

# Guidance Document for ITAR Compliance at Southern Research Institute

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Note: This document is for guidance only, the official procedures are listed in the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120 - 130)

1. DDTC Registration. All manufacturers, exporters and brokers of defense articles, related technical data and defense services defined on the United States Munitions List (USML) must register yearly. A renewal letter is sent to the senior company official (Chief Financial Officer) ~1 month before the registration is due which contains the instructions for renewal.
  - a. The renewal package includes a DS-2032 Form (registration application), cover letter, By Laws, Charter, tax free status letter, copy of the renewal due letter, copy of the electronic payment receipt.
  - b. Material changes to the registration must be made known to DDTC within 5 days (e.g. changes of ownership, board members, senior staff, location, etc.)
2. CJ or self classification. The first step in dealing with a potential ITAR item is to determine if the item is a defense article or defense service according to ITAR. In many cases the materials will be ITAR controlled and a notice will be received with the product. If we develop a product we can self-classify it using the ITAR regulations or submit an official Commodity Jurisdiction (CJ) (Form DS-4076) request from DDTC. A CJ is used when you can't determine if an item is EAR or ITAR controlled or which classification it would fit into. A CJ issued by the DDTC is the only legally binding determination of jurisdiction.
  - a. Download the form from the DDTC website, complete and electronically submit.
    - i. Note: the form cannot be emailed to others and saved on multiple computers before submitting to DDTC.
  - b. Official responses are received as a hard copy letter or an email notification.
3. To apply for a license you must first register with [DTrade](#). (Follow links to help documents and FAQ's) (Only empowered officials can sign license applications or other requests for approval). Empowered official must be given the authority, in writing, from a senior company officer.
  - a. Buy certified digital signature from government provider (Identrust). Each user must have their own digital signature certificate. Certificates are good for 2 years.
  - b. Designate institute master users (2 preferred) with a fax letter from senior company official.
  - c. Master user will designate other users and give permissions for other tasks.
4. License applications

- a. Determine which license should be applied for and the correct form (DSP-5 covers permanent export of defense articles and technical data and also agreements.) (Guidelines are available on the DTrade web site.)
- 5. Agreement approval applications (Manufacturing License Agreement (MLA), Technical Assistance Agreement (TAA), and Warehouse/Distribution Agreement (WDA) Part 124
  - a. Submission packet includes
    - i. Form DSP-5
    - ii. Proposal agreement
      - 1. Appendices as needed
      - 2. Include all standard clauses (124.8)
    - iii. Empowered Official Certification letter (generally not required for electronic forms because digital signature fulfills this requirement.)
    - iv. Supporting Data
    - v. Transmittal letter (124.12)
- 6. Termination of agreements 124.6
  - a. The DDTC must be informed in writing at least 30 days before the termination of a license agreement or expiration of a license agreement, MLA or TAA.
- 7. Termination of licenses (see 123.21 amendment 68311)
  - a. Licenses are valid for 4 years. However a license expires when the quantity authorized has been shipped or the date of expiration has been reached.
  - b. Electronic DSP-5 licenses that have been decremented electronically through AES do not have to be returned when they expire.
  - c. All other licenses (DSP-5, DSP-61, DSP-73, and DSP-85 licenses and DSP-94 authorizations) not decremented electronically must be returned to DDTC when they expire.
  - d. Licenses issued but not used do not have to be returned.
- 8. Importation of ITAR regulated items
  - a. Temporary import of USML controlled items is under the jurisdiction of ITAR.
  - b. Permanent import of regulated items is controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (BAFTE) as specified in 27 CFR part 447. The US Munitions Import control list (USMIL) found in section 447.21.
  - c. Prior to applying for a permit the entity should apply to register with the BAFTE as an importer of US munitions import list articles with ATF form 4587 (5330.4).
  - d. The permit application form is ATF Form 6A (5330.3A).
  - e. Exemptions:
    - i. Importation permits are not required if the components are for items being manufactured under contract by the Department of Defense. If this exemption applies a letter from the Department of Defense confirming that the exemption applies must be supplied to customs officers at the port of import.

