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**Subject:** Client Alert on Proposed Rules to Amend the ITAR

\*\*\*CLIENT ALERT\*\*\*  
July 15, 2011

The State Department Directorate of Defense Trade Controls (DDTC) has issued two proposed rules changing the *International Traffic in Arms Regulations* (ITAR) governing license returns and the International Import Certificate (IIC). A brief summary of these proposed rules are as follows:

### **DDTC Proposed Rule on Return of Licenses**

As is widely known, the current regulations require applicants to return all licenses to DDTC once the total value or quantity authorized under the license has been shipped, or when the date of expiration is reached, whichever occurs first. In an effort to reduce the administrative burden on license holders, and in response to the advent of D-Trade and the change from paper to electronic licensing, DDTC proposes the following:

1. DSP-5 (Permanent Export) Licenses: if issued electronically by DDTC **and** decremented electronically by the U.S. Customs and Border Protection (CBP), return of the physical license will no longer be required. If the DSP-5 license is NOT issued electronically, or is NOT decremented electronically by CBP, the applicant will still have to return the paper license to DDTC as usually required under Section 123.22.
2. DSP-61 (Temporary Import), DSP-73 (Temporary Export) and DSP-85 (Classified) licenses: the applicant must continue to return hard copies of these licenses to DDTC, even if Electronic Export Information is filed via Automated Export System (AES).
3. DSP-94 (Authority to Export Defense Articles Sold under the Foreign Military Sales Program): the applicant must return to DDTC all such authorizations filed with CBP upon expiration, including when the total value or quantity has been shipped. The revised regulations will note that AES does not decrement DSP-94 authorizations.
4. Licenses Issued But Not Used: these will not have to be returned to DDTC, even when expired.

THIS IS A PROPOSED RULE ONLY AND HAS NOT YET TAKEN EFFECT. DDTC will accept comments on this proposed rule until August 29, 2011. Comments should be sent to [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) under the subject line "ITAR Amendment – License Return."

## **DDTC Proposed Rule on the IIC**

This proposed rule is to remove all references in the ITAR to the IIC (DSP-53), a form widely known by U.S. importers of defense articles in cases where the country of export requires such a document. DDTC's proposed rule will result in terminating its current practice of accepting and processing IIC submissions. Once this rule takes effect, only ATF and the Commerce Department will accept IIC submissions for items under their jurisdiction. For temporary import of defense articles under DDTC's jurisdiction, the U.S. importer will still have to obtain the DSP-61 license (or DSP-85 for classified defense articles). In cases where a license exemption applies and the foreign exporter requires documentation, the U.S. importer will have to obtain a DSP-61 license as that documentation.

THIS IS A PROPOSED RULE ONLY AND HAS NOT YET TAKEN EFFECT. DDTC will accept comments on this proposed rule until August 29, 2011. Comments should be sent to [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) under the subject line "International Import Certificate, ITAR Section 123.4."

*This alert is for informational purposes only and is not intended to be construed or used as general legal advice. For additional information on either of these proposed rules, please contact either Johanna Reeves or Mark Dola at 202-683-4200.*

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