

## Reshaping the Control Lists

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## EXPORT CONTROL REFORM RESHAPING THE CONTROL LISTS

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## Single List

- Phase 1
  - Tiering the USML and the CCL
  - USML conversion to positive list
- Phase 2
  - Limiting the USML to the most sensitive National Security items
  - Developing a series “6” control for less sensitive items
- Phase 3 combining to a single list



## Guidelines

- Everything currently on USML to be accounted for.
- CCL to designate **military items with a 6** and use *Wassenaar ML* numbering (i.e 9A**6**10 for military aircraft)
- Parts and subsystems to be moved to correct USML Categories as appropriate (i.e. rad hard IC from Category XV to XI)



## Process

- Review USML
  - Define items to be controlled in “positive” characteristics
    - From: Helicopters designed or modified for military
    - To: Helicopters with aerial refueling capability
  - Identify items to stay on USML
- Prepare new USML control lists Category by Category
- Prepare “book end” CCL entries so that all USML items are accounted for.



## Time Line

- Sec Gates announcement March 2010
- First draft of Category VII started June 2010 published July 15, 2011.
- Reviewed Public comments on Category VII and republished Dec 2010
- DoD charged with doing Category by Category Review started Dec 2010
- Interagency review of DOD drafts started June 2011 with publication of Cat VIII in Nov 2011
- Public feedback reviewed and drafts updated



## Where We Are in the Process

- All Categories have been reviewed
- New control text has been prepared for all Categories
- New Commerce control series “6” list have been prepared
- Categories VII, VIII, XIX, have been published.
- Public comments on Categories VII, VIII, XIX have been reviewed and control lists updated



## Summary

- Not an easy task but we have completed the initial round.
- “Positive” lists must be constantly reviewed and updated
- Your help has been and will continue to be requested in this process
- Let us know if have it correct



# Reshaping the Commerce Control List

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## Reshaping the Commerce Control List

How we do it  
Criteria and Process



## Reshaping the Commerce Control List

1. Identify the items.
2. Draft proposed rule.
3. Clearance of proposed rule.
4. Publish.
5. Review public comment on proposed rules.
6. Draft final rules.
7. OMB / Interagency review of draft final rule.



## Reshaping the Commerce Control List

8. Presidential decision and notification to Congress.
9. Publish final rule.



## Identify Items


- Items stay on the USML if they are:
  - (i) inherently military and otherwise warrant control on the USML; or
  - (ii) common to non-military training equipment applications, possess parameters or characteristics that provide a critical military or intelligence advantage to the United States, and almost exclusively available from the United States.
- Other items currently on the USML are proposed for inclusion on the CCL.



## Identify Items

- Technical experts representing Defense, State, and Commerce Departments prepare initial lists of proposed CCL items.





## Proposed Rule Stage

- Drafted within BIS.
- Shared informally with State and Defense
  - May result in revisions.
- Sent to OMB for formal interagency review.
  - Additional agencies may become involved.
  - Hopefully earlier informal review reduces needs for changes this stage.
- Coordinate with State Department for simultaneous publication.



## Public Comments

- Public's opportunity to participate in the process.
  - Tell us what you like about the proposal.
  - Tell us what you don't like about the proposal.
  - Give reasons.
  - Suggest less burdensome but effective alternatives.





## Public Comments

- Written comments required
  - [www.regulations.gov](http://www.regulations.gov)
  - [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov)
  - Regulatory Policy Division, Bureau of Industry and Security, Room 2098, U.S. Department of Commerce, 14<sup>th</sup> and Pa, Ave. N.W., Washington DC 20230.
- Export Control Reform CCL rules typically have a 45 day comment period.



## Final Rules

- Drafted within BIS.
- Shared informally with Departments of State and Defense for informal review.
  - May result in revisions.
- Sent to OMB for formal interagency review.
- Presidential decision.



## Final Rules

- Congressional notification process in accordance with § 38(f) of the Arms Export Control Act.
- Publication.



