ITAR BASICS FOR FORWARDERS & CUSTOMS BROKERS
(International Traffic in Arm Regulations)

CBFANC-- Wednesday, May 11, 2011

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Understanding State/DDTC & the ITAR

- International Traffic in Arms Regulations (ITAR)
  - Regulates the export and temporary import of defense-related articles and services on the United States Munitions List (USML).
  - Permanent imports are regulated by the Attorney General under the direction of the Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives (see 27 CFR parts 447, 478, 479, and 555)
CHAPTER II--BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES, DEPARTMENT OF JUSTICE

SUBCHAPTER B--FIREARMS AND AMMUNITION

PART 447--IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Subpart A--SCOPE

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Understanding State/DDTC & the ITAR

- ITAR implements the provisions of the **Arms Export Control Act (AECA)** (22 U.S.C. § 2778):

- Scope of AECA
  - Authorizes President to:
    - Control the import and the export of defense articles and defense services
    - Designate items which shall be considered as defense articles and defense services...
    - Promulgate regulations for the import and export of such articles and services
  - Governs Arms Sales – Foreign Military Sales and Direct Commercial Sales
  - Mandates Registration and Licensing of any Person Who Engages in Manufacturing, Exporting or Brokering of Defense Articles and Services
  - Requires Monitoring/Reporting Fees, Contributions and Commissions
Understanding State/DDTC & the ITAR

- Authority to interpret and enforce ITAR is given to the President and delegated to the Department of State
  - ITAR is found in Title 22 (Foreign Relations) Parts 120-130

State Dept’s Directorate of Defense Trade Controls (DDTC) regulates export of articles & technology that are under the Jurisdiction of the *International Traffic in Arm Regulations (ITAR), including:*
  -- defense articles, including most space related articles
  -- defense services, and
  -- related technical data

**Browse**: Select a title from the list below, then press "Go"

**Title 22 - Foreign Relations**

For questions or comments regarding e-CFR editorial content, features, or design, email e CFR@nara.gov.
### SUBCHAPTER M--INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

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Mission:

The U.S. Government views the sale, export, and re-transfer of defense articles and defense services as an integral part of national security, and the Directorate of Defense Trade Controls (DDTC), in accordance with 22 U.S.C. 2778-2780 of the Arms Export Control Act (AECA), 120-130, is charged with controlling the export and temporary import of defense articles and defense services covered by the

⚠️ Proposed Rule: "ITAR Proposed Rule for Defense Services" has been published in the PM/DDTC by June 13, 2011. Click here to read.


⚠️ Notice of Suspension for Libya. Click here to read.

⚠️ Proposed Rule: DDTC has published a proposed rule in the Federal Register to begin. Comments are due by April 25, 2011. Click here to read.

⚠️ Effective September 3, 2010 DDTC-Policy will no longer accept paper submissions of all submissions must be made electronically via EFS utilizing the DS-4076. Commodity submitting C2s electronically, please refer to the instructions provided on this website.
Understanding State/DDTC & the ITAR

- Other Agencies, including:
  - Commerce Dept’s
    - Bureau of Industry and Security (BIS) controls items under the Jurisdiction of the EAR.
    - Census Bureau, Foreign Trade Division-- compiles and publishes the official merchandise trade statistics and regulations governing export reporting requirements.
  - Treasury Dept’s Office of Foreign Assets Control (OFAC) oversees embargo and sanction lists – OFAC regulations.
Key Personnel

Please Note: Although telephone numbers for key personnel are supplied, please call the Response Team first when trying to reach us on any matter.

The Response Team is prepared to respond to the full range of defense trade inquiries. If your inquiry requires the attention of others within DDTC, it will answer to your call. For best service, call the Response Team first at (202) 663-1282.

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### Compliance and Registration Division

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What Is A “Defense Article”? 

- **§ 120.6 Defense article**
  - *Defense article* means any item or technical data designated in §121.1 [*United States Munitions List* (USML)].

- Or,
  - A product that incorporates a part or a component which is itself a “defense article.” (Known as the “see-through rule.”) (Boeing fined $15 mil for export of QRS-11 navigation sensor in commercial jets to China)
What Is A “Defense Article”?

- ITAR controls “defense articles”
  - An article is a “defense article” (22 CFR 120.3) if it is:
    - Specifically designed, developed, configured, adapted or modified for a military application [on the USML]
    - Does not have a predominant civil application
    - Does not have performance equivalent (defined by form fit or function) to those articles used in civil applications
  - Intended end use (civil or military) after export is not relevant in determining whether item is subject to ITAR controls
What Is A “Defense Article”? 

- Term “defense articles” includes (22 CFR 120.6)
  - Technical data stored or recorded in an physical form, including:
    - Models
    - Mock-ups
    - Other items that reveal technical data directly relating to items on munitions list
  - Does not include basic marketing information on functions, purpose, or general systems descriptions
What Is A “Defense Article”? 

- Technical data is defined in 22 CFR 120.10 as Information required for the:
  - Design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles.
  - Includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
  - **Software** includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair. See 22 CFR 121.8(f)
What Is Are “Defense services”? 

- § 120.9 Defense services
  - Furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;
  - Furnishing to foreign persons of any technical data controlled under this subchapter (see §120.10), whether in the United States or abroad; or
  - Military training of foreign units and forces,
  - formal or informal instruction of foreign persons in the United States or abroad
United States Munitions List (USML)

- § 121.1 General. The United States Munitions List.
  - Category I—Firearms, Close Assault Weapons and Combat Shotguns
    - (a) Guns under caliber .50
    - category excludes any non-combat shotgun with a barrel length of 18 inches or longer, BB, pellet, and muzzle loading (black powder) firearms.
    - Does not cover riflescopes and sighting devices that are not manufactured to military specifications.
    - Excludes accessories and attachments (e.g., belts, slings, after market rubber grips, cleaning kits) for firearms that do not enhance the usefulness, effectiveness, or capabilities of the firearm, components and parts.
United States Munitions List (USML)

- Category II—Guns and Armament
  - *(a)* Guns over caliber .50
- Category III—Ammunition/Ordnance for the articles in Cat I and II
- Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V—Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents
- Category VI—Vessels of War and Special Naval Equipment.
- Category VII—Tanks and Military Vehicles
- Category VIII—Aircraft and Associated Equipment
  - § 121.3 Described Aircraft and related articles covered by Cat VIII
United States Munitions List (USML)

- Category IX—Military Training Equipment and Training
- Category X—Protective Personnel Equipment and Shelters
- Category XI—Military Electronics
  - (a) Electronic equipment not included in Category XII of the U.S. Munitions List which is specifically designed, modified or configured for military application.
- Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Category XIII—Auxiliary Military Equipment
  - (a) Cameras and specialized processing equipment therefor,
  - (b) Military Information Security Systems and equipment, cryptographic devices, software, and components
  - (c) Self-contained diving and underwater breathing apparatus
United States Munitions List (USML)

- Category XIV—Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment

- Category XV—Spacecraft Systems and Associated Equipment
  - *(a) Spacecraft, including communications satellites, remote sensing satellites, scientific satellites, research satellites, navigation satellites, experimental and multi-mission satellites
  - Includes commercial communications satellites, scientific satellites, research satellites and experimental satellites
  - (b) Ground control stations
  - (c) Global Positioning System (GPS) receiving equipment
United States Munitions List (USML)

