

place, is the reference "General Note 19(e)".

PART 145—MAIL IMPORTATIONS

1. The general authority citation for part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624;

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PART 146—FOREIGN TRADE ZONES

1. The authority citation for part 146 is revised to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1623, 1624.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 23, Harmonized Tariff Schedule of the United States);

* * * * *

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The general authority citation for part 151 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 23 and 24, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

1. The general authority citation for part 152 continues, and the specific authority for § 152.13 is revised, to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624.

* * * * *

Section 152.13 also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)).

§ 152.13 [Amended]

2. In § 152.13:

a. The reference in paragraphs (b)(1) and (b)(2) to "General Note 19" is removed and added, in its place, is the reference "General Note 20";

b. The reference in the introductory text of paragraph (c) and in paragraphs (c)(1), (c)(2), and (c)(3) to "General Note 19" is removed and added, in its place, is the reference "General Note 20"; and

c. The references in paragraph (d) to "General Note 19" are removed and added, in their place, are the references "General Note 20".

PART 177—ADMINISTRATIVE RULINGS

1. The general authority citation for part 177 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624.

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PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

1. The authority citation for part 181 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314.

PART 191—DRAWBACK

1. The general authority citation for part 191 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1313, 1624.

* * * * *

Dated: March 25, 2002.

Douglas M. Browning,
Acting Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 02–7532 Filed 3–28–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF STATE

22 CFR Parts 123 and 125

[Public Notice 3954]

International Traffic in Arms Regulations; Exemptions for U.S. Institutions of Higher Learning

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by establishing an exemption for accredited U.S. institutions of higher learning from obtaining a license for the permanent export, temporary export, and temporary import of most articles fabricated only for fundamental research purposes covered by Category XV(a) or (e) of the U.S. Munitions List. Consistent with the current exemption found in the regulations on registration of manufacturers and exporters, registration is not required for use of these exemptions.

EFFECTIVE DATE: March 29, 2002.

FOR FURTHER INFORMATION CONTACT: David C. Trimble, Director, Compliance Division, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Following the March 1999 transfer of commercial communications satellites to the USML required by the National Defense Authorization Act Fiscal Year 1999, some parts of the academic community expressed concern about potential government restriction on disclosure of information in university classrooms by virtue of the application of the International Traffic in Arms Regulations ("ITAR"). The March 1999 transfer of licensing jurisdiction back to State affected only commercial communications satellites and did not affect the continuation of the Department's longstanding jurisdiction over research, experimental, and scientific satellites. To clarify any underlying concerns of the universities, the Department worked with the Office of Science and Technology Policy, the Department of Defense, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The exemptions herein address these concerns and are designed to facilitate the conduct of university-based space research and are fully consistent with the Department's longstanding policy of not regulating fundamental research.

Consistent with NSDD 189 (National Policy on the Transfer of Scientific, Technical and Engineering Information), the Department does not regulate fundamental research and the March 1999 transfer of commercial communications satellites to the USML did not change this policy. Similar concerns that the State Department might regulate academic exchanges of information under the ITAR generated considerable debate in the late 1970s and early 1980s. In response thereto, the State Department published revisions to the ITAR in December 1984, which specifically noted that concern had been expressed that the ITAR could be read in an overbroad manner to encompass exchanges of information in a purely academic setting. See Revisions to the International Traffic in Arms Regulations, Supplementary Information, 49 FR 47683 (Dec. 6, 1984). The Department acknowledged these concerns and took steps to alleviate them. Since 1984, the ITAR has been amended in order to indicate more clearly that publicly available information and academic exchanges

are not treated as controlled technical data.

Most notably, 22 CFR 122.1(b)(4) specifically exempts from the registration requirements of the ITAR "persons who engage only in the fabrication of articles for experimental or scientific purpose, including research and development." Further, specifically exempted from the definition of technical data is "information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges, and universities," 22 CFR 120.10(a)(5), and information that is in the "public domain" if published and generally available and accessible to the public through, for example, sales at newsstands and bookstores, subscriptions, second class mail, and libraries open to the public (22 CFR 120.11). Information is also in the public domain if it is made generally available to the public "through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public in the United States" or "through fundamental research in science and engineering at accredited institutions of higher learning in the U.S., where the resulting information is ordinarily published and shared broadly in the scientific community." 22 CFR 120.11(6), (8)

The ITAR amendment herein concerns the transfer of defense articles fabricated only for fundamental research purposes otherwise covered by Category XV (a) or (e) outside of the United States and the provision of defense services and related unclassified technical data for the assembly and integration of such articles into a scientific, research or experimental satellite.

For the export of articles, the exemption allows U.S. accredited institutions of higher learning to export most such articles as long as all of the information about the article, including its design, is in the public domain. Specifically, the export may only be made to accredited institutions of higher learning or government funded research institutions located in certain countries. The exemption cannot be used for items listed in the Missile Technology Control Regime (MTCR) Annex or items designated as significant military equipment in the regulations.

For the provision of technical data and defense services, the exemption allows these same institutions the authority to provide defense services related to the assembly and integration of such articles into a scientific, research or experimental satellite when working with the same set of countries.

The exemption does not permit the provision of defense services or technical data for the integration of the satellite or spacecraft to the launch vehicle, or of Missile Technology Control Regime (MTCR) controlled defense services or technical data. Consistent with the definition of export in the ITAR (§ 120.17(4)), exports to an identified country includes those to nationals of such countries in the United States or abroad.

