

Dated: June 27, 2001.

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Director, Center for Veterinary Medicine.

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DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Parts 124, 125, and 126

[Public Notice 3710]

Amendment to the International Traffic in Arms Regulation: Sweden

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic In Arms Regulations to extend a recent reform of the U.S. defense trade export control system, originally intended to benefit NATO, Australia and Japan, to Sweden. The recent reforms were intended to streamline the U.S. defense export control licensing process and forge closer industrial linkage between the U.S. and allied defense suppliers. Part 124 of the International Traffic In Arms Regulations is now being amended to permit U.S. companies to perform, using an exemption, certain maintenance and maintenance training for US-origin defense articles in the inventory of Sweden. Part 125 is amended to provide authorization, without a license, to transfer certain technical data to support procurement of defense articles from defense firms in Sweden for use by the Department of Defense. In addition, under Part 126, the four comprehensive export authorizations for use in circumstances where the full parameters of a commercial export endeavor, including the needed defense exports, can be well anticipated and described in advance, is now available for Sweden.

EFFECTIVE DATE: July 10, 2001.

FOR FURTHER INFORMATION CONTACT: William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State, ATTN: Regulatory Change Sweden at (202) 663-2861 or FAX (202) 261-8264.

SUPPLEMENTARY INFORMATION: On July 21, 2000, the Department published regulations to implement, effective September 1, 2000, the U.S. Defense Trade Security Initiative (DTSI) announced at the NATO Ministerial in Florence, Italy on May 24, 2000 (65 FR 45282). Those reforms of the U.S. defense trade export control system were made available to NATO Allies,

Japan and Australia. Those initiatives were intended to improve the efficiency and competition in defense markets with NATO allies, Japan and Australia. This particular amendment to the International Traffic in Arms Regulations would make those reforms available with respect to Sweden. These reforms are intended to streamline the U.S. defense export control licensing process and forge closer industrial linkage between the U.S. and allied defense suppliers.

Section 124.2(c) is amended to add Sweden. Paragraph (c) permits U.S. companies to provide, without a license, defense services necessary to perform maintenance on and maintenance training for US-origin equipment in the inventory of NATO, NATO countries, Australia, Japan, and Sweden, provided the maintenance and maintenance training does not result in any modification, enhancement, upgrade or other form of alteration or improvement that enhances the performance or capability of the defense article. Also, the export must not include the transfer of certain technologies; such as, design methodology, engineering analysis, and manufacturing know-how. Section 125.4(c) is amended to add Sweden. Paragraph (c) permits the transfer to NATO countries, Australia, Japan, and Sweden, of technical data necessary to support offshore procurement of defense articles for use by the Department of Defense. In addition, section 126.14 is amended to include Sweden in the four comprehensive export authorizations developed to limit the number of individual export approvals necessary to authorize the export of defense articles to NATO countries, Australia, Japan, and Sweden, which will encourage government-to-government cooperative research and development, support joint ventures and teaming arrangements and facilitate a U.S. company's role in a cooperative project when covered by a government-to-government Memorandum of Understanding (MOU).

In implementing these initiatives, parts 124, 125, and 126 are being amended.

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. It 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. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the

meaning of the Small Business Regulatory Enforcement Act of 1966. 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant application of Executive Orders 12372 and 13123. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Sweden, 13th Floor, H1304, 2401 E Street, NW., Washington, DC20037. Such persons must be so registered with the Department of State's Office of Defense Trade Controls (DTC) pursuant to the registration requirements of section 38 of the Arms Export Control Act.

List of Subjects

22 CFR Part 124

Arms and munitions, Exports, Technical assistance.

22 CFR Part 125

Arms and munitions, Classified information, Exports.

22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Parts 124, 125 and 126, are amended as follows:

PART 124—AGREEMENTS, OFFSHORE PROCUREMENT AND OTHER DEFENSE SERVICES

1. The authority citation for part 124 continues to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub L. 105-261.

2. Section 124.2 is amended by revising paragraphs (c) introductory text, (c)(1), and (c)(6) to read as follows:

§ 124.2 Exemptions for training and military service.

* * * * *

(c) NATO countries, Australia, Japan, and Sweden, in addition to the basic maintenance training exemption provided in § 124.2(a) and basic maintenance information exemption in § 125.4(b)(5) of this subchapter, no technical assistance agreement is required for maintenance training or the performance of maintenance, including

the export of supporting technical data, when the following criteria can be met:

(1) Defense services are for unclassified U.S.-origin defense articles lawfully exported or authorized for export and owned or operated by and in the inventory of NATO or the Federal Governments of NATO countries, Australia, Japan or Sweden.

