

**U.S. Department of State
DIRECTORATE OF DEFENSE TRADE CONTROLS**

Guidelines for Preparing Electronic Agreements, Addition/Clarification (12-13-10)

- 1) **Clarification concerning dual and/or third country nationals pursuant to § 124.8(5):** All requested countries (to include NATO countries, European Union countries, Australia, Japan, New Zealand, and Switzerland) requested pursuant to § 124.8(5) must be listed in Block 18 of the DSP-5 vehicle.
- 2) **Clarification concerning dual and/or third country nationals pursuant to § 124.16:** Dual and/or third country nationals requested pursuant to § 124.16 must be requested in Block 20 of the DSP-5 vehicle. See Section 3.6(b) of the Guidelines for Preparing Electronic Agreements for determining the applicability of § 124.16.

New Guidance: For an agreement requesting the provisions of § 124.16, and which also includes foreign licensees and/or sublicensees from countries outside of § 124.16 countries, the applicant must include a statement in the agreement after the § 124.16 paragraph addressing the applicability of the provisions of § 124.16 so it is clear to the parties of the agreement when § 124.16 is and is not applicable. Example Statement: "The provisions of 22 CFR 124.16 are only applicable to *Companies A, B, and C* while in *Countries X, Y, and Z.*"

- 3) **Clarification concerning identifying end users in the DSP-5 vehicle:** All foreign end users must be identified in Block 14 of the DSP-5 vehicle. To help distinguish end users from foreign licensees, applicants should identify end users in the following manner:

Name: Enter the name of the foreign end user

Address: Enter "End User" in this field

City: Enter "End User" in this field

Country: Enter the foreign end user's country

Foreign end users who are also signatories to the agreement need only be listed in Block 14 of the DSP-5 vehicle once as a foreign signatory. In addition, foreign end users should be identified in Block 14 instead of identifying a Sales Territory in Block 18 of the DSP-5 vehicle.

- 4) **New guidance concerning Re-baselines:** Once an agreement is electronic, the agreement will no longer be re-baselined. Applicants will continue to submit amendments against the electronic agreement until the agreement expires or is terminated. Though agreements will only be approved for a maximum duration of 10 years, applicants may still request extensions via an amendment for up to 10 years from the date of the amendment request.

This change is the result of applicants submitting conformed agreements and DDTC issuing the complete list of provisos with each approval, making it unnecessary to re-baseline

agreements once they are electronic. Paper agreements that require a major amendment must still be re-baselined to convert it to an electronic agreement.

Failure to adhere to these guidelines may result in a delay in review of your license application or a return without action (RWA). For additional guidance or clarification, please contact the DDTC Response Team at (202) 663-1282 or by email at DDTCResponseTeam@state.gov.