

OFFICE OF DEFENSE TRADE CONTROLS




Guidelines for Completion of a Form DSP-5 Application, Request for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data

The following guidelines are provided to assist applicants in accurately completing their license requests in compliance with the International Traffic In Arms Regulations (ITAR) requirements. Updates will be made based on changes to the ITAR or the DTC electronic licensing software. The submission of a complete and compliant request will provide DTC officers with the necessary information to perform a timely review of your request and when it is necessary to seek the recommendation of other agencies or offices in State to provide DTC with all the relevant information. Applications that are submitted and that do not meet the regulatory requirements or provide adequate details/documentation may be Returned Without Action (RWA'd).


Prior to completing your application, determine whether the applicant:

- is registered with the Department of State, PM/DTC. If the applicant is not a manufacturer or in the business of exporting defense articles, you may seek an exception to registration (see ITAR Part 122).
- is an empowered official in accordance with Section 120.25 of the ITAR, authorized to sign the request
- has the appropriate documentation (see ITAR Section 123.1)
- qualifies under all of the eligibility conditions listed in the basic certification statement, and satisfy one of the citizenship conditions. Otherwise you are not eligible to apply for a license (see ITAR Section 120.1(c) and 126.13); and that
- the commodity(s) for which you are requesting an export approval is an item covered by the U.S. Munitions List (USML) - see ITAR Part 121. Should a doubt exist see Section 120.3, 120.4, and 120.6 of the ITAR and DTC's website (www.pmdtc.org - CJ guidelines) for assistance on commodity jurisdiction procedures

Copies of information submitted to DTC must be collated into sets. A collated set  will consist of:

- a) attachment(s) to application,
- b) purchase order, letter of intent, and when not verified on these documents by the foreign party, a document from the foreign party that states end use and end user,
- c) descriptive literature and/or technical data,
- d) precedent approvals. The case number is mandatory when the request is for an unshipped balance of a previously approved license.
- e) letter of explanation. A letter of explanation should only be submitted when the information can not be included in the application form or attachment and is necessary to add to the contents of the application and attachments, and
- f) when applicable, a DSP-83 Nontransfer and Use Certificate - signed, sealed, and including the applicant certification.

General Instructions:

1. All blocks must be completed, including the back of a paper application.
2. Copies of information submitted with the application must be collated  into sets.
3. No defense articles (hardware and technical data) may be re-exported or transferred to any other country or to a national of any other country or to another end use without the prior written approval of the Department of State.
4. For **hardware** exports, a **separate application** is required for each country of ultimate destination. **Technical Data** applications may be requested for multiple countries of destination. See DTC's website for a listing of countries by State geographic regions.
5. End Use and End User. Applicant must seek written confirmation from the foreign purchaser before applying for a license. The license application must include from the foreign customers a written statement regarding the specific end-user and end user. This information may be included in the purchase order/contract or in a separate document. When the end use and end user confirmation is provided in a separate document, the document must identify the referenced purchase order/contract.
6. All applications for license must include, on the application or in an attachment/addendum sheet, the complete name and address of all US consignors/freight forwarders and all foreign consignees and foreign intermediate consignees involved in the transaction. This information is required in accordance with Section 126.13(b) of the ITAR. If there are multiple consignors, consignees or freight forwarders, and all the required information cannot be included on the application form, and the requested information is not submitted electronically, an attachment/addendum sheet and original and seven copies containing this information must be provided. The attachment/addendum sheet must be marked at the top as follows "Attachment to Department of State License Application [if electronic insert company transaction ID number] for export of [insert commodity] valued at [insert US dollar amount] to [insert country of ultimate destination]". District Directors of Customs will permit only those US consignors or freight forwarders listed on the license or sealed attachment/addendum sheet to make shipments under the license and only when the applicants registration is valid and only to those foreign consignees named on the license or attachment.
7. Applications for Significant Military Equipment (SME) require an original fully executed Form DSP-83 (e.g. signed by all parties, to include applicant certification) at the time of application. All classified articles and any item preceded by an asterisk (*) in Part 121.1 of the ITAR are SME.

