

Frequently Asked Questions (FAQs) - Registration

Where do I submit my registration package?

We recommend you send your complete registration package electronically through the Electronic Form Submission (EFS) up to a maximum of 60 days in advance of the renewal expiration. Intended registrants will save time and money on mail delivery and receive an acknowledgement that their submission has been received. Electronic submission will improve review and adjudication of your registration request. Effective January 1, 2014, registration submissions must be submitted electronically. [Click here](#) to access the EFS Information Center Page.

How will a new registrant know their fee?

The fee for new registrants is set at \$2,250 (manufacturers/exporters and brokers). However, persons registering as a manufacturer/exporter may also simultaneously register as a broker with a consolidated DS-2032 Statement of Registration and not be charged a separate broker registration fee.

How will a registrant that is ready to renew their current registration know their fee?

DDTC will send a written notification of the fee to be paid at least 60 days prior to the expiration date of the current registration. This notification will be addressed to the senior officer and address on the current registration unless a material change has been submitted per ITAR 122.4.

What if the registrant does not receive a notification?

If a renewal notification is not received, contact the DDTC Response Team at 202-663-1282 or by email at DDTCResponseTeam@state.gov. The company is responsible to ensure renewal fees are received prior to the registration expiration date.

What is the registration fee for non-profit organizations?

Registrants who are wholly exempt from income taxation pursuant to 26 U.S.C. 501(c)(3) may be reduced to the first tier registration fee of \$2,250 provided proof of such status (i.e., IRS certification form) is submitted with their registration package. The IRS certification must apply to all entities/affiliates listed in the registration submission.

Can the fee calculation be disputed?

If a registrant believes an error has been made in calculating its fee, the registrant may submit a written request explaining the basis for the challenge to the attention of the current Director of the Office of Defense Trade Controls Compliance. If the registrant's registration is set to expire within 30 days or less, registrants should submit the challenge to DDTC with a completed renewal registration submission with a fee of \$2,250 to ensure registration does not expire while their inquiry is being resolved.

Does a registrant's fee calculation change if their registration package is determined to be incomplete and returned?

No. However, registrants should make every effort to submit a complete package.

If a registrant has questions on the registration fee, who should they call?

General questions should be addressed to the DDTC Response Team at 202-663-1282 or by email at DDTCResponseTeam@state.gov.

Will a registrant receive a refund if during the year the part of the company doing ITAR business is sold or closed?

Registration fees are not refunded.

How will back fees be calculated?

Back fees will be calculated using the fee structure in place during the period of the registrant's expired registration. See [Lapse Fee Guidelines](#) for the Registration Fee Table.

What types of applications are used to calculate the registration fee?

Applications used to calculate the fee include DSP-5, -6, -73, -74, -61, -62, -85s, -53s, -119s, and agreements and their amendments. Cases returned without action and denied cases are not included in the fee calculation, per the FRN. Submissions required under 22 CFR 123 through 126 which do not require response from the Department (e.g., sales reports) are not counted when determining the registration fee, nor are disclosures or requests for a commodity jurisdiction determination.

How can a registrant get a list of the licenses counted in determining the registration fee?

A list of those licenses DDTC counted may be requested from the Response Team. All requests for license lists must be submitted in writing (email or fax) and will be provided to the company within 2 business days.

Are there any special circumstances which the Department will consider to delay full payment of the registration fee?

Companies whose registration fee is greater than \$3,500 may appeal to the Department for consideration of an alternate payment schedule. To be considered, companies must provide proof that the registration fee being charged is greater than 1 percent of the total sales in the given year. "Total sales" includes domestic and international sales and is not limited to sales of items controlled on the USML. Applicants must submit a request for special consideration to DDTC not less than 30 days prior to registration expiration. Any request received within the 30 day window will be automatically disapproved.

Brokering

If I am a registered broker may I apply for export licenses under my broker registration (K code)?

Brokers may not obtain export licenses. U.S. Brokers that need to obtain export licenses must submit an exporter registration and request export licenses using their exporter registration code.

What is the process for consolidating a manufacturer/exporter and a broker registration?

Effective October 25, 2013, the new DS-2032 will allow a registrant to select additional fields to identify subsidiaries and affiliates that are in the business of manufacturing/exporting/brokering. You will continue to submit your manufacturer/exporter registration fee in advance and record the information on the new DS-2032, and attach a copy of the electronic payment confirmation with submission of your DS-2032 package. Registrants do not need to send a separate broker registration fee with the consolidated M and K registration. Your M and K codes will both continue to exist; however, your broker expiration date will be aligned to coincide with your manufacturer/exporter registration expiration date. Registrants will continue to receive two registration complete letters, one for the M code and one for the K code delivered by email at the same time. Consolidation of manufacturer/exporter/broker may only occur on a manufacturer/exporter registration. Registrants are not able to add a manufacture/exporter registration type to their existing broker registration.