9. AESDirect (used to report exports to Customs)
  - a. Administrator and any other users must register with AES.
  - b. Create usernames and passwords.
  - c. Study User Guide and take certification quiz.
  - d. Account is deactivated if unused for 30 days, passwords expire after 60 days and must be reset by the administrator.
  - e. Note: Because of the relatively quick time an unused account expires, it may be prudent to allow your Freight Forwarder to submit this for you, check ahead of time with the forwarder. A Pro Forma Invoice may be needed as well as a Commercial Invoice.
10. Shipping in Support of a License 123.22
  - a. Physically deposit the license with US Customs office at the port of exit before AES filing.
  - b. Submit shipment information to AES before shipment to obtain an Internal Transaction Number (ITN).
  - c. Cite the ITN number on the bill of lading, air waybill and/or other commercial loading documents.
  - d. Incorporate the destination control statement on the bill of lading and the invoice.
11. Shipping in support of a license exemption 123.22
  - a. Submit to AES before shipment to obtain an ITN. (Note: a freight forwarder may be able to do this for the shipper.)
  - b. Incorporate the destination control statement on the bill of lading and the invoice.
  - c. Present all documentation to port authorities (attachments, certifications, proof of AES filing, exemption reference, i.e. Canadian Exemption 22CFR 126.5(b)).
12. MLA and TAA filing 123.22
  - a. The license holder must electronically notify DDTC when transfer of technical data or technical services begins. All subsequent transfers are not required to be reported directly to DDTC but records must be maintained of each transfer and presented to DDTC upon request and at the expiration of the license. Records include:
    - i. Description of data
    - ii. Date and time of export
    - iii. Name of end-user
    - iv. Method of transmission
13. Recordkeeping for exports (as applicable). Records must be maintained for 5 years from the date of the expiration of the license, or from the date of export when shipped under a license exemption. The following are documents that should be kept:
  - a. Shippers Export Declaration
  - b. Shippers letter of Instruction
  - c. Sales agreement

- d. Pro-Forma invoice (In foreign trade, states a commitment from the seller to provide specified goods to the buyer at a certain cost. Used for declared value for customs.)
- e. Purchase order
- f. Purchase order acceptance or confirmation
- g. Commercial invoice
- h. Bill of lading
- i. Packing list
- j. Airway Bill
- k. Certificates of origin
- l. Shippers Declarations for Dangerous Goods
- m. Delivery orders
- n. Letters of credit
- o. Carnets (international document guaranteeing payment of customs duties)

## Attachment 1: ITAR Categories

| Category | Description                                                                                  |
|----------|----------------------------------------------------------------------------------------------|
| I        | Firearms, Close Assault Weapons and Combat Shotguns                                          |
| II       | Guns and Armament                                                                            |
| III      | Ammunition/Ordnance                                                                          |
| IV       | Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes and Mines           |
| V        | Explosives and Energetic Materials, Propellants, Incendiary Agents                           |
| VI       | Vessels of War and Special Naval Equipment                                                   |
| VII      | Tanks and Military Vehicles                                                                  |
| VIII     | Aircraft and Associated Equipment                                                            |
| IX       | Military Training Equipment and Training                                                     |
| X        | Protective Personnel Equipment and Shelters                                                  |
| XI       | Military Electronics                                                                         |
| XII      | Fire Control, Range Finder, Optical and Guidance and Control Equipment                       |
| XIII     | Auxiliary Military Equipment                                                                 |
| XIV      | Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment |
| XV       | Spacecraft Systems and Associated Equipment                                                  |
| XVI      | Nuclear Weapons, Design and Testing Related Items                                            |
| XVII     | Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated            |
| XVIII    | Directed Energy Weapons                                                                      |
| IXX      | (reserved)                                                                                   |
| XX       | Submersible Vessels, Oceanographic and Associated Equipment                                  |
| XI       | Miscellaneous Articles                                                                       |