8. Brokers (ITAR Part 129). Unless otherwise identified (e.g., in the Part 130 statement), applicant should list in a continuation sheet all persons who acted or are acting or will act as a broker, as defined in Part 129, for the applicant in connection with the proposed transaction. Applicant should, in addition to identifying any brokers as defined, seek to determine whether they are registered with DTC and provide the details of the registration and licensing, as required by the AECA and the Part 129 of the ITAR
9. Prior Approval/Prior Notification (See ITAR Section 126.8).

All applications for license to satisfy the requirements of Section 126.8 must include a statement in Block 20 or in an attachment to the application that the request is seeking prior approval in accordance with Section 126.8.

An application for a license to export Significant Military Equipment (SME) meeting the requirements of Section 126.8, (e.g. defense items valued at \$14 Million or more for end use by foreign armed forces other than a member of the North Atlantic Treaty Organization, Australia, New Zealand or Japan), must include in Block 20 the DTC license number or other approval granting the prior approval or the case number of the prior notification.
10. Firearms and firearms ammunition applications. In addition to required documentation (e.g. purchase order) an import permit issued by the foreign government of the recipient country is generally required to accompany any request for export of firearms and firearms ammunition. In those instances where a foreign government does not issue import permits, a statement must be made on the application in Block 20, after having received written verification from your foreign purchaser, that such import permits are not required by the importing country. Attach the document from the foreign purchaser with your request. Prior to submitting your application for firearms and ammunition, you are advised to review the special guidelines provided by DTC relating to acquiring a license for firearms and ammunition. (see DTC's Website www.pmdtc.org - Firearms Guidelines). Telephone requests can also be made to acquire the guidelines.
11. For the current DTC mailing address see DTC's website.

Specific Guidelines: When submitting your request electronically, you will be asked to assign the case a company user identification number in the Transaction ID field. The contents of this field is determined by you and will assist in identifying your specific transaction and provide for an electronic paper clip (identifier) to link any supporting documentation submitted to DTC (e.g. mail, FAX, hand carry). This number will also serve to identify electronically submitted requests related to State's DTSI initiatives. For additional information on these programs consult our website www.pmdtc.org.

Block 1. Date Prepared. Enter the date the application is prepared (Month/day/year).

Block 2. PM/DTC Applicant/Registrant Code. Enter your PM/DTC Applicant/Registrant Code number. Ensure your registration is valid - - No application will be processed unless your

registration is current or you are exempt from registration. If you or your company does not have a registration code, STOP and register or seek relief from registration. Prior to contacting DTC you may wish to review information regarding registration on DTC's website (www.pmdtc.org) and read Part 122 of the ITAR, also available on the DTC website.

Note: Registration is a requirement of the Arms Export Control Act. Requests for registration are submitted to DTC. A registration code is the number assigned by DTC to manufacturers and exporters. This number is unique to your company. The first four digits of the number represent the month and year through which your registration is valid; the remaining digits are your unique numbers.

Block 3. Country of Ultimate Destination. Enter the country where the end-item will ultimately be located (22 CFR 123.9).

Notes:

A. Hardware application: A separate application is required for each country of ultimate destination. State the country where the end-item will ultimately be located. The application form allows for identification of other intermediate stops the defense article(s) may make. The country identified in Block 3, must be the final destination of the defense article(s), to include the country or individuals nationality that assumes ultimate control/ownership. Blocks 3 and 14 must identify the same foreign destination.

