

U.S. Department of State  
Defense Trade Advisory Group  
Minutes of the June 19, 2008 Plenary Session  
Harry S. Truman Building  
Washington, DC

Public meeting began at 0900 with introductory comments by Deputy Assistant Secretary, Bureau of Political-Military Affairs Frank Ruggiero. Mr Ruggiero welcomed the new DTAG members and looks forward to their input on the draft regulations. He reviewed DDTC's progress, reforms, and State Department accomplishments during the past year, including

- Signing of the U.S.-U.K. and U.S.-Australia Defense Trade Treaties. The State Department is pushing for rapid Senate ratification of these treaties.
- NSPD 56 directed a series of objectives for DDTC, including the adjudication of all licenses within 60 days and efforts to ensure a regular, transparent process.
- DDTC's former backlog of 7500 cases has been reduced by over 50% to 3400 cases.
- License processing times have been reduced from an average of 38 days to 17-19 days.
- Cases over 60 days old have been reduced from 700 cases to 70 cases, a 90% reduction.
- Cases requiring Congressional Notification are allowed to go over 60 days, and 80% of current cases that are over 60 days old involve Congressional Notification.

Mr. Ruggiero discussed the Federal Register notification on Section 17(c) which is intended to allow industry self-certification on commercial aircraft items. He also described the Administration's requirement that DDTC identify self-financing mechanisms. State is looking at a range of options. He praised the DDTC staff for their accomplishments and expressed his appreciation for the instrumental changes at DDTC instituted by his outgoing military advisor, Capt. Laurell Brault, USN.

Deputy Assistant Secretary Ruggiero introduced DTAG Chair William Schneider, Jr., and new DTAG Vice-Chair George Sam Sevier.

Mr. Schneider welcomed the new DTAG members and the public visitors at the DTAG Plenary, which would address three issues: The U.S.-U.K. Defense Trade

Treaty, Section 17(c) language, and DDTC self-financing. Input is requested from DTAG and attendees and all input by COB Friday, June 20, need to fast track items. Industry and DTAG members alike should send comments to Terry Otis at ITT, the DTAG Recorder, who will make note of them and submit to DTAG/DDTC.

### **Self- Financing/Registration Fees**

Mr. Schneider said the self-financing issue would not be resolved at this Plenary. He discussed a range of issues that must be considered in connection with self-financing, including the unintended consequences resulting from how the fees are structured, the impact of charge per action approach, calculating the cost of various DDTC actions, and the importance of not driving U.S. defense firms out of the export business. Mr. Schneider welcomed DTAG and public suggestions for self-funding options that were manageable, encouraged better throughput, were fair, and did not drive the lower end of defense industry out of business. Outsource processing has been rejected as an option because DDTC activities are inherently governmental. ~

NSPD requires DDTC to develop a plan and submit it to OMB for review. The directives must be accomplished without an increase in budgeted funds which means implementation of a self financing mechanism up to 75% of DDTC operating funds or \$22M. Currently collect \$9M in fees. DDTC needs more funds to carry out its mission. Asking for DTAG and public input.

*There was a question on what exactly constitutes a license application.*

The DTAG Vice Chair Sam Sevier explained that a license application is any action requiring DDTC effort. From this, a formula based on registration fees and licensing actions was developed. The intent is not to drive people out of business but DDTC needs to collect money to pay for services. It will not be in a billable hour's style, such that lawyers use because must be a manageable system. Otherwise would need to set up major accounting system. Send us your ideas.

*There was a comment on the FCC's licensing fee structure being based on the complexity of a case, for example a billable hours approach, as a possible model. The time required for different licenses and activities differs. Was there a way to calculate such costs?*

The DTAG Chair and Vice Chair answered that this process is administratively burdensome and therefore not a viable approach. For example, some DSP5 applications are more complex than some TAAs and would introduce a level of subjectivity which would not work in this system as staff would spend all its time trying to figure out what to charge rather than issuing cases. If there are facts to back up a system in which fees are calculated based on the complexity of a license application the data should be provided to DTAG. It was suggested that a DTAG Committee should be established to look at DDTC funding.

*There were questions about DDTC being 75% self funded; whether it is 75% or 100% of \$22million and what the implementation date for being self funded is.*

DDTC Managing Director Robert S. Kovac explained that DDTC's proposed annual budget based on NSPD calculations is \$35 million. The \$35 million estimate includes all DDTC activities – licensing, policy, compliance, IT, contractors, office space etc. DDTC is required to self-finance 75% of its operations, which is approximately \$26 million. The \$26 million will be collected from the increased registration fees. The money collected for registration fees is limited by legislation to use for Compliance, IT, and contractor support staff. DDTC estimates that these three activities will cost \$22 million. The additional \$4 million will stay in DDTC's account and roll over to the next year. Due to the fact that not all companies will be registered under the new system immediately, it will take DDTC two to three years to reach the full \$26 million. DDTC will continue to require State funding to cover activities such as licensing and policy (the other 25%) which is not authorized to be paid out of registration fees, until such time that the legislation is changed.

The DTAG Vice-Chair Sam Sevier stated that the implementation date for self-financing was as soon as possible, DDTC needs to get to \$22 million now.

*There was a question regarding why registration was being changed from two years to one year, and whether this process would create more work for DDTC.*

The DTAG Chair William Schneider stated that the burden of paperwork is not excessive. Based on the level of work currently to amend, update, and accommodate mergers and acquisitions, there will not be a significant increase of work under the new system. Companies already automatically update their registration information annually. For those companies that do not update until the two year renewal cycle is up, annual renewal will provide for more accurate data.

DDTC Managing Director Kovac added that registration would be cut down to one year because licensing numbers can change significantly over one year. This also provides DDTC with more consistent funding. The draft plan is a way to evaluate what the public thinks.

*There were questions on the laws governing DDTC's collection and spending of funds. Specifically, whether or not the NSPD-56 trumps what is already written into law and how penalty fees currently being collected are being used.*

To clarify some of the questions, DDTC Managing Director Kovac provided the following information:

- The Berman Bill, which is currently in the House of Representatives, would allow DDTC to self-finance 100% of its operations. However, the current State plan is consistent with the NSPD that requires DDTC be 75% self-financed as early as FY 2009.
- DDTC is currently not authorized to retain the penalty fees it collects; these are provided to the US Treasury. The Berman Bill proposed allowing DDTC to retain \$10 million in penalty fees; however, this was removed from the proposed legislation.
- DDTC's current budget is \$22 million:
  - \$13 million is funded by the Department of State
  - \$9 million funded from DDTC collected registration fees. DDTC is authorized to retain 100% of the registration fees it collects, currently \$9 million.
- Self-financing will begin as soon as possible, but DDTC must draft a plan and is looking at options. Factors include tiers based on the size of a company; justifying costs on the level of difficulty; different fees for different licenses, etc.
- As to what actions will not be included – Commodity Jurisdictions (CJs), Voluntary Disclosures (VDs), and Directive Disclosures (DDs).
- What will be included – licenses and agreements, DSP-119 Amendment Forms and General Correspondence. With \$250 per action being the average.

Mr. Kovac needs and welcomes public and industry input.