Is electronic submission of the registration package required?

It is highly recommended that companies utilize the electronic submission of the DS-2032 version 4.0 registration package effective October 25, 2013. Intended registrants will save time and money on mail delivery and receive an acknowledgement that their submission has been received. Electronic submission will improve review and adjudication of your registration request. The DS-2032 version 4.0 registration package MUST be submitted electronically via Electronic Forms Submission (EFS) effective January 1, 2014.

How do I request to extend a broker registration expiration to align with my manufacturer/exporter expiration for registration consolidation purposes?

Consolidation of existing manufacturer/exporter/broker registrations must occur during renewal of the manufacturer/exporter registration. If your existing broker registration expires on or after November 30, 2013, and prior to your manufacturer/exporter registration and you intend to consolidate your broker registration, then you may request an extension of your broker registration. Registrants are not able to add manufacture/exporter registration type to their existing broker registration. To request an extension of registrant's broker registration, registrant MUST submit a letter containing the following information: [Click here for Broker Extension Template](#).

What are the Broker Report procedures?

Broker reports are due with broker renewal submissions (i.e., for persons already registered as brokers). The report must cover all brokering activity not the subject of a prior broker report. Broker reports must cover all brokering activity up to three months prior to the expiration of your broker registration. For example, if your registration expires at the end of November 30, 2013, then your broker report would cover the period from January 1st – August 31st. For subsequent years, your broker report would include a trailing 12 month period, e.g., September 1, 2013 – August 31, 2014.

Do foreign persons outside the United States that are not owned or controlled by U.S. persons continue to require registration as a broker under ITAR Part 129?

Effective October 25, 2013, a foreign person, as defined in ITAR Part 120.16, outside the United States that is not owned or controlled by a U.S. person will no longer need to be registered under ITAR Part 129. However, such foreign brokers should submit a certification and final broker report for activity not already reported (e.g., from January 1, 2013 through October 24, 2013) by December 31, 2013. [Click here for the Foreign Broker Template](#).

What is the first month a RENEWING registrant may submit a consolidated manufacturer/exporter/broker registration?

The first month the registration consolidation of manufacturer/exporter and broker renewal registration provisions may be utilized is November 2013. Renewing registrants may submit consolidation up to 60 days prior but not later than 30 days prior to the expiration of their manufacturer/exporter registration. Registrants who submit their consolidated registration renewal package less than 30 days prior to expiration of their manufacturer/exporter registration risk their registration lapsing during registration review.

What is the first month a NEW registrant may submit a consolidated manufacturer/exporter/broker registration?

New registrants may submit a consolidated manufacturer/exporter/broker registration on or any date after October 25, 2013.

When does the no broker fee provision apply?

The no broker fee provision only applies to U.S. persons (including companies) that are registered both as a manufacturer/exporter and a broker when they consolidate their broker registration with their manufacturer/exporter registration on one DS-2032 Statement of Registration. If any person (including companies) submits a broker registration as a standalone submission, then the \$2,250 fee must be paid.

Does “any person” engaged in brokering activities, as stated in ITAR Section 129.3(a) mean all persons, foreign and U.S. require registration?

In order to determine whether the brokering provisions enumerated in ITAR Part 129 apply, you have to read the regulation in sequence. ITAR Section 129.3 only applies to those persons subject to U.S. jurisdiction, as identified under ITAR Section 129.2(a), who are conducting brokering activities as defined under ITAR Section 129.2(b), who are not specifically exempted.

What is the scope of affiliate-to-affiliate provisions?

Per ITAR Part 120.40, an affiliate of a registrant is a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such registrant. Activity between and among registrant and its affiliates regarding their own defense articles and services is not considered brokering activity as the activity is being done within the family umbrella of owned or otherwise controlled entities and not on behalf of another unaffiliated third party. Affiliate may also be an entity that a U.S. person controls the day to day activities/policies of, even if the U.S. person does not own any portion of the foreign company and/or there is no parent/subsidiary legal relationship between the two parties. The affiliate-to-affiliate provision does not include affiliates performing a brokering activity on behalf of an unaffiliated third party.

Which affiliates and subsidiaries may remain or be added to a registration?

