International Traffic in Arms Regulations: Addition to List of Proscribed Countries

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to add Nicaragua in the list of countries for which it is the policy of the United States to deny licenses or other approvals for exports and imports of defense services and defense articles, except as otherwise provided.

DATES: The rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Maria Tatarska, Foreign Affairs Officer, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (771) 205-7671; e-mail DDTCCustomerService@state.gov ATTN: Regulatory Change, ITAR Section 126.1: Nicaragua.

SUPPLEMENTARY INFORMATION: Due to growing concerns regarding Nicaragua’s continuing dismantling of democratic institutions, attacks on civil society, and increased security cooperation with Russia, to include support of Russia’s full-scale invasion of Ukraine, the Under Secretary of State for Arms Control and International Security has determined that it is in the best interests of U.S. national security and foreign policy to restrict, with certain exceptions, the export and import of defense articles and defense services destined for or originating in Nicaragua. This policy reflects the U.S. government’s opposition to the trade of arms with Nicaragua and its authoritarian government dominated by President Daniel Ortega Saavedra and his wife, Vice President Rosario Murillo Zambrana. Pursuant to this determination, the
Department is adding Nicaragua to ITAR § 126.1 in paragraph (p). The policy of denial toward Nicaragua applies to licenses or other approvals for exports and imports of defense articles or defense services, except that a license or other approval may be issued on a case-by-case basis for non-lethal military equipment intended solely for humanitarian assistance, to include natural disaster relief. Further, in accordance with ITAR § 129.7, no broker, as described in ITAR § 129.2, may engage in or make a proposal to engage in brokering activities subject to the ITAR that involve Nicaragua without obtaining the approval of the Directorate of Defense Trade Controls. Consistent with ITAR § 129.7(d), the Department of State will apply the same policy of denial to such requests.

**REGULATORY ANALYSIS AND NOTICES**

*Administrative Procedure Act*

This rulemaking is exempt from the rulemaking requirements of section 553 of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States.

*Regulatory Flexibility Act*

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553, the rule does not require 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 are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

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 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, 13563, and 14094

Executive Order 12866, as amended by Executive Orders 13563 and 14094, directs agencies to assess all 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). As a result of this change, certain exemptions to licensing requirements will not be available for exports, reexports, retransfers, and temporary imports destined for or originating in Nicaragua. However, a license or other approval may be issued on a case-by-case basis for non-lethal military equipment intended solely for humanitarian assistance, to include natural disaster relief.

Because the scope of this rule does not impose significant additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. This rule has been designated a “significant regulatory action” by the Office and Information and Regulatory Affairs under Executive Order 12866.

Executive Order 12988

The Department of State has 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, Executive Order 13175 does not apply to this rulemaking.
Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 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:


2. Amend § 126.1 by revising table 2 to paragraph (d)(2) and adding paragraph (p) to read as follows:

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

* * * *

(d) * *

(2) * *

Table 2 to Paragraph (d)(2)
<table>
<thead>
<tr>
<th>Country</th>
<th>Country specific paragraph location</th>
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<tbody>
<tr>
<td>Afghanistan</td>
<td>See also paragraph (g) of this section.</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>See also paragraph (u) of this section.</td>
</tr>
<tr>
<td>Cyprus</td>
<td>See also paragraph (r) of this section.</td>
</tr>
<tr>
<td>Democratic Republic of Congo</td>
<td>See also paragraph (i) of this section.</td>
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<tr>
<td>Ethiopia</td>
<td>See also paragraph (n) of this section.</td>
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<tr>
<td>Eritrea</td>
<td>See also paragraph (h) of this section.</td>
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<tr>
<td>Haiti</td>
<td>See also paragraph (j) of this section.</td>
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<td>Iraq</td>
<td>See also paragraph (f) of this section.</td>
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<td>Lebanon</td>
<td>See also paragraph (t) of this section.</td>
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<tr>
<td>Libya</td>
<td>See also paragraph (k) of this section.</td>
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<tr>
<td>Nicaragua</td>
<td>See also paragraph (p) of this section.</td>
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<td>Russia</td>
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<td>Somalia</td>
<td>See also paragraph (m) of this section.</td>
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<td>South Sudan</td>
<td>See also paragraph (w) of this section.</td>
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<td>Sudan</td>
<td>See also paragraph (v) of this section.</td>
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<tr>
<td>Zimbabwe</td>
<td>See also paragraph (s) of this section.</td>
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</tbody>
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(p) *Nicaragua*. It is the policy of the United States to deny licenses or other approvals for exports and imports of defense articles or defense services, destined for or originating in Nicaragua, except that a license or other approval may be issued, on a case-by-case basis, for non-lethal military equipment intended solely for humanitarian assistance, to include natural disaster relief.

* * * * *

**Bonnie D. Jenkins,**

*Under Secretary,*