*There was a comment that DDTC should consider putting non-profit organizations in the 1<sup>st</sup> tier, universities who do fundamental research. Fees weigh heavily on*

*their decisions for research projects. Much of what universities do is non-profit. Universities do not have much money to start with.*

*Licensing fees based on complexity was raised again. A comment was made that charging the same fee for an MLA for one country versus MLA for the world does not seem fair. Another example is submitting a GC requesting clarification resulting from a USG issued proviso that may not apply to the case.*

DDTC Managing Director Kovac stressed the point that complexity varies for licenses. A seemingly simple license can end up being complex and require more work than one that initially seems more involved. For example, a GC requiring a Presidential determination might require more work than a co-production agreement. If fees are based on this system DDTC's role goes from trying to process an event to determining the weight of an action. This is also about compliance – not just licensing. The actions managed by DDTC have a compliance aspect as well.

*There was a question on the effect of fees on Merger and Acquisition cases, where thousands of licenses would have to be novated or amended. Would there be a sliding scale?*

The DTAG Vice-Chair Sam Sevier noted that this was an interesting point and should be written up and provided to Terry Otis, the DTAG Recorder.

The Plenary discussed the potential impact of fees on the volume of licenses. Would high fees undermine the licensing process? Also, would fees be limited to State Department activities or also expand to DOD, DOC, and inter-agency functions? The potential impact of pay-as-you-go fees was discussed, including parties not licensing properly, or trying to combine licenses to save money.

DTAG Vice-Chair Sam Sevier used the example of industry associations' fee structures, whereby the big companies pay higher fees and smaller ones pay lower fees. DDTC's plan is a similar concept. DDTC and DTAG are open to hearing other plans. If DTAG has a plan that it can articulate, then that is our job. If the public has a plan, then offer it. DDTC is not in charge of what is happening with user fees, it is trying to meet the requirements.

*There was a question on why DTAG was not consulted in drafting the new fee structure plan.*

DTAG Chair William Schneider noted that DTAG now has the opportunity to comment as the regulation is still in the draft stage.

*There were questions on what the restrictions on the use of the fees are and whether fees would ever be permitted to be used for the full range of DDTC activities. A draft budget was requested to see exactly what funds were being spent on.*

Michelle Truitt (Department of State, Office of Management Policy, Right Sizing and Innovation) stated that the AECA includes a provision that permits the use of fees for IT, contractor support, and compliance. However, the Berman Bill, currently in the Senate, would allow for DDTC to be 100% self-funded for all of its activities. The DTAG Vice-Chair Sam Sevier emphasized that we need to work the problem we have currently, not predictions of future problems.

*There was a question on whether the fees would apply to foreign embassies for licenses and for foreign embassies doing third-party transfers?*

DTAG Chair William Schneider stated that most foreign embassies use FMS, which is out from under the fee issue.

*There was a comment and questions concerning the registration of domestic manufacturers, how many are not registered and whether there was anything DDTC could do to target unregistered manufacturers.*

It was noted that the law already exists for manufacturers to register.

*There were questions regarding broker registration. Has there been an increase in the brokers with the more recent emphasis on broker registration? Can you give us some numbers? How will broker registration fees be affected by the new registration fees?*

DDTC Managing Director Kovac said that he did not have the number of brokers registered. As for broker registration fees, brokers will be charged under Tier 1 unless activity goes up to Tier 2 – fees will go up like anyone else.

The discussion on Registration Fees/Self-Financing concluded with the DTAG Chair William Schneider encouraging the DTAG to form a new working group to vet these issues.

## **U.S.-U.K. DEFENSE TRADE TREATY**

The legislative process on the Treaty has slowed down pending a DDTC response to the SFRC on ITAR changes to implement the treaty. This has become a condition for ratification. The DDTC web site has the draft regulations. The State Department needs to get its response to the Congress quickly. DDTC will include ideas that surface at the DTAG Plenary. DDTC provided a side-by-side comparison of the present ITAR, the Treaty, and provisions.

DTAG Vice-Chair Sam Sevier outlined some of the Treaty's provisions language that needs to be clarified:

110.6 (2): This section covers the application of anti-tamper techniques to systems, subsystems, components, and software/firmware programs, and the level of authorized information on where and which techniques were incorporated in the exported equipment. The exporter is not permitted to acknowledge that anti-tamper measures are incorporated in the exported article, and cannot provide information on the specific areas in which techniques were applied without additional DDTC approval. Industry is concerned about how it will be possible to develop maintenance instructions, parts lists, etc. without revealing or pointing to knowledge of where the technique is located. The impact of anti-tamper application on normal support and logistics requirements needs to be more fully addressed for the benefit of both the U.S. manufacturers and the U.K. customer.

110.6 (3): Classified items can only be transferred via the Treaty under DoD authority. The proposed wording is unclear as to what level within DoD can authorize the U.S. contractor to transfer U.S. classified material under the Treaty without DDTC authorization. This authorization language needs to define the terms "written request" (by whom and to whom), the level in DoD that is authorized to release classified data and under which DoD Directive, and the meaning of "contract language." Will "contract language" be defined in the FAR/DAR contract regulations?

110.6(5): This paragraph covers three sections: (1) Low Observable/Counter Low Observable (LO/CLO); (2) sensor fusion; and (3) countermeasures. The opening sentence denies the export under the treaty of any defense articles which incorporate any design or applied technique for either LO or CLO properties within the entire electron and optical frequency spectrums, plus those of acoustic and magnetic spectrums. Almost all military items will fall somewhere within this broad category. Much more specificity is needed in this paragraph in order to

allow it to be implemented by DDTC into the International Traffic in Arms Regulation (ITAR) without negating the value of the Treaty.

A related issue is the section on sensor fusion, which needs more clarity as to what constitutes the fusing of sensor data into a resolved display or target identification capability and how that relates to LO/CLO concerns (for example, Anti-Submarine Warfare (ASW) and UAV ISR platforms and their systems use multiple inputs to provide a resolved environmental picture). The section on active and passive countermeasures appears to address LO/CLO areas, but is not clear on what constitutes such countermeasures (for example, when a modification for climatic conditions simultaneously changes a signature of a platform). This entire section requires much more clarity or else it will eliminate the ability to export most military equipment and capabilities under the Treaty provisions, in contravention of the application envisioned by the two governments.

Additional suggested language in the implementing arrangements through the regulations.

The draft regulations have several references to “source code for articles controlled by (ITAR paragraph/category) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under...” The phrase “for operations, maintenance and training” was originally developed to allow exporters the latitude to provide sufficient data (in various formats including handbooks and software) as part of their hardware sale under an export license to give the purchaser the ability to operate, maintain and train on the equipment without having to call those items out separately. The logic was that if the USG allowed the export of the equipment, it was with the implicit assumption that the USG also intended that the customer could use the systems, perform routine maintenance on them and train employees on them. This approach also included the understanding that if more in-depth data were needed, a separate authorization such as a TAA or MLA would be used, depending on the type of data required.

Source code is a specific form of data that documents the architecture and structure of equipment installed software. “Source code” should not be equated with the concept of “operate, maintain and train” as they are two totally different concepts. Source code is the documentation of a software routine for many different functions in human readable form for software maintenance or a baseline from where you start to make modifications to the installed software for the hardware function. Therefore, the terms “source code” and “operations maintenance and training” do not belong together. If the intent is to expand the concept that implicit



in the sale of the hardware is that the purchaser should have the “source code” data to be able to trouble shoot the installed software programs and to provide a baseline for the update of their systems for life-cycle management, then it needs to be written in that manner.

NOTE: MCTR annex language contained in the side-by-side material attached to the Treaty implementation issue eliminates all MCTR items from export under the Treaty.