B. Technical Data application: More than one foreign country may be listed in Block 3. For applications involving technical data when the transfer takes place in a country other than the country or countries in which the technical data will ultimately reside, place the country or countries where the transfer will take place in Block 18. This block (3) and Block 14 should identify the country of ultimate destination or nationality who will assume ultimate control/ownership (i.e. technical data is being exported to Australia, however, the transfer is being in the United Kingdom. Block 3 and 14 would state Australia, and Block 18 the United Kingdom). In an effort to expedite review, taking into account foreign policy considerations by country or region, applications should be submitted for each distinct geographic region (e.g., Africa, East Asia, South Asia, Europe, etc.). You may wish to consider a separate request when you believe the country or commodity is sensitive. An attachment/addendum to the application must identify all countries/parties to the export.

Block 4. Probable Port of Export. State known or expected port from which the defense articles will be exported. See Section 123.22(a) of the ITAR for instruction on changing a port of export after a license is issued.

Block 5. Applicant's Name and Address. Check the appropriate block indicating applicant business (Govt., Mfg., and Exporter). State the applicant's complete name and address, including zip code. If a subsidiary is applying for a license, state, on the first line, the full name of the registered company (the entity that has been assigned the PM/DTC Applicant Code)

followed by the subsidiary name, address and telephone number. State complete telephone number, including the area code.

Block 6. U.S. Government Personnel Familiar with Commodity. Check one or more of the appropriate boxes. The individual shown in this block must be an employee of an appropriate U.S. Government entity (i.e., the military service or agency most familiar with the defense article/defense program). It cannot be an employee of the Office of Defense Trade Controls. This information will assist in expediting the review of your request.

Block 7. Applicant Contact. List individual(s) familiar with the transaction and who can respond to questions from PM/DTC staff or other government agencies. The individual(s) should be prepared to answer procedure and/or technical questions. You may list more than one individual and provide the area of expertise (John Doe – technical, Andrew Heart-regulatory/process). Please do not list an individual who is not familiar with the transaction and thus unable to respond. Do not list U.S. Government personnel.

Block 8. Description of Transaction. Check the appropriate block. Complete as many of the questions as possible. Information on previous approvals and denials will provide substantial and necessary history to insure adequate and timely processing of your request. You may be able to fill in more than one box depending upon the licensing history. Information that the defense article was approved to the country may eliminate seeking interagency recommendations. A request may not be for both a completely new shipment and an unshipped balance -- it must be one or the other.

- Completely new shipment - Check the first box, if this is the first time for a request for the defense article(s),
- Unshipped Balance. Check the second box and enter the license number, if you have an existing license that has expired or is about to expire and not all the articles on the license have been shipped. **IMPORTANT NOTE:** The quantities, commodities, and values listed in Blocks 9, 10, 12 and 13 must reflect only the actual unshipped balance from the previous license. If nothing was shipped on the initial license, so state with a confirmation statement that the contract remains in effect.
- Identical Commodity to Same Country. Check the third box and enter the license and/or agreement number(s), if the identical defense article(s) have been previously exported to the same country(s) listed in Block 3 of your application. Identical means that the exact -- not similar -- configuration of the defense item that was previously approved.
- Identical Commodity Licensed to Other Countries. Check the fourth box and enter the license and/or agreement number(s), if the identical defense article(s) have been previously exported to the country(s) other than the country(s) stated in Block 3 of your application. Identical mean that the exact -- not similar -- configuration of the defense item that was previously approved.
- Similar Commodity Licensed. When submitting a paper application, if the identical commodity has not been licensed, delete the word “IDENTICAL” then check the appropriate box and type (“SIMILAR” in front of the license number. Provide in a letter an

explanation the precise details on how they are similar and the unique capabilities of how they differ. When submitting your request electronically DO NOT CHECK the BOX, provide this information on the continuation sheet under the heading "Similar Commodity Licensed".

- Previous Application Returned Without Action. Check the fifth box and enter the voided case number, if you have received an application for the identical commodity for the country stated in Block 3 Returned Without Action (RWA).
- Previous Application Denied. Check the sixth box and state the application or agreement number, if you have had a case for the identical commodity for the country(s) stated in Block 3 disapproved.
- Never Licensed for this Applicant. Check the seventh box. If you have information about licensing to other applicants, including case numbers you may wish to provide.
- Commodity Government Financed. Check the eighth box and state the case number if the proposed export is in support of a Foreign Military Sale (FMS), Foreign Military Financing (FMF), or Grant Aid (GAD) program. If available, enclose a copy of the LOA, in lieu of a Purchase Order, to support your application. If not applicable, type "NA".

