

**U.S. Department of State
REQUEST FOR AN ADVISORY
OPINION INSTRUCTIONS**

General Notes:

- “ITAR” refers to the International Traffic in Arms Regulations (22 CFR Parts 120-130).
- This form may only be used for requests for advisory opinions and related authorizations pursuant to ITAR §126.9 and §129.9. Applicants must select which of the four types of opinions or guidance they are requesting, which are:
 - o Preliminary authorization determinations
 - o Interpretation of the ITAR (other than brokering)
 - o Whether an activity constitutes a brokering activity as defined in 129.2(b)
 - o Guidance on brokering other than brokering as defined in 129.2(b)
- Questions as to whether an article or service is covered by the U.S. Munitions List should not be submitted via this form, but should be submitted via Form DS-4076 Commodity Jurisdiction (CJ) Determination Request Form. Any such question submitted via this form may be returned without action.

Block 1: Applicant Information

- Provide your registration code or mark “Not registered with PM/DDTC.” If the applicant is not registered with PM/DDTC, the applicant must complete all of the applicant information fields.

Block 2: Points of Contact (POC) Information

- Provide the point of contact type and contact information. Multiple points of contact are permitted on this request form.

Block 3: Advisory Opinion or Brokering Guidance Selection:

- The ITAR contains four sections that provide the opportunity for persons to request from the Directorate of Defense Trade Controls (DDTC) an advisory opinion or brokering guidance. Those sections are 126.9(a), 126.9(c), 129.9(a), and 129.9(c). Descriptions of each are provided below. Applicants should review the descriptions and the relevant ITAR sections of the four types of advisory opinions or guidance and select the appropriate section under which the request is being made. Submissions pursuant to section 126.9 should be limited to those parts of the ITAR other than Part 129 – Registration and Licensing of Brokers. Questions related to that part should be submitted under sections 129.9(a) or (c).
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- **Section 126.9(a) – Preliminary authorization determinations:**
 - o A person may request information from DDTC as to whether it would likely grant a license or other approval for a particular defense article or defense service to a particular country. Such information from DDTC is issued on a case-by-case basis and applies only to the particular matters presented to DDTC. These opinions are not binding on the Department of State and may not be used in future matters before the Department. A request for an advisory opinion must be made in writing and must outline in detail the equipment, its usage, the security classification (if any) of the articles or related technical data, and the country or countries involved.
- **Section 126.9(c) - Interpretations of the ITAR**
 - o Any person may request an interpretation of the requirements set forth in the ITAR in the form of an advisory opinion. A request for an advisory opinion must be made in writing. Any response to an advisory opinion provided by DDTC pursuant to section 126.9(c) shall not be an authorization to export and shall not bind the Department to grant or deny any such authorization.
- **Section 129.9(a) Whether an activity constitutes a brokering activity as defined in 129.2(b)**
 - o Any person desiring guidance on whether an activity constitutes a brokering activity within the scope of part 129 may request in writing guidance from DDTC. The request for guidance shall identify the applicant and registrant code (if applicable) and describe fully the activities that will be undertaken.
 - o Brokering activities means any action on behalf of another to facilitate the manufacture, export, permanent

import, transfer, reexport, or retransfer of a U.S. or foreign defense article or defense service, regardless of its origin and includes, but is not limited to:

- Financing, insuring, transporting, or freight forwarding defense articles and defense services; or
 - Soliciting, promoting, negotiating, contracting for, arranging, or otherwise assisting in the purchase, sale, transfer, loan, or lease of a defense article or defense service.
- o Section 129.9(b)(2) excludes from the definition of brokering activities the following:
- Activities by a U.S. person in the United States that are limited exclusively to U.S. domestic sales or transfers (e.g., not for export).
 - Activities by employees of the U.S. Government acting in an official capacity.
 - Activities by regular employees (see ITAR § 120.39) acting on behalf of their employer, including those regular employees who are dual nationals or third-country nationals that satisfy the requirements of ITAR § 126.18. This does not apply to persons subject to U.S. jurisdiction with respect to activities involving a defense article or defense service originating in or destined for any proscribed country, area, or person identified in ITAR § 126.1.
 - Activities that do not extend beyond administrative services, such as providing or arranging office space and equipment, hospitality, advertising, or clerical, visa, or translation services, collecting product and pricing information to prepare a response to Request for Proposal, generally promoting company goodwill at trade shows, or activities by an attorney that do not extend beyond the provision of legal advice to clients.
 - Activities performed by an affiliate, as defined in ITAR § 120.40, on behalf of another affiliate.
 - Activities by persons, including their regular employees (see ITAR §120.39), that do not extend beyond acting as an end-user of a defense article or defense service exported pursuant to a license or other approval under ITAR parts 123, 124, or 125, or subsequently acting as a reexporter or retransferor of such article or service under such license or other approval, or under an approval pursuant to ITAR § 123.9.
- **Section 129.9(b) Guidance on brokering other than brokering activities as described in 129.2(b)**
 - o Persons desiring guidance on any section of Part 129-Registration and Licensing of Brokers may also request guidance from the Directorate of Defense Trade Controls in a manner similar to that described in section 129.9(a) by submitting a description of the relevant facts or copies of relevant documentation.