- Category XVI—Nuclear Weapons, Design and Testing Related Items
- Category XVII—Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- Category XVIII—Directed Energy Weapons
  - Lasers, Particle beam systems, High power radio-frequency (RF) systems
- Category XIX [Reserved]
- Category XX—Submersible Vessels, Oceanographic and Associated Equipment
- Category XXI—Miscellaneous Articles
  - (a) Any article not specifically enumerated in the other categories of the U.S. Munitions List which has
  - substantial military applicability and which has been specifically designed, developed, configured, adapted, or modified for military purposes
United States Munitions List (USML)

- Categories generally include:
  - All components, parts, accessories, attachments and associated equipment for the articles indentified in the category.
  - Technical data (as defined in §120.10 of this subchapter) and defense services (as defined in §120.9 of this subchapter) directly related to the defense articles enumerated in the category.
§ 121.8  End-items, components, accessories, attachments, parts, firmware, software and systems

- An end-item is an assembled article ready for its intended use.
- A component is an item which is useful only when used in conjunction with an end-item.
  - A major component includes any assembled element which forms a portion of an end-item without which the end-item is inoperable.
  - A minor component includes any assembled element of a major component.
- Accessories and attachments are associated equipment for any component, end-item or system, and which are not necessary for their operation, but which enhance their usefulness or effectiveness. (Examples: Military riflescopes, special paints, etc.)
§ 121.8 End-items, components, accessories, attachments, parts, firmware, software and systems

(d) A part is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of design use. (Examples: Rivets, wire, bolts, etc.)

(g) A system is a combination of end-items, components, parts, accessories, attachments, firmware or software, specifically designed, modified or adapted to operate together to perform a specialized military function.
What Is An “Export”? 

- § 120.17 Export.

- (a) Export means:
  - (1) Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or
  - (2) Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite covered by the U.S. Munitions List, whether in the United States or abroad; or
What Is An “Export”?

§ 120.17 Export, cont.,

- (3) Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to an embassy, any agency or subdivision of a foreign government (e.g., diplomatic missions); or

- (4) Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or

- (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.
Temporary imports

- § 120.18 Temporary import

  - Temporary import means bringing into the United States from a foreign country any defense article that is to be returned to the country from which it was shipped or taken.

  - Any defense article that is in transit to another foreign destination.
What Is A “U.S. person”?  

**§ 120.15 U.S. Person**  

- *U.S. person* means a person (as defined in §120.14 of this part) who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3).

- Any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States.

- Includes any governmental (federal, state or local) entity.

- It does not include any foreign person as defined in §120.16 of this part.
What is a “Foreign person”? 

- § 120.16 Foreign person. 
  - *Foreign person* means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). 
  - Any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, 
  - International organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).
ITAR and Commerce (EAR) jurisdiction Issues

- Who has control over the export?
  - State or Commerce
    - Dept. Of State (office of Defense Trade Controls) controls the export of goods and technology that are identified on the “munitions control list” and certain commercial “space related articles.”
    - Department of Commerce (BIS) controls the export of goods and technology that are identified on the Commerce Control List (CCL).
§ 734.3  Items subject to the EAR.

(a) Except for items excluded in paragraph (b) of this section, the following items are subject to the EAR:

(1) All items in the United States, including in a U.S. Foreign Trade Zone or moving in transit through the United States from one foreign country to another;

(2) All U.S. origin items wherever located;
Jurisdiction Issues: Scope Of EAR

(b) The following items are not subject to the EAR:

(1) Items that are exclusively controlled for export or reexport by the following departments and agencies of the U.S. Government which regulate exports or reexports for national security or foreign policy purposes:

(i) Department of State. The International Traffic in Arms Regulations (22 CFR part 121) administered by the Directorate of Defense Trade Controls relate to defense articles and defense services on the U.S. Munitions List. Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(ii) Treasury Department, Office of Foreign Assets Control (OFAC). Regulations administered by OFAC implement broad controls and embargo transactions with certain foreign countries. These regulations include controls on exports and reexports to certain countries (31 CFR chapter V). Trading with the Enemy Act (50 U.S.C. app. section 1 et seq.), and International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.)

(iii) U.S. Nuclear Regulatory Commission (NRC). Regulations administered by NRC control the export of nuclear or nuclear related material and equipment (10 CFR part 110, Atomic Energy Act,
Jurisdiction Issues

- 22 CFR Sec. 120.4 Relation to Department of Commerce regulations.
  - If an article or service is placed on the United States Munitions List, its export is regulated exclusively by the Department of State.
  - Exports which are not subject to the controls of [22 CFR] are generally under the regulatory jurisdiction of the Department of Commerce.

- ITAR controls trumps BIS EAR regulations if article can be classified under both.
Jurisdiction Issues: The CJ Process

- The commodity jurisdiction ("CJ") procedure is used if doubt exists as to whether an article or service is covered by the U.S. Munitions List.
- The determination involves consultation among the Departments of State, Defense, Commerce and other U.S. Government agencies and in appropriate cases, industry.
- CJ Requests should identify the article or service, and include
  - a history of the product's design, development and use.
  - Brochures, specifications and any other documentation related to the article.
Jurisdiction Issues: The CJ Process

- Determination is made by Department of State whether
  - An article or service has a predominant civil application or
  - has the performance equivalent, defined by form, fit and function, to those used for civil applications

- Takes into account:
  - (i) The number, variety and predominance of civil applications;
  - (ii) The nature, function and capability of the civil applications; and
  - (iii) The nature, function and capability of the military applications.

- Instructions for preparing CJ’s are provided at: http://www.pmddtc.state.gov/revised_cjguidelines.htm
Commodity Jurisdiction

The purpose of a commodity jurisdiction (CJ) request is to determine whether an item or service is covered by the U.S. Munitions List (USML) and therefore subject to export controls, pursuant to the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR). If after reviewing the USML and other relevant parts of the ITAR, in particular ITAR §120.1, you are in doubt about the jurisdiction of an item or service, you should request a CJ determination.

CJ TEAM NOTES:

1. **COMMODITY JURISDICTION (CJ) REQUESTS WILL NOT BE PROCESSED IN DTRADE.**

2. **APPLICANTS ARE NOT REQUIRED TO BE REGISTERED WITH DDTC TO SUBMIT AN CJ REQUEST PER 22 CFR 120.4(h)**

3. **Electronic Submission:** DDTC is now processing CJ requests using an open net, web based application system. Applicants are now able to submit CJ requests through an on-line Jurisdiction (CJ) Request Form with attachments for other relevant data. Please use the link below to download the DS-4073 form. You will need to save the form to a local drive, print the signature page, which must be printed, signed, and scanned into the form as an attachment.

4. **Returned Without Action (RWA) CJ Requests:** If the event you have submitted a CJ request and have received a notice from DDTC indicating that the request has been RWA, we ask that an information requested in the RWA notice. We recommend that you include the DDTC RWA letter as an attachment to your new CJ submission. Your re-submission will be processed accordingly as a new DS-4076.

5. **CJ Case Number:** After successful submission of the DS-4076 CJ package through the EFS Portal, the applicant will receive an electronic confirmation receipt immediately. If the confirmation receipt, which includes a unique transaction number, the submission has failed and the applicant must resubmit. Following a successful submission and electronic CJ Jurisdiction case number via email within 48 hours.

Effective September 2, 2010, all CJ requests must be submitted electronically using the DS-4076 form. Paper submissions received after that date will be Returned With

**COMMODITY JURISDICTION MENU:**

**Tutorial:** Applicants should read and familiarize themselves with the information contained in this section prior to completing and submitting the form.

