



UNITED STATES DEPARTMENT OF STATE  
Bureau of Political Military Affairs  
Office of Defense Trade Controls

*Commercial Communications  
Satellite Components, Systems,  
Parts, Accessories,  
and  
Associated Technical Data  
To U. S. Allies*

*Guidelines for Preparing License  
Applications for Exports in  
Accordance with § 123.27*

**NOTE: ALL APPLICATIONS AND SUBSEQUENT REPORTING  
INFORMATION MUST BE VIA ELECTRONIC FORMAT**

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Comments may be faxed to 202-261-8264, ATTN: §123.27 Guidelines, NLT July 31, 2000.  
Comments will be used to refine this document before final publication.

## *Guidelines for Preparing License Applications for Exports in Accordance with § 123.27:*

These Guidelines were prepared by the Bureau of Political Military Affairs, Office of Defense Trade Controls (PM/DTC). They are intended as informal aids in applying the International Traffic in Arms Regulations (ITAR), 22 CFR 120-130. Should changes to the regulations, 22 CFR 120-130 take place, the regulatory changes are always binding.

We welcome the use of this document in training programs but request that there should be no charge for the material. In instances where material is extracted, reference should be made to this publication as the source.

If you have any specific questions on any matter related to this guidance, contact the Office of Defense Trade Controls for further assistance. Comments or suggestions regarding this publication should be directed to this office, ATTN: §123.27 Guidelines.

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## **BACKGROUND**

Section 1309(a) of the FY 2000 Foreign Relations Authorization Act authorized the Department of State to establish a regulatory regime for the expeditious export licensing of commercial communications satellites, satellite technologies, their components, and systems to U. S. NATO and major non-NATO allies, while ensuring priority to “national security and U. S. obligations under the Missile Technology Control Regime.”

The Department of State published implementing regulatory changes in the May 26, 2000 Federal Register. Specifically, a new §123.27 establishes a special regime for licensing commercial communication satellite components, parts, accessories, attachments, associated equipment and certain associated technical data consistent with the legislation.

## **MAIN ELEMENTS OF REGIME**

The regime focuses on two priority areas: (1) the supply of satellite components and associated technical data (including data for offshore procurement); and (2) technical data for use in plant visits, responding to bids and requests for quotes, acceptance testing of equipment and the like, and for marketing complete satellites.

The regime’s main feature is the ability to use high volume licenses for components and technical data for multiple shipments to any of the NATO or major non-NATO allies within the approved framework of the regime without meeting the documentary requirements of §123.1(c)(4) and (5) (i.e., purchase orders, letter of intent, contracts and non-transfer and end use certificates), or the documentary requirements of §123.9 concerning approval of re-exports or re-transfers.

## **ELIGIBILITY FOR REGIME**

Registered (pursuant to §122) U. S. persons engaged in the business of exporting specifically designed or modified:

- Components
- Parts
- Attachments
- Associated Technical Data
- Systems
- Accessories
- Associated Equipment

for commercial communications satellites may submit license applications (i.e., DSP-5, DSP-73, and/or DSP-61) for multiple permanent and temporary exports and temporary imports of such articles. Any such articles for either non-commercial or non-communications satellites are not eligible under this regime and must be licensed separately.

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## FRAMEWORK OF REGIME

All of the following requirements must be met to use the regime:

**1. Electronic Application.** *All* applications must be submitted to PM/DTC electronically via ELLIE (Electronic License Application Entry System). A hard copy with original signature(s) must also be submitted to PM/DTC within 5 calendar days of the electronic transmission for official record keeping purposes. The hard copy must reference the applicant's electronic transmission ID number. The supporting documentation must be submitted to PM/DTC concurrent with the electronic transmission in an unalterable electronic format; at this time, only ".pdf" files may be accepted. Contact Jim DePalma at 202-663-2727 or Nikki Payton at 202-663-2837 or Chuck Estelle at 202-663-2838 for information on electronic applications and system requirements.

**2. Approved Territory.** The proposed exports or re-exports concern *exclusively* one or more countries of the North Atlantic Treaty Organization

Belgium	Germany	Luxembourg	Spain
Canada	Greece	The Netherlands	Turkey
Czech Republic	Hungary	Norway	United Kingdom
Denmark	Iceland	Poland	United States
France	Italy	Portugal	

and/or one or more of the following countries which have been designated in accordance with section 517 of the Foreign Assistance Act of 1961 as a major non-NATO ally:

Argentina	Egypt	Japan	New Zealand
Australia	Israel	Jordan	Republic of Korea

**3. Approved Foreign Persons.** The proposed exports concern *exclusively* one or more foreign persons (e.g., companies or governments) located within the approved territory as identified in a USG-approved list of such persons that will be publicly available through PM/DTC's web page "www.pmdtc.org" and by other means.

