

(6) An applicant, any party to the export or agreement, any source or manufacturer of the defense article or defense service or any person who has a significant interest in the transaction has been debarred, suspended, or otherwise is ineligible to receive an export license or other authorization from any agency of the U.S. government (e.g., pursuant to debarment by the Department of Commerce under 15 CFR part 760 or by the Department of State under part 127 or 128 of this subchapter); or

(7) An applicant has failed to include any of the information or documentation expressly required to support a license application or other request for approval under this subchapter or as required in the instructions in the applicable Department of State form; or

(8) An applicant is subject to sanctions under other relevant U.S. laws (e.g., the Missile Technology Controls title of the National Defense Authorization Act for FY 1991 (Pub. L. 101-510); the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Pub. L. 102-182); or the Iran-Iraq Arms Non-Proliferation Act of 1992 (Pub. L. 102-484)).

(b) *Notification.* The Directorate of Defense Trade Controls will notify applicants or licensees or other appropriate United States persons of actions taken pursuant to paragraph (a) of this section. The reasons for the action will be stated as specifically as security and foreign policy considerations permit.

(c) *Reconsideration.* If a written request for reconsideration of an adverse decision is made within 30 days after a person has been informed of the decision, the U.S. person will be accorded an opportunity to present additional information. The case will then be reviewed by the Directorate of Defense Trade Controls.

(d) *Reconsideration of certain applications.* Applications for licenses or other requests for approval denied for repeated failure to provide information or documentation expressly required will normally not be reconsidered during the thirty day period following denial. They will be reconsidered after this period only after a final decision is made on whether the applicant will be subject to an administrative penalty

imposed pursuant to this subchapter. Any request for reconsideration shall be accompanied by a letter explaining the steps that have been taken to correct the failure and to ensure compliance with the requirements of this subchapter.

(e) *Special definition.* For purposes of this section, the term *party to the export* means:

(1) The chief executive officer, president, vice-presidents, other senior officers and officials (e.g., comptroller, treasurer, general counsel) and any member of the board of directors of the applicant;

(2) The freight forwarders or designated exporting agent of the applicant; and

(3) Any consignee or end-user of any item to be exported.

[58 FR 39312, July 22, 1993, as amended at 71 FR 20546, Apr. 21, 2006]

§ 126.8 [Reserved]

§ 126.9 Advisory opinions and related authorizations.

(a) *Advisory opinion.* Any person desiring information as to whether the Directorate of Defense Trade Controls would be likely to grant a license or other approval for the export or approval of a particular defense article or defense service to a particular country may request an advisory opinion from the Directorate of Defense Trade Controls. Advisory opinions are issued on a case-by-case basis and apply only to the particular matters presented to the Directorate of Defense Trade Controls. These opinions are not binding on the Department of State, and may not be used in future matters before the Department. A request for an advisory opinion must be made in writing and must outline in detail the equipment, its usage, the security classification (if any) of the articles or related technical data, and the country or countries involved. An original and seven copies of the letter must be provided along with seven copies of suitable descriptive information concerning the defense article or defense service.

(b) *Related authorizations.* The Directorate of Defense Trade Controls may, as appropriate, in accordance with the procedures set forth in paragraph (a) of