- **CJ FAQs:** Frequently asked questions regarding CJ Process. (PDF, 280KB)
- **How to Submit an Electronic DS-4076:** Provides step by step instructions on preparing and submitting the form. (PDF, 380KB)
- **DS-4075, Commodity Jurisdiction (CJ) Request Form:** The DS-4075 form, to be downloaded and saved to the user's computer, is completed. Use for paper and electronic submission. Note: Adobe Reader 8 or higher is required to use this form. Download Adobe Reader, at [www.get.com](http://www.get.com).
- **DS-4078, Data Information Template Attachment - Block 12:** Attachment to the DS-4075 Form, if applicable. (PDF, 430KB)
Jurisdiction Issues: The CJ Process

COMMODITY JURISDICTION MENU:

Tutorial: Applicants should read and familiarize themselves with the information contained in this section prior to completing and submitting the form.

- CJFAQs: Frequently asked questions regarding CJ Process. (PDF, 260KB)
- How to Submit an Electronic DS-4076: Provides step by step instructions on preparing and submitting the form. (PDF, 360KB)
- DS-4076 Commodity Jurisdiction (CJ) Request Form: The DS-4076 form, to be downloaded and saved to the user’s computer, then completed. Use for paper and electronic submission. (PDF, 53KB) Note: Adobe Reader 8 or higher is required to use this form. Download Adobe Reader at www.adobe.com
- DS-4076 Sales Information Template Attachment - Block 13: Attachment to the DS-4076 form, as applicable. (PDF, 163KB)
- DS-4076 Authorization Letter Template Attachment: Letter authorizing a person to file the DS-4076 on behalf of the applicant, as applicable. (PDF, 53KB)
- DS-4076 Commodity Jurisdiction (CJ) Guidance for Software. (PDF, 131KB)

Submit: Having read the information contained in the tutorial and having completed the form, with all relevant attachments included, you are ready to submit.

- Submit your Completed DS-4076 Form Package Electronically through the Electronic Form Submission application.

Check CJ Status: (Registration with DDTC not required)

- Electronic DS-4076: At this time, status can be obtained by calling the Response Team at (202) 665-1282.
- Paper DS-4076: Click on CJ Status Check and enter the FM/DDTC Registration code to view status. If not registered, contact the Response Team.

GENERAL QUESTIONS ON COMMODITY JURISDICTION:

For general questions on commodity jurisdiction, including preparation of forms and status of your request, please contact the Response Team at (202) 665-1282 or by email at DDTCResponseTeam.

For technical issues or questions concerning downloading and submitting the form, please contact the Help Desk at (202) 665-2833 or by email at DTradeHelpDesk@state.gov.
## Jurisdiction Issues: The CJ Process

### DS-4076 Commodity Jurisdiction (CJ) Determination Form

**U.S. Department of State**

*PAPERWORK REDUCTION ACT STATEMENT:* Public reporting burden for this collection of information is estimated to average 10 hours per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (A/GIS/DIR) Washington, D.C. 20520.

### A. Applicant Information

1. **Applicant's Information: (Select all that apply)**
   - Applicant is: [ ] Government  [ ] Manufacturer  [ ] Exporter  [ ] Manufacturer's Representative  [ ] Other
   - Applicant Name: (Company, Organization) __________________________________________
   - Address: ______________________________________________________________________
   - City: ______________________________ State: ___________________________ Zip Code: ______
   - Phone #: __________________________ PM/DDTC Registrant Code: __________________ (If applicable)

2. **Submitter Information if other than Applicant in Block 1:** (Complete if applicable)
   - Submitter Name: (Company, Organization) _________________________________________
   - Address: ______________________________________________________________________
   - City: ______________________________ State: ___________________________ Zip Code: ______
   - Phone #: __________________________ PM/DDTC Registrant Code: __________________ (If applicable)

---

**For DDTC Use Only**

**CJ Number:** __________

**OMB APPROVAL NO. 1405-0163**

**EXPIRATION DATE: 01/31/2013**

**ESTIMATED BURDEN: 10 Hours**
ITAR Registration Requirements

● Registration
  - All manufacturers, exporters, and brokers of defense articles, defense services, or related technical data, as defined on the United States Munitions List (Part 121 of the ITAR) are required to register with DDTC.
  - Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities.
  - Registration does not confer any export rights or privileges, but is a precondition for the issuance of any license or other approval for export.

● Manufacture / Exporter
  - Any Person . . . who
  - Engages in the United States in the Business of either
  - Manufacturing or Exporting defense articles or furnishing of defense services is required to register with DDTC

● Annual Registration Requirements
ITAR Registration Requirements

- **Brokering**
  - Any Person . . . Subject to U.S. Jurisdiction who engages in the business of **Brokering** Defense Articles and Defense Services is required to register with DDTC
Title 22: Foreign Relations
PART 129—REGISTRATION AND LICENSING OF BROKERS

§ 129.2 Definitions.

(a) Broker means any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of defense articles or defense services in return for a fee, commission, or other consideration.

(b) Brokering activities means acting as a broker as defined in §129.2(a), and includes the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import or a defense article or defense service, irrespective of its origin. For example, this includes, but is not limited to, activities by U.S. persons who are located inside or outside of the United States or foreign persons subject to U.S. jurisdiction involving defense articles or defense services of U.S. or foreign origin which are located inside or outside of the United States. But, this does not include activities by U.S. persons that are limited exclusively to U.S. domestic sales or transfers (e.g., not for export or re-transfer in the United States or to a foreign person). For the purposes of this subchapter, engaging in the business...
ITAR Registration Requirements

- **§ 129.3 Requirement to register**
  - (b) *Exemptions*. Registration under this section is not required for:
    - (3) *Persons exclusively in the business of financing, transporting, or freight forwarding, whose business activities do not also include brokering defense articles or defense services.*

- **Example:**
  - Air carriers and freight forwarders who merely *transport or arrange transportation* for licensed United States Munitions List items are not required to register.
  - Nor are banks or credit companies who merely provide commercially available lines or letters of credit . . . required to register.
Registration

All manufacturers, exporters, and brokers of defense articles, defense services, or related technical data, as defined on the United States Munitions List (Part 121 of the ITAR) (PDF, 7MB), are required to register with DDTC. Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities. Registration does not confer any export rights or privileges, but is a precondition for the issuance of any license or other approval for export.

REGISTRATION FORM, GUIDELINES, AND OTHER DOCUMENTS:

Review Preparing a Registration Package on submitting a complete registration package and material changes to registration. A complete package consists of a DS-2032, Transmittal Letter, Legal Documentation and other attachments as needed.

GENERAL GUIDANCE:

- Two options are offered. Option 1 offers the individual DS-2032 form and selection of each attachment separately. This is particularly useful to registrants who may require multiple attachment pages to provide the additional information needed to complete blocks 7, 8, 9, 10, or 11 of the DS-2032. Option 2 offers the DS-2032 form and the attachments as a single package and is best utilized by registrants who do not require multiple Attachment pages.

- In both Options 1 and 2, the DS-2032 Form and Attachments open in an Internet Explorer page. To download, select the "Save a Copy" button and save the forms to the desktop. The action downloads the documents from the website to the desktop allowing the work to be saved and completed at a later time.

- Option 1 - Individual Form DS-2032 and Attachments. Start by downloading the DS-2032 and if additional pages required, check the box "Additional page(s) attached." The Attachment page may be completed at that time or at a later time by again, downloading to the desktop.

- Option 2 – DS-2032 and including all Attachments. Start by downloading and saving the DS-2032 which includes scrollable Attachments and complete as necessary.