Note: To expedite the review process, in any instance when a license or agreement (Approved, Disapproved or RWA'd) is identified, provide a copy, including the Department of State response (proviso letter) with your application.

Block 9. Quantity. State the number/amount of each end item, major component and system identified in Block 10 (e.g. 100 AN/XYP Radios, 2 M-16 Rifles). Do not use terms like "lots" unless deemed appropriate and fully explained in the commodity Block 10. "Lot" can generally only be used only for minor components or parts, however, an itemized list may be required as an attachment. If the commodity in Block 10 is technical data, the Block could be marked N/A or zero "O", since unlimited copies of the same technical data may be exported to the stated end user for the identified end use approved on the license during the duration period. Exports after the duration period may generally take place using the exemption in ITAR 125.4(b)(4).

Block 10. Commodity. Check whether the defense articles to be described in this block are "Hardware" or "Technical data". If both, check both boxes. The commodities must be described in detail (e.g. part number 1962-02 - trigger rubber gasket). Use a continuation sheet if necessary. If using a continuation sheet, the last line item on the form should read "continuation sheet attached". Always submit 3 copies of your attachment with the application and a copy should be included with each collated set of documents being provided. In any instance when all the items are listed on an attachment, you must provide in Block 10 a description of the items being requested for export and state that they are enumerated in the continuation sheet attached". For example, "Minor components and parts for the A-10 Aircraft as stated on the attachment.

Notes:

A. Hardware: List each defense article, including in the description the product name; manufacturer; if appropriate, include part/model number, military nomenclature and federal stock

number; all the specific details of any modification; and, any other details that would assist in clarification/identification of the listed defense articles. The applicant should seek to determine if any of the defense articles are Significant Military Equipment (SME) requiring a Form DSP-83 Nontransfer and Use Certificate and in the case of components and parts, whether the items are major or minor. Systems, end items, and major components and major parts must always be itemized. Lack of detail, incomplete or misleading descriptions can result in unnecessary processing or your request being Returned Without Action (RWA). (For definitions of an end-item, component, part, accessory, attachment, system, etc. see ITAR Section 121.8).

B. Technical Data: State the technical data to be exported, the end item or system it relates to, and the type of data contained in the documentation (e.g., drawings, schematics, blue prints, briefings, proposals, etc.). If you are exporting a specific document or proposal state the exact title of the document to be exported. An original and eight copies of the document being requested for export must be included with your request. Occasionally, additional copies will be required for interagency coordination. In any instance when the documentation is voluminous, you may wish to consult with DTC to seek to determine the exact number of copies that will be required.

C. Significant Military Equipment (SME). If the defense articles being requested for export have been determined to be SME (see ITAR Section 120.7) a properly completed and signed, original DSP-83 must accompany the paper license application submission or be submitted immediately after transmission of the electronic request. Any DSP-83 submitted to accompany an electronic license application must have a cover document that identifies the pending case number and/or company transaction ID and the officer handing the request if known.

Block 11. U.S. Munitions List (USML) Category. The USML, Part 121.1 in the ITAR, will assist you in identification of the category and sub-category for the commodity(s) stated on your application (e.g., Aircraft - VIII(a), Military Radio - XI(a)(4)(iii)). If more than one commodity is stated in Block 10, list the USML category for each different commodity.