Exporters that have questions about the applicability of these exemptions to specific activities should request an advisory opinion from the Department using the guidance provided in § 126.9 of the regulations. 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 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, Exemption for U.S. Institutions of Higher Learning, 2401 E. Street, NW., 13th Floor, H1304, 2401 E Street, NW., Washington, DC 20037. Such persons must be registered with the Department's Office of Defense Trade Controls (DTC) pursuant to the registration requirements of section 38 of the Arms Export Control Act or be an accredited U.S. institution of higher learning.

List of Subjects

22 CFR Part 123

Arms and munitions, Exports.

22 CFR Part 125

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M,

parts 123 and 125, are being amended as follows:

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

1. The authority citation for part 123 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261, 112 Stat. 1920.

2. Section 123.16(b)(10) is added to read as follows:

§ 123.16 Exemptions of general applicability.

* * * * *

(b) * * *

(10) District Directors shall permit, without a license, the permanent export, and temporary export and return to the United States, by accredited U.S. institutions of higher learning of articles fabricated only for fundamental research purposes otherwise controlled by Category XV (a) or (e) in § 121.1 of this subchapter when all of the following conditions are met:

(i) The export is to an accredited institution of higher learning, a governmental research center or an established government funded private research center located within countries of the North Atlantic Treaty Organization (NATO) or countries which have been designated in accordance with section 517 of the Foreign Assistance Act of 1961 as a major non-NATO ally (and as defined further in section 644(q) of that Act) for purposes of that Act and the Arms Export Control Act, or countries that are members of the European Space Agency or the European Union and involves exclusively nationals of such countries;

(ii) All of the information about the article(s), including its design, and all of the resulting information obtained through fundamental research involving the article will be published and shared broadly within the scientific community, and is not restricted for proprietary reasons or specific U.S. government access and dissemination controls or other restrictions accepted by the institution or its researchers on publication of scientific and technical information resulting from the project or activity (See § 120.11 of this subchapter); and

(iii) If the article(s) is for permanent export, the platform or system in which the article(s) may be incorporated must be a satellite covered by § 125.4(d)(1)(iii) of this subchapter and be exclusively concerned with fundamental research and only be launched into space from

countries and by nationals of countries identified in this section.

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(d) is added to read as follows:

§ 125.4 Exemptions of general applicability.

* * * * *

(d)(1) Defense services for the items identified in § 123.16(b)(10) of this subchapter exported by accredited U.S. institutions of higher learning are exempt from the licensing requirements of this subchapter when the export is:

(i) To countries identified in § 123.16(b)(10)(i) of this subchapter and exclusively to nationals of such countries when engaged in international fundamental research conducted under the aegis of an accredited U.S. institution of higher learning; and

(ii) In direct support of fundamental research as defined in § 120.11(8) of this subchapter being conducted either at accredited U.S. institutions of higher learning or an accredited institution of higher learning, a governmental research center or an established government funded private research center located within the countries identified in § 123.16(b)(10)(i) of this subchapter; and

(iii) Limited to discussions on assembly of any article described in § 123.16(b)(10) of this subchapter and or integrating any such article into a scientific, research, or experimental satellite.

(2) The exemption in paragraph (d)(1) of this section, while allowing accredited U.S. institutions of higher learning to participate in technical meetings with foreign nationals from countries specified in § 123.16(b)(10)(i) of this subchapter for the purpose of conducting space scientific fundamental research either in the United States or in these countries when working with information that meets the requirements of § 120.11 of this subchapter in activities that would generally be controlled as a defense service in accordance with § 124.1(a) of this subchapter, does not cover:

(i) Any level of defense service or information involving launch activities including the integration of the satellite or spacecraft to the launch vehicle;

(ii) Articles and information listed in the Missile Technology Control Regime (MTCR) Annex or classified as significant military equipment; or

(iii) The transfer of or access to technical data, information, or software that is otherwise controlled by this subchapter.

Dated: March 11, 2002.

John R. Bolton,

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

[FR Doc. 02–7347 Filed 3–28–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 3951]

International Traffic in Arms Regulations; Amendment to the List of Proscribed Destinations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by removing Armenia and Azerbaijan from the list of proscribed destinations for the exports and imports of defense articles and defense services.

EFFECTIVE DATE: March 29, 2002.

FOR FURTHER INFORMATION CONTACT:

Mary Sweeney, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Armenia and Azerbaijan were added to the list of proscribed destinations at section 126.1(a) of the ITAR in the **Federal Register** publication of July 22, 1993 (58 FR 39312). The Department of State is amending the ITAR to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Armenia or Azerbaijan. This action is being taken in the interests of foreign policy and national security pursuant to section 38 of the Arms Export Control Act. Requests for licenses or other approvals for Armenia or Azerbaijan involving items covered by the U.S. Munitions List (22 CFR part 121) will be reviewed on a case-by-case basis.

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 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, removal of Armenia and Azerbaijan, 12th Floor, H1200, 2401 E Street NW., Washington, DC 20522–0112. Such persons must be so registered with the Department's Office of Defense Trade Controls (DTC) pursuant to the registration requirements of section 38 of the Arms Export Control Act.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M, part 126, is being amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

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); 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.

2. Section 126.1(a) is revised to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Afghanistan, Belarus, Cuba, Iran, Iraq, Libya, North Korea, Syria, and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g. Burma, China, Haiti, Liberia, Rwanda, Somalia, Sudan and Democratic Republic of the