- Print final copy, sign, and mail the hard copy to DDTC as part of the Registration package.

Reminder: When downloading and viewing the DS-2032 please use the most current version of Adobe Reader. You can download a free version of Adobe Reader at www.Adobe.com

Option 1 - Individual Form - DS-2032 (PDF, 259KB)
Attachment - Block 7 - Additional Directors, Officers, Partners, and Owners (PDF, 185KB)
Attachment - Block 8 - Additional USML Categories (PDF, 99KB)
Attachment - Block 9 - Additional U.S. Subsidiaries (PDF, 251KB)
ITAR Registration Requirements

Reminder: When downloading and viewing the DS-2032 please use the most current version of Adobe Reader. You can download a free version of Adobe Reader at www.Adobe.com

Option 1 - individual Form - DS 2032 (PDF, 253KB)
Attachment - Block 7 - Additional Directors, Officers, Partners and Owners (PDF, 185KB)
Attachment - Block 8 - Additional USML Categories (PDF, 99KB)
Attachment - Block 9 - Additional U.S. Subsidiaries (PDF, 251KB)
Attachment - Block 10 - Additional Foreign Subsidiaries (PDF, 187KB)
Attachment - Block 11 - Additional Parent Companies (PDF, 167KB)

Option 2 - All Forms - DS-2032 including all Attachments (PDF, 335KB)

Download a Transmittal Letter (PDF, 15KB) (Note: The transmittal letter suggested format must be modified, as applicable, regarding a conviction, indictment, ineligibility or foreign ownership and control).

Download a standard registration incomplete letter (PDF, 16KB)

WHEN YOUR COMPANY IS NO LONGER REQUIRED TO BE REGISTERED WITH DDTC:

When your company is no longer in the business of manufacturing, exporting or brokering defense articles or defense services, you must notify DDTC in writing at least 30 days prior to the expiration of your registration. Your letter should include a certification made by a senior officer listed on the most current DS-2032 Statement of Registration that your registration code will lapse and that your company will no longer be in the business of manufacturing, exporting or brokering defense articles or defense services. The correspondence must include the following statement: “Under penalty according to Federal Law (22 CFR 127.2; 22 USC 2778; 18 U.S.C. 1001), as authorized by (name of registered entity) warrant the truth of the statements made herein.”

GENERAL QUESTIONS ON REGISTRATION:

For general questions on registration including preparation of registration forms and status, please contact the Response Team at (202) 693-1292 or by email at DDTCResponseTeam@state.gov
Preparing a Registration Package

All manufacturers, exporters and brokers of defense articles and defense services as defined in Part 120 of the ITAR and generally described on the U.S. Munitions List (the ITAR) are required to register with the Directorate of Defense Trade Controls (DDTC). Registration is primarily a means to provide the U.S. Government with information regarding the ownership and control of these items. Registration also provides the means by which the U.S. Government can monitor these items in commerce, including foreign military sales. As a condition of registration, the registrant must comply with the requirements of the ITAR and the conditions of U.S. Government regulation.

The DS-2032 form, and attachments as required, must be completed, printed, and signed and submitted to DDTC in hard copy. Electronic forms are sent via email at this time.

FIRST STEPS

Prior to submitting a registration package, the registrant must:

- Determine if it is a manufacturer or exporter and/or broker and has a U.S. parent, check with the parent to determine if it is already registered with DDTC and listed on the parent’s registration and your submission would be unnecessary. If the parent is not registered, then the parent should submit the registration prior to the new entity.
- Check the expiration date which is included in the registration letter issued by DDTC.
- Ensure the validity period requested is for one year per Section 122.3 of the ITAR, as only one year new and renewal registration packages (including fee) are accepted.
- Restart the registration process if previously rejected as incomplete.
- Determine if its registration expired and/or, provide a certification signed by a senior officer certifying whether or not the registrant was in the business of brokering defense articles or defense services during the lapse period. The certification must be included in the transmittal letter. Back fees are owed during the lapsed period and back fees calculated on the fee rate at that time.
- Provide one original and two copies of the complete registration package (including check).

REGISTRATION PACKAGE

The registration package for new or renewal submission must include the following REQUIRED components:

1. Transmittal Letter
   The transmittal letter (DDTC Form I-14580) must be on registrant’s letterhead reflecting the registrant’s legal name (not “Doing Business As” name) as well as in the first and last paragraphs in the text. It must be signed by a senior officer who is a U.S. person under Section 120.15 and qualified under Section 120.25 of the ITAR.
Registration Fees

- **1st Tier**
  - fee of $2,250 per year for registrants who are:
    - Renewing a registration, required to register by law, and
    - DDTC has not reviewed, adjudicated or issued a response to any applications during the twelve-month period ending 90 days prior to the expiration of their current registration.
    - This tier includes those registering with the Department for the first time.

- **2nd Tier**
  - fee of $2,750 per year for registrants for whom DDTC has:
    - reviewed, adjudicated or issued a response
    - between one and ten applications during the twelve-month period ending 90 days prior to the expiration of their current registration.
Registration Fees

- **3rd tier**
  - More than ten applications during the twelve month period ending 90 days prior to the expiration of their current registration.
  - Registrants pay a fee of $2,750 plus an additional fee based on the number of applications over 10.
  - Additional fee determined by multiplying $250 times the number of additional applications for which DDTC has reviewed, adjudicated or issued a response during the twelve-month period ending 90 days prior to the expiration of the current registration.

- Fees for registrants, including universities, who are exempt from income taxation pursuant to 26 U.S.C. § 501(c)(3) may be reduced to the first-tier registration fee provided proof of such status (i.e., IRS certification) is submitted with their registration package.
Registration Requirements

● Validity Period

– The period of validity for new and renewal registrants is twelve months from the date of issuance.

– For registration renewal, registrants are responsible for ensuring sufficient time is allocated for renewal purposes, but no sooner than 60 days prior to expiration.

– Registrant is responsible for ensuring that no export or temporary import occurs until the registration is issued by DDTC.

– Registration will not be backdated to cover the period of expiration.

– Back fees are required nevertheless.
Registration Requirements

- **Renewal of Registration**
  - Renewal registration packages must be submitted and received by DDTC 30 days prior to expiration of the registration.
  - DDTC recommends, however, renewal packages be submitted up to a maximum of 60 days prior to expiration.
  - Registration must be current to apply for licenses or other approvals or to use ITAR exemptions.
  - A renewal package requires all the same documentation as an initial registration package.
Frequently Asked Questions (FAQs) - Registration Fee Change

- Why is the Registration Fee changing?
- What is the President's National Security Directive on Export Control Reform?
- What changes or improvements in DDTC operations will result from the increase in the registration fee?
- Who has to pay the higher fees?
- What are the new fees?
- How will a new registrant know their fee?
- How will a registrant that is ready to renew their current registration know their fee?
- What if I don’t receive a notification?
- What is the registration fee for non-profit organizations?
- Can the fee calculation be disputed?
- Does a registrant’s fee calculation change if their registration package is determined to be incomplete and returned?
- If a registrant has questions on the registration fee, who should they call?
- Will a registrant receive a refund if during the year the part of the company doing ITAR business is sold or closed?
- How will back fees be calculated?
- What types of applications are used to calculate the registration fee?
- Can I get a list of the licenses counted in determining my registration fee?
- Are there any special circumstances which the Department will consider to delay full payment of the registration fee?

Why is the Registration Fee changing?