After selecting the appropriate advisory opinion or brokering guidance type, applicants proceed to the appropriate Block of the form to provide information specific to the request type.

Block 4: 126.9(a) Preliminary authorization determinations

- The first entry in Block 4 is provided to describe in as much detail as possible the specifics of the proposed transaction (export, reexport, retransfer, or reexport) for which authorization (a license or other approval) is required from DDTC. Applicants should provide all information in their possession that would be required in an actual submission for a license or other approval.
- The second entry in Block 4 is to provide the names, nationalities, and geographic locations of the specific persons involved in the transactions. Applicants may add multiple entries to this section.
- The third entry in Block 4 is to provide the specific defense articles and/or defense services that may be involved in the proposed transaction. Applicants may add multiple entries to this section.
- The fourth entry in Block 4 requests a description of the end-use of the defense articles and/or defense services in the proposed transaction.
- Applicants are directed to proceed to Block 8 in order to attach and supporting documentation.

Block 5: 126.9(c) Interpretations of the ITAR

- Applicants are reminded that this block is intended to provide interpretations of the requirements of the ITAR other than those found in Part 129 – Registration and Licensing of Brokers.
- Applicants are further reminded that Block 4 should not be used to submit questions as to whether an article or service is covered by the U.S. Munitions List as that is a Commodity Jurisdiction determination.
- The first entry in Block 5 requires the applicant to select the section or sections of the ITAR for which an interpretation is

being requested. Applicants may identify multiple sections.

- The second entry in Block 5 asks the applicant to identify the specific language or subsection(s) of the ITAR for which an interpretation is being requested. Applicants should endeavor to identify with as much detail as possible the specific language of the ITAR that requires clarification or application to a specific set of circumstances.
- The third entry in Block 5 requires the applicant to provide a concise statement of the interpretation being requested. Applicants are requested to submit a direct question or executive summary that synthesizes the request. If the request is for an interpretation of the language of the regulations itself and is not a request for interpretation of the regulations as applied to a specific set of circumstances, the applicant need not complete the fourth entry in Block 5.
- The fourth entry in Block 5 requests the applicant to provide additional information in order to provide an interpretation of the regulations as applied to a specific set of circumstances. Applicants should expand upon the question or executive summary provided in the third entry to Block 5 and provide a full explanation of the circumstances and their relation to the sections or language of the ITAR in question. Applicants should include full details, to the best of their ability, regarding persons, destinations, defense articles and/or defense services, end-users and end-uses, activities, etc. as necessary for DDTC to be able to provide an interpretation.
- Applicants are directed to proceed to Block 8 in order to attach and supporting documentation.

Block 6: 129.9(a) Whether an activity is a brokering activity as defined in 129.2(b)

- The first entry in Block 6 requires the applicant to describe the specific activities undertaken by the applicant and any other U.S. or foreign person for which guidance is being requested. Applicants are requested to pay specific attention the definition of brokering activity at 129.2(b) and to describe the activities undertaken with reference to the terminology and activities described therein. This is a required field and should be completed with sufficient specificity for DDTC to be able to provide guidance. Insufficient information may result in a delayed response or a return without action..
- The second entry in Block 6 is to provide the names, nationalities, and geographic locations of the specific persons involved in the transactions. Applicants may add multiple entries to this section. If any persons to be involved in the activity are not yet identified, explanation must be provided.
- The third entry in Block 6 is to provide the specific defense articles and/or defense services that may be involved in the proposed transaction. This must include the USML category and subcategory for each article; the name or military nomenclature of each defense article; whether the defense article is significant military equipment; the estimated quantity of each defense article; the estimated U.S. dollar value of defense articles and defense services; and the security classification. Applicants may add multiple entries to this section. If information regarding specific defense articles and/or defense services that may be involved in the activities is not available, an explanation must be provided.
- The fourth entry in Block 4 requests a description of the end-user and end-use of the defense articles and/or defense services involved in the activities. If information regarding end-user or end-use is not available, an explanation must be provided.
- Applicants are directed to proceed to Block 8 in order to attach a copy of any agreement or documentation, if available, between or among the requester and other persons who will be involved in the activity or related transactions that describes the activity to be taken by such persons. If such agreement of documentation is not available, an explanation must be provided.
- Applicants are further offered the opportunity to attach additional supporting documentation.

