

**PART 126—GENERAL POLICIES AND PROVISIONS**

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## SUPPLEMENT NO. 1 TO PART 126

AUTHORITY: 22 U.S.C. 2752, 2778, 2780, 2791, and 2797; 22 U.S.C. 2651a; 22 U.S.C. 287c; Sec. 1225, Pub. L. 108-375; Sec. 7089, Pub. L. 111-117; Pub. L. 111-266; Sections 7045 and 7046, Pub. L. 112-74; E.O. 13637, 78 FR 16129.

SOURCE: 58 FR 39312, July 22, 1993, unless otherwise noted.

**§ 126.1 Prohibited exports, imports, and sales to or from certain countries.**

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. The exemptions provided in this subchapter, except §§ 123.17, 126.4(a)(1) or (3) and (b)(1), and

126.4(a)(2) or (b)(2) when the export is destined for Russia and in support of government space cooperation, and § 126.6, or when the recipient is a U.S. government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. (See § 129.7 of this subchapter, which imposes restrictions on brokering activities similar to those in this section).

(b) *Shipments.* A defense article licensed or otherwise authorized for export, temporary import, reexport, or retransfer under this subchapter may not be shipped on a vessel, aircraft, spacecraft, or other means of conveyance that is owned by, operated by, leased to, or leased from any of the proscribed countries, areas, or other persons referred to in this section.

(c) Identification in § 126.1 of the ITAR may derive from:

(1) *Exports and sales prohibited by United Nations Security Council sanctions measures.* Whenever the United Nations Security Council mandates sanctions measures, all transactions that are prohibited by the aforementioned measures and involve U.S. persons (see § 120.15 of this subchapter) inside or outside of the United States, or any person in the United States, and defense articles or defense services described on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the sanction, unless the Department of State publishes a notice in the FEDERAL REGISTER specifying different measures.

(2) *Terrorism.* Exports or temporary imports of defense articles or defense services to countries that the Secretary of State has determined to be State Sponsors of Terrorism are prohibited under the ITAR. These countries have repeatedly provided support for acts of international terrorism, which is contrary to the foreign policy of the United States and thus subject to the policy specified in paragraph (a) of this section and the requirements of section 40 of the Arms Export Control Act (22 U.S.C. 2780) and the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801). Exports to countries that the Secretary

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of State has determined and certified to Congress, pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781) and Executive Order 13637, are not cooperating fully with United States antiterrorism efforts are subject to the policy specified in paragraph (a) of this section. The Secretary of State makes such determinations and certifications annually.

(3) *Arms embargoes and sanctions.* The policy specified in paragraph (a) of this section applies to countries subject to a United States arms embargo or sanctions regime, such as those described in the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*), the International Religious Freedom Act of 1998 (22 U.S.C. 6401 *et seq.*), or the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c–2370c–2), or whenever an export of defense articles or defense services would not otherwise be in furtherance

of world peace and the security and foreign policy of the United States.

(d) *Countries subject to certain prohibitions:*

(1) For defense articles and defense services, the following countries have a policy of denial:

TABLE 1 TO PARAGRAPH (D)(1)

Country
Belarus.
Burma.
China.
Cuba.
Iran.
North Korea.
Syria.
Venezuela.

(2) For defense articles and defense services, a policy of denial applies as specified in the associated paragraphs in the following table:

TABLE 2 TO PARAGRAPH (d)(2)

Country	Country specific paragraph location
Afghanistan .....	See also paragraph (g) of this section.
Cambodia .....	See also paragraph (o) of this section.
Central African Republic .....	See also paragraph (u) of this section.
Cyprus .....	See also paragraph (r) of this section.
Democratic Republic of Congo .....	See also paragraph (i) of this section.
Ethiopia .....	See also paragraph (n) of this section.
Eritrea .....	See also paragraph (h) of this section.
Haiti .....	See also paragraph (j) of this section.
Iraq .....	See also paragraph (f) of this section.
Lebanon .....	See also paragraph (t) of this section.
Libya .....	See also paragraph (k) of this section.
Russia .....	See also paragraph (l) of this section.
Somalia .....	See also paragraph (m) of this section.
South Sudan .....	See also paragraph (w) of this section.
Sudan .....	See also paragraph (v) of this section.
Zimbabwe .....	See also paragraph (s) of this section.

