Directorate of Defense Trade Controls (DDTC)
ITAR § 126.5: Canadian Exemption User Guide

Frequently Asked Questions to consider before using the Canadian Exemption.

Q: **Is this defense article or defense service subject to the ITAR?**

A: If doubt exists as to whether an article or service is covered by the U.S. Munitions List, you may use the commodity jurisdiction procedure. Please review ITAR § § 120.4 and 120.12 and visit the Commodity Jurisdiction section under the Conduct Business tab of the DDTC website for more information. If your item or service is not subject to the ITAR, consider reviewing the Department of Commerce's Export Administration Regulations (EAR). The Canadian exemption may only be used to export an item subject to the EAR if that item is for use in or with a defense article and is included in the same shipment as a defense article (see ITAR § 120.5(b)(2)). The Canadian exemption may not be used to export an item subject to the EAR that is not accompanied by a defense article.

Q: **Is this defense article for permanent import into the United States?**

A: If yes, please consult the U.S. Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for more information. Permanent imports fall under the jurisdiction of the ATF, not the Directorate of Defense Trade Controls (DDTC).

Q: **Am I eligible to use the Canadian exemption?**

A: U.S. persons, Canadian-registered persons, or Canadian Federal or Provincial governmental authorities acting in an official capacity are eligible to use the Canadian exemption. Persons should register with DDTC in accordance with ITAR § 122.1, as applicable. Please also note the exemptions from the registration requirement that are listed in ITAR § 122.1(b).

Last Updated: September 6, 2022

**Disclaimer: This user guide does not include requirements or obligations under other U.S. or foreign regulations. Please be sure to review relevant regulations, as appropriate, before proceeding with your transaction(s).*

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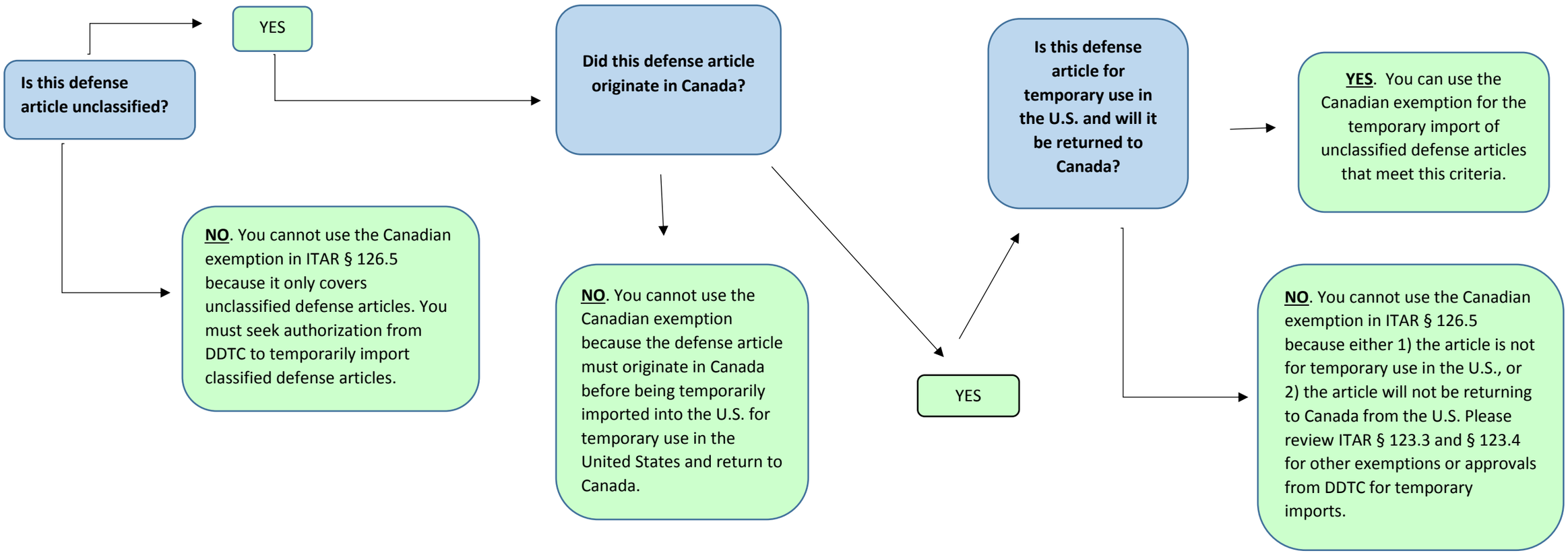
Can I use the Canadian exemption to temporarily import ITAR controlled defense articles?



