

Guidance on 126.9(a) Advisory Opinions for Potential Marketing Activities -REVISED

The Directorate of Defense Controls (DDTC) is conducting an internal review to determine the efficiency of the advisory opinion (AO) process found at [22 CFR § 126.9\(a\)](#) regarding the likelihood of DDTC granting a license or other approval for the export or approval of a particular defense article or defense service to a particular country. The current process of submitting AO requests using a General Correspondence letter and ground postal service has inherent delays, such as transporting the mail both into DDTC and back to the requestor and the need to enter the information manually into the USXports case processing system. In addition, DDTC responses to AO requests regarding the likelihood of DDTC granting a license or other approval do not constitute authorization to export, are not legally binding on the Department, and may not be used in future matters before the Department. Thus, if the requestor chooses to proceed with the transaction, the requestor must still obtain an authorization to export technical data and defense articles, and/or provide defense services.

Given the above constraints, DDTC **strongly encourages** applicants who are able to submit D-Trade applications to submit a technical data DSP-5 license application for the marketing of a defense article in lieu of a General Correspondence AO request when the request involves whether DDTC would be likely to grant a license or other approval for the export of a particular defense article or defense service to a particular country. The DSP-5 can be processed more expeditiously because it is electronically received and returned, and does not require additional manual data entry into USXports. In addition, unlike an AO, an approved DSP-5 also includes the authorization to export the technical data. The DSP-5 marketing application must outline in detail the equipment, its proposed usage, the security classification (if any) of the articles or related technical data, and the country or countries involved. Applicants may also include prior related advisory opinions as supporting materials for the application.

We understand that persons, including foreign persons, not registered with DDTC or not capable of D-Trade electronic submissions may continue to request advisory opinions as outlined in section [126.9\(a\)](#).

Questions regarding this web notice can be directed to the DDTC Response Team, DDTCResponseTeam@state.gov, 202-663-1282.