On September 25, 2008, the Department published a Federal Register Notice of Final Rulemaking to increase the registration fee to better align registration fees with the cost of licensing, compliance and other related activities and to meet the requirements of the ITAR Control Reform. The fees were last adjusted in 2004 (see 69 FR 70339 dated December 8, 2004 and 70 FR 50939 dated August 29, 2005, and adjusted in 1997 (see 62 FR 27497 dated May 23, 1997).
The role of Forwarders & Customs Brokers in ITAR Transactions
ITAR Export Licenses

§ 123.1 Requirement for export or temporary import licenses.

- Any person who intends to export or to import temporarily a defense article must obtain the approval of the Directorate of Defense Trade Controls prior to the export or temporary import, unless
- Export or temporary import qualifies for an exemption under the provisions of this subchapter.

Applications for export or temporary import:

- Applications for licenses for permanent export must be made on Form DSP–5 (unclassified);
- Applications for licenses for temporary export must be made on Form DSP–73 (unclassified);
- Applications for licenses for temporary import must be made on Form DSP–61 (unclassified); and
- (4) Applications for the export or temporary import of classified defense articles or classified technical data must be made on Form DSP–85.
Forms

- **DSP-5 v4.0**: (XFDL, 347KB)
  Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data

- **DSP-6 v4.0**: (XFDL, 282KB)
  Application for Amendment to a DSP-5 License

- **DSP-51 v3.1**: (XFDL, 291KB)
  Application/License for Temporary Import of Unclassified Defense Articles

- **DSP-52 v4.0**: (XFDL, 287KB)
  Application for Amendment to a DSP-61 License

- **DSP-73 v3.0**: (XFDL, 343KB)
  Application/License for Temporary Export of Unclassified Defense Articles

- **DSP-74 v4.0**: (XFDL, 274KB)
  Application for Amendment to a DSP-73 License

- **DSP-83**: (PDF, 47KB)
  Nontransfer and Use Certificate may be downloaded for official use

- **DSP-85**: (PDF, 622KB)
  Application for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data
  DDTC receptionist at (202)663-2980 to request this form

- **DSP-94**: (PDF, 453KB)
  Authority to Export Defense Articles Sold under the Foreign Military Sales Program may be downloaded for official use

- **DSP-119**: (PDF, 204KB)
  Application for Amendment to License for Export or Temporary Import of Classified or Unclassified Defense Articles
  on the licensing page
# U.S. DEPARTMENT OF STATE

## DIRECTORATE OF DEFENSE TRADE CONTROLS

**APPLICATION/LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA**

Transaction Number: ____________________________

Please note that an Asterisk (*) next to a field in the documents designates a mandatory field.

*No classified information can be included in this application. Classified information must be sent separately to PM/DDTC in accordance with Defense Security Service guidelines.*

Classified information is being sent under separate cover: [ ]

To select and open a document, highlight a form and select the "Open Document" button. The document that you selected will open.

<table>
<thead>
<tr>
<th>Required Documents</th>
<th>Included Documents</th>
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<tbody>
<tr>
<td>SKF-5</td>
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</tbody>
</table>

Optional Documents:

- 22 CFR § 120.13 Certification Letter
- 22 CFR § 127.11 Exception to Policy Letter
- Basic Ordering Agreement
- DPP-83
- Firearms and Ammunitions Export Permit
- Firearms and Ammunition letter of Explanation
- Letter of Intent
- Other Amplifying Data
- Part 130 Report
- PM/DDTC Sec 128.8 Prior Approval
- Proceed (Identical/Similar) Cases
- Product Descriptions
- Purchaser Notes
- Supplementary Explanation of Transaction
- Technical Data to Support Hardware License
- Technical Drawings, Schematics, or Blue Prints

Tuttle Law 2011
**APPLICATION/LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA**

1. Date Prepared: 05/10/2011
2. PM/DDTC Applicant/Registrant Code
3. Country of Ultimate Destination: [ ]
4. Probable Port of Exit from U.S.: [ ]
5. Applicant's Name, Address, ZIP Code, Telephone Number
   - Name: [ ]
   - Address: [ ]
   - City: [ ]
   - State: [ ]
   - ZIP Code: [ ]
   - Telephone #: [ ]
   - Subsidiary [ ]
   - Manufacturer [ ]
   - Exporter [ ]

6. Name, agency and telephone number of U.S. Government personnel (not PM/DDTC) familiar with the commodity.
   - Name: [ ]
   - Telephone #: [ ]
   - Ext.: [ ]
   - Agency: [ ]

7. Name and telephone numbers of applicant contact if U.S. Government needs additional information.
   - Name: [ ]
   - Telephone #: [ ]
   - Ext.: [ ]

8. Description of Transaction:
   - This application represents: [ ]
     - ONLY completely new shipment
     - ONLY the unshipped balance under license numbers
   - This application has related license numbers: [ ]
   - This application is in reference to an agreement: [ ]
   - Commodity is being financed under: [ ]
     - Foreign Military Sales
     - Foreign Military Financing
     - Grant Aid Program
     - Not Applicable

**NOTE:** You may only select [ ] country as the ultimate destination if the commodity(ies) being shipped include Hardware type.
ITAR Export Licenses

- § 123.1 Requirement for export or temporary import licenses
  - Attachments and supporting technical data or brochures should be submitted in **seven collated copies**.
  - Two copies of any freight forwarder lists must be submitted.
  - If the request is limited to renewal of a previous license or for the export of spare parts, only two sets of any attachment (including freight forwarder lists) and **one** copy of the previous license should be submitted.
  - In the case of **fully electronic submissions**, unless otherwise expressly required, applicants need not provide multiple copies of supporting documentation and attachments, supporting technical data or brochures, and freight forwarder lists.
(3) A certification letter signed by an empowered official must accompany all application submissions (see §126.13).

(4) An application for a license under this part for the permanent export of defense articles sold commercially must be accompanied by a copy of a purchase order, letter of intent or other appropriate documentation.

In cases involving the U.S. Foreign Military Sales program, three copies of the relevant Department of Defense Form 1513 are required, unless the procedures of §126.4(c) or §126.6 are followed.
ITAR Export Licenses

- Form DSP–83, duly executed, must accompany all license applications for the permanent export of *significant military equipment*, including classified hardware or classified technical data (see §§123.10 and 125.3).

- (6) A statement concerning the payment of political contributions, fees and commissions must accompany a permanent export application if:
  
  - the export involves defense articles or defense services valued in an amount of $500,000 or more and is being sold commercially to or for the use of the armed forces of a foreign country or international organization (see part 130).
Foreign trade zones and bonded warehouses

§ 123.6 Foreign trade zones and U.S. Customs and Border Protection bonded warehouses.

- Foreign trade zones in the United States and U.S. Customs and Border Protection bonded warehouses are considered integral parts of the United States.

- An export license is not required for shipment between the United States and a foreign trade zone or a U.S. Customs and Border Protection bonded warehouse.

- An export license is required for all shipments of articles on the U.S. Munitions List from foreign trade zones and U.S. Customs and Border Protection bonded warehouses to foreign countries, regardless of how the articles reached the zone or warehouse.
§ 123.5 Temporary Export Licenses

- Licenses for the temporary export of unclassified defense articles (DSP–73).
  - Valid only if the article will be exported for a period of less than 4 years and will be returned to the United States.
  - Transfer of title will not occur during the period of temporary export.
  - Articles may not be sold or otherwise permanently transferred to a foreign person.
  - A renewal of the license or other written approval must be obtained from the Directorate of Defense Trade Controls if the article is to remain outside the United States beyond the period for which the license is valid.
§ 123.5 Temporary Export Licenses

- The license for temporary export must be presented to the Port Director who, upon verification, will endorse the exit column on the reverse side of the license.