Jet engine hot sections and digital controls (Treaty VIII (h) and Section 17(c) Category VIII (g))

Hot sections are mechanical and composed of several heat tolerant components associated with high performance jet engines. Digital engine controls are electronic components capable of automatic control of the engine’s operations, i.e., all components of a high performance jet engine. There is an apparent inconsistency in the concept that the full-up engine can be exported under the treaty, but that the individual components to allow the engine to be maintained require a separate license process. Does this mean that if an engine delivered under the treaty fails to function that it has to be returned to the U.S. for maintenance/exchange under the treaty and a new engine then shipped under the Treaty? This needs to be clarified in order to implement the intent of the Treaty.

*There was a comment on Congress reviewing the regulations and a question on whether this would bind State to changes in the regulations in the future.*

*There was a question regarding how much the Canadian exemption was looked at.*

The DTAG Chair William Schneider explained that the Canadian exemption and the DTSI were failures, in that they were not used.

*There was a question about the Australian Treaty and if it was going to be treated the same as the UK Treaty insofar as it would go through the SFRC track.*

DTAG Chair William Schneider stated it would go through the same process.

Participants mentioned the following problems with the Treaty language. Cross references to sections that don’t exist. 1.10.6.4 refers to a section which does not exist. And what does Milestone B mean? Also section 1.10.9 says only U.S. freight forwarders can handle goods – does this mean that UK freight forwarders

can't handle the goods? Recordkeeping section 1.10 – requirement for purchase order, don't necessarily have one of those – consider inserting language to the effect “if applicable”. Filing of SED – hardware only? In regards to carving out the MTCR, Part 121 is outdated so it should be tied directly to the actual MTCR List.

*There was a question about whether the Treaty language would reflect Section 17(c) regulations.*

DDTC Managing Director Kovac stated that the Treaty language will reflect all of the regulations.

*There was a question on why this was not a proposed regulation so that industry could provide comments and what the deadline was for providing comments on the DTAG meeting discussion of the Treaty.*

The DTAG Chair William Schneider said there is an urgent need to respond to DDTC so it can provide answers and comments to the SFRC, as the SFRC wants to see the final draft before it is published as a final rule. All DTAG and public comments should be sent to Terry Otis, DTAG Recorder (email [terry.otis@itt.com](mailto:terry.otis@itt.com)) by COB Friday, June 20. Include details and recommendations in the email.

Participants pointed out that LO/CLO anti-tamper and sensor/fusion issues are subject to classified documents that cannot be discussed in the DTAG forum, but the Treaty wording as it stands would, for example, put export of Google Maps outside of the Treaty because it puts sensors and processing together. In effect, the current Treaty wording goes beyond current DoD practice. Putting DoD practice into the ITAR represents a significant problem. The conclusion was that DTAG should surface these issues and let DoD manage them with the Congress.

On anti-tamper, it is sometimes classified to say if an item includes anti-tamper. It could be a security violation if a company answered questions that incorporate security concerns by reference. This is a major problem in the Treaty provisions.

## **SECTION 17(C) DISCUSSION AND QUESTIONS**

The Plenary discussed Section 17(c) 121(c) Category VIII, “Aircraft and Associated Equipment.” The note after paragraph (b) contains the following example: “some examples of parts or components that are not common to both civilian and military applications are tail hooks, rotodomes and low observable

rotor blades” raised a question about the “intent” for a Low Observable capability vs. potential signature reduction that might come from an industrial use of today’s materials in new production of the same article, e.g., industrial development of four-bladed rotors or carbon fiber rotor blades for commercial helicopters such as those developed for noise reduction in urban settings. Concurrent with this noise reduction may be a signature reduction that could be a LO/CLO concern. The DTAG-recommended that DDTC investigate how exports for this type would eventually be addressed.

*There were several questions on the SME designations for hot section parts. Participants were concerned that older aircraft (20-40 years old) will now be required to be designated as SME because they have hot section components. A question was raised on whether the rule would grandfather the older aircraft.*

DDTC Managing Director Kovac responded to these questions by explaining that DDTC expects to get questions raised by the regulation – expect it to be a stand alone for people to use.

Another discussion involved the definition of testing under 17(c). Industry was concerned that the language in the current draft could disqualify standard equipment on the basis of normal testing of components for safety and life cycle factors. Such factors need to be taken into consideration when the USG is making decisions. In looking at the issue of “standard equipment” and testing requirements as one of the determinants, DDTC should give consideration to the fact that some product testing also is used to determine life cycle failure rates, (e.g., fatigue testing), to predict higher than normal stress areas (e.g., for maintenance inspection areas and frequency) and other such reasons for standard parts.

A comment was made on the APU grammatical error, page 6. As currently written, indicates that no APUs are subject to Commerce jurisdiction. Revise to read “We believe the examples provided are sufficient and note that not all APUs, for example are subject to Commerce jurisdiction.” It was also noted that the use of technical service orders (TSOs) is inappropriate.

#### **CLOSING REMARKS:**

Plenary attendees asked how they could submit public questions on the Treaty. As DDTC had an immediate need to submit its input to the Congress, the DTAG would compile notes and observations based on the Plenary session. The SFRC has requested to see the draft of what will be published as the final regulation.

*The registration fee issue was raised again. There was a question on charging the same fee for all 5200 companies. A breakdown of small, medium, and large companies was requested.*

The purpose of not charging a flat fee was to relieve the burden on smaller companies. A breakdown based on the size of companies was not available at the time. The DTAG Chair William Schneider noted that not all companies export while others have hundreds or thousands of licenses, which places a greater burden on DDTC. For example, the Defense Security Service has 8000 registered companies with security sites but overall, DSS has about 11,000 registered companies but not all with sites. Of the 5200 companies, many do not export. A way to possibly get those registered, who are not, would be to match companies holding facility clearances with those registered with DDTC.

*There was a question about whether DTAG members' contact information would be available at the meeting or posted on the website.*

DDTC Managing Director Kovac stated that DTAG member and affiliation, but not contact information, will be posted under the DTAG tab on DDTC's webpage.

The DTAG Chair William Schneider concluded the meeting by summarizing how the DTAG will operate differently this term. He explained that the DTAG will primarily respond to DOS requirements; Working Groups will play a larger part; and there will be virtual meetings. He also noted that the DTAG would start looking at dates for the fall plenary, and will try to plan for a year to minimize conflicts. He reminded the plenary that the deadline for DTAG or public comments would be COB on Friday, 20 June. Submissions should be sent to the DTAG Recorder Mr. Terrell R. Otis by e-mail to [terry.otis@itt.com](mailto:terry.otis@itt.com)

DDTC Managing Director Kovac thanked the participants for their time and comments, which will help DDTC to do a better job.

Meeting was adjourned at 1215 hrs.



William Schneider, Jr  
Chairman, Defense Trade Advisory Group

04 August 2008



Robert S. Kovac

Designated Federal Officer, Defense Trade Advisory Group

8/8/2008

Date

**ATTACHMENTS**

**DRAFT REGULATIONS PRESENTED AT THE DTAG PLENARY FOR DISCUSSION**

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[Billing Code 4701-25]

**DEPARTMENT OF STATE**

**22 CFR Parts 122 and 129**

[Public Notice     ]

**RIN**

**Amendment to the International Traffic in Arms Regulations: Registration Fee Change**

**AGENCY:** Department of State.

**ACTION:** Proposed Rule.

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**SUMMARY:** The Department of State is proposing to amend the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 122 and 129) by increasing the registration fees, changing the registration renewal period, and making other minor administrative changes.

**DATES:** *Effective Date:* The Department of State will accept comments on this proposed rule until [insert date 30 days from publication of this FRN].