(e)(1) *Proposed and final sales.* No sale, export, transfer, reexport, or retransfer of, and no proposal or presentation to sell, export, transfer, reexport, or retransfer, any defense articles or defense services subject to this subchapter may be made to any country referred to in this section (including the embassies or consulates of such a country), or to any person acting on its behalf, whether in the United States or abroad, without first obtaining a license or written approval of the Directorate of Defense Trade Controls. However, in accordance with paragraph (a) of this section, it is the policy of the

Department of State to deny licenses and approvals in such cases.

(2) *Duty to notify.* Any person who knows or has reason to know of a proposed, final, or actual sale, export, transfer, reexport, or retransfer of articles, services, or data as described in paragraph (e)(1) of this section must immediately inform the Directorate of Defense Trade Controls. Such notifications should be submitted to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls.

NOTE TO PARAGRAPH (e): “Proposal” and “presentation” mean the communication of information in sufficient detail that it would permit an intended purchaser to decide to

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acquire the article in question or to enter into an agreement as described in part 124 of this subchapter. For example, communicating information on the equipment's performance characteristics, price, and probable availability for delivery would be a proposal or presentation requiring a license or other approval.

(f) *Iraq*. It is the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services, destined for or originating in Iraq, except that a license or other approval may be issued, on a case-by-case basis for:

(1) Non-lethal military equipment; and

(2) Lethal military equipment required by the Government of Iraq or coalition forces.

(g) *Afghanistan*. It is the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services, destined for or originating in Afghanistan, except that a license or other approval may be issued, on a case-by-case basis, for the Government of Afghanistan or coalition forces. In addition, the names of individuals, groups, undertakings, and entities subject to arms embargoes, due to their affiliation with the Taliban, Al-Qaida, or those associated with them, are published in lists maintained by the United Nations Security Council's Sanctions Committees (established pursuant to United Nations Security Council resolutions (UNSCR) 1267, 1988, and 1989).

(h) *Eritrea*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles or defense services destined to or for the armed forces, police, intelligence, or other internal security forces of Eritrea.

(i) *Democratic Republic of the Congo*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in the Democratic Republic of the Congo, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles and defense services for the Government of the Democratic Republic of the Congo as notified in advance to the Committee of

the Security Council concerning the Democratic Republic of the Congo;

(2) Defense articles and defense services intended solely for the support of or use by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) or the African Union-Regional Task Force;

(3) Protective clothing, including flak jackets and military helmets, temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media, and humanitarian and development workers and associated personnel, for their personal use only;

(4) Non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee of the Security Council concerning the Democratic Republic of the Congo.

(5) Defense articles and defense services as approved by the relevant committee of the Security Council.

(j) *Haiti*. (1) It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Haiti, except that a license or other approval may be issued, on a case-by-case basis, for:

(i) Defense articles and defense services intended solely for the support of or use by security units that operate under the command of the Government of Haiti, to include the Coast Guard;

(ii) Defense articles and defense services intended solely for the support of or use by the United Nations or a United Nations-authorized mission; and

(iii) Personal protective gear for use by personnel from the United Nations and other international organizations, representatives of the media, and development workers and associated personnel.

(2) All shipments of arms and related materials consistent with the above exceptions shall only be made to Haitian security units as designated by the Government of Haiti, in coordination with the U.S. Government.

(k) *Libya*. It is the policy of the United States to deny licenses or other

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approvals for exports or imports of defense articles and defense services destined for or originating in Libya, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Arms and related materiel intended solely for security or disarmament assistance to the Libyan government, notified to the Committee of the Security Council concerning Libya in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

(2) Non-lethal military equipment when intended solely for security or disarmament assistance to the Libyan government;

(3) The provision of any technical assistance or training when intended solely for security or disarmament assistance to the Libyan government;

(4) Small arms, light weapons, and related materiel temporarily exported to Libya for the sole use of United Nations personnel, representatives of the media, and humanitarian and development workers and associated personnel, notified to the Committee of the Security Council concerning Libya in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

(5) Non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training; or

(6) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee of the Security Council concerning Libya.

(1) *Russia*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles and defense services destined for Russia, except that a license or other approval may be issued, on a case-by-case basis:

(1) For government space cooperation; and

(2) Prior to September 1, 2021, for commercial space launches.

(m) *Somalia*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services des-

tinued for or originating in Somalia, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles and defense services intended solely for the support of or use by the following:

(i) The African Union Mission in Somalia (AMISOM);

(ii) United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);

(iii) AMISOM's strategic partners, operating solely under the African Union (AU) Strategic Concept of January 5, 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM; or

(iv) The European Union Training Mission (EUTM) in Somalia.

