

## § 124.11

## 22 CFR Ch. I (4-1-05 Edition)

§ 123.10 of this subchapter) signed by the applicant and the foreign party must be submitted to the Office of Defense Trade Controls. With respect to all agreements involving classified articles, including classified technical data, an authorized representative of the foreign government must sign the DSP-83 (or provide the same assurances in the form of a diplomatic note), unless the Office of Defense Trade Controls has granted an exception to this requirement. The Office of Defense Trade Controls may require that a DSP-83 be provided in conjunction with an agreement that does not relate to significant military equipment or classified defense articles. The Office of Defense Trade Controls may also require with respect to any agreement that an appropriate authority of the foreign party's government also sign the DSP-83 (or provide the same assurances in the form of a diplomatic note).

(b) *Timing of submission of assurances.* Submission of a Form DSP-83 and/or diplomatic note must occur as follows:

(1) Agreements which have been signed by all parties before being submitted to the Office of Defense Trade Controls may only be submitted along with any required DSP-83 and/or diplomatic note.

(2) If an agreement has not been signed by all parties before being submitted, the required DSP-83 and/or diplomatic note must be submitted along with the signed agreement.

NOTE: In no case may a transfer occur before a required DSP-83 and/or diplomatic note has been submitted to the Office of Defense Trade Controls.

[59 FR 29951, June 10, 1994]

### § 124.11 Certification to Congress for agreements.

Regardless of dollar value, a Technical Assistance Agreement or a Manufacturing License Agreement that involves the manufacture abroad of any item of significant military equipment (as defined in § 120.7 of this subchapter) shall be certified to Congress by the Department as required by 22 U.S.C. 2776(d). Additionally, any technical assistance agreement or manufacturing license agreement providing for the export of major defense equipment, as defined in § 120.8, sold under a contract in

the amount of \$14 million or more, or of defense articles or defense services sold under a contract in the amount of \$50 million or more, shall be certified to Congress by the Department as required by 22 U.S.C. 2776(c)(1). The Office of Defense Trade Controls will not approve agreements requiring Congressional notification unless Congress has not enacted a joint resolution prohibiting the agreement and:

(a) In the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand, at least 15 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(d); or

(b) In the case of an agreement for or in any other country, at least 30 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(d).

[62 FR 67276, Dec. 24, 1997]

### § 124.12 Required information in letters of transmittal.

(a) An application for the approval of a manufacturing license or technical assistance agreement with a foreign person must be accompanied by an explanatory letter. The original letter and seven copies of the letter and eight copies of the proposed agreement shall be submitted to the Office of Defense Trade Controls. The explanatory letter shall contain:

(1) A statement giving the applicant's Defense Trade Controls registration number.

(2) A statement identifying the licensee and the scope of the agreement.

(3) A statement identifying the U.S. Government contract under which the equipment or technical data was generated, improved, or developed and supplied to the U.S. Government, and whether the equipment or technical data was derived from any bid or other proposal to the U.S. Government.

(4) A statement giving the military security classification of the equipment or technical data.

(5) A statement identifying any patent application which discloses any of the subject matter of the equipment or technical data covered by an invention