

WHITE COLLAR DEFENSE AND CORPORATE INVESTIGATIONS LAW UPDATE

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U.S. Defense Secretary Outlines Plan for Substantial Changes to Current U.S. Export Control System

On February 1, 2010, the U.S. Department of Defense (DoD) issued its Quadrennial Defense Review (QDR) assessing the present and emerging threats and challenges to the United States and proposing revised DoD strategies and capabilities in response to those threats and challenges. In the QDR, U.S. Secretary of Defense Robert M. Gates, a long-time proponent of export control reform, acknowledged that the current U.S. export control system undermines the competitiveness of key technological industries resulting in a potential national security risk.

Two months later, on April 20, 2010, Defense Secretary Gates outlined plans for an expansive overhaul of the current U.S. export control system during remarks made to Business Executives for National Security (BENS). Specifically, Defense Secretary Gates addressed the need to reform the U.S. government's regulations and procedures for exporting weapons and dual-use equipment and technology. The proposed blueprint for the new U.S. export control system includes (1) the creation of a single export control list to clarify for U.S. companies which items require licenses for export and which do not; (2) the creation of a single licensing agency that will have exclusive jurisdiction over both munitions and dual-use equipment and technology; (3) the creation of a single enforcement-coordination agency which will make it easier to investigate, prosecute and punish export control violators; and (4) the creation of a single information technology system designed to receive, process and screen license applications and end users.

Lending further credence to the proposed reform measures, the Obama administration has forecast in its National Security Strategy, which was released in May 2010, that "we will see a greater emphasis on exports that we can build, produce, and sell all over the world, with the goal of doubling U.S. exports by 2014." It is believed that the proposed export control reform initiative will provide the design and framework to assist defense/aerospace, manufacturing and technology companies at all levels of the spectrum to transition to a much more effective export strategy and increase competitiveness in these key industries.

Draft legislation intended to reform the U.S. export control system is expected to be introduced by the end of 2010, although the upcoming mid-term elections may delay its passage. The anticipated legislation will be the most significant endeavor into export control reform since the passage of the Export Administration Act in 1979, which lapsed in 2001 but has remained in effect pursuant to the International Emergency Economic Powers Act.

Stay tuned for more developments about the changing landscape and implications for compliance and the penalty risks associated with these proposed reforms to the current U.S. export control system.

For a complete transcript of Defense Secretary Gates' remarks to BENS, visit the U.S. Department of Defense Web site at <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4613>.

For a complete copy of the U.S. Department of Defense's Quadrennial Defense Review and the White House's National Security Strategy, visit the DoD Website at <http://www.defense.gov/qdr/> and the White House Web site at http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.