**ADDRESSES:** Interested parties may submit comments within 30 days of the date of publication by any of the following methods:

E-mail: [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) with the subject line: ITAR Regulatory Change, 22 CFR Parts 122 and 129.

Mail: Department of State, Directorate of Defense Trade Controls, ATTN: Regulatory Change, ITAR Sections 122 and 129, SA-1, 12<sup>th</sup> floor, Washington, DC 20522-0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.

**FOR FURTHER INFORMATION CONTACT:** Patricia Slygh, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2830 or FAX (202) 261-8199; E-mail [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov), ATTN: Regulatory Change, ITAR Parts 122 and 129.

**SUPPLEMENTARY INFORMATION:** The President has required the U.S. Department of State to initiate a self-financing mechanism so that the Directorate of Defense Trade Controls' (DDTC) mission will eventually be at least 75% self-financed.

This proposed rule increases the fee charged to those persons required to register with DDTC in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth at 22 CFR 122.3 and were last adjusted in 2004. Registration fees (limited to 1 year for both new registrants and renewals) received (or postmarked) prior to the effective date of this amendment will be honored under the previous fee rates only for those companies whose registration was due for renewal within 30 days of the effective date of the amendment. Also, this amendment changes the maximum registration period from up to two years to an annual basis.

This proposed rule revises 22 CFR 122.2(a) to inform registrants renewing their registration that they will be notified as to the payment required via letter 60 days prior to expiration of the current registration.

To better align registration fees with the cost of licensing, compliance and other related activities, the Department is adopting a two-tier registration fee schedule. The first tier will be a set fee of \$2500 per year for registrants required to register by law who have submitted an average of fewer than ten license applications per year over the previous two calendar years and therefore require the Department to expend less resources on licensing, compliance and other related activities. This tier includes those registering with the Department for the first time. The second tier is for registrants who have submitted an average of more than ten license applications per year over the previous two calendar years and therefore require the Department to expend a greater portion of its resources on licensing, compliance and other related activities. For this tier, registrants will pay a fee of \$2500 plus an additional fee that is based on the average number of license applications each registrant submitted during the previous two calendar years. The additional fee will be determined by taking the average number of license applications over ten submitted during the previous two calendar years, and multiplying that average number by \$250. For those registrants where the registration fee is greater than 3% of the value of licenses submitted during the two previous years, the fee will be reduced to 3% of the total license value or \$2500, which ever is greater.

Thus, for these registrants, the registration fee will be variable; the higher the average volume of applications during the previous two calendar years, the higher the fee, to reflect the proportional costs of the Department's licensing, compliance and other related activities. The exact registration fee due will be



provided by letter to the registrant renewing its registration 60 days prior to expiration of the current registration.

This proposed rule revises 22 CFR 122.3(a) to change the maximum registration period to one year from two years. In addition, 22 CFR 129.4(a) and 22 CFR 129.4(b) is revised to reflect the new registration fee schedule.

## **Regulatory Analysis and Notices**

*Administrative Procedure Act:* This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act:* Because this proposed rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

*Unfunded Mandates Reform Act of 1995:* This amendment 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:* This amendment has been found to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132:* This amendment will not have substantial 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, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on Federal programs and activities, does not apply to this amendment.

*Executive Order 12866:* This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*Executive Order 12988:* The Department of State has reviewed the proposed regulations in light of sections 3(a) and 3 (b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*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**

### **22 CFR Part 122**

**Arms and munitions, Exports, Reporting and recordkeeping requirements.**

### **22 CFR Part 129**

**Arms and munitions, Exports, Technical assistance.**

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Parts 122 and 129 are proposed to be amended as follows:

**PART 122 – REGISTRATION OF MANUFACTURERS AND EXPORTERS**

1. The authority citation for Part 122 continues to read as follows:

**Authority:** Secs. 2 and 38, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 1977 Comp. p. 79, 22 U.S.C. 2651a.

2. Section 122.2 is amended by revising paragraph (a) to read as follows:

**§ 122.2 Submission of registration statement.**

(a) *General.* The Department of State Form DS-2032 (Statement of Registration) and the transmittal letter required by paragraph (b) of this section must be submitted by an intended registrant with a payment (by check or money order) payable to the Department of State of the fee prescribed in Section 122.3(a) of this subchapter. Checks and money orders must be in U.S. currency, and checks must be payable through a U.S. financial institution. In addition, the Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package, including the payment. A new registration cannot be submitted for the purpose of preventing evasion, per Section 127.9 of this subchapter.

\* \* \* \* \*

3. Section 122.3(a) is amended by revising paragraph (a) and adding subparagraphs (a)(1), (a)(2), (a)(3) and a note to read as follows:

**§ 122.3 Registration fees.**

(a) A person who is required to register must do so on an annual basis upon submission of a completed Form DS-2032, transmittal letter, and payment of a fee as follows:

(1) Tier 1: A new registrant or a registrant with an average of fewer than ten license applications per year over the previous two calendar years, will be required to pay a fee of \$2500, valid for one year of registration.

(2) Tier 2: Registrants with an average of ten or more license applications per year over the previous two calendar years are required to pay \$2500 plus an additional fee determined by taking the average number of license applications over ten submitted during the previous two calendar years, and multiplying that average number by \$250. For those registrants where the registration fee is greater than 3% of the value of licenses submitted during the two previous years, the fee will be reduced to 3% of the total license value or \$2500, which ever is greater.

(3) Those renewing a registration will receive a notice of the fee to be owed within 60 days of its expiration date.

(4) For purposes of this subsection, “*license applications*” refers to the range of actions DDTC must review, adjudicate and issue responses to.

\* \* \* \* \*

PART 129 – REGISTRATION AND LICENSING OF BROKERS

4. The authority citation for Part 129 continues to read as follows:

**Authority:** Sec. 38, Pub. L. 104-164, 110 Stat. 1437 (22 U.S.C. 2778).

5. Section 129.4 is amended by revising paragraph (a) to read as follows:

**§ 129.4 Registration statement and fees.**

(a) *General.* The Department of State Form DS-2032 (Statement of Registration) and the transmittal letter meeting the requirements of Section 122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check or money order payable to the Department of State of the fees prescribed in Section 122.3(a) of this subchapter. The Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The requirement to submit a Department of State Form DS-2032 and to submit documentation demonstrating incorporation or authorization to do business in the United States does not exclude foreign persons from the requirement to register. Foreign persons who are required to register shall provide information that is substantially similar in content as that which a U.S. person would provide under this provision (e.g., foreign business license or similar authorization to do business). The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package with payment. A new registration cannot be submitted for the purpose of preventing evasion, per Section 127.9 of this subchapter.

\* \* \* \* \*

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Date

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John C. Rood, Acting  
Under Secretary for Arms Control

and International Security,  
Department of State.

[Billing Code 4710-25]

**DEPARTMENT OF STATE**

**22 CFR Part 110**

[Public Notice:                    ]

**Defense Trade Cooperation Treaty Regulations: United Kingdom**

**AGENCY:** Department of State

**ACTION:** Final Rule.

**SUMMARY:** The Department of State is adding Part 110, to Chapter I, Subchapter L of Title 22 of the Code of Federal Regulations (CFR), to implement the effect of the Treaty between the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defense Trade Cooperation on existing law.

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

**ADDRESSES:**

Interested parties may submit comments at any time by any of the following methods:

- Email: *DDTCResponseTeam@state.gov* with an appropriate subject line.
- Mail: Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, Part 110, SA-1, 12<sup>th</sup> Floor, Washington, DC 20522-0112.