Block 7: 129.9(c) Guidance on brokering other that brokering activities as defined in 129.2(b)

- The first entry in Block 7 requires the applicant to select the section or sections of part 129 for which an interpretation is being requested. Applicants may identify multiple sections.
- The second entry in Block 7 asks the applicant to identify the specific language or subsection(s) of part 129 for which an interpretation is being requested. Applicants should endeavor to identify with as much detail as possible the specific language of part 129 that requires clarification or application to a specific set of circumstances.
- The third entry in Block 7 requires the applicant to provide a concise statement of the interpretation being requested. Applicants are requested to submit a direct question or executive summary that synthesizes the request. If the request is for an interpretation of the language of the regulations itself and is not a request for interpretation of the regulations as applied to a specific set of circumstances, the applicant need not complete the fourth entry in Block 5.
- The fourth entry in Block 5 requests the applicant to provide additional information in order to provide an interpretation of the regulations as applied to a specific set of circumstances. Applicants should expand upon the question or executive summary provided in the third entry to Block 5 and provide a full explanation of the circumstances and their relation to

the sections or language of the ITAR in question. Applicants should include full details, to the best of their ability, regarding persons, destinations, defense articles and/or defense services, end-users and end-uses, activities, etc. as necessary for DDTC to be able to provide an interpretation.

- Applicants are directed to proceed to Block 8 in order to attach and supporting documentation.

Block 8: Supporting Documentation

- Upload necessary supporting documentation.
- If the request is being submitted pursuant to 129.9(a), please include a copy of any agreement or documentation, if available, between or among the requester and other persons who will be involved in the activity or related transactions that describes the activity to be taken by such persons.

U.S. Department of State
DS-7786 Request for an Advisory

Opinion

(SEE INSTRUCTIONS PAGE)

* PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 2 hours per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (T/PM/DDTC) Washington, D.C. 20520.

Block 1. Applicant Information

Not registered with PM/DDTC Registration code: _____

Natural Person Entity _____

if applicant is: Natural Person

First Name: _____

Middle Name: _____

Last Name: _____

None

if applicant is: Entity

Applicant Name: _____

Doing Business As Name: _____

Address Line 1: _____

Address Line 2: _____

Address Line 3: _____

City: _____ Country: _____

State/Province: _____ Zip/Postal Code: _____

Website: _____

Add

Block 2. Points of Contact (POC) Information

Type: _____ Name: _____

Telephone: _____ E-Mail: _____

If POCType is: Government

Agency: _____ Other: _____

If POCType is: Third Party

Entity Name: _____

Address Line 1: _____

Address Line 2: _____

Address Line 3: _____

City: _____ Country: _____

State/Province: _____ Zip/Postal Code: _____

Block 3. Advisory Opinion or Brokering Guidance Selection

Select the ITAR section under which the request is being submitted:

126.9(a) Preliminary authorization determinations

Proceed to Block 4

126.9(c) Interpretations of the ITAR

Proceed to Block 5

129.9(a) Whether an activity constitutes a brokering activity as defined in 129.2(b)

Proceed to Block 6

129.9(c) Guidance on brokering other than brokering activities as defined in 129.2(b)

Proceed to Block 7

Block 4. 126.9(a) Preliminary authorization determinations

[Add button for mult entry] Describe each defense article or defense service that may be involved:

USML Category: Sub-category:

Name/Military Nomenclature:

Is the defense article considered Significant Military Equipment (SME)? Yes No

Estimated Quantity: Estimated U.S. Dollar Value:

Security Classification: *(do not submit classified information on this form)*

Describe specific activities to be undertaken by the applicant and any other U.S. or foreign person, country or countries of destination or involvement, and the structure of the proposed transaction:

[text box here]

(unlimited characters)

[Add button for mult entry] Provide the name, nationality, and geographic location of all U.S. and foreign persons who may participate in the activities:

Natural Person Entity

Name:

Address Line 1:

Address Line 2:

Address Line 3:

City: Country:

State/Province: Zip/Postal Code:

Nationality:

Is this natural person/entity the end-user? Yes No

Describe end-user and end-use: *(unlimited characters)*

[text box here]

Proceed to Block 8 to attach relevant supporting documentation.