**4. Approved Satellite Programs.** The proposed exports concern *exclusively* one or more commercial communications satellite programs within the approved territory as identified in a USG-approved list of such programs that will be publicly available through PM/DTC's web page "www.pmdtc.org" and by other means.

**5. Below Congressional Thresholds.** The articles are neither major defense equipment sold under a contract in the amount of \$14,000,000 or more, nor defense articles sold under a contract in the amount of \$50,000,000 or more (for which purpose, as is customary, exporters may not split contracts or purchase orders to avoid notification). Items meeting these statutory thresholds must be submitted on a separate license application to permit the required notification to

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Congress pursuant to section 36(c) of the Arms Export Control Act. This does not necessarily preclude applications valued over the thresholds so long as there is no individual contract or purchase order above the thresholds. Note: as of the date of this publication, the Department of Defense has not identified any MDE under Category XV of the United States Munitions List.

**6. No Detailed Design Data.** The articles do not include detailed design, development, manufacturing or production data.

**7. No SME Manufacture.** The articles do not involve the overseas manufacture of significant military equipment (SME). Such activities must be licensed separately to permit the required notification to Congress pursuant to section 36(d) of the Arms Export Control Act.

**8. Electronic Report of Shipments.** The U. S. exporter electronically reports complete information to the Office of Defense Trade Controls within 15 calendar days of shipment, and at that time meets the documentary requirements of §123.1(c)(4) and (5) (i.e., copy of purchase order, contract, or letter of intent, and original DSP-83 if required), the documentary requirements of §123.9 in the case of re-exports or retransfers, and other documentary requirements that may be imposed as a condition of the license (e.g., parts control plans for MTCR-controlled items). The documentation must be submitted to PM/DTC in an unalterable electronic format; at this time, only “.pdf” files may be accepted. Contact Jim DePalma at 202-663-2727 or Nikki Payton at 202-663-2837 or Chuck Estelle at 202-663-2838 for information on electronic applications and system requirements. The shipment information reported must include:

- Description of the item
- Value
- End user
- Quantity
- Port of exit
- Country of ultimate destination

**9. Retransfer Outside the Approved Territory/Persons/Programs.** At any time in which an item is proposed for retransfer outside of the approved territory, persons, or programs (e.g., such as in the case of an item included in a satellite for launch beyond the approved territory), the detailed requirements of §123.9 apply with regard to obtaining the prior written consent of the Office of Defense Trade Controls.

## **RETRANSFERS**

The re-export or retransfer of the articles authorized for export (including to specified re-export destinations) under this regime does not require the prior written approval of the Office of Defense Trade Controls provided the applicant has met all the requirements of the approved framework of the regime (i.e., approved recipient, approved project).

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## LIMITED ADDITIONAL COUNTRIES

The Office of Defense Trade Controls will consider, on a case-by-case basis, requests to include within the geographic coverage of a license application submitted under this regime specific additional foreign persons and satellite programs from countries not otherwise covered, who are members of the European Space Agency or the European Union.

- **NOTE:** this regime may never be used for countries subject to the mandatory national security requirements of section 1514 of the National Defense Authorization Act of 1999, i.e., Russia or Peoples Republic of China.

## LICENSE APPLICATION

As stated above, the regime allows licensing under DSP-5, DSP-73 and DSP-61. As an important aspect of the regime is to expedite processing, it is therefore essential for these licenses to be identified as such. To that end, the "COMMODITY" block on the respective license applications must begin with:

- Reference to the regime, i.e., part 123.27
- Type of export:
  - Non SME/MTCR Parts & Components w/associated data
  - SME/MTCR Parts & Components w/associated data
  - Data for non-SME/MTCR Parts & Components
  - Data for SME/MTCR Parts & Components
  - Data for marketing complete satellites
- COMSAT component/part category

## EXPANDING THE LISTS OF APPROVED PERSONS/PROGRAMS

Registered U. S. exporters may request at the time of a license application submitted under this regime that additional foreign persons and/or satellite programs be added to their respective approved lists referenced above. If the USG approves the additions, they will be included in the lists of approved foreign persons and approved satellite programs publicly available through PM/DTC's web page "www.pmdtc.org" and by other means.

Applicants may also submit a DSP-119 to add new foreign persons and new satellite programs to the license. Licenses may not be expanded for additional defense articles.

## POINT OF CONTACT

Questions regarding this special licensing regime may be directed to 202-663-2739.

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