Persons with access to the Internet may also view this notice by going to the *regulations.gov* Website at *http //regulatonns.gov/index cfm*.

**FOR FURTHER INFORMATION CONTACT:** Director Ann Ganzer, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663-2792 or Fax (202) 261-8199; Email *DDTCResponseTeam@state gov*. ATTN: Regulatory Change, Part 110.

**SUPPLEMENTARY INFORMATION:**

The Treaty between the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defense Trade Cooperation authorizes certain exports without a license or other written authorization under the International Traffic in Arms Regulations (ITAR). Part 110 implements the effect of that Treaty on existing law.

**REGULATORY ANALYSIS AND NOTICES:**

*Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act*

Since this amendment is exempt from the procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

*Unfunded Mandates Reform Act of 1995*

This amendment 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*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132*

This amendment will not have substantial 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, it is determined that this amendment 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 amendment.

*Executive Order 12866*

This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*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**

**22 CFR Part 110**

Arms and Munitions, Exports, Technical assistance.



Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter L, Part 110 is established as follows:

1. Part 110 is added to read as follows:

**PART 110-DEFENSE TRADE COOPERATION WITH THE UNITED KINGDOM**

Sec.

- 110.1 Purpose.
- 110.2 Definitions.
- 110.3 Exporters.
- 110.4 United Kingdom Community.
- 110.5 End-Uses.
- 110.6 Exports.
- 110.7 Legislative Notification.
- 110.8 Marking of Exports.
- 110.9 Freight Forwarders and Customs Brokers.
- 110.10 Record Keeping.
- 110.11 Fees and Commissions.
- 110.12 Enforcement.
- 110.13 Transitions.
- 110.14 Reports.

Supplement No. 1 to Part 110-USMLA

**Authority:** Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defense Trade Cooperation , done at Washington and London on June 21 and 26, 2007.

**§ 110.1 Purpose.**

(a) The Government of the United States of America and the Government of the United Kingdom and Northern Ireland signed a treaty concerning Defense Trade Cooperation, at Washington and London, on June 21 and 26, 2007. This Treaty provides for exports, temporary imports, and transfers, without a license or other written authorization, of defense articles and defense services, regardless of classification, in certain circumstances. The purpose of this part is to specify the requirements to export or temporarily import a defense article or export a defense service pursuant to the Treaty.

(b) In order for an exporter to export a defense article or defense service or temporarily import a defense article, the following conditions must be met (see figure 1):

(1) The exporter is a U.S. Government department or agency, or a U.S. person registered with the Department of State and eligible to export without restriction;

(2) The recipient of the export must be a member of the United Kingdom Community;

(3) The export is required for an end-use approved under the Treaty;

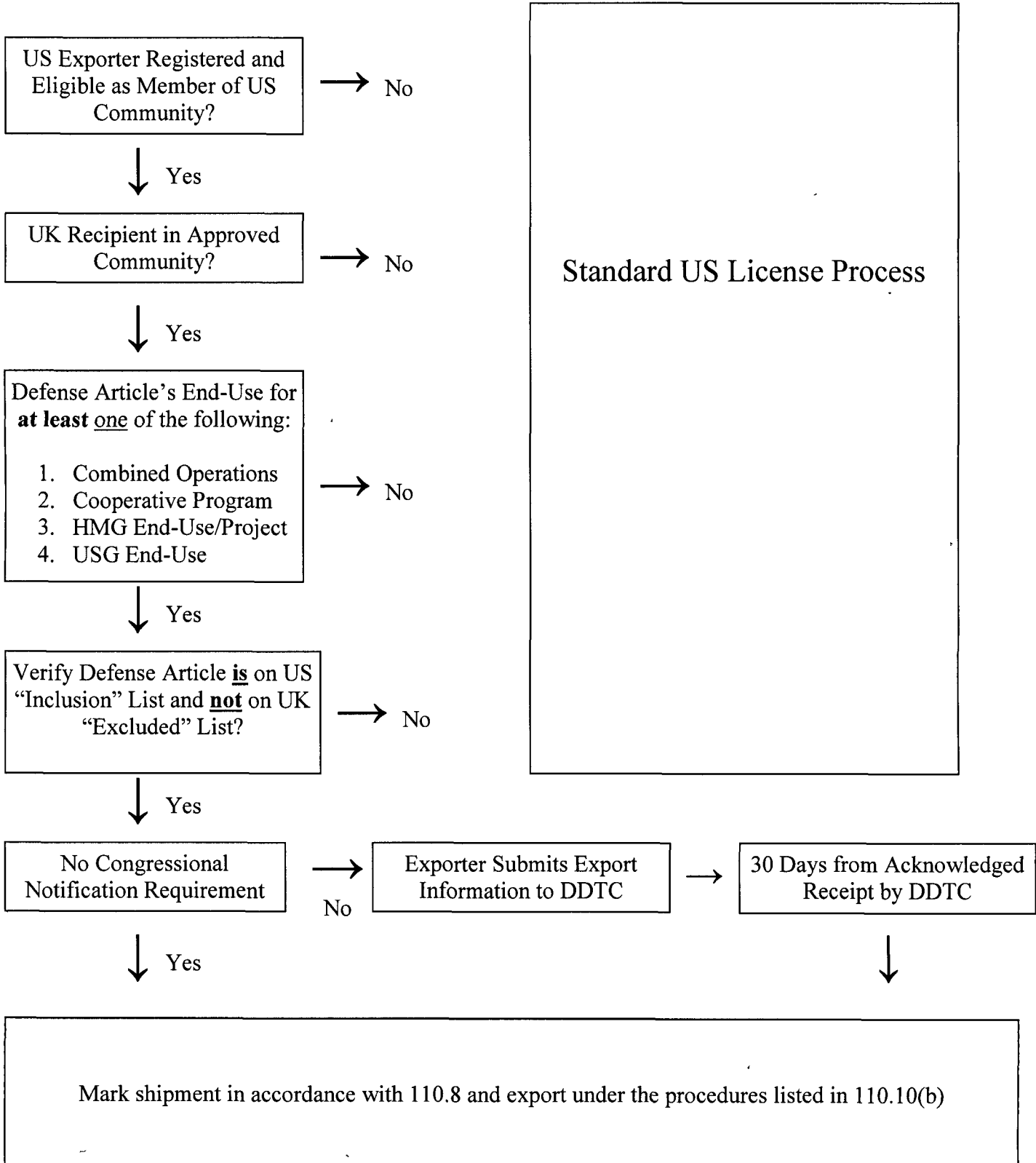
(4) The defense article or defense service is not excluded from the Treaty; and

(5) Advance legislative notification has been made where necessary.

(c) This part does not apply to the export of defense articles or defense services from the United States pursuant to the Foreign Military Sales program.

Figure 1

## Can a Defense Article be Exported to the UK Community Under the Defense Trade Cooperation Treaty?



## **§ 110.2 Definitions.**

Terms utilized in this Part shall have the meanings identified in Parts 120-130 of Subchapter M of Chapter I (hereinafter referred to as the “International Traffic in Arms Regulations”).

## **§ 110.3 Exporters.**

### **(a) Authorized:**

- (1) U.S. Government departments or agencies, or personnel of such departments or agencies acting in an official capacity;
- (2) Other U.S. persons registered pursuant to part 122 of the International Traffic in Arms Regulations and eligible pursuant to § 120.1(c) of the International Traffic in Arms Regulations; or
- (3) The British Embassy in Washington, D.C.