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(6) *Eligibility criteria for foreign persons.* Foreign persons eligible to receive technical data or maintenance training under this exemption are limited to nationals of the NATO countries, Australia, Japan, or Sweden.

PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

3. The authority citation for part 125 continues to read as follows:

Authority: Sections 2 and 38, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 3 CFR, 1977 Comp. p.79; 22 U.S.C. 2658.

4. Section 125.4 is amended by revising paragraph (c) introductory text to read as follows:

§ 125.4 Exemptions of general applicability.

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(c) Defense services and related unclassified technical data are exempt from the licensing requirements of this subchapter, to nationals of NATO countries, Australia, Japan, and Sweden, for the purposes of responding to a written request from the Department of Defense for a quote or bid proposal. Such exports must be pursuant to an official written request or directive from an authorized official of the U.S. Department of Defense. The defense services and technical data are limited to paragraphs (c)(1), (c)(2), and (c)(3) of this section and must not include paragraphs (c)(4), (c)(5), and (c)(6) of this section which follow:

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PART 126—GENERAL POLICIES AND PROVISIONS

5. 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); 22 U.S.C. 2778; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p.79; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR 1994 Comp., p 899.

6. Section 126.14 is amended by revising paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3)(i), and (a)(4) to read as follows:

§ 126.14 Special comprehensive export authorizations for NATO, Australia, Japan, and Sweden.

(a) With respect to NATO members, Australia, Japan, and Sweden, the Office of Defense Trade Controls may provide the comprehensive authorizations described in paragraphs (a) and (b) of this section for circumstances where the full parameters of a commercial export endeavor including the needed defense exports can be well anticipated and described in advance, thereby making use of such comprehensive authorizations appropriate.

(1) *Major Project Authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Office of Defense Trade Controls may provide comprehensive authorizations for well circumscribed commercially developed "major projects", where a principal registered U.S. exporter/prime contractor identifies in advance the broad parameters of a commercial project including defense exports needed, other participants (e.g., exporters with whom they have "teamed up", subcontractors), and foreign government end users. Projects eligible for such authorization may include a commercial export of a major weapons system for a foreign government involving, for example, multiple U.S. suppliers under a commercial teaming agreement to design, develop and manufacture defense articles to meet a foreign government's requirements. U.S. exporters seeking such authorization must provide detailed information concerning the scope of the project, including other exporters, U.S. subcontractors, and planned exports (including re-exports) of defense articles, defense services, and technical data, and meet the other requirements set forth in paragraph (b) of this section.

(2) *Major Program Authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Office of Defense Trade Controls may provide comprehensive authorizations for well circumscribed commercially developed "major program". This variant would be available where a single registered U.S. exporter defines in advance the parameters of a broad commercial program for which the registrant will be providing all phases of the necessary support (including the needed hardware, tech data, defense services, development, manufacturing, and logistic support). U.S. exporters seeking such authorization must provide detailed information concerning the scope of the program, including planned exports (including re-exports) of defense articles, defense services, and technical

data, and meet the other requirements set forth in paragraph (b) of this section.

(3)(i) *Global Project Authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Office of Defense Trade Controls may provide a comprehensive "Global Project Authorization" to registered U.S. exporters for exports of defense articles, technical data or defense services in support of government to government cooperative projects (covering research and development or production) with one of these countries undertaken pursuant to an agreement between the USG and the government of such country, or a memorandum of understanding between the Department of Defense and the country's Ministry of Defense.

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(4) *Technical Data Supporting an Acquisition, Teaming Arrangement, Merger, Joint Venture Authorization.* With respect to NATO member countries, Australia, Japan, and Sweden, the Office of Defense Trade Controls may provide a registered U.S. defense company a comprehensive authorization to export technical data in support of the U.S. exporter's consideration of entering into a teaming arrangement, joint venture, merger, acquisition, or similar arrangement with prospective foreign partners. Specifically the authorization is designed to permit the export of a broadly defined set of technical data to qualifying well established foreign defense firms in NATO countries, Australia, Japan, or Sweden in order to better facilitate a sufficiently in depth assessment of the benefits, opportunities and other relevant considerations presented by such prospective arrangements. U.S exporters seeking such authorization must provide detailed information concerning the arrangement, joint venture, merger or acquisition, including any planned exports of defense articles, defense services, and technical data, and meet the other requirements set forth in paragraph (b) of this section.

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Dated: June 12, 2001.

John R. Bolton,

Under Secretary, Arms Control and International Security, Department of State.
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