The new rule adds a definition of affiliate in 120.40, and states in 122.2(a) and 129.8(a) that the registration “statement may include subsidiaries and affiliates when more than 50 percent of the voting securities are owned by the registrant or the subsidiaries and affiliates are otherwise controlled by the registrant.” This means domestic (block 9) and foreign (block 10) affiliates and subsidiaries should only remain on (or be added to) a registration when the registrant has ownership or management control. In such instances where the entity is equally owned and has equal management control by more than one company (e.g., 50% or 33.33% or 25% each) then the subject entity should be listed on each of the subject registrations. However, management control trumps ownership, so even if two companies each own 50%, but only one company has management control then the subject entity is to be listed only on the registration with management control.

What does “owned” or “controlled” by a U.S. person mean?

In accordance with ITAR Section 129.2(a)(3) and Note to paragraph (a)(3), “owned by a U.S. person” means more than 50% of the outstanding voting securities are owned by a U.S. person, and “controlled by a U.S. person” means one or more U.S. persons have the authority or ability to establish or direct the general policies or day-to-day operations of the firm. U.S. person control is generally presumed to exist where U.S. persons own 25% or more of the outstanding voting securities unless one foreign person controls an equal or larger percentage. However, control can be established below the 25% threshold if a U.S. person holds a position (e.g., president/owner/director/senior officer, etc.) where that U.S. person has the authority or ability to establish or direct the general policies or day-to-day operations of the firm, regardless of percentage of voting securities.

If I am a lawyer or consultant providing legal and compliance advice on export transactions is that activity considered brokering?

Activities conducted by an attorney, consultant, or any other professional that do not extend beyond the provision of legal or consulting advice to clients on ITAR compliance is not within the definition of brokering activities. For example, advising on the legality of a transaction, such as advising whether a transaction is ITAR compliant, tax rates or other laws may be preferential, drafting of contract terms where parties to the transaction have already been identified by the client, representing your client to a client-identified foreign party, conducting ITAR audits, and/or providing training or assistance with ITAR compliance procedures, are outside the scope of brokering activities. However, this does not mean that there are no circumstances where an attorney, consultant, or any other professional would be a broker. If these persons engage in activities that go beyond providing consulting or legal advice, including being a third party to the transaction, or are engaged in soliciting, locating a buyer or seller, introducing or recommending specific parties, structuring the transaction, marketing, promoting, and/or negotiating ITAR-controlled defense articles and services on behalf of their clients beyond contract terms of already identified foreign parties by your client, then such activities may constitute brokering activities under ITAR Part 129.2(b).

If a consultant, who is registered as a broker, hires another consultant (independent contractor), do both entities need to be separately registered?

The consultant's business, which is registered as a broker subject to U.S. jurisdiction, who subsequently hires an independent contractor, would be able to have the contractor covered under the consultant's broker registration to the extent the contractor meets the regular employee definition under ITAR Section 120.39. This would mean that the contractor is in a long-term contractual relationship (one year or more), the contractor works at the U.S. company's facility and under the direction and control of the consultant, works full-time exclusively for the consultant, and executes a non-disclosure certification, etc. If the contractor does not meet the regular employee definition, is subject to U.S. jurisdiction, and will be performing brokering activity, then the contractor would need to have its own separate broker registration. If the contractor is not subject to U.S. jurisdiction per ITAR Section 129.2(a), the contractor would not have to register as a broker under the ITAR.

Can exemption in 129.5(b) be used for foreign defense articles/services that fall into ITAR categories referenced in 129.4(a)(2)?

No. The exemption in 129.5(b) from the requirement for approval is not available when the subject foreign defense articles/services fall into the ITAR categories referenced in 129.4(a)(2).

What are the changes to ITAR Section 122.4 – Notification of changes in information furnished by registrants?

Effective October 25, 2013, the Department revised ITAR Section 122.4(a) and 129.8(d) to add provisions instructing registrants to notify the Department of the following material changes as part of the registration renewal process: 1) consolidation of a broker registration with a manufacturer/exporter registration; 2) removal of entities not owned or otherwise controlled from registration; and 3) deletions or additions of U.S. Munitions List categories. However, if notification of change is the subject of an internal reorganization, merger, acquisition, or divestiture registrants must notify the Department of all changes in information within five days of the event, including where applicable, the three changes specified above.

Where can one read the full text of the changes in the broker regulations?

You can read the full text of the changes in the broker regulations on our web site, at pmdtc.state.gov/FR/2013/78FR52680.pdf.

Are pre-contract activities undertaken in support of potential foreign assistance or sales program conducted by a company that owns the defense article considered brokering activity?

No. The company is taking action on its own behalf. Ultimately the potential foreign assistance or sales program would potentially result in a secondary sales contract between the USG and one or more companies and when ITAR 129.5(2)(i) and (ii) exemption from requirement for approval provisions are met such activity would be exempt from broker approval.