## Defense Technology Security Administration



**Update Conference  
July 2012  
Rizwan Ramakdawala**





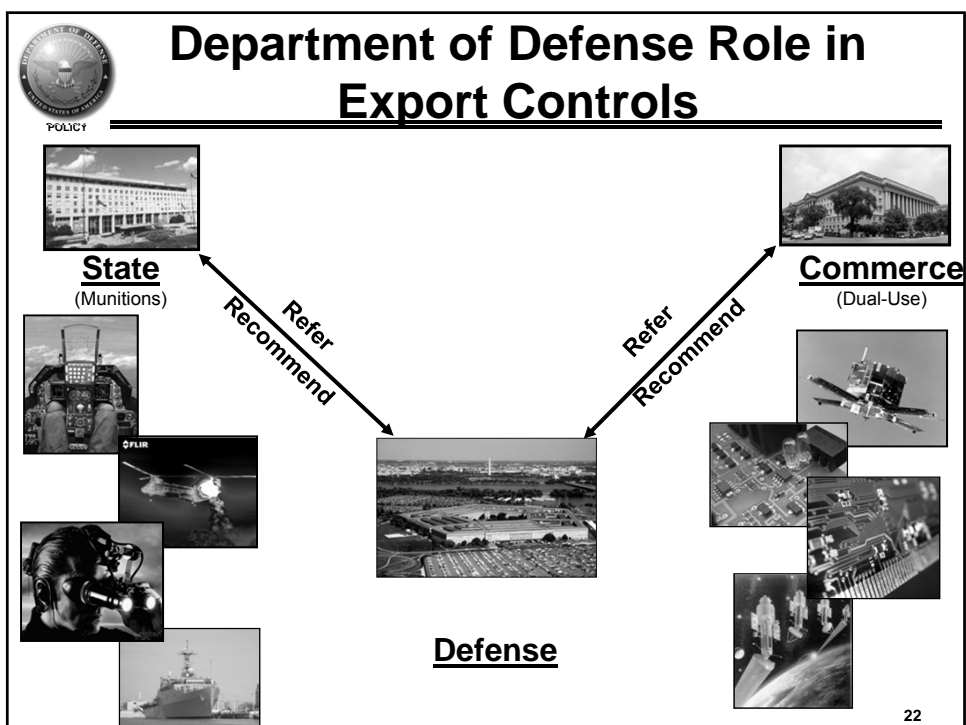
## DTSA Mission

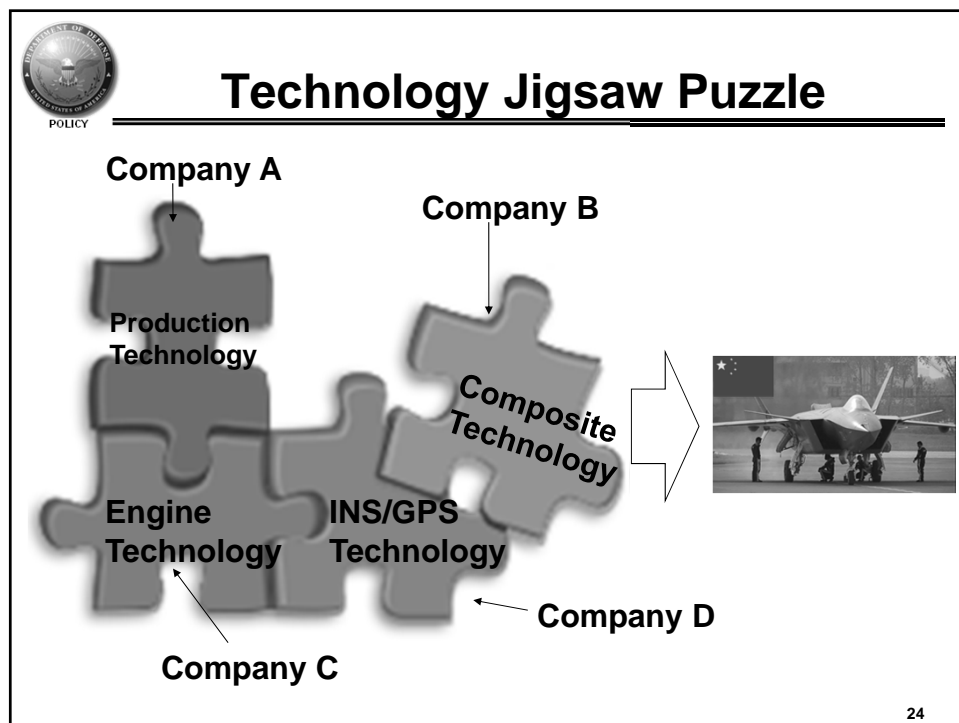
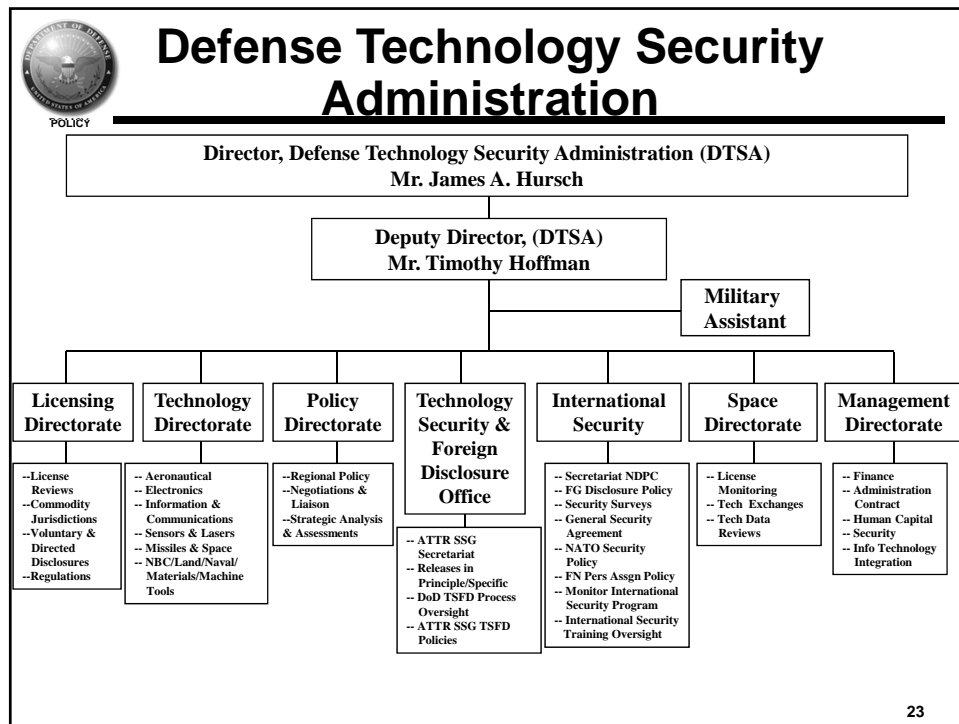
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Ensure U.S. national security interests by protecting critical technology and information while building partnership capacity



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## **Aviation and Engine Technology**

- The balance is allowing companies to export dual-use items (commodities, technology or software) to foreign parties while preventing the growth of military capability for countries of concern.
- Not all countries are created equal and other countries may not share the same concerns as the USG. This makes controlling technology very difficult.
- There are countries of concern making concerted efforts to acquire aviation and gas turbine engine technology through exports.

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## **Aviation and Engine Technology (Cont.)**

- The U.S. has several models where the lines between a commercial aircraft and military aircraft are blurred by only certain components or capabilities. E.g., P-8 and 737, the H-92 and S-92, or F101 and CFM56.
- The U.S. has years of experience with systems design and engineering that has been facilitated by the U.S. military, as well as commercial requirements, that is being exported to shortcut other countries capabilities in these areas.
- The U.S. MUST maintain superiority in aviation technology.
- Joint Ventures, offsets, co-production and/or co-developments threaten that advantage if not properly mitigated.

