

amended) extends the current reporting requirements—as well as the current exemption for regular importers and regular customers—to post-import and post-export transactions of List I and List II chemicals. With implementation of the Interim Final Rule with Request for Comment, importers, exporters, brokers, and traders are required to notify DEA, before the transaction is to take place, of certain information regarding their downstream customers. This person is referred to as the “transferee” of the United States importer, exporter, broker or trader. Notification occurs on a new DEA Form 486. If the transferee changes, or the quantity of the chemical is increased after initial notification to DEA, the importer, exporter, broker or trader must file an amended DEA Form 486 with DEA. Within 30 days after the importation, exportation, or international transaction is completed, the importer, exporter, broker, or trader must send DEA a return declaration containing information regarding the transaction. The requirements of section 716 and the implementing regulations were discussed extensively in DEA’s Interim Final Rule with Request for Comment published April 9, 2007. This Interim Final Rule became effective May 9, 2007.

#### Comments Received

Subsequent to publication of the Interim Final Rule, DEA received two written requests for a delay of the effective date of the rule, one from a national chemical association and the other from a large chemical company. Commenters indicated that more time was needed to fully comply with the provisions of the Interim Final Rule. Commenters also sought clarification regarding procedural implementation of the rule. DEA also received verbal communications from other organizations and individual registrants regarding procedural concerns and requests for clarification regarding the rule.

#### Temporary Stay of Provisions

After careful consideration of the concerns expressed by the regulated industry, DEA is temporarily staying certain provisions of the Interim Final Rule with Request for Comment published April 9, 2007. Specifically, DEA is temporarily staying the following provisions:

- The waiver of the 15-day advance notification requirement for importations of a listed chemical for which the importer intends to transfer the listed chemical to a person who is a regular customer of the chemical;

- The requirement that importers, exporters, brokers and traders notify DEA of the transferee of the listed chemical;

- The requirement that importers, exporters, brokers and traders amend the advance notification (DEA Form 486) if the transferee changes or the quantity of the chemical to be transferred increases; and
- The requirement that importers, exporters, brokers and traders file return declarations regarding importations, exportations, and international transactions with DEA.

These provisions are being temporarily stayed until June 8, 2007.

This temporary stay applies only to those provisions implemented by section 716 of CMEA. All other provisions regarding the importation, exportation, and international transactions involving List I and List II chemicals remain in full force and effect.

#### Implementation of the Interim Final Rule Published April 9, 2007

The following implementation guidance is provided pursuant to the temporary stay of 21 CFR 1313.12(c)(1)(ii), 1313.13(c)(5), 1313.16, 1313.17, 1313.26, 1313.27, 1313.32(d), 1313.32(e), and 1313.35.

Effective June 8, 2007, all United States importers, exporters, brokers and traders of List I and List II chemicals must use the revised DEA Form 486 to notify DEA of their imports, exports, and international transactions. This revised form is available on the Diversion Control Program Web site, <http://www.deadiversion.usdoj.gov>.

Persons who submit import, export, and international transaction advance notifications to DEA on the new form prior to June 8, 2007, are not required to provide a return declaration to DEA regarding those transactions.

Effective June 8, 2007, all persons previously granted regular importer status will no longer hold that status. Every import of a List I and List II chemical must be reported to DEA not later than 15 days prior to the proposed importation. This report must include the name of the person to whom the chemical is proposed to be transferred and the amount of the chemical proposed to be transferred. As DEA discussed in the April 9, 2007, Interim Final Rule, DEA will evaluate each proposed importation based not only on the chemical to be imported but on the transferee information supplied by the importer as well. This process will allow for the establishment of regular customer status by transferees of United States importers, and for establishment

of regular importer status by importers importing a specific listed chemical intended for sale to a specific customer.

Effective June 8, 2007, all persons importing, exporting, and conducting international transactions involving List I and List II chemicals must provide return declarations to DEA.

Pursuant to the authority of the Attorney General to promulgate and enforce rules and regulations under the Controlled Substances Act (21 U.S.C. 871(b)), as delegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR Part 0, Appendix to Subpart R, section 7, effective May 22, 2007, through June 7, 2007, the provisions of 21 CFR 1313.12(c)(1)(ii), 1313.13(c)(5), 1313.16, 1313.17, 1313.26, 1313.27, 1313.32(d), 1313.32(e), and 1313.35 are temporarily stayed.