Block 12. Value. Enter a dollar value (in US dollars and rounded off to the nearest whole dollar) that is the value of the commodity listed in Block 10 for the number of items listed in Block 9. For example, the value of one (1) AN/RBM-10 Radio is \$2,000 and the quantity identified in Block 9 is two (2) the value in this block will be \$4,000. The commodity and value should reflect those stated on the purchase order. The value of hardware should reflect the selling price for each line item without supplementary costs such as packing and freight. Value for technical data may be identified as "NONE" or reflect reproduction, processing costs, and/or contract cost. When hardware or technical data is being provided as a part of a previously approved defense service, stating the agreement number or a letter of explanation will be necessary. Also, if the hardware is in furtherance of an approved agreement, the applicant should verify that the hardware, including the value, was included in the agreement. If not, it may be necessary to amend the agreement before making the request.

Note: A value must always be stated even if the goods are being provided to the customer at no charge. In this instance state " for Customs purposes only" then state the value of the defense article. There should be an explanation of why this circumstance exists.

Block 13. Total Value. Enter the total value in U.S. dollars. This value is the combined value of the commodities listed in Block 12 and any continuation sheet(s).

Block 14. Foreign End User. State the complete name and address of the foreign end user(s). If the request is for technical data and for multiple destinations, provide the complete name and address of the foreign end user in each country. If the application is for hardware, the foreign end-user must be the country identified in Block 3. If the request is for technical data, the foreign end-user in each country must be identified stating the complete name and address. DTC will not accept post office boxes or other general or imprecise addresses without a letter of explanation/justification. The end user is the entity that will take final possession of the commodity, regardless of foreign purchaser(s) and foreign intermediate consignee(s). In certain instances, the foreign end-user may be the same as the purchaser (foreign consignee) listed in Block 16. In such cases, first complete this block, and then in Block 16 enter "Same as Block 14."

Note: Incomplete, Imprecise addresses or use of P.O. Boxes can result in your request being RWA'd.

Block 15. Source or Manufacturer of Commodity. Check the appropriate box and state the complete name and address to indicate either the source or manufacturer of the commodities identified in Block 10. If the source or manufacturer is the same as the applicant, check the appropriate box and indicate "same as box 5". Also, when possible, indicate whether the commodity is new or used, and whether it is U.S. government surplus. It is recommended that companies seek to determine, when the source is a manufacturer, that the manufacturer is registered with DTC as required by the Arms Export Control Act.

Block 16. Foreign Consignee. Enter the complete name and address of the foreign purchaser who will receive the shipment for storage, modification, or for incorporation into another end-item, and for subsequent forwarding to the foreign end-user (Block 14). Do not use post office boxes or other general or imprecise addresses. The foreign purchaser may also be the foreign end-user, in these instances enter "Same as Block 14." The foreign purchaser may also be in a country other than the foreign end-user. Ensure the application provides adequate details regarding the transaction and all the parties involved, paying particular attention to clarification of their roles when the parties are various, in different countries, and when the goods are not for a foreign government end use or end user. If there is no foreign purchaser, enter "None" and provide a letter of explanation

Block 17. Seller in the United States. Identify who is actually selling the commodity(s) listed in Block 10. If it is the applicant, enter "Same as Block 5." Otherwise, list complete name and address. Do not use post office boxes or other general or imprecise addresses.

Block 18. Foreign Intermediate Consignee. If there is no foreign intermediate consignee, enter "None". Also, there may be one or more foreign intermediate parties involved in the transaction (e.g., freight forwarder, customs broker, agent or representative, brokers (see Part 129 of the ITAR, etc.). State all foreign intermediate consignees and their role in the transaction, whether or not in the same country as the foreign purchaser or foreign end-user, which will receive the goods for onward movement to the foreign purchaser or foreign end-user. State their full name and address. Do not use post office boxes or other imprecise addresses. Also, do not include banks or common carriers unless they are involved in the transaction (e.g. brokering - Part 129 of the ITAR) or your Letter of Credit specifies a bill of lading that states that they are a party to the transaction "To Order of [insert name of bank]." Use a continuation sheet if required and state in this block "continuation sheet attached" (see general instruction 6). For paper continuation sheets, provide a copy of any continuation sheet with each collated set. Only three copies may only be required if an identical precedent is listed or the request is for an unshipped balance of a previously approved license.