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## Export Control Reform

- **Fundamental reform of the U.S. export control system**
  - Driven by national security – protect “crown jewel” technologies, while expediting cooperation with allies and partners
  - Goal is to ensure allies and partners have advanced capabilities so they may take on greater defense roles and missions
  - At the same time must protect the very technology that enables – smaller, more agile and technologically advanced US forces
- **Why you should care**
  - New licensing mechanisms (e.g., Commerce Department’s Strategic Trade Authorization (STA)) and greater flexibility will remove unnecessary obstacles to greater security cooperation with allies and partners
  - Facilitates cooperation with our allies and close partners in order to share technology and costs of developing future weapons systems

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## Technology Security and New U.S. Defense Strategy

- Export Control Reform initiatives provide essential tools for meeting the challenges the Secretary of Defense set forth in “Sustaining U.S. Global Leadership: Priorities for the 21<sup>st</sup> Century Defense,” including:
  - Ensuring U.S. Allies and partners have advanced capabilities so they may take on greater defense roles and missions, but protect the very technology that enables “Smart Defense” – smaller, more agile and technologically advanced forces.
  - Facilitating cooperation with our Allies and close partners so that we can share technology and the costs of developing future weapons systems.
- Significant reforms under the Export Control Reform initiative and DoD technology security and foreign disclosure review processes will greatly facilitate cooperation with our foreign partners and advance the objectives of “Smart Defense.”

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## Facilitating Interoperability and Cooperation with Allies

- **New Department of Commerce License Exception Strategic Trade Authorization (STA) – June 2011**
  - Benefits 36 Allies and close partners with robust export control systems
    - Requirements:
      - Requires consignee statement
      - Enhanced record-keeping
    - Allows for retransfer among the 36, without prior USG authorization
  - License-free exports of many dual-use items
  - USML items, parts and components moved to “600 series ECCNs” will be eligible for export to government end users
    - Will speed provision of equipment to Allies and partners who fight alongside us in coalition operations
  - Additional group of 8 countries are eligible for Wassenaar Basic List items license-free

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## Strategic Trade Authorization

### 36 Eligible Destinations

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey and United Kingdom

### 8 Eligible Destinations

Albania, Hong Kong, India, Israel, Malta, Singapore, South Africa, and Taiwan

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## Ongoing Work on the Four Singles

- **Single Control (Licensing) Agency**
  - Requires legislation – Administration's bill has not yet been submitted to Congress
- **Single Export Control List**
  - Work on-going to rewrite USML and CCL – so that eventually the two can be merged into one list
  - "Positive" list should be easier for Allies and partners to navigate
- **Export Enforcement Coordination Center at DHS**
  - EECC opened on March 7, 2012
  - Also opened new Information Triage Unit, located at Commerce, to coordinate intelligence community support
- **Single IT system (based on DoD's USXPORTS)**
  - Expect full operational capability with all agencies by Fall 2012 (Commerce, State, Treasury, Energy, Intelligence Community, Homeland Security, NASA)

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## Focus of DoD's Reform Efforts

- **Rewriting the U.S. Munitions List**
  - DoD established 19 working groups to review the full scope of items, technology and software controlled under the USML; initial drafts were completed by June 2011.
    - Participants included a wide range of experts from the Military Departments and the research and development community.
  - Working closely with the Departments of Commerce and State, and other agencies, to finalize drafts for publication and comment.
  - Draft controls are being published in the Federal Register as categories are completed.

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## USML Rewrite

- **Transferring USML items to the Commerce Control List**
  - We are identifying military critical technologies that continue to require full protection under the USML as well as defense items that can be moved to the new “600 series” ECCNs.
    - Aircraft: We are making a distinction between components that provide true military advantage, such as:
      - Low observability capabilities and fire control computers, and
      - Parts and components that provide no unique military function such as wheels, brakes, nuts, and bolts.

