



United States Department of State

*Bureau of Political-Military Affairs
Directorate of Defense Trade Controls*

Washington, D.C. 20522-0112

OCT 10 2000

Eileen Albanese
Chief Licensing Officer
Bureau of Industry & Security
Department of Commerce
14th Street & Pennsylvania Avenue
Room #2616
Washington, DC 20230

Dear Eileen Albanese:

The President is authorized under 22 U.S.C. 2778 of the Arms Export Control Act (AECA) to control the import and the export of defense articles and services. Executive Order 11958, as amended, delegated the statutory authority to regulate exports of defense articles and defense services to the Secretary of State and the authority to regulate imports of defense articles and defense services to the Attorney General. The Department of State's Directorate of Defense Trade Controls (DDTC) manages the temporary import of defense articles and defense services and the Bureau of Alcohol, Tobacco, and Firearms manages the permanent import of defense articles.

The International Import Certificate (IIC), Form BIS-645P/ATF-4522/DPS-53, is a shared form used by the Department of Commerce's (DOC) Bureau of Industry & Security (BIS); the Department of Justice's Bureau of Alcohol, Tobacco, & Firearms (BATF); and DDTC. The DOC is the lead agency responsible for processing updates and changes to the IIC. The current version of the IIC, OMB No. 0694-0017, will expire on September 30, 2010.

On average, DDTC receives 300 IICs per year. Many of the IICs are submitted to DDTC in error. There is no block on the IIC for the importer to indicate the type of import (permanent or temporary), thus it is the applicant's responsibility to send the IIC to the appropriate Department. Therefore, it is not possible for DDTC to know if it is the correct agency to receive an IIC, unless there is a cover letter indicating the type of import. Most IICs are not submitted with a cover letter. After discussing the IIC with a few defense companies, in addition to reviewing the IICs submitted with cover letters, DDTC has determined

that IICs are being sent to DDTC for permanent imports. DDTC has no jurisdiction over permanent imports. IICs for permanent imports of defense articles should be submitted to BATF, as the agency with authority over permanent imports.

DDTC does receive IICs for temporary import exemptions, in which the foreign company requests documentation for a transaction. However, even in situations in which the applicant is submitting the IIC correctly, DDTC believes that the IICs are unnecessary and redundant. The DSP-61 Application/License for Temporary Import of Unclassified Defense Articles and the DSP-85 Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data, serve the same purpose as the IIC. A signed DSP-61 or DSP-85 is sufficient to prove to a foreign government the U.S. Government's knowledge of and authorization for a temporary import.

The attached draft ITAR amendment reflects DDTC's proposal to no longer accept submissions of the IIC. If there are no objections to DDTC's proposal, once the Federal Register Notice announcing the amendment to the ITAR is published, industry will have to submit DSP-61s or DSP-85s for transactions in which the foreign party requires documentation of a temporary import. ATF will then be responsible for processing IICs for all permanent imports. The BATF and BIS should expect a marginal increase in IIC submissions.

Since the DOC is the lead agency on this form, in 2010 when the form is due for renewal, you are requested to make the following changes to the IIC:

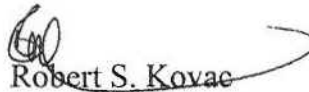
- a. Delete references to the Department of State from the upper left-hand block of the form that lists the relevant agencies and from the "For U.S. Government Use" block at the upper right-hand block of the form and at the bottom of the form;
- b. Retain the reference to the Department of State in block 4 of the form;
- c. Add the word "permanent" between the words "No" and "import" in the block at the bottom of the form just before the "For U.S. Government Use" block;
- d. Delete references to the Department of State on the Instruction page in the first paragraph and in the first paragraph under "General Instructions;"

- e. On the Instruction page, under the heading "Issuance by U.S. Department of State," change the paragraph to read: "This form does not apply to the foreign transfer by a U.S. entity of U.S. Munitions List articles (22 Code of Federal Regulation 121). For such foreign transfers, communicate with the Directorate of Defense Trade Controls, U.S. Department of State, Washington, D.C. 20520." Also, change the heading "Issuance by U.S. Department of State" to read: "Communication with U.S. Department of State concerning Foreign Transfers."
- f. On the instructions page, under the heading "Regulations Covering Use of This Form" delete paragraph b.
- g. All other references to the Department of State on the Instruction page should be retained.

The DOC also is requested to notify DDTC once these changes to the form have been made, so that DDTC can amend Section 120.28 of the ITAR. Additionally, we would like the BIS ICB Liaison, Larry Hall, to forward our proposed plan to the Office of Management & Budget for review and comment.

Please provide your comments on DDTC's proposal to no longer accept submissions of the International Import Certificate, no later than November 17, 2008, to Allie Frantz at 202-736-9220 or FrantzA@State.gov.

Sincerely,


Robert S. Kovac
Managing Director

Enclosure:

1. Draft Federal Register Notice regarding the International Import Certificate and amendment to the International Traffic in Arms Regulations.

Cc: Larry Hall, BIS ICB Liaison.

[Billing Code 4710-25]

DEPARTMENT OF STATE

22 CFR Part 123.4

[Public Notice]

RIN

Amendment to the International Traffic in Arms Regulations: International Import Certificate BIS-645P/ATF-4522/DSP-53

AGENCY: Department of State.

ACTION: Final Rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to reflect the Directorate of Defense Trade Controls' decision no longer to accept submissions of the International Import Certificate (DSP-53).

DATES: *Effective Date:* This rule is effective on [Insert Date].

FOR FURTHER INFORMATION CONTACT: Allie Frantz, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State, (202) 736-9220 or FAX (202) 261-8199; E-mail DDTCResponseTeam@state.gov, ATTN: International Import Certificate, ITAR Part 123.4.

SUPPLEMENTARY INFORMATION: The International Import Certificate (IIC), Form BIS-645P/ATF-4522/DPS-53, is a shared form used by the

Department of Commerce's Bureau of Industry & Security; the Department of Justice's Bureau of Alcohol, Tobacco, & Firearms; and the Department of State's Directorate of Defense Trade Controls. The Directorate of Defense Trade Controls (DDTC) is revising 22 CFR 123.4 to reflect DDTC's decision no longer to accept submissions of the International Import Certificate (DSP-53). For temporary import exemptions in which the foreign exporter requires documentation, the U.S. importer will be required to obtain a DSP-61 Application/License for Temporary Import of Unclassified Defense Articles or a DSP-85 Application/License for Permanent/ Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data. The Bureau of Industry & Security and the Bureau of Alcohol, Tobacco, & Firearms will continue to adjudicate International Import Certificate submissions for items under their jurisdiction.

REGULATORY ANALYSIS AND NOTICES

Administrative Procedure Act: This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. §§553 and 554.

Small Business Regulatory Enforcement Fairness Act of 1996: This amendment has not been found to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Paperwork Reduction Act: This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Regulatory Flexibility Act: Because this rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth in sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. §§603 and 604).

Unfunded Mandates Reform Act of 1995: This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Orders 12372 and 13132: This amendment will not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on Federal programs and activities, does not apply to this amendment.

Executive Order 12866: This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Executive Order 12988: The Department of State has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

List of Subjects

22 CFR Part 123

Arms and munitions, Exports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 123 is amended as follows:

PART 123—Licenses for the Export of Defense Articles

1. The authority citation for part 123 continues to read as follows:

AUTHORITY: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105-261, 112 Stat. 1920; Sec 1205(a), Pub. L. 107-228.

2. Section 123.4 is amended by revising paragraph (c) to add part (4) to read as follows:

§123.4 Temporary import license exemptions.