- Any temporary export license for hardware that is used, regardless of whether the hardware was exported directly to the foreign destination or returned directly from the foreign destination, must be endorsed by the U.S. Customs and Border Protection in accordance with the procedures in §123.22.

- In some instances the temporary export of technical data (e.g., postal shipments), self-endorsement will be necessary (see §123.22(b)).
U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS
APPLICATION/LICENSE FOR TEMPORARY EXPORT OF UNCLASSIFIED DEFENSE ARTICLES

*Transaction Number: [ ]

Please note that an Asterisk (*) next to a field or block in a document designates a mandatory field or block.

No classified information can be included in this application. Classified information must be sent separately to PM/DDTC in accordance with the Defense Security Service guidelines.

Classified information is being sent under separate cover [ ]

To open a document, click on a document to highlight it and select the "Open Document" button. The document that you selected will open.

Required Documents

Included Documents

Optional Documents

- 22 CFR § 126.13 Certification Letter
- 22 CFR § 127.11 Exception to Policy Letter
- Firearms and Ammunition Import Permit
- Firearms and Ammunition Letter of Explanation
- Manufacturer Unknown Letter of Explanation
- Other Similarizing Data (e.g., Briefing, Proposals)
- Precedent (Identical/Similar) Cases
- Product Brochures
- Supplementary Explanation of Transmittal (e.g., White Paper)
- Technical Drawings, Schematics, or Blue Prints
<table>
<thead>
<tr>
<th><strong>1. Date Prepared</strong></th>
<th><strong>2. PM/DDTC Applicant/Registrant Code</strong></th>
<th><strong>3. Select One:</strong></th>
<th><strong>4. Specific countries of sojourn</strong></th>
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<tr>
<th><strong>5. Applicant’s Name, Address, ZIP Code and Telephone Number</strong></th>
<th><strong>6. Probable port of exit from U.S.</strong></th>
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<tr>
<td><em>Name</em></td>
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<td><em>Attention</em></td>
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<td><em>Subsidiary</em></td>
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<th><strong>7. Probable port of entry into U.S.</strong></th>
<th><strong>8. Probable date of first exit from U.S.</strong></th>
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<tr>
<th><strong>9. Probable date of final entry into U.S.</strong></th>
<th><strong>10a. Name and telephone numbers of individual(s) to contact if U.S. Government needs additional information.</strong></th>
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<tr>
<th><strong>10b. Name, agency and telephone numbers of U.S. Government personnel (not PM/DDTC) familiar with the commodity.</strong></th>
<th><strong>Name</strong></th>
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</table>
§ 123.3 Temporary import licenses

- A license (DSP–61) is required for the temporary import and subsequent export of unclassified defense articles, unless exempted from this requirement pursuant to §123.4.

- This requirement applies to:
  - Temporary imports of unclassified defense articles that are to be returned directly to the country from which they were shipped to the United States;
  - Temporary imports of unclassified defense articles in transit to a third country;
  - A bond may be required as appropriate (see part 125 of this subchapter for license requirements for technical data and classified defense articles.)
U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

APPLICATION/LICENSE FOR TEMPORARY IMPORT OF UNCLASSIFIED DEFENSE ARTICLES

*Transaction Number: 

Please note that an Asterisk (*) next to a field in a document designates a mandatory field or block.

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Classified information is being sent under separate cover 

To select and open a document, highlight a form and select the “Open Document” button. The document that you selected will open.

Required Documents:
DDF-61

Included Documents

Optional Documents:
22 CFR § 125.13 Certification letter
22 CFR § 127.11 Exception to Policy letter
Contract
Firearms and Ammunition Import Permit
Firearms and Ammunition Letter of Explanation
Letter of Intent
Manufacturer Unknown Letter of Explanation
Other Amplifying Data (e.g. Briefing, Proposals)
Precedent (Identical/Similar) Cases
Product Brochures
Purchase Order
Supplementary Explanation of Transaction (e.g. White Paper)
DSP Amendments for Value or Quantity Changes (22 CFR 123.25)

- DDTC will not processes DSP amendments for value or quantity changes.
- These changes must be the subject of a replacement license.
- The applicant must explicitly state in block 20 that the replacement license is to correct erroneously entered value or quantity and cite the original license number.
- Pursuant to 22 CFR 123.25(b), changes can be approved under a DSP amendment for obvious typographical errors only.
- Other changes that will not be approved by amendment:
  - Changes in commodity, country of ultimate destination,
  - end-use or end user, foreign consignee and/or extension or duration of license
DSP Amendments for Changes (22 CFR 123.25)

- DDTC will processes DSP amendments for:
  - Addition or change in U.S. Freight Forwarder or U.S. Consignor
  - Change in source of commodity
  - Change of foreign intermediate consignee (limited to transportation only)
**U.S. DEPARTMENT OF STATE**

**APPLICATION FOR AMENDMENT TO A DSP-5 LICENSE**

*Transaction Number: [ ]*

Please note that an Asterisk (*) next to a field or block in a document designates a mandatory field or block.

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<td>DSP-6</td>
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</tr>
<tr>
<td>Copy of DoS License with PM/DDTC Proviso(s)</td>
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<td>22 CFR § 127.11 Exception to Policy Letter</td>
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<td>DTU Acknowledgement Letter</td>
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<tr>
<td>Other Ampleying Data</td>
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<tr>
<td>Other DSP-5 Authorizations</td>
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<tr>
<td>Purchase order submitted with original license</td>
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</tr>
</tbody>
</table>
Shipping/ Value Tolerances

- **123.23**
  - No quantity tolerance
  - Exported value may not exceed 10% of total value of authorized value on license
  - Shipments over tolerance must include statement “22 CFR 123.23 applicable”
License Expiration

- Licenses are valid for four years
  - A license expires whenever:
  - Total value authorized has been shipped; or
  - Total quantity authorized has been shipped; or
  - Date of expiration is reached
Licensing

Exporting Requirements - Generally, any person or company who intends to export or to temporarily import a defense article, defense service, or technical data must obtain prior approval. Application must be submitted for the purpose of seeking approval. Furthermore, in most cases, in order for a license to be considered, you first must be registered with DDTC.

There are three ways that you may submit a license:
- Through DTrade (fully electronic system)
- Through ELLIE (ONLY to amend DSP-85 licenses, through use of the DSP-119)
- By sending in licenses in hardcopy (a very limited option).

DTRADE
You must use DTrade for most of your licensing needs.

ELLIE
As of October 1, 2009, the DSP-119 is the only form accepted through the Electronic Licensing Entry System ("ELLIE," DDTC's legacy partial-electronic system. You must be a member only be used to amend the DSP-85. All other amendments must be submitted through DTrade.

DSP-119: Application for Amendment to a License

For those who are members of ELLIE and are using the system for amending licenses, you may click here to view the status of the application.

HARDCOPY LICENSE APPLICATIONS

Form DSP 85: Application for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data, can only be submitted in hardcopy here for your reference. Please call the DDTC receptionist at (202) 563-2980 to request this form.

Agreements: must be submitted electronically.

MARY
Check status for DTRADE applications

MARY is DDTC's web based status retrieval system. This system currently only contains status of documents submitted through DTrade. Click here to use MARY.
ITAR Agreements
Types of Agreements

- Technical Assistance Agreement (TAA)
  - Discloses technical data and provides technical assistance
  - Assembly of defense articles
    - No manufacturing know-how may be provided
  - No manufacturing or production rights are provided
- Manufacturing License Agreement (MLA)
  - Grants foreign person(s) authorization to manufacture defense articles abroad
  - Automatically includes technical assistance
- Warehousing and Distribution Agreements
Types of Agreements

- Activities Requiring Agreements
  - Providing Defense Services
  - Exchange of Technical Data with Discussions
  - Release of Manufacturing Data and/or Rights
  - Ongoing Exchanges with Foreign Party
  - Supporting Foreign Military Sales (FMS)
  - Supporting Government sponsored contracts with a foreign party
  - co-production and/or manufacture of defense articles abroad
Warehousing and Distribution Agreements

- Agreements (e.g., contracts) between U.S. persons and foreign persons for warehousing and distribution of defense articles must be approved before they enter into force.
  - limited to unclassified defense articles
  - must contain conditions for special distribution, end-use and reporting.
  - Licenses for exports pursuant to such agreements must be obtained prior to exports of the defense articles unless an exemption under §123.16(b)(1) applies.
Warehousing and Distribution Agreements

- Information required:
  - A description of the defense articles involved including test and support equipment covered by the U.S. Munitions List.
  - Only those defense articles specifically listed in the agreement will be eligible for export under the exemption in §123.16(b)(1).
  - A detailed statement of the terms and conditions under which the defense articles will be exported and distributed;
  - The duration of the proposed agreement;
  - Specific identification of the country or countries that comprise the distribution territory.
  - Distribution is limited to the governments of such countries or to private entities seeking to procure defense articles pursuant to a contract with a government within the distribution territory.
Title 22: Foreign Relations

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT AND OTHER DEFENSE SERVICES

Section Contents
§ 124.1 Manufacturing license agreements and technical assistance agreements.
§ 124.2 Exemptions for training and military service.
§ 124.3 Exports of technical data in furtherance of an agreement.
§ 124.4 Deposit of signed agreements with the Directorate of Defense Trade Controls.
§ 124.5 Proposed agreements that are not concluded.
§ 124.6 Termination of manufacturing license agreements and technical assistance agreements.
§ 124.7 Information required in all manufacturing license agreements and technical assistance agreements.
§ 124.8 Clauses required both in manufacturing license agreements and technical assistance agreements.
§ 124.9 Additional clauses required only in manufacturing license agreements.
§ 124.10 Nontransfer and use assurances.
§ 124.11 Congressional certification pursuant to Section 38(d) of the Arms Export Control Act.
§ 124.12 Required information in letters of transmittal.
§ 124.13 Procurement by United States persons in foreign countries (offshore procurement).
§ 124.14 Exports to warehouses or distribution points outside the United States.
§ 124.15 Special Export Controls for Defense Articles and Defense Services Controlled under Category XV: Space Systems and Space Launches.
§ 124.16 Special retransfer authorizations for unclassified technical data and defense services to member states of NATO and the European Union, Australia, Japan, New Zealand, and Switzerland.
Agreement Guidelines

Please click here (PDF, 34 KB) for information on electronic submission of agreements.

To view the guidelines for preparing electronic agreements please click here (PDF, 1.5 MB).

To view additional guidelines and clarification for preparing electronic agreements please click here (PDF, 247 KB).

To view additional guidelines concerning electronic agreements submitted as Re-Baselined agreements please click here (PDF, 295 KB).

To view the December 2009 electronics agreements brief please click here (PDF, 1.7 MB).

To view the status of your electronic agreement on MARY please click here.

To view the status of your electronic agreement on DTrade please click here.

To view your non-electronic agreement status check please click here.
ITAR Exemptions
Exemptions
§ 123.4 Temporary import

● 123.4(a)– Servicing or Repair
  
  – unclassified U.S.-origin defense items (includes any item manufactured abroad pursuant to U.S. Government approval) if the item temporarily imported:

  – Is serviced (e.g., inspection, testing, calibration or repair, including overhaul, reconditioning and one-to-one replacement of any defective items, parts or components:

    ● excludes any modifications, enhancement, upgrade or other form of alteration or improvement that changes the basic performance of the item), and

    ● is subsequently returned to the country from which it was imported.

  – Article may not be from a 126.1 Country

    ● Belarus, Cuba, Eritrea, Iran, North Korea, Syria, and Venezuela; Burma, China, Liberia, and Sudan
Exemptions
§ 123.4 Temporary import license

- the importer and export must comply with the following procedures:
  - At the time of temporary import—
    - Annotate the applicable import document (e.g., Form CF 3461, 7512, 7501, 7523 or 3311) to read: “This shipment is being imported in accordance with and under the authority of 22 CFR 123.4(a) (identify subsection),”
    - Include, on the invoice or other appropriate documentation, a complete list and description of the defense article(s) being imported, including quantity and U.S. dollar value; and
    - At the time of export, eligible exporter, or an agent acting on the filer's behalf, must
      - electronically file the export information using the Automated Export System (AES), and
      - identify 22 CFR 123.4 as the authority for the export
      - provide, as requested by U.S. Customs and Border Protection, the entry document number or a copy of the U.S. Customs and Border Protection document under which the article was imported.
§ 123.4 Temporary import license Exemptions

- 123.4(a)(2) Enhancements & Upgrades
  - Permits the temporary import (but not the subsequent export) without a license of unclassified defense articles that are:
    - to be incorporated into another article, or modified, enhanced, upgraded, altered, improved or serviced in any other manner that changes the basic performance or productivity of the article prior to being returned to the country from which they were shipped or prior to being shipped to a third country.
    - A DSP–5 is required for the reexport of such unclassified defense articles after incorporation into another article, modification, enhancement, upgrading, alteration or improvement.
Exemptions
§ 123.4 Temporary import

- 123.4(a)(3) exhibition, demonstration or marketing
  - Imported for the purpose of exhibition, demonstration or marketing in the United States and is subsequently returned to the country from which it was imported

- 123.4(a)(4) Rejected For Permanent Import
  - U.S. origin article has been rejected by the Department of the Treasury for permanent import and is being returned to the country from which it was shipped
Exemptions
§ 123.4 Temporary import

- **General Requirements.** To use an exemption under §123.4 the following criteria must be met:
  - (1) The importer must meet the eligibility requirements set forth in §120.1(b) (i.e., registered);
  - (2) At the time of export, the ultimate consignee named on the EEI must be the same as the foreign consignee or end-user of record named at the time of import; and
Exemptions
§ 123.4 Temporary import

- 123.4(b) Incorporation into Other Articles
  - Permits imports of unclassified defense articles that are to be:
    - Incorporated into another article, or modified, enhanced, upgraded, altered, improved or serviced in any other manner
    - that changes the basic performance or productivity of the article prior to being returned to the country from which they were shipped or prior to being shipped to a third country.
  - Unlike 123.4(a), exemption applies to “foreign origin articles
  - A DSP–5 is required for the reexport after incorporation into another article, modification, enhancement, upgrading, alteration or improvement.
Temporary Import License Violations

- DDTC has a guidance document on how to report when exporter did not notify importer of shipment:
  - http://www.pmddtc.state.gov/licensing/guidelines_instructions.html
General Exemptions

- **123.16(b)(1) -- MLA, TAA & Distribution Agreements**
  - The article to be exported is identified by item, quantity and value in the agreement;
  - Any provisos or limitations are adhered to; and
  - The exporter certifies on the EEI that the export is exempt from the licensing requirements:
    - This is done by writing, “22 CFR 123.16(b)(1) and the agreement or arrangement (identify/state number) applicable”; and
  - Total value of all shipments does not exceed the value authorized in the agreement.
  - In the case of a distribution agreement, export must be made directly to the approved foreign distributor.
General Exemptions

- **123.16(b)(2) Parts & Components**
  - the total value does not exceed $500 in a single transaction and:
  - The components or spare parts are being exported to support article **previously** authorized for export; and
  - not going to a distributor, but to a previously approved end-user of the defense articles; and
  - not to be used to enhance the capability of the defense article;
  - May not split orders so as not to exceed the dollar value;
  - May may not make more than 24 shipments per calendar year to the previously authorized end user;
  - Must include AES certification that “export is exempt from licensing requirements”22 CFR 123.16(b)(2) applicable”.
  - Include destination control statement of 123.9(b) on bill of lading and invoice
General Exemptions

- **123.16(b)(4) Models & Mock-ups**
  - Unclassified models or mock-ups of defense articles, provided that such models or mock-ups are nonoperable.
  - May not reveal any technical data in excess of that which is exempted from the licensing requirements of §125.4(b).
  - May not contain components covered by the U.S. Munitions List (see §121.8(b) of this subchapter).
  - Must include AES certification that “export is exempt from licensing requirements” under CFR 123.16(b)(4) applicable.
  - Include destination control statement of 123.9(b) on bill of lading and invoice.
The exporter shall incorporate the following statement as an integral part of the bill of lading, and the invoice whenever defense articles on the U.S. Munitions List are to be exported:

“These commodities are authorized by the U.S. Government for export only to [country of ultimate destination] for use by [end-user]. They may not be transferred, transshipped on a non-continuous voyage, or otherwise be disposed of in any other country, either in their original form or after being incorporated into other end-items, without the prior written approval of the U.S. Department of State.”
General Exemptions

- 123.16(b)(5) public exhibition, trade show, air show
  
  - Article has previously been licensed for a public exhibition, trade show, air show or related event and the license is still valid.
  
  - Must include AES certification that “export is exempt from licensing requirements”22 CFR 123.16(b)(5) applicable”.
  
  - Include destination control statement of 123.9(b) on bill of lading and invoice
General Exemptions

- 123.16(b)(9) Exports to Subsidiaries Overseas
  - permits the temporary export of any unclassified component, part, tool or test equipment
  - Limited to a subsidiary, affiliate or facility owned or controlled by the U.S. person if the component, part, tool or test equipment
  - used for manufacture, assembly, testing, production, or modification
    - No defense article exported under this exemption may be sold or transferred without the appropriate license or other approval.
    - Must include AES certification that “export is exempt from licensing requirements” 22 CFR 123.16(b)(9) applicable”.
    - Include destination control statement of 123.9(b) on bill of lading and invoice
§ 126.5 Canadian Exemptions

(a) *Temporary import of defense articles*

- permits the temporary import and return to Canada without a license of any unclassified defense articles that originate in Canada for temporary use in the United States and return to Canada.

- All other temporary imports require a temporary import license or exemption (see 123.3 and 123.4).

- Must annotate import documents with the statement “shipment is being imported in accordance with and under authority of with 22 CFR 126.5(a)”
§ 126.5 Canadian Exemptions

- Permanent and temporary export of defense articles.
  - Except as provided permits the permanent and temporary export to Canada without a license of defense articles and related technical data identified in 22 CFR 121.1.
  - Only for end-use in Canada by Canadian Federal or Provincial governmental authorities acting in an official capacity or by a Canadian-registered person or return to the United States.

- The above exemption is subject to the numerous limitations, including:
  - Defense articles and related technical data, and defense services identified in paragraphs (b)(1) through (b)(21) of this section and exports that transit third countries.
§123.22 Filing, retention, and return of export licenses and filing of export information

- **Filing of licenses and documentation for the permanent export of hardware.**
  - For any permanent export of hardware using a license (e.g., DSP–5) or an exemption
    - the exporter must prior to an AES filing
    - deposit the license and provide any required documentation for the license or exemption with CBP
  - Licenses or other approvals for the permanent export of technical data and defense services shall be retained by the applicant and send export information directly to DDTC.
$123.22$ **Filing, retention, and return of export licenses and filing of export information**

- Temporary export or temporary import licenses for defense must be presented to the U.S. Customs and Border Protection for decrementing of the shipment prior to departure and at the time of entry.

- Before the export of any hardware using an exemption in this subchapter, the DDTC registered applicant/exporter, or an agent acting on the filer’s behalf, must electronically provide export information using the AES.

- In addition to electronically providing the export information to the U.S. Customs and Border Protection before export, all the mandatory documentation must be presented to the port authorities (e.g., attachments, certifications, proof of AES filing; or Internal Transaction Number (ITN)).
§123.22 Filing, retention, and return of export licenses and filing of export information

- **Reporting of export information on technical data and defense service.**
  - Exports made using a DDTC authorization (e.g., technical data license, agreement or a technical data exemption,
  - DDTC registered exporter retains the license or other approval and provide the export information electronically to DDTC as follows:
    - (i) **Technical data license.** Prior to the permanent export of technical data licensed using a Form DSP–5, applicant electronically provides export information using the system for direct electronic reporting to DDTC of export information and self validate the original of the license.
    - When the initial export of all the technical data authorized on the license has been made, the license must be returned to DDTC.
§123.22 Filing, retention, and return of export licenses and filing of export information

- **Manufacturing license and technical assistance agreements**
  - Prior to the initial export the U.S. agreement holder must electronically inform DDTC that exports have begun.
  - All subsequent exports of technical data and services are not required to be filed electronically with DDTC except when the export is done using a U.S. Port.
  - Records of all subsequent exports of technical data shall be maintained by the exporter and shall be made immediately available to DDTC upon request.
AES filing Time Frames

- Automated Export System (AES) in accordance with the following timelines:
  - *Air or truck shipments.* The export information must be electronically filed at least 8 hours prior to departure.
  - *Sea or rail Shipments.* The export information must be electronically filed at least 24 hours prior to departure.

- DOS Rule-- Amendment to the International Traffic In Arms Regulations: Mandatory Electronic Filing of Shipper’s Export Declarations With U.S. Customs Using the Automated Export System (AES) **61098 Federal Register** Vol. 68, October 27, 2003
Shipments of defense articles must not be tendered to the exporting carrier until all these conditions are met:

- The Export Control Desk receives and lodges the permanent export license.
- The export license is decremented either electronically (DSP-05 permanent licenses) or manually by CBP (DSP-61, 73, 85 licenses.)
- AES acceptance is obtained, which must be at least 8 /24 hours prior to the scheduled departure of the carrier.
ITAR Penalties

- **Criminal penalty**
  - each violation a fine of not more than $1,000,000, or imprisonment not more than 10 years, or both

- **Civil penalty**
  - each violation a fine of not more than $500,000
  - The completion of any administrative action pursuant to 127 or 128 as a prior condition for the issuance, restoration, or continuing validity of any export license or other approval.

- Person and/or company may be prohibited from participating directly or indirectly in the export of defense articles, technical data, or services
Voluntary Disclosures

- Strongly encouraged if company discovers a violation
- Generally considered a mitigating factor in determining penalties
- Must be made prior to USG awareness and inquiry into the activity
- Details provide in § 127.12 Voluntary disclosures