### **(b) Not authorized:**

- (1) U.S. persons, other than U.S. Government departments or agencies, not registered pursuant to part 122 the International Traffic in Arms Regulations;
- (2) U.S. persons considered to be generally ineligible pursuant to § 120.1(c) of the International Traffic in Arms Regulations; and
- (3) Foreign persons, including embassies, diplomatic missions and foreign procurement offices in the U.S., other than the British Embassy in Washington, D.C.

## **§ 110.4 United Kingdom Community.**

The United Kingdom Community consists of the UK entities and facilities identified through the Internet Website of the Directorate of Defense Trade Controls at the time of export.

## **§ 110.5 End-Uses.**

(a) Authorized end-uses:

- (1) U.S. and UK combined military or counter-terrorism operations;
- (2) U.S. and UK cooperative programs;
- (3) Approved UK Government security and defense projects; or
- (4) U.S. Government end-use.

(b) Identification of authorized end-uses:

- (1) Operations, programs and projects that can be publicly identified will be posted on the Internet Website of the Directorate of Defense Trade Controls;
- (2) Operations, programs and projects that cannot be publicly identified will be confirmed in written correspondence from the Directorate of Defense Trade Controls; and
- (3) U.S. Government end-use will be identified specifically in a U.S. Government contract or solicitation as being eligible under the Treaty.

#### **§ 110.6 Exports.**

(a) Defense articles and defense services listed in Supplement 1 below are authorized for export under this part subject to the following:

- (1) Regardless of category a defense article may be marketed to the UK Government if the export of the identical defense article has been licensed by the Department of State, Directorate of Defense Trade Controls to any foreign person.
- (2) An exporter may use the provisions of this part to export a defense article containing an anti-tamper measure made at the direction of the U.S. Government; however, acknowledging the existence of such a measure in the defense article being exported or export of any defense article specific to the manner in which such a measure was complied with will always require prior approval of a license by the Directorate of Defense Trade Controls at the Department of State.

(3) U.S.-origin classified defense articles or defense services may be exported only pursuant to a written request, directive or contract from the U.S. Department of Defense that provides for the export of the defense article(s) or defense service(s).

(4) Defense articles specific to developmental systems that have not obtained written Milestone B approval from the Department of Defense milestone approval authority are not eligible for export unless such export is pursuant to a written solicitation or contract issued or awarded by the Department of Defense pursuant to § 110.4(a)(1), (2), or (4) of this part.

(5) Defense articles specific to reduced observables, or counter low observables in any part of the spectrum, including radio frequency (RF), infrared (IR), Electro-Optical, visual, ultraviolet (UV), acoustic, and magnetic shall not be exported. Electronic equipment and associated data and services for export shall not include low observable/counter low observable features, capabilities or techniques, sensor fusion capabilities beyond that required for display or identification correlation, or active or passive countermeasures or counter-countermeasures.

(6) The defense articles subject to export are not on the UK exclusion list.

(7) Systems, subsystems, and components embedded in larger systems (e.g. a ship or aircraft) must separately comply with any restrictions placed on that individual system, subsystem, or component unless otherwise specified (e.g. gas turbine engines in Category VIII(b) of this subchapter). To the extent that the individual items are exportable under the Treaty, or have been separately licensed, the larger system is eligible for export under this part.

(b) The defense articles and defense services listed in Supplement 1 below may be exported under this part. The paragraph numbers reference the associated United States Munitions List (USML, 22 CFR § 121.1) paragraphs, which results in some skipped numbers for excluded items. When the language in one paragraph (e.g. for technical data or specially designed components) references items in another, the defense articles are releasable only to the extent that the related defense articles in the referenced paragraph are releasable. For a full description of each item, the corresponding paragraphs in part 121 of the International Traffic in Arms Regulations should be consulted.

**§ 110.7 Legislative Notification.**

(a) Exports under the Treaty by any person authorized pursuant to § 110.3(a)(2) or (a)(3) of this part shall not take place until 30 days after the Directorate of Defense Trade Controls has acknowledged receipt of a DS-4048 from the exporter notifying the Department of State of an export that meets the following:

- (1) A contract or other instrument for the export of major defense equipment in the amount of \$25,000,000 or more, or for defense articles and defense services in the amount of \$100,000,000 or more;
- (2) A contract or other instrument for the export of a firearms controlled under Category I of the United States Munitions List, of the International Traffic in Arms Regulations, in an amount of \$1,000,000 or more;
- (3) A contract or other instrument, regardless of value, for the manufacturing abroad of any item of significant military equipment; or
- (4) An amended contract or other instrument that meets the requirements of paragraphs (a)(1) –(a)(3) of this section.

(b) The Form DS-4048 required in paragraph (a) of this section will be accompanied by the following additional information:

- (1) The information identified in § 130.10 and § 130.11 of the International Traffic in Arms Regulations;
- (2) A statement regarding whether any offset agreement is proposed to be entered into in connection with the export and a description of any such offset agreement; and
- (3) A copy of the signed contract or other instrument; and
- (4) If the notification is for paragraph (a)(2) of this section:
  - (i) If the end-user is the UK Ministry of Defense or a law enforcement agency stating what will happen to the weapons in their inventory (for example, will the current inventory be sold, reassigned to another service branch, destroyed, etc.); and

(ii) If the end-user is a firearms dealer importing the firearms for commercial resale, provide as much information as you have regarding the ultimate end-use/end-user.

(c) The Department of State will notify Congress of exports that meet the requirements of paragraph (a) of this section.

### **§ 110.8 Marking of Exports.**

(a) All exported defense articles and defense services shall be marked or identified as follows:

(1) For defense articles and defense services classified for purposes other than the Treaty, the standard marking or identification will read CLASSIFICATION LEVEL USML//REL USA and GBR Treaty Community//. For example, for defense articles classified SECRET, the marking or identification shall be “SECRET USML//REL USA and GBR Treaty Community//.”

(2) For unclassified defense articles and defense services, the standard marking or identification will read “RESTRICTED USML //REL USA and GBR Treaty Community//.”

(b) Where defense articles are returned to the United States Community, any defense articles marked or identified “RESTRICTED USML //REL USA and GBR Treaty Community//” purely for the purposes of the Treaty will revert to an unclassified state and such marking or identification will be removed; and

(c) The standard marking and identification requirements are as follows:

(1) Tangible defense articles (including hardware, equipment, and software) will be individually labeled or, where such labeling is impracticable, will be accompanied by documentation (such as contracts, invoices, shipping bills, or bills of lading) clearly associating the defense articles with the appropriate markings as detailed above;

(2) Technical data (including data packages, technical papers, manuals, presentations, specifications, guides and reports), regardless of media or means of transmission (physical, oral



or electronic) will be individually labeled or, where such labeling is impracticable, will be accompanied by documentation (such as contracts, invoices, shipping bills, or bills of lading) or a verbal notification clearly associating the technical data with the appropriate markings as detailed in paragraphs (a) and (b) of this section; and

(3) Documentation (such as contracts, invoices, shipping bills, or bills of lading) associated with a defense service will contain the appropriate markings as detailed in paragraphs (a) and (b) of this section.

### **§ 110.9 Freight Forwarders and Customs Brokers.**

(a) Unclassified exports under this part may only be handled by U.S. freight forwarders who are either:

(1) exporters registered with the Directorate of Defense Trade Controls and eligible, or;

(2) licensed customs brokers that are subject to background investigation and have passed a comprehensive examination administered by the Department of Homeland Security's Bureau of Customs and Border Protection.

(b) Classified exports must additionally comply with the requirements of the National Industrial Security Program Operating Manual (NISPOM).