(2) Defense articles and defense services intended solely for the development of the Security Forces of the Federal Government of Somalia, to provide security for the Somali people, notified to the relevant committee of the Security Council at least five days in advance, except in relation to deliveries of the following articles, the supply of which needs to be approved in advance by the relevant committee of the Security Council:

(i) Surface to air missiles, including Man-Portable Air-Defense Systems (MANPADS);

(ii) Guns, howitzers, and cannons with a caliber greater than 12.7 mm, and ammunition and components specially designed for these (this does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers);

(iii) Mortars with a caliber greater than 82 mm;

(iv) Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items;

(v) Charges and devices intended for military use containing energetic material; mines, and related materiel; and

(vi) Weapon sights with a night vision capability.

(3) Defense articles and defense services supplied by United Nations member states or international, regional, or subregional organizations intended

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solely for the purposes of helping develop Somali security sector institutions, other than the Security Forces of the Federal Government of Somalia, and in the absence of a negative decision by the relevant committee of the Security Council within five working days of receiving a notification of any such assistance from the supplying State, international, regional or sub-regional organization;

(4) Defense articles for the sole use by United Nations member states or international, regional, or subregional organizations undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia, upon the request of the Federal Government of Somalia for which it has notified the Secretary-General, and provided that any measures undertaken shall be consistent with applicable international humanitarian and human rights laws;

(5) Personal protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media, humanitarian or development workers, or associated personnel for their personal use only; or

(6) Supplies of non-lethal defense articles intended solely for humanitarian or protective use, notified to the relevant committee of the Security Council five days in advance for its information only, by the supplying State, international, regional, or subregional organization.

(n) *Ethiopia*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles or defense services destined to or for the armed forces, police, intelligence, or other internal security forces of Ethiopia.

(o) *Cambodia*. It is the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in Cambodia, except that a license or other approval may be issued, on a case-by-case basis, for defense articles and defense services in furtherance of conventional weapons destruction or humanitarian mine action activities.

(p)–(q) [Reserved]

(r) *Cyprus*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Cyprus, except that a license or other approval may be issued, on a case-by-case basis, for the United Nations Forces in Cyprus (UNFICYP) or for civilian end-users. This policy of denial does not apply to exports, reexports, retransfers, and temporary imports of non-lethal defense articles and defense services destined for or originating in Cyprus if:

(1) The request is made by or on behalf of the Government of the Republic of Cyprus;

(2) The end-user of such defense articles or defense services is the Government of the Republic of Cyprus; and

(3) There are no credible human rights concerns.

(s) *Zimbabwe*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Zimbabwe, except that a license or other approval may be issued, on a case-by-case basis, for the temporary export of firearms and ammunition for personal use by individuals (not for resale or retransfer, including to the Government of Zimbabwe).

(t) *Lebanon*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Lebanon, except that a license or other approval may be issued, on a case-by-case basis, for the United Nations Interim Force in Lebanon (UNIFIL) or as authorized by the Government of Lebanon.

(u) *Central African Republic*. It is the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in the Central African Republic, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles intended solely for the support of or use by the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and the European

Union training missions deployed to the Central African Republic; French forces within the provisions of their bilateral agreement with the Central African Republic and the limits of their capacities and areas of deployment, and other Member States' forces providing training and assistance as notified in advance to the Committee of the Security Council concerning the Central African Republic;

(2) Non-lethal equipment and the provision of assistance, including operational and non-operational training to the Central African Republic security forces, including state civilian law enforcement institutions, intended solely for the support of or use in the Central African Republic process of security sector reform, in coordination with MINUSCA, and as notified in advance to the Committee of the Security Council concerning the Central African Republic;

(3) Supplies brought into the Central African Republic by Chadian or Sudanese forces solely for their use in international patrols of the tripartite force to enhance security in the common border areas, in cooperation with MINUSCA, as approved in advance by the Committee of the Security Council concerning the Central African Republic;

(4) Non-lethal military equipment and related technical assistance or training intended solely for humanitarian and protective use, as notified in advance to the Committee of the Security Council concerning the Central African Republic;

(5) Personal protective equipment temporarily exported to the Central African Republic by United Nations personnel, representatives of the media, and humanitarian and developmental workers and associated personnel, for their personal use only;

(6) Small arms and related equipment intended solely for use in international-led patrols providing security in the Sangha River Tri-national Protected Area and by armed wildlife rangers of the Chinko Project and the Bamingui-Bangoran National Park to defend against poaching, smuggling of ivory and arms, and other activities contrary to the laws of the Central African Republic or its international

legal obligations, as notified in advance to the Committee of the Security Council concerning the Central African Republic;

(7) Defense articles with a caliber of 14.5mm or less, and ammunition and components specially designed for such weapons, and defense articles that are unarmed ground military vehicles and ground military vehicles mounted with weapons with a caliber of 14.5mm or less, to the Central African Republic security forces, including state civilian law enforcement institutions, and intended solely for the support of or use in the Central African Republic security sector reform process, as notified in advance to the Committee of the Security Council concerning the Central African Republic;

(8) Defense articles and any related lethal equipment that are not listed in (u)(7) to the Central African Republic security forces, including state civilian law enforcement institutions, and intended solely for the support of or use in the Central African Republic process of security sector reform, as approved in advance by the Committee of the Security Council concerning the Central African Republic; or

(9) Other sales or supply of defense articles and related materiel, or provision of assistance or personnel, as approved in advance by the Committee of the Security Council concerning the Central African Republic.

(v) *Sudan*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in the Republic of the Sudan, except a license or other approval may be issued, on a case-by-case basis, for:

(1) Supplies and related technical training and assistance to monitoring, verification, or peace support operations, including those authorized by the United Nations or operating with the consent of the relevant parties;

(2) Supplies of non-lethal military equipment intended solely for humanitarian, human rights monitoring, or protective uses and related technical training and assistance;

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(3) Personal protective gear for the personal use of United Nations personnel, human rights monitors, representatives of the media, and humanitarian and development workers and associated personnel; or

(4) Assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement.

(w) *South Sudan*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles and defense services destined for South Sudan, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles and defense services for monitoring, verification, or peacekeeping support operations, including those authorized by the United Nations or operating with the consent of the relevant parties;

(2) Defense articles and defense services intended solely for the support of, or use by, African Union Regional Task Force (AU-RTF) or United Nations entities operating in South Sudan, including but not limited to the United Nations Mission in the Republic of South Sudan (UNMISS), the United Nations Mine Action Service (UNMAS), the United Nations Police (UNPOL), or the United Nations Interim Security Force for Abyei (UNISFA);

(3) Defense articles and defense services intended solely for the support of or use by non-governmental organizations in furtherance of conventional weapons destruction or humanitarian demining activities;

(4) Non-lethal defense articles intended solely for humanitarian or protective use and related technical training and assistance;

(5) Personal protective equipment including flak jackets and helmets, temporarily exported to South Sudan by United Nations personnel, human rights monitors, representatives of the media, and humanitarian and development workers and associated personnel, for their personal use only; or

(6) Any defense articles and defense services provided in support of implementation of the Comprehensive Peace Agreement, the Agreement on the Resolution of the Conflict in the Republic

of South Sudan, or any successor agreement.

[58 FR 39312, July 22, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 126.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

EFFECTIVE DATE NOTE 1: At 85 FR 60699, Sept. 28, 2020, § 126.1 was amended by revising paragraph (r), effective Oct. 1, 2020 until Sept. 30, 2021. At 86 FR 54044, Sept. 30, 2021, the effective date was extended through Sept. 30, 2022.

EFFECTIVE DATE NOTE 2: At 87 FR 16424, Mar. 23, 2022, in § 126.1 in (c)(1) remove the reference “§ 120.15” and add in its place “§ 120.62”, effective Sept. 6, 2022.

### § 126.2 Temporary suspension or modification of this subchapter.

The Deputy Assistant Secretary for Defense Trade Controls 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.

[79 FR 8085, Feb. 11, 2014]

### § 126.3 Exceptions.

In a case of exceptional or undue hardship, or when it is otherwise in the interest of the United States Government, the Deputy Assistant Secretary of State for Defense Trade Controls may make an exception to the provisions of this subchapter.

[79 FR 8085, Feb. 11, 2014]

### § 126.4 Transfers by or for the United States Government.

(a) *By a department or agency*. A license is not required for the export, re-export, retransfer, or temporary import of a defense article or the performance of a defense service, when made by a department or agency of the U.S. Government:

(1) For official use by a department or agency of the U.S. Government, including:

(i) By employees of the U.S. Government acting within their official capacity; or

(ii) By persons or entities in a contractual relationship with the U.S. Government using the defense article