Dated: May 15, 2007.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control.*

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## DEPARTMENT OF STATE

### 22 CFR Part 126

[Public Notice: 5801]

#### Amendment of the International Traffic in Arms Regulations: Policy With Respect to Somalia

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** Notice is hereby given that the Department of State is amending the International Traffic in Arms Regulations (ITAR) regarding Somalia at 22 CFR 126.1 to make it United States policy to consider on a case-by-case basis licenses, or other approvals, for exports of defense articles and defense services destined for Somalia that conform to the provisions of United Nations Security Council resolution 1744, which amends United Nations Security Council resolution 733. The United States will deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Somalia that do not conform to the provisions of the resolution.

**EFFECTIVE DATE:** This rule is effective upon publication of this **Federal Register** Notice.

**ADDRESSES:** Interested parties may submit comments at any time by any of the following methods:

- *E-mail:*

*DDTCResponseTeam@state.gov* with an appropriate subject line.

- *Mail:* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, 12th Floor, SA-1, Washington, DC 20522-0112.

- *Fax:* 202-261-8199.

- *Hand Delivery or Courier (regular work hours only):* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTENTION: Regulatory Change, SA-1, 12th Floor, 2401 E Street, NW., Washington, DC 20037.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.

**FOR FURTHER INFORMATION CONTACT:** Ann K. Ganzer, Office of Defense Trade Controls Policy, Department of State, 12th Floor, SA-1, Washington, DC 20522-0112; Telephone 202-663-2792 or FAX 202-261-8199; e-mail: *DDTCResponseTeam@state.gov*. ATTN: Regulatory Change.

**SUPPLEMENTARY INFORMATION:** On February 20, 2007, the United Nations Security Council (UNSC) adopted resolution 1744 which, *inter alia*, amends the complete embargo on weapons and military equipment imposed by UNSC resolution (UNSCR) 733 (1992). In resolution 1744, the UNSC decided that the embargo shall no longer apply to the export to Somalia of weapons and military equipment, technical training, and assistance when intended solely for either of two purposes: (1) Support for the African Union Mission to Somalia (AMISOM), an effort to establish an initial stabilization phase in Somalia, and (2) support for the purpose of helping develop security sector institutions in Somalia that further the objectives of peace, stability and reconciliation in Somalia. Proposed exports for the latter purpose will require advance notification by the United States Government to the UN Somalia Sanctions Committee and the absence of a negative decision by that Committee. In addition, exemptions from licensing requirements may not be used with respect to exports to Somalia without prior written authorization by the Directorate of Defense Trade Controls.

To implement this new policy the ITAR is amended in the following manner: the specific reference to Somalia in 126.1(a) is removed, and all relevant information pertaining to Somalia is set forth in a new paragraph (m) in Section 126.1.

## Regulatory Analysis and Notices

### *Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554.

### *Regulatory Flexibility Act*

This rule does not require analysis under the Regulatory Flexibility Act.

### *Unfunded Mandates Act of 1995*

This rule does not require analysis under the Unfunded Mandates Reform Act.

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

### *Executive Orders 12372 and 13132*

It is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13132.

### *Executive Order 12866*

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

### *Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

### **List of Subjects 22 CFR Part 126**

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

■ 1. The authority citation for part 126 continues to read as follows:

**Authority:** Secs. 2, 38, 40, 42, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108-375.

■ 2. Section 126.1 is amended by revising paragraph (a) to read as follows and adding paragraph (m):

### **§ 126.1 Prohibited exports and sales to certain countries.**

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, North Korea, Syria, and Venezuela. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Liberia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries, areas, or persons in this § 126.1.

\* \* \* \* \*

(m) *Somalia.* It is the policy of the United States to deny licenses, or other approvals, for exports or imports of defense articles and defense services destined for or originating in Somalia. A denial policy will remain for exports or imports of defense articles and defense services destined for or originating in Somalia except, on a case-by-case basis, for defense articles and defense services intended solely for:

- (1) Support for the African Union Mission to Somalia (AMISOM), and
- (2) Support for the purpose of helping develop security sector institutions in Somalia that further the objectives of peace, stability and reconciliation in Somalia, after advance notification of the proposed export by the United States Government to the UN Somalia Sanctions Committee and the absence of a negative decision by that committee.

Exemptions from the licensing requirement may not be used with respect to any export to Somalia unless specifically authorized in writing by the Directorate of Defense Trade Controls.

Dated: April 27, 2007.

**Stephen D. Mull,**

*Acting Assistant Secretary for Political-Military Affairs, Department of State.*

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