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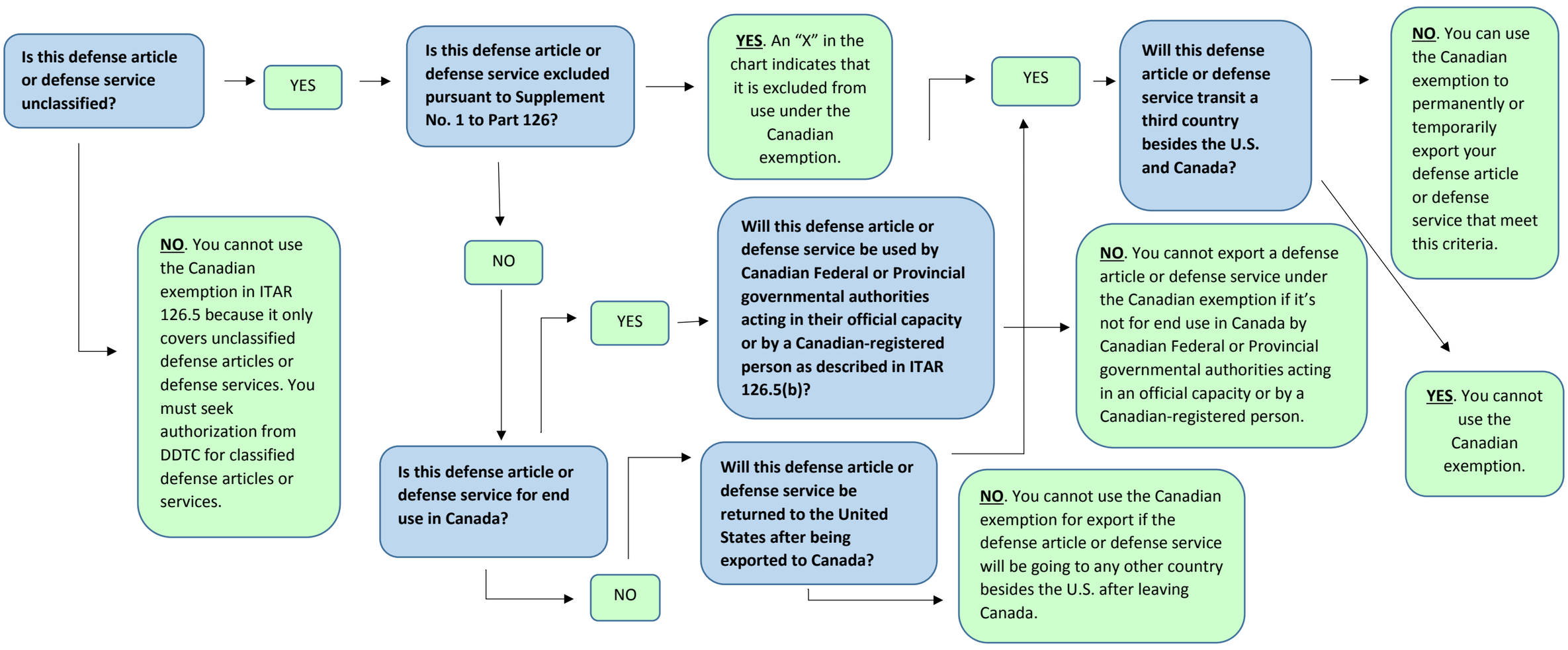
Can I use the Canadian exemption to permanently or temporarily export ITAR controlled defense articles or defense services?



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Can I use the Canadian exemption to reexport or retransfer ITAR controlled defense articles or defense services?

Will this defense article or defense service be reexported from Canada to another country besides the U.S.?

→ **NO**. You may reexport the defense article or defense service from Canada to the U.S. pursuant to ITAR § 126.5(d) that meet this criteria.

↓ **YES**. You cannot reexport a defense article or defense service to another country besides the U.S. under the Canadian exemption. Please see ITAR § 126.5(d)(2): if the reexport or retransfer requires a license if directly exported from the U.S., the retransfer must be handled in accordance with ITAR § 123.9. Alternatively, you can utilize another available ITAR license or other approval.

Will this defense article or defense service be retransferred for end use in Canada by a Canadian Federal or Provincial governmental authority acting in their official capacity or Canadian-registered person as described in ITAR 126.5(b)?

→ **YES**. . Retransfers are allowed under the Canadian exemption pursuant to ITAR 126.5(d)(1) **IF** the original U.S. exporter obtains or provides written confirmation to the Canadian requestor that the retransfer is authorized subject to the conditions of this section. If the U.S. exporter is not available, the retransfer request may be made directly to DDTC.

↓ **NO**. You cannot retransfer to another end user besides the Canadian government or a Canadian registered person. Prior approval for retransfers to other end users is required from DDTC pursuant to ITAR § 123.9.