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## Commerce New “600” Series

- Will include items that are specially designed for a military application and specifically identified defense end items that do not warrant the stringent controls of the USML
  - Three basic types:
    - “End items” not otherwise enumerated on the USML
    - Catch-all of “specially designed” “parts,” “components,” “accessories,” and “attachments” that are not otherwise enumerated on the USML
    - Specific parts and components that warrant controls only to terrorist-supporting countries or if destined for a military end use in China (subject to general policy of denial)

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## USML - Aircraft and Related Articles


### Federal Register Proposed Rules

- Bombers
- Fighters, fighter bombers and fixed-wing attack aircraft
- Jet-powered trainers used to train pilots
- Attack helicopters
- Unmanned aerial vehicles (UAV's)
- Military intelligence, surveillance, and reconnaissance aircraft
- Electronic warfare, airborne warning and control aircraft
- Air refueling aircraft and Strategic airlift aircraft
- Target drones
- Aircraft equipped with any mission systems controlled under this subchapter; or
- Aircraft capable of being refueled in flight including hover-in-flight refueling
- Launching and recovery equipment


- Developmental aircraft and "specially designed" parts, components, accessories, and attachments therefore developed under a contract with the DoD
- Aircraft components, parts, accessories, attachments, and associated equipment as follows:
  - Components, parts, accessories, attachments, and equipment "specially designed" for the following U.S.-origin aircraft: B-1B, B-2, F-15SE, F/A18E/F/G, F-22, F-35 (and variants thereof), F-117 or United States Government technology demonstrators

- Illustrative list only
- Reference Federal Register / Volume 76, No. 215 / Monday, November 7, 2011 / Proposed rules, page 68697

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## USML F-16



#### F-16 Specific USML Items


- Assembled engines
- Weapons pylons
- Mission systems
- Bomb racks
- Missile launchers
- Fire control computer
- Radar
- Radar warning receiver
- Radar jammer
- Laser/Missile warning system
- Countermeasures dispensing system
- Aerial refueling receptacle
- Helmet mounted displays/Sights

#### Other Aircraft USML Items

- Aircraft wing folding systems and parts & components
- Tail hooks and arresting gear and parts and components
- Missile rails, weapon pylons, pylon-to launcher adapters, UAV launching systems, and external stores support systems and parts and components
- Damage/failure-adaptive flight control systems
- Threat-adaptive autonomous flight control systems
- Air-to-air refueling systems and hover-in-flight refueling (HIFR) systems and parts and components
- UAV flight control systems and vehicle management systems with swarming capability

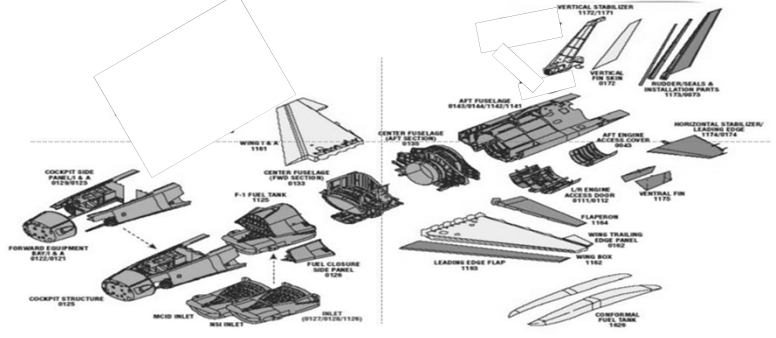
- Illustrative list only
- Reference Federal Register / Volume 76, No. 215 / Monday, November 7, 2011 / Proposed rules, page 68697

