

## § 123.15

symbol is usually placed on the Import Certificate when the applicant for the Import Certificate (the importer) states either (1) that there is uncertainty whether the items covered by the Import Certificate will be imported into the country issuing the Import Certificate; (2) that he or she knows that the items will not be imported into the country issuing the Import Certificate; or (3) that, if the items are to be imported into the country issuing the Import Certificate, they will subsequently be reexported to another destination. All parties, including the ultimate consignee in the country of ultimate destination, must be shown on the completed Import Certificate.

### § 123.15 Congressional notification for licenses.

(a) All exports of major defense equipment, as defined in §120.8 of this subchapter, sold under a contract in the amount of \$14,000,000 or more, or exports of defense articles and defense services sold under a contract in the amount of \$50,000,000 or more, may take place only after the Office of Defense Trade Controls notifies the exporter through issuance of a license or other approval that Congress has not enacted a joint resolution prohibiting the export and:

(1) In the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Japan or New Zealand, 15 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1); or

(2) In the case of a license for an export to any other destination, 30 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1).

(b) Persons who intend to export defense articles and defense services pursuant to any exemption in this subchapter under the circumstances described in the first sentence of paragraph (a) of this section must notify the Office of Defense Trade Controls by letter of the intended export and, prior to transmittal to Congress, provide a signed contract and a DSP-83 signed by

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the applicant, the foreign consignee and end-user.

[62 FR 67275, Dec. 24, 1997, as amended at 64 FR 17533, Apr. 12, 1999]

### § 123.16 Exemptions of general applicability.

(a) The following exemptions apply to exports of unclassified defense articles for which no approval is needed from the Office of Defense Trade Controls. These exemptions do not apply to: Proscribed destinations under §126.1 of this subchapter; exports for which Congressional notification is required (see §123.15 of this subchapter); MTCR articles; Significant Military Equipment (SME); and may not be used by persons who are generally ineligible as described in §120.1(c) of this subchapter. All shipments of defense articles, including those to and from Canada, require a Shipper's Export Declaration (SED) or notification letter. If the export of a defense article is exempt from licensing, the SED must cite the exemption. Refer to §123.22 for Shipper's Export Declaration and letter notification requirements.

(b) The following exports are exempt from the licensing requirements of this subchapter.

(1) District Directors of Customs shall permit the export without a license of defense hardware being exported in furtherance of a manufacturing license agreement, technical assistance agreement, distribution agreement or an arrangement for distribution of items identified in Category XIII(b)(1), approved in accordance with Part 124, provided that:

(i) The defense hardware to be exported supports the activity and is identified by item, quantity and value in the agreement or arrangement; and

(ii) Any provisos or limitations placed on the authorized agreement or arrangement are adhered to; and

(iii) The exporter certifies on the Shipper's Export Declaration that the export is exempt from the licensing requirements of this subchapter. This is done by writing, "22 CFR 123.16(b)(1) and the agreement or arrangement (identify/state number) applicable"; and