

(1) The license number under which the defense article was previously authorized for export from the United States;

(2) A precise description, quantity and value of the defense article;

(3) A description of the new end-use; and

(4) Identification of the new end-user.

(d) The written approval of the Office of Defense Trade Controls must be obtained before reselling, transferring, transshipping on a non-continuous voyage, or disposing of a defense article in any country other than the country of ultimate destination, or anyone other than the authorized end-user, as stated on the Shipper's Export Declaration in cases where an exemption is claimed under this subchapter.

(e) Reexports or retransfers of U.S.-origin components incorporated into a foreign defense article to a government of a NATO country, or the governments of Australia or Japan, are authorized without the prior written approval of the Office of Defense Trade Controls, provided:

(1) The U.S.-origin components were previously authorized for export from the United States, either by a license or an exemption;

(2) The U.S.-origin components are not significant military equipment, the items are not major defense equipment sold under a contract in the amount of \$14,000,000 (\$14 million) or more; the articles are not defense articles or defense services sold under a contract in the amount of \$50,000,000 (\$50 million) or more; and are not identified in part 121 of this subchapter as Missile Technology Control Regime (MTCR) items; and

(3) The person reexporting the defense article must provide written notification to the Office of Defense Trade Controls of the retransfer not later than 30 days following the reexport. The notification must state the articles being reexported and the recipient government.

(4) In certain cases, the Director, Office of Defense Trade Controls, may place retransfer restrictions on a license prohibiting use of this exemption.

**§ 123.10 Non-transfer and use assurances.**

(a) A nontransfer and use certificate (Form DSP-83) is required for the export of significant military equipment and classified articles including classified technical data. A license will not be issued until a completed Form DSP-83 has been received by the Office of Defense Trade Controls. This form is to be executed by the foreign consignee, foreign end-user, and the applicant. The certificate stipulates that, except as specifically authorized by prior written approval of the Department of State, the foreign consignee and foreign end-user will not reexport, resell or otherwise dispose of the significant military equipment enumerated in the application outside the country named as the location of the foreign end-use or to any other person.

(b) The Office of Defense Trade Controls may also require a DSP-83 for the export of any other defense articles or defense services.

(c) When a DSP-83 is required for an export of any defense article or defense service to a non-governmental foreign end-user, the Office of Defense Trade Controls may require as a condition of issuing the license that the appropriate authority of the government of the country of ultimate destination also execute the certificate.

**§ 123.11 Movements of vessels and aircraft covered by the U.S. Munitions List outside the United States.**

(a) A license issued by the Office of Defense Trade Controls is required whenever a privately-owned aircraft or vessel on the U.S. Munitions List makes a voyage outside the United States.

(b) Exemption. An export license is not required when a vessel or aircraft referred to in paragraph (a) of this section departs from the United States and does not enter the territorial waters or airspace of a foreign country if no defense articles are carried as cargo. Such a vessel or aircraft may not enter the territorial waters or airspace of a foreign country before returning to the United States, or carry as cargo any defense article, without a temporary export license (Form DSP-73) from the Department of State. (See § 123.5.)