



Highlights of [GAO-07-1103](#), a report to the Chairman, Committee on Foreign Affairs, House of Representatives

Why GAO Did This Study

In support of Department of Defense (DOD) activities, U.S. defense companies may export defense items. The Department of State (State) controls such exports through its International Traffic in Arms Regulations (ITAR), which provides for some exemptions from export licensing requirements. For a limited number of these exemptions, DOD may confirm—or certify—that the export activity qualifies for the use of an ITAR exemption. As part of an initiative, DOD is to make more effective use of ITAR exemptions, but little is known about the extent to which this is done.

This report (1) describes DOD's approach for certifying exporters' exemption use in support of defense activities, (2) summarizes the use of selected DOD-certified exemptions, and (3) examines State and DOD's oversight of exemption use. GAO's findings are based on its review of export control law, regulation, and DOD guidelines; interviews with State, DOD, and defense industry officials; and a GAO-developed database of DOD certification letters.

What GAO Recommends

GAO is recommending that State and DOD resolve disagreements on exemption use and guidelines, and strengthen oversight through data collection. State and DOD agreed to resolve disagreements, but DOD misunderstood the intent of the recommendation on oversight. In response, GAO clarified the language in this recommendation.

To view the full product, including the scope and methodology, click on [GAO-07-1103](#). For more information, contact Ann Calvaresi-Barr at (202) 512-4841 or calvaresibarra@gao.gov.

DEFENSE TRADE

Clarification and More Comprehensive Oversight of Export Exemptions Certified by DOD Are Needed

What GAO Found

In support of defense activities, DOD prepares letters certifying that a proposed export qualifies for the use of certain ITAR exemptions by exporters. To guide this approach, DOD issued exemption certification guidelines in March 2004 to the military services because they are the DOD components primarily responsible for managing and implementing defense international cooperative programs. However, GAO found other DOD components that also certify the use of exemptions in support of international activities but are not subject to the DOD guidelines. Officials from State, which regulates and controls defense exports, have raised several concerns to DOD about its guidelines, including the use of one ITAR exemption by contractors and the comprehensiveness of the guidelines. While State and DOD officials have met and exchanged correspondence on these issues, to date, they have not resolved fundamental disagreements. A lack of common understanding of regulatory exemption use could result in inconsistent application of the regulations.

The exemption certification letters from DOD components that we reviewed showed that over 1,900 exemptions were certified for about 270 exporters in calendar years 2004 through 2006. The majority of the certifications related to missile defense and Air Force programs and included the export of technical data. While most of the exporters identified in the DOD-certified exemption letters were defense contractors, other exporters included university laboratories and federally funded research and development centers. The United Kingdom, Australia, Canada, and the North Atlantic Treaty Organization were the most frequently cited recipients for exports under exemptions certified by DOD components.

State and DOD lack comprehensive data to oversee the use of DOD-certified exemptions, limiting their knowledge of defense activities under this process. While DOD's guidelines provide for annual reporting to State on certified exemptions, this report captures data from the military services, but not from other DOD components. GAO identified 271 letters from nonservice components that were not included in DOD's 2006 report to State. In addition, DOD's report to State may not capture the magnitude of transfers certified for exemption use. For example, one letter that GAO reviewed certified the use of an exemption for more than 50 companies, but only the certification letter—not the actual transfers, which totaled 600 over a 3-year period—was captured in the cognizant military service's record keeping on exemption certifications. Furthermore, the details on these transfers were not included in DOD's report to State, limiting insight into the number of transfers under this certification.