on-site pre-license checks and post-shipment verifications. End-use checks are administered by Export

Enforcement officials, including seven Export Control Officers stationed in six overseas locations (i.e., China (2), Hong Kong, India, Russia, Singapore, United Arab Emirates) covering these respective destinations and regions, with augmentation by U.S. embassy personnel worldwide. The EUM program is also supplemented by targeted trips by domestically-based BIS Special Agents. In Fiscal Year 2012, BIS conducted 994 EUM visits in 53 countries based on, *inter alia*, concerns identified by BIS or interagency partners about the sensitivity of the item, end use, or end user. STA-based transactions are regularly monitored for compliance purposes, including through end-use checks, as part of BIS's overall EUM strategy.

After the transfer of certain satellites and related items from the USML to the CCL, BIS will accord appropriate priority to end-use checks on such items, including transactions subject to STA, to ensure accountability. Where exports of CCL and USML items and services involve the same foreign transaction party, BIS will coordinate with the Department of State to leverage resources under State's Blue Lantern program implemented by U.S. embassy personnel worldwide. The Departments of Homeland Security and Justice will have the same robust authority they currently possess under the International Traffic in Arms Regulations (ITAR) to enforce export controls on CCL satellite-related transactions. Accordingly, those departments' existing overseas monitoring activities, including overseas investigative authorities, will continue to apply to 515 series items.

Potential Resource Shortfalls or Other Constraints on Effective End-Use Monitoring

To enhance end-use check coverage, the President has requested in his budget for Fiscal Year (FY) 2014, additional ECOs in Europe and Asia and related targeting analysts to increase EUM. Commerce will leverage existing resources, including the capabilities of other departments, to ensure appropriate end-use monitoring regardless of whether all the funding requested by the President is made available by the Congress.