

any vessel, vehicle, or aircraft. This applies whether the export is authorized by license or by written approval issued under this subchapter.

(b) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers have the authority to investigate, detain or seize any export or attempted export of defense articles or technical data contrary to this subchapter.

(c) Upon the presentation to a U.S. Customs and Border Protection Officer of a license or written approval authorizing the export of any defense article, the customs officer may require the production of other relevant documents and information relating to the proposed export. This includes an invoice, order, packing list, shipping document, correspondence, instructions, and the documents otherwise required by the U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

Dated: July 25, 2005.

Robert G. Joseph,

Under Secretary, Arms Control and International Security, Department of State.
[FR Doc. 05-17121 Filed 8-26-05; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 5177]

RIN: 1400-ZA18

Amendment to the International Traffic in Arms Regulations: Section 126.1(i)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by modifying the denial policy regarding the Democratic Republic of the Congo (DRC) at 22 CFR 126.1. This action is taken in accordance with UN Security Council Resolution (UNSCR) 1596, unanimously adopted on April 18, 2005, which imposed a nation-wide embargo on arms sales or transfers to any recipient in the DRC. It represents an expansion of the policy issued under UNSCR 1493, which on July 28, 2003, imposed an embargo on the sale of arms, related materials, and defense services in the provinces of North and South Kivu and the Ituri District in the DRC.

DATES: *Effective Date:* This rule is effective on August 29, 2005.

ADDRESSES: Interested parties are invited to submit written comments to the Department of State, Directorate of

Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, Part 126, 12th Floor, SA-1, Washington, DC 20522-0112. E-mail comments may be sent to DDTCResponseTeam@state.gov with the subject line: Part 126. Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: <http://www.regulations.gov>. Comments will be accepted at any time.

FOR FURTHER INFORMATION CONTACT:

James Juraska, Office of Defense Trade Controls Policy, Bureau of Political-Military Affairs, Department of State 202-663-2860.

SUPPLEMENTARY INFORMATION: On April 18, 2005, the United Nations Security Council voted unanimously on UN Security Council Resolution (UNSCR) 1596 to expand the embargo of UNSCR 1493 (2003) on the export of arms and related material, as well as defense services, to the Democratic Republic of the Congo (DRC). Additionally, Resolution 1596 imposed a travel ban and an asset freeze on those who violate the expanded arms embargo, and mandated governments in the region to implement measures to monitor aircraft. This final rule amends Section 126.1(i) of the ITAR, 22 CFR 126.1(i), which details the export and sales policy of the United States with respect to the Democratic Republic of the Congo, to reflect the United Nations Security Council's expanded mandate. This amendment to Section 126.1(i) becomes effective upon publication in the **Federal Register**. Please note that, as of April 18, 2005 (prior to the effective date of this final rule), the substance of the measures set forth in UNSCR 1596 entered into effect in accordance with another provision of the ITAR, (Section 126.1(c)), 22 CFR 126.1(c).

It is the policy of the U.S. Government to deny all applications for licenses and other approvals and to suspend all existing licenses and authorizations to export or otherwise transfer defense articles and defense services to any geographic region in the Democratic Republic of the Congo (DRC) except under the circumstances specified below.

UNSCR 1596 established several exemptions under which the embargo would not apply, namely:

(a) Supplies of arms and related materials or technical training and assistance intended solely for the support of or use by units of the army or police of the DRC that operate under the command of the *etat-major integre*, have completed the process of integration (if operating in the provinces of North or South Kivu or the Ituri

district), or are in the process of integration (if operating elsewhere in the DRC),

(b) Supplies of arms and related materials or technical training and assistance intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and

(c) Supplies of non-lethal military equipment and related technical assistance and training intended solely for humanitarian or protective use, as notified in advance to the DRC Committee in accordance with paragraph 8 (e) of Resolution 1533 (2004).

All future shipments of arms and related materials consistent with such exemptions noted in subparagraph (a) above shall only be made to receiving sites as designated by the Government of National Unity and Transition, in coordination with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and notified in advance to the DRC Committee.

As previously noted on the Directorate of Defense Trade Controls Web site, <http://www.pmdtc.org>, effective April 18, 2005, no application for the export to the DRC of defense articles or services covered by the ITAR will be approved. Exceptions to this policy will be made (in accordance with the ITAR) on a case-by-case basis for proposed exports that conform to the conditions specified in (a) through (c) above. Any existing license for authorization for the export to any geographic region of the DRC of ITAR-controlled defense articles or services is suspended as of April 18, 2005. Holders of existing licenses and authorizations for such exports to the DRC who wish to request lifting of the suspension must submit documentation in support of an exception for review by the Directorate of Defense Trade Controls (DDTC).

Regulatory Analysis and Notices

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 Fairness Act of 1996. 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, it is determined that this rule does not have sufficient federalism implications to warrant application of consultation provisions of Executive Orders 12372 and 13132. This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

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 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, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Public Law 108–375.

■ 2. Section 126.1 is amended by revising paragraph (i) to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

* * * * *

(i) *Democratic Republic of the Congo.* It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in the Democratic Republic of the Congo except for non-lethal equipment and training (lethal and non-lethal) to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the transitional National Unity Government of the Democratic Republic of the Congo and the integrated Congolese national army and police forces, such units operating under the command of the *etat-major integre* of the Congolese Armed Forces or National Police, and such units in the process of being integrated outside the provinces of North and South Kivu and the Ituri district; and non-lethal equipment for humanitarian or protective use, and related assistance and training, as notified in advance to the UN. An arms embargo exists with respect to any

recipient in the Democratic Republic of the Congo.

Robert G. Joseph,

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

[FR Doc. 05–17122 Filed 8–26–05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9223]

RIN 1545–BC20

Value of Life Insurance Contracts When Distributed From a Qualified Retirement Plan

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 402(a) of the Internal Revenue Code regarding the amount includible in a distributee's income when life insurance contracts are distributed by a qualified retirement plan and regarding the treatment of property sold by a qualified retirement plan to a plan participant or beneficiary for less than fair market value. This document also contains final regulations under sections 79 and 83 of the Internal Revenue Code regarding the amounts includible in income when an employee is provided permanent benefits in combination with group-term life insurance or when a life insurance contract is transferred in connection with the performance of services. These regulations will affect administrators of, participants in, and beneficiaries of qualified retirement plans. These regulations will also affect employers who provide permanent benefits in combination with group-term life insurance for their employees and employees who receive those permanent benefits, as well as service recipients who transfer life insurance contracts to service providers in connection with the performance of services, and service providers to whom those life insurance contracts are transferred.

DATES: These regulations are effective August 29, 2005.

FOR FURTHER INFORMATION CONTACT:

Concerning the section 79 regulations, Betty Clary at (202) 622–6080; concerning the section 83 regulations, Robert Misner at (202) 622–6030; concerning the section 402 regulations, Bruce Perlin or Linda Marshall at (202) 622–6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

A. In General

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 402(a) of the Internal Revenue Code (Code) relating to the amount includible in a distributee's income when a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection is distributed by a retirement plan qualified under section 401(a), and relating to the sale of property by a qualified retirement plan to a plan participant or beneficiary for less than the fair market value of the property. This document also contains amendments to the regulations under sections 79 and 83 relating, respectively, to permanent benefits that are provided to employees in combination with group-term life insurance, and to life insurance contracts that are transferred in connection with the performance of services.

Section 402(a) generally provides that any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) is taxable to the distributee in the taxable year of the distributee in which distributed, in accordance with section 72. Distributions from a qualified employees' trust generally are subject to withholding and reporting requirements pursuant to section 3405 and regulations thereunder. Section 1.402(a)–1(a)(1)(iii) provides, in general, that a distribution of property by a section 401(a) plan is taken into account by the distributee at its *fair market value*. Prior to its amendment by this Treasury decision, § 1.402(a)–1(a)(2) (which was originally published in 1956) provided, in general, that upon the distribution of a life insurance contract, the "entire cash value" of the contract must be included in the distributee's income.¹ Section 1.402(a)–1(a) did not define *fair market value* or *entire cash value*, and questions have arisen regarding the interaction between these two provisions and regarding whether the term *entire cash value* includes a reduction for surrender charges.

On April 30, 1975, proposed regulations under section 402 regarding the taxation of certain lump sum

¹ Section 1.402(a)–1(a)(2) also provides rules regarding the taxation of the distribution of an annuity contract. In certain cases, the distribution of an annuity contract is not includible in the participant's gross income until distributions are made from the annuity contract.