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DEPARTMENT OF STATE

22 CFR Part 126

RIN 1400-AD56

[Public Notice: 8699]

Amendment to the International Traffic in Arms Regulations: Central African Republic

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to provide the defense trade policy regarding the Central African Republic to reflect certain resolutions adopted by the United Nations Security Council.

DATES: This rule is effective [insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2792, or e-mail DDTCResponseTeam@state.gov. ATTN: Regulatory Change, Central African Republic.

SUPPLEMENTARY INFORMATION: On December 5, 2013, the United Nations Security Council (UNSC) adopted resolution 2127, which imposes an arms embargo against the Central African Republic, with certain enumerated exceptions. On January 28, 2014, the UNSC adopted resolution 2134, which extended the embargo, and added the European Union operation to the list of exceptions to the embargo. The Department of State is adding ITAR §126.1(u) to implement the embargo.

REGULATORY ANALYSIS AND NOTICES

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department that the provisions of §553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards the Central African Republic, notice and public procedure on this rule would be impracticable; for this reason also, this rule is effective upon publication.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Department has determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

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.

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, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Sections 7045 and 7046, Pub. L. 112–74; E.O. 13637, 78 FR 16129.

2. Section 126.1(u) is added to read as follows:

§126.1 Prohibited exports, imports, and sales to or from certain countries.

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(u) *Central African Republic*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in the Central African Republic, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles intended solely for the support of or use by the International Support Mission to the Central African Republic (MISCA); the UN Integrated Peacebuilding Office in the Central African Republic (BINUCA) and its guard unit, the African Union Regional Task Force (AU-RTF); and the French forces and European Union operation deployed in the Central African Republic;

(2) Non-lethal military equipment, and related technical assistance and training, when intended solely for humanitarian and protective use, as approved in advance by the Committee of the Security Council concerning the Central African Republic;

(3) Personal protective gear temporarily exported to the Central African Republic by United Nations personnel, representatives of the media, and humanitarian and developmental workers and associated personnel, for their personal use only;

(4) Small arms and related equipment intended solely for use in international patrols providing security in the Sangha River Tri-national Protected Area to defend against poaching, smuggling of ivory and arms, and other activities contrary to the laws of the Central African Republic or its international legal obligations;

(5) Arms and related lethal military equipment for Central African Republic security forces, intended solely for support of or use in security sector

reform, as approved in advance by the Committee of the Security Council concerning the Central African Republic; or

(6) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee of the Security Council concerning the Central African Republic.

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

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