Block 19. US Consignor and/or Freight Forwarder. Identify the United States entity that will actually deliver the commodity(s) identified in Block 10 to the foreign intermediate/consignee/end user/ foreign purchaser, or common carrier (e.g., Federal Express, UPS, SYZ Airlines, etc.). When the applicant is delivering the goods directly to a common carrier enter "Same as Block 5." When using a freight forwarder, state their complete name and address. List all freight forwarders that you anticipate will be handling this export (this may include any freight forwarder that is under contract to the applicant to handle the export of defense articles). Use a continuation sheet if required. Unless submitting electronically, an original and one copy of all freight forwarder continuation sheets must be provided. (See general instruction 6). If a freight forwarder becomes involved in the transaction after approval by DTC, they may be added through use of an amendment (DSP-119). Do not attempt to make the export using a freight forwarder that is not identified on the license or your shipment may be detained by U.S. Customs.

Note: When a freight forwarder continuation sheet is used, be sure to check the appropriate box in Block 21.

Block 20. Specific Purpose for Which the Material is Required, including Specific Program/End Item. Information provided in response to this block will be important in determining the outcome of your request, both in the time and the determination made. Provide a complete account of the specific purpose of the requested export. Simply stating, "For use in production of military aircraft" or "for resale" is inadequate. Providing reference to applicable approved licenses and agreements will seek to clarify the transaction and will result in enhancing the review and processing time. In any instance when a paper continuation sheet is required,

provide original and eight copies. If an identical precedent case is listed and DTC does not need to seek interagency recommendations, only three copies may be required. In these instances, if the attachments are voluminous, you may wish to seek the advice of DTC or submit three copies and provide a POC for additional copies.

Note: Specific details regarding users and use(s) for which the defense articles are being exported are critical to a USG determination. The specific details in this block should provide rationale for the review and final determination. Examples are:

- "For production of the AN/APR-100 radar in accordance with DOS approved agreement AG 123-99, or
- "The radar will be used in the F-020 fighter aircraft by the Govt. of Spain"; or
- "For test and evaluation by the foreign consignee for use on the TR tank, in support of NATO contract EC-0023-1A, see AG-999-01"

Block 21. Applicant Statement. Type the name of the individual who will sign the license application, and check the boxes that apply to this application.

Note: The individual whose name is typed in this block must be an empowered official (see 120.25) and must sign the application. Signing or submission of an application "for" another company or person is a violation of the ITAR. The individual signing the application must meet the criteria stated in Section 120.25 of the ITAR. The individual must have responsibility for ensuring compliance with all the facts stated in the request, including seeking all the required certifications on the license form as well as all other provisions of the ITAR and must be able to state:

- that they are a responsible official empowered by the applicant to certify that the conditions of 22 CFR 126.13 and 130, and
- that the applicant and other parties to this export are eligible to seek a license or are making a request for an exception to policy and have attached evidence of such a request, and
- that they are a United States citizen, or lawfully admitted to the United States for permanent residence, or an official of a foreign government.

Block 22. License to be sent to. Do not state "Same as Block 5". State the complete mailing address to which you wish the approved license, or RWA'd, or denied application to be sent.

Certifications: Certifications required for all submissions (paper or electronic). On the paper submission, complete the reverse side of the application form.

a. Eligibility Certification Section 126.13: Before signing or transmitting the application, you must qualify under all of the eligibility conditions listed in the basic certification statement, and satisfy one of the citizenship conditions. Otherwise you are not eligible to apply for a license.

b. Part 130 Statement: If the total value of the license exceeds the thresholds listed in Part 130 of the ITAR, you must also complete the statement on contributions, fees, and commissions. If the second box under this Part 130 certification is checked, you must also provide a signed original and one copy of a statement providing the information required under Section 130.10 of the ITAR.

Note: You do NOT need to complete this section if the total value of your application does NOT meet the thresholds listed in Part 130 of the ITAR.