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## “600 Series” F-16 Parts

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- Wings, Rudder, Fin, Panels
- Fuselage – Forward, Center, Aft
- Cockpit structure
- Forward equipment bay
- Horizontal stabilizer
- Conformal fuel tank
- Cartridge Actuated Device, Propellant Actuated Device (CAD/PAD)
- Control surfaces, activation & control systems

- Internal & Exterior fuel tanks
- Engine inlets and ducting
- Wing box
- Flaperon
- Static structural members
- Exterior skins, Fairings, Radomes, Access doors
- Leading edge flap
- Landing gear
- Technology associated with above items

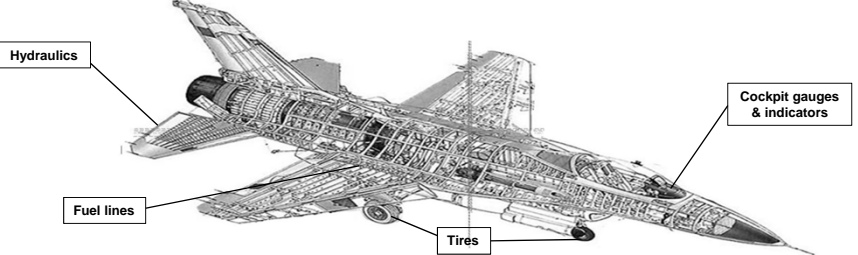
• Illustrative list only  
 • Reference Federal Register / Volume 76, No. 215 /  
 Monday, November 7, 2011 / Proposed rules, page 68689

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## 600 Series “.y” F-16

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### F-16 Specific .y Items

- Aircraft tires
- Analog cockpit gauges and indicators
- Hydraulic System Filters
- Check valves
- Hydraulic & Fuel hoses, Fittings, Clips, Couplings, Nut plates, Brackets
- Cockpit mirrors
- Beacons
- Urine collection systems
- Cockpit panel knobs, Switches, Buttons, Dials

### Other Aircraft .y Items

- Audio selector panels
- Check valves for hydraulic and pneumatic systems
- Crew rest equipment
- Ejection seat mounted survival aids
- Energy dissipating pads for cargo (for pads made from paper or cardboard)
- Filters and filter assemblies for hydraulic, oil and fuel systems
- Steel brake wear pads (does not include sintered mix)
- Propellers, Propeller systems, and Propeller blades used with reciprocating engines

• Illustrative list only  
 • Reference Federal Register / Volume 76, No. 234 /  
 Tuesday, December 6, 2011 / Proposed rules, page 76081

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## Ongoing Export Control Reform Actions

- New definitions of defense services and levels of maintenance
- New policy on defense articles embedded in commercial items
- New exemption for replacement parts
- New definition of “specially designed” to replace “specifically designed, modified, or adapted”
- Updated “by or for” the USG exemption
- Single License Form
- USG program licenses
- Elimination of foreign party signature requirement on TAAs
- Commerce Department Transition Rule
- IA reviewed Public Comments for Category VI, VII, VIII, XIX and XX (e.g., accepted, rejected, accepted in part, or not applicable)

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## Summary

- Comprehensive studies and reforms undertaken over last 3 years.
  - Still much work to be done
- Changes are difficult but we are making progress
  - Top-level commitment within Department
  - Changes this large in scope take time
  - Change in fundamental direction and interruption of implementation will hinder completion of the efforts currently underway
- Continued engagement needed with interagency (DoS, DoC) and Congress

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## Contact Information



### Questions?

<http://www.dtsa.mil/>  
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## Export Control Reform Reshaping the Control Lists for Vessels of War and Submersibles

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U.S. DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY



## Guidelines

- Every item currently on U.S. Munitions List (USML) and *Wassenaar Arrangement* Munitions List (ML) must be accounted for either on the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR)
- Commerce Control List (CCL) to enumerate military items , using Category 8 (Marine), with a 600 series designation, and *Wassenaar ML* numbering (i.e. 8A609 for surface vessels of war or 8A620 for submersibles)
- Parts and subsystems to be moved to their correct USML Categories as appropriate (i.e. marine gas turbine engines from ITAR Category VI to XIX and ECCN 9A619)