### **§ 110.10 Record Keeping.**

(a) All exporters authorized pursuant to § 110.3(a)(2) or (a)(3) of this part shall maintain detailed records of all exports, imports, and transfers by that exporter; and, to the extent that the exporter is aware, of all re-transfers and re-exports by an entity or facility identified in § 110.4 of this part, of defense articles and defense services exported pursuant to this part. These records will be maintained for a minimum of five years from the date of export or import and will be made available upon request to the Directorate of Defense Trade Controls or its designated representative. Such records shall meet the requirements of § 122.5 and § 123.26 of the of the International Traffic in Arms Regulations. At a minimum, these records shall document:

(1) Port of entry/exit;

- (2) Date/time of export/import;
- (3) Method of export/import;
- (4) Commodity code and description of the commodity;
- (5) Value of export;
- (6) Reference to part 110 under the Treaty and justification;
- (7) End-user/end-use;
- (8) How the export was marked;
- (9) Classification of the export;
- (10) Any written correspondence with the U.S. Government on the export;
- (11) Purchase order, contract or letter of intent; and
- (12) Technical data actually exported.

(b) Filing of export information: All exporters of defense articles and defense services under the Treaty must electronically file a Shippers Export Declaration (SED) to the U.S. Customs and Border Protection using the Automated Export System (AES) citing the “UK Treaty Export” for each shipment. Such exports must meet the required export documentation and filing guidelines, including for defense services, of § 123.22(a), (b)(1), and (b)(2) of the of the International Traffic in Arms Regulations.

#### **§ 110.11 Fees and Commissions.**

All exporters authorized pursuant to § 110.3(a)(2) or (a)(3) of this part shall, with respect to each export pursuant to the Treaty, submit a statement to the Directorate of Defense Trade Controls containing the information identified in § 130.10 of the International Traffic in Arms Regulations on qualifying contracts or other instruments.

#### **§ 110.12 Enforcement.**

Any violation of this part is a violation of the Arms Export Control Act and the International Traffic in Arms Regulations and may be a violation of other statutory or regulatory requirements.

Such violation may be subject to the criminal, civil, and administrative penalties contained in those other statutes and regulations.

### **§ 110.13 Transitions.**

(a) Any retransfer, re-export, or change in end-use requiring the separate approval of the U.S. Government outside of the scope of the Treaty shall be requested in accordance with § 123.9 of the International Traffic in Arms Regulations.

(b) If an exporter desires to transition from an existing license or other authorization approved by the Directorate of Defense Trade Controls, the following is required:

(1) Licenses filed with the U.S. Customs and Border Protection: Licenses filed with U.S. Customs and Border Protection should remain on file until the exporter has received approval from the Directorate of Defense Trade Controls to retire that license and transition to the Treaty exemption. When this approval is conveyed to U.S. Customs and Border Protection by the Directorate of Defense Trade Controls, the license will be returned to the Directorate of Defense Trade Controls by U.S. Customs and Border Protection in accord with existing procedures for the return of expired or exhausted licenses in § 123.22(c) of the International Traffic in Arms Regulations.

(2) Licenses not filed with U.S. Customs and Border Protection: must be returned to DDTC with a letter explaining the reason for return.

(c) Any previous export of a defense article under a license or other authorization of the U.S. Government remains subject to the conditions and limitations of the original license or authorization unless the Department of State has approved in writing transition into the Treaty.

### **§ 110.14 Reporting.**

A person authorized by §110.3(a)(2) or (a)(3) ,of this part, who has exported a defense article or defense service that has subsequently been removed from the defense articles or defense services identified in §110.6 of this part shall notify the Directorate of Defense Trade Controls of all such exports.

## SUPPLEMENT NO. 1 to Part 110- United States Munitions List Annotated

**General.** Defense articles and defense services eligible for export under Part 110 are listed in the second column subject to the general restrictions preceding Category I. Additional restrictions are listed in the third column. Any subcategory in the second column, limited by any comments in the third column, is eligible for treaty export in accordance with 22 CFR 110.5.

USML

Treaty use USML

Additional treaty imitations

§ 121.1 General The United States

Munitions

List

**(a) The following articles, services and related technical data are designated as defense articles and defense services pursuant to §§ 38 and 47(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)). Changes in designations will be published in the FEDERAL REGISTER. Information and clarifications**

**on whether specific items are defense articles and services under this subchapter may appear periodically through the Internet Web site of the Directorate of Defense Trade Controls.**

**(b) *Significant military equipment.* An asterisk precedes certain defense articles in the following list. The asterisk means that the article is deemed to be "Significant Military Equipment" to the extent specified in § 120.7 of this subchapter. The asterisk is placed as a convenience to help identify such articles.**

**Note that technical data directly related to the manufacture or production of any defense articles enumerated in any category that are designated as Significant Military Equipment (SME) shall itself be designed SME.**

**(c) *Missile Technology Control Regime Annex (MTCR)* Certain defense articles and services are identified in § 121.16 as being on the list of MTCR Annex items on the United States Munitions List. These are articles as specified in § 120.29 of this subchapter and appear on the list at § 121.16.**

§ 110.6 Exports

(a) Defense articles and services listed in (x) below are authorized for export under this exemption subject to the following:

(1) Regardless of category a defense article may be marketed to the UK Government if the export of such defense article has been licensed by the Department of State, Directorate of Defense Trade Controls to any foreign person.

(2) Defense articles specific to the existence of or method of compliance with anti-tamper measures made at US Government direction shall not be exported

(3) US-origin classified defense articles may be released only via a written request, directive or contract from the US Department of Defense that provides for the export of the defense article(s)

(4) Defense articles specific to developmental systems that have not obtained written Milestone B approval from the Department of Defense milestone approval authority are not eligible for export unless such export is pursuant to a written solicitation or contract issued or awarded by the Department of Defense pursuant to 118.4(a)(1), (2) or (4) of this part.

(5) Defense articles specific to reduced observables, or counter low observables in any part of the spectrum, including radio frequency (RF), infrared (IR), Electro-Optical, visual, ultraviolet (UV), acoustic, and magnetic shall not be exported. Electronic equipment and associated data and services for export shall not include low observable/counter low observable features, capabilities or techniques, sensor fusion capabilities beyond that required for display or identification correlation, or active or passive countermeasures or counter-countermeasures

(6) The defense articles subject to export are not on the UK exclusion list

(7) Systems, subsystems, and components embedded in larger systems (e.g. a ship or aircraft) must separately comply with any restrictions placed on that individual system, subsystem, or component unless otherwise specified (e.g. gas turbine engines in paragraph VIII(b)). To the extent that the

individual items are exportable under the Treaty, or have been separately licensed, the larger system is eligible for export under this exemption

(b) The defense articles and services listed below may be exported under this exemption. The paragraph numbers reference the associated USML paragraphs, which results in some skipped numbers for exempted items. When the language in one paragraph (e.g. for technical data or specially designed components) references items in another, the defense articles are releasable only to the extent that the related defense articles in the referenced paragraph are releasable. For a full description of each item, the corresponding paragraphs in 22 CFR §121 should be consulted.