Block 5. 126.9(c) Interpretations of the ITAR

[Add button for mult entry] Section or sections of the ITAR for which an interpretation is requested

If applicable, identify the specific language or subsection requiring interpretation

[text box]

Describe in general terms the interpretation being requested:

[text box]

If the request is for an interpretation of the regulations as applied to a specific set of circumstances under the regulations, provide a full description of the activities and their relation to regulatory text in question, to include specifics regarding defense articles or services, persons and destinations, end-users and end-uses, and any other information necessary to provide an informed interpretation:

[text box]

Proceed to Block 8 to attach relevant supporting documentation.

Block 6. 129.9(a) Whether an activity constitutes a brokering activity as defined in 129.2(b)

Provide the following information in full, if information to any entry in this block is not available at time of submission, the circumstances must be stated and explained. The Directorate of Defense Trade Controls will take the completeness of the information into account in providing guidance on whether the activities constitute brokering activities.

The specific activities to be undertaken by the applicant and any other U.S. or foreign person;

[text box]

Provide the name, nationality, and geographic location of all U.S. and foreign persons who may participate in the activities; [This can be the same as the part of current Block 3 with that information]

If not available, explain why not:

[text box]

A description of each defense article or defense service that may be involved:

[This can be the same as the part of current Block 3 with that information]

If not available, explain why not:

[text box]

(4) Describe end-user and end-use:

[text box]

If not available, explain why not:

[text box]

Go to Block 8 and attach a copy of any agreement or documentation, if available, between or among the requester and other persons who will be involved in the activity or related transactions that describes the activity to be taken by such persons. If not available, explain why not:

[text box]

Applicants may attach any other relevant supporting documentation.

Block 7. 129.9(c) Guidance on brokering other than brokering activities as defined in 129.2(b)

[Add button for mult entry] Section or sections of Part 129 – Registration and Licensing of Brokers for which an interpretation is requested

If applicable, identify the specific language or subsection requiring interpretation

[text box]

Describe in general terms the interpretation being requested:

[text box]

If the request is for an interpretation of the regulations as applied to a specific set of circumstances under the regulations, provide a full description of the activities and their relation to regulatory text in question, to include specifics regarding defense articles or services, persons and destinations, end-users and end-uses, and any other information necessary to provide an informed interpretation:

[text box]

Proceed to Block 8 to attach relevant supporting documentation.

Provide the name, nationality, and geographic location of all U.S. and foreign persons who may participate in the activities: Add

Describe each defense article or defense service that may be involved: Add

USMLCategory:

Sub-category:

Name/Military Nomenclature:

Is the defense article considered Significant Military Equipment (SME)? Yes No

Estimated Quantity:

Estimated U.S. Dollar

Value: Security Classification:(do not submit classified information on this form)

Describe end-use: (unlimited characters)

Block 8. Supporting Documentation

Agreement/Contract

Descriptive Literature

Other

Presentation

Statement of Work

Correspondence

Organizational Chart

Precedent Case

Product Brochure

Technical Drawings, Schematics, or Blue Prints

Privacy Act Statement

AUTHORITIES: The information is sought pursuant to the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), the International Traffic in Arms Regulations (22 CFR Parts 120-130) and Executive Order 13637.

PURPOSE: This information is being collected to allow the Directorate of Defense Trade Controls to issue an Advisory Opinion about the particular subject addressed by the respondent.

ROUTINE USES: The information solicited on this form may be made available to appropriate agencies for law enforcement or pursuant to a court order. It may also be used to send required reports to Congress about certain defense transactions. More information on the Routine Uses for this system can be found in the System of Records Notice State-42, Munitions Control Records.

DISCLOSURE: Disclosure of this information is voluntary. However, failure to provide the information requested on this form may result in adverse determinations by the U.S. Government. The requested information may be used to make advisory opinions from the Directorate of Defense Trade Controls as to whether a license or other approval for the export of a particular defense article or defense service to a particular country would be granted.