## Timeline for Surface Vessels and Submersibles

- Public comments solicited 23 December 2011
- Public comment period closed 6 February 2012
- Public feedback reviewed and drafts updated May 2012



## ITAR Category VI and ECCN 8A609

- Reviewed ITAR Category VI, WA ML9, EAR ECCNs 8A002, 8A018, and 8A918
- Moved submersible vessels of war -- and related articles -- from ITAR Category VI to Category XX
- Reached interagency consensus to move the following vessels from ITAR Category VI to ECCN 8A609.a (controlled for NS1/RS1/AT1 reasons)
  - Underway replenishment ships
  - Surface vessel and submarine tender and repair ships (does not include those vessels "specially designed" to support naval nuclear propulsion plants)
  - Non-submersible submarine rescue ships,
  - Other auxiliaries (e.g., AGDS, AGF, AGM, AGOR, AGOS, AH, AP, ARL, AVB, AVM, and AVT)
  - Amphibious warfare craft except those that are armed
  - Unarmored, and unarmed coastal, patrol, roadstead, and Coast Guard and other patrol craft with mounts or hard points for firearms of .50 caliber or less.



## ITAR Category VI and ECCN 8A609 (cont.)

- Surface vessel related entries were moved from ECCN 8A018 to ECCN 8A609.b (non-magnetic diesel engines)
- Most specially designed parts, components, accessories and attachments for vessels controlled by ITAR Cat VI and ECCN 8A609.a are controlled under ECCN 8A609.x for NS1, RS1, and AT1 reasons
- Specially designed parts, components, accessories and attachments of lesser concern are controlled under ECCN 8A609.y for AT1 reasons only (e.g. lavatory, galley, PA systems and equipment)



## ITAR Category VI and ECCN 8x609.a

- ECCN 8B609.a would control test, inspection, and production equipment specially designed for the development or production of surface vessels of war and related commodities enumerated in 8A609.a, .b., and .x, or USML Category VI
- ECCN 8C609.a would control materials specially designed for the development or production of surface vessels of war and related commodities enumerated in 8A609 (excluding 8A609.y) n.e.s. in USML or CCL
- ECCN 8D609.a would control software required for the development, production, operation, or maintenance of commodities enumerated in 8A609, 8B609, or 8C609 (excluding 8A609.y, 8B609.y, or 8C609.y)
- ECCN 8E609.a would control technology required for the development, production, operation, installation, maintenance, repair, or overhaul of items enumerated in 8A609, 8B609, 8C609, or 8D609 (excluding 8A609.y, 8B609.y, or 8C609.y, or 8D609.y)



## ITAR Category XX and ECCN 8A620

- Reviewed ITAR (Categories VI and XX), (WA ML9), ML17, EAR (ECCNs 8A002, 8A018)
- Reached interagency consensus to move the following vessels from ITAR Category VI to ECCN 8A620.a
  - Deep Submergence Rescue Vehicles (DSRV)
  - Deep Submergence Vehicles (DSV)
- ECCN 8A620.b creates a new entry for submersible and semi-submersible vessels specially designed for cargo transport (submersible and semi-submersible vessels used for illegal drug trafficking activities)
- Moves harbor entrance detection devices from ITAR Category VI to ECCN 8A620.c
- Moves certain electric motors specially designed for submarines from ECCN 8A018.b.2 to ITAR XX(b)(2)
- Moves certain military rebreathing apparatus and torpedo/submarine nets from ECCN 8A018 to ECCN 8A620





## Summary

- Defense, State, Commerce, and Homeland Security reached consensus on items that no longer warrant control on the USML for Categories VI and XX
- Considered and/or incorporated all public comments
- Moves non-combatant and submarine rescue ships to the CCL
- Your help has been and will continue to be requested in this process