**CATEGORY I—FIREARMS, CLOSE ASSAULT WEAPONS AND COMBAT SHOTGUNS**

\* (a) Nonautomatic and semi-automatic firearms to caliber .50 inclusive (12.7 mm)

\* (b) Fully automatic firearms to .50 caliber inclusive (12.7 mm)

\* (c) Firearms or other weapons (e.g. insurgency-counterinsurgency, close assault weapons systems) having a special military application regardless of caliber

\* (d) Combat shotguns. This includes any shotgun with a barrel length less than 18 inches

\* (e) Silencers, mufflers, sound and flash suppressors for the articles in (a) through (d) of this category and their specifically designed, modified or adapted components and parts

(f) Riflescopes manufactured to military specifications (See category XII(c) for controls on night sighting devices )

\* (g) Barrels, cylinders, receivers (frames) or complete breech mechanisms for the articles in paragraphs (a) through (d) of this category

(h) Components, parts, accessories and attachments

for the articles in paragraphs (a) through (g) of this category

(i) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined

**CATEGORY I—FIREARMS, CLOSE ASSAULT WEAPONS AND COMBAT SHOTGUNS**

\* (a) Nonautomatic and semi-automatic firearms to caliber .50 inclusive (12.7 mm).

\* (b) Fully automatic firearms to .50 caliber inclusive (12.7 mm).

\* (c) Firearms or other weapons (e.g. insurgency-counterinsurgency, close assault weapons systems) having a special military application regardless of caliber.

\* (d) Combat shotguns. This includes any shotgun with a barrel length less than 18 inches.

\* (e) Silencers, mufflers, sound and flash suppressors for the articles in (a) through (d) of this category and their specifically designed, modified or adapted components and parts

(f) Riflescopes manufactured to military specifications (See category XII(c) for controls

on night sighting devices )

\* (g) Barrels, cylinders, receivers (frames) or complete breech mechanisms for the articles

in paragraphs (a) through (d) of this category

(h) Components, parts, accessories and attachments

for the articles in paragraphs (a)

in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(j) The following interpretations explain and amplify the terms used in this category and throughout this subchapter:

(1) A firearm is a weapon not over 50 caliber (12.7 mm) which is designed to expel a projectile by the action of an explosive or which may be readily converted to do so

(2) A rifle is a shoulder firearm which can discharge a bullet through a rifled barrel 16 inches or longer.

(3) A carbine is a lightweight shoulder firearm with a barrel under 16 inches in length

(4) A pistol is a hand-operated firearm having a chamber integral with or permanently aligned with the bore

(5) A revolver is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

(6) A submachine gun, "machine pistol" or "machine gun" is a firearm originally designed to fire, or capable of being fired, fully automatically by a single pull of the trigger

NOTE: This coverage by the U.S. Munitions List in paragraphs (a) through (i) of this category excludes any non-combat shotgun with a barrel length of 18 inches or longer, BB, pellet, and muzzle loading (black powder) firearms. This category does not cover riflescopes and sighting devices that are not manufactured to military specifications. It also excludes accessories and attachments (e.g., belts, slings, after market rubber grips, cleaning kits) for firearms that do not enhance the usefulness, effectiveness, or capabilities of the firearm, components and parts. The Department of Commerce regulates the export of such items. See the Export Administration Regulations (15 CFR parts 730-799). In addition, license exemptions for the items in this category are available in various parts of this subchapter (e.g.,

through (g) of this category.

(i) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category. Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

(j) The following interpretations explain and amplify the terms used in this category and throughout this subchapter.

(1) A firearm is a weapon not over 50 caliber (12.7 mm) which is designed to expel a projectile by the action of an explosive or which may be readily converted to do so.

(2) A rifle is a shoulder firearm which can discharge a bullet through a rifled barrel 16 inches or longer.

(3) A carbine is a lightweight shoulder firearm with a barrel under 16 inches in length

(4) A pistol is a hand-operated firearm having a chamber integral with or permanently aligned with the bore.

(5) A revolver is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

(6) A submachine gun, "machine pistol" or "machine gun" is a firearm originally designed to fire, or capable of being fired, fully automatically by a single pull of the trigger.

NOTE: This coverage by the U.S. Munitions List in paragraphs (a) through (i) of this category excludes any non-combat shotgun with a barrel length of 18 inches or longer, BB, pellet, and muzzle loading (black powder) firearms. This category does not cover riflescopes and sighting devices that are not manufactured to military specifications. It also excludes accessories and attachments (e.g., belts, slings, after market rubber grips, cleaning kits) for firearms that do not enhance the usefulness, effectiveness, or capabilities

§§ 123 17, 123 18 and 125 4)

of the firearm, components and parts. The Department of Commerce regulates the export of such items See the Export Administration Regulations (15 CFR parts 730–799) In addition, license exemptions for the items in this category are available in various parts of this subchapter (e g §§ 123 17, 123 18 and 125 4)

**CATEGORY II—GUNS AND ARMAMENT**

- \* (a) Guns over caliber 50 (12 7mm, whether towed, airborne, self-propelled, or fixed, including but not limited to, howitzers, mortars, cannons and recoilless rifles
- (b) Flame throwers specifically designed or modified for military application.
- (c) Apparatus and devices for launching or delivering ordnance, other than those articles controlled in Category IV
- \* (d) Kinetic energy weapon systems specifically designed or modified for destruction or rendering mission-abort of a target.
- (e) Signature control materials (e g , parasitic, structural, coatings, screening) techniques, and equipment specifically designed, developed, configured, adapted or modified to alter or reduce the signature (e g , muzzle flash suppression, radar, infrared, visual, laser/electro-optical, acoustic) of defense articles controlled by this category.
- \* (f) Engines specifically designed or modified for the self-propelled guns and howitzers in paragraph (a) of this category.
- (g) Tooling and equipment specifically designed or modified for the production of defense articles controlled by this category
- (h) Test and evaluation equipment and test models specifically designed or modified for the articles controlled by this category This includes but is not limited to diagnostic instrumentation and physical test models
- (i) Autoloading systems for electronic programming of projectile function for the defense articles controlled in this Category

**CATEGORY II—GUNS AND ARMAMENT**

- \* (a) Guns over caliber 50 (12 7mm, whether towed, airborne, self-propelled, or fixed, including but not limited to, howitzers, mortars, cannons and recoilless rifles
- (b) Flame throwers specifically designed or modified for military application.
- (c) Apparatus and devices for launching or delivering ordnance, other than those articles controlled in Category IV
- \* (d) Kinetic energy weapon systems specifically designed or modified for destruction or rendering mission-abort of a target
- \* (f) Engines specifically designed or modified for the self-propelled guns and howitzers in paragraph (a) of this category
- (g) Tooling and equipment specifically designed or modified for the production of defense articles controlled by this category
- (h) Test and evaluation equipment and test models specifically designed or modified for the articles controlled by this category This includes but is not limited to diagnostic instrumentation and physical test models
- (i) Autoloading systems for electronic programming of projectile function for the defense

For articles controlled by II(c) or II(d), software source code that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

For articles controlled by II(d), and their specially designed components, parts, accessories, attachments, and associated equipment; technical data that includes U S. origin manufacturing know how as defined in 22 CFR §125.4(c)(6) shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4 (a)(1), (2) or (4) of this subchapter.

Equipment or models in II(h) related to signature control shall not be exported under this exemption

For articles controlled by II(i), software source code that exceeds basic operation, maintenance and training for programs,



(j) All other components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in paragraphs (a) through (i) of this category. This includes but is not limited to mounts and carriages for the articles controlled in this category.

(k) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined

in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (j) of this category. Technical data directly related to the manufacture

or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(l) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter:

(1) The kinetic energy weapons systems in paragraph (d) of this category include but are not limited to:

(i) Launch systems and subsystems capable of accelerating masses larger than 0.1g to velocities

in excess of 1.6 km/s, