

Section 126.6 and FMS Shipments: Error in DSP-94 Instructions

Section 126.6 of the ITAR provides an exemption from licensing for FMS shipments pursuant to a valid Letter of Offer and Acceptance. Section 126.6 (c) (6) provides procedures and criteria for using the DSP-94 and Section 126.6(c) (6)(iii) further elaborates additional requirements for classified exports. The instructions for the DSP-94 under (a) currently limits the DSP-94 to unclassified defense articles which is inconsistent with Section 126.6(c). DDTC intends to modify the instructions but this serves as notice to diplomatic missions and designated freight forwarders that the DSP-94 can be used for classified exports so long as the criteria under Section 126.6(c)(6)(iii) are met. We would iterate that when the criteria are met, Section 126.6 procedures and the DSP-94 should be used in lieu of licenses for FMS shipments.