FACT SHEET ***(August 16, 2024)***

Key Elements of the International Traffic in Arms Regulations § 126.7 Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States

Overview:

On August 20, 2024, the Department of State will publish an interim final rule (IFR) to amend the International Traffic in Arms Regulations (ITAR) to further facilitate defense trade between and among Australia, the UK, and the United States. This rule is designed to harness and maximize the innovative power residing in our defense industrial bases by facilitating billions of dollars in secure license-free defense trade. The vast majority of commercial defense trade between and among the United States, Australia, and the UK, for both AUKUS and non-AUKUS programs, is eligible for transfer under the exemption. With this exemption, we aim to enhance our collective efforts to address the security challenges of the future and promote security and stability in the Indo-Pacific and around the world for generations to come.

The § 126.7 exemption is available for use beginning on the effective date of the IFR, September 1, 2024. The Authorized User list will be posted in the Defense Export Control and Compliance System (DECCS) on August 30, 2024. A 90-day public comment period also will begin on August 20, the date of the IFR's publication. Based on the comments received, the U.S. Department of State may make additional revisions in a future rule.

Key elements of the ITAR § 126.7 exemption:

Authorized Locations

- Per § 126.7(b)(1), transfers must be to or within the physical territories of Australia, the United Kingdom, and the United States.

Authorized Users

- Per § 126.7(b)(2), the transferor and recipient(s) must be:
  - U.S. persons registered with the Directorate of Defense Trade Controls (DDTC) and eligible under § 120.16;
  - A U.S. government department or agency; or
  - UK or Australian Authorized Users identified in the Defense Export Control and Compliance System (DECCS) (after having completed an enrollment process initiated through their respective national-level governments).
  - Note: Non-U.S. Person Brokers must be registered with DDTC pursuant to § 129.3, eligible under § 120.16, *and* identified on the Authorized User List in DECCS.

Excluded Technology List (ETL) and the U.S. Munitions List (USML)

- The vast majority of defense articles and defense services described on the USML are eligible for transfer via the § 126.7 exemption.

- Those defense articles and defense services that are ineligible for transfer via the § 126.7 exemption are identified in the ETL (*see* Supplement No. 2 to Part 126).

- To determine whether an article or service you wish to transfer is excluded by the ETL, you must determine whether any entry on the ETL excludes that article or service:

  1. Identify the USML paragraph(s) that describe(s) the article or service,
  2. Identify all entries in the ETL where the "USML Entry" column includes the USML paragraph(s) identified in step 1, and
  3. For those ETL entries that apply, determine whether the text in the ETL "Exclusion" column describes the article or service.

Other Requirements and Limitations of the § 126.7 Exemption

Similar to all ITAR exemptions, § 126.7 transfers are subject to other requirements and limitations, whether specifically identified in § 126.7(b)(4) and (5), or elsewhere in the ITAR.

Other changes in the rule

This rule codifies the requirement for DDTC to adjudicate licenses for Australia, the UK, and Canada within 30-45 days, to the extent practicable, when the transfer or activity cannot be undertaken under an ITAR exemption and makes other changes to the ITAR to facilitate defense trade. It also changes § 126.18(e) to authorize the reexport and retransfer of classified defense articles to certain dual nationals under certain circumstances.

The interim final rule, and details on submitting public comments, can be found on FederalRegister.gov.