

copy of the license to the applicant for the applicant's information. The Defense Investigative Service will return the endorsed license to the Office of Munitions Control upon completion of the authorized export or expiration of the license, whichever occurs first.

PART 126—GENERAL POLICIES AND PROVISIONS

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Authority: Section 38, Arms Export Control Act, 90 Stat 744 (22 U S C 2778), 601, as amended, 47 Stat 417 (31 U S C 6a86), E O 11958 (42 FR 4311, January 16, 1977), E O 11322, 32 FR 119, 22 U S C 2658

§ 126 1 Prohibited shipments to or from certain countries

(a) *General*. It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services destined for or originating in certain countries or areas. This policy also applies to exports to and imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Poland, Rumania, the Soviet Union and Vietnam. This policy also applies to countries or areas with respect to which the United States maintains an arms embargo or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. The exemptions provided in the regulations in this subchapter, except § 123 17 of this subchapter, do not apply with respect to exports to or originating in any of such proscribed countries or areas.

(b) *Shipments*. A defense article licensed for export under this subchapter may not be shipped on a vessel, aircraft or other means of conveyance which is owned or operated

by, or leased to or from, any of the proscribed countries or areas.

§ 126 2 Temporary suspension or modification of this subchapter

The Director, Office of Munitions Control, may order the temporary suspension or modification of any or all of the regulations of this subchapter in the interest of the security and foreign policy of the United States.

§ 126 3 Waiver

In a case of exceptional or undue hardship, or when it is otherwise in the interest of the United States Government, the Director, Office of Munitions Control may make an exception to the provisions of this subchapter.

§ 126 4 Shipments by or for United States Government agencies

(a) A license is not required for the export of any defense article or technical data by or for any agency of the U S Government (1) for official use by such an agency, or (2) for carrying out any foreign assistance, cooperative or sales program authorized by law and subject to control by the Resident by other means. This exemption applies only when all aspects of a transaction (export, carriage, and delivery abroad) are effected by a United States Government agency, or when the export is covered by a United States Government Bill of Lading. This exemption, however, does not apply when a U S Government agency acts as a transmittal agent on behalf of a private individual or firm, either as a convenience or in satisfaction of security requirements. The approval of the Office of Munitions Control must be obtained before defense articles exported pursuant to this exemption are permanently transferred to a foreign person (e.g., property disposal of surplus defense articles overseas) unless (i) the transfer is pursuant to a sale, lease, or loan under the Arms Export Control Act or the Foreign Assistance Act of 1901, as amended, or (ii) the defense articles have been rendered useless for military purposes beyond the possibility of restoration.

(b) This section does not authorize any department or agency of the U S Government to make any export which is otherwise prohibited by virtue of other administrative provisions or by any statute.

(c) A license is not required for the export of any defense article or technical data for end-use by a U S Government Agency under the following circumstances:

(1) The export is pursuant to a contract with, or written direction by, an agency of the U S Government, and

(2) The end-user is a U S Government agency or facility, and the defense articles or technical data will not be transferred to any foreign person, and

(3) The urgency of the U S Government requirement is such that the appropriate export license or U S Government Bill of Lading could not have been obtained in a timely manner. A written statement certifying that these requirements have been met will be presented at the time of export to the appropriate district director of customs or Department of Defense transmittal authority, and shall be provided to the Office of Munitions Control.

§ 126 5 Canadian exemptions

(a) General. District directors of customs and postmasters may permit the export without a license of any unclassified defense article or any unclassified technical data to Canada for end-use in Canada or return to the United States, with the exception of the articles or technical data listed in paragraph [b] of this section.

(b) *Exceptions*. The exemptions of this section do not apply to the following articles and technical data:

(1) Fully automatic firearms in Category I(a) which are not for end-use by the Federal Government, or a Provincial or Municipal Government of Canada,

(2) Nuclear weapons strategic delivery systems and all components, parts, accessories, attachments specifically designed for such systems and associated equipment,

(3) Nuclear weapon design and test equipment listed in Category XVI

(4) Naval nuclear propulsion equipment listed in Category VI(e),

(5) Aircraft listed in Category VIII(a),

(6) Submersible and oceanographic vessels and related articles listed in Category XX [a] through (e).

[c] *Related requirements*. The foregoing exemption from obtaining an export license does not exempt an exporter from complying with the requirements set forth in § 123 10(e) or from filing the shipper's export declaration required by § 123 25.

(d) *Part 124 agreements*. The requirements of Part 124 of this subchapter must be complied with in the situations contemplated in that Part. For example, the exemptions of this section may not be used for the manufacture in Canada of defense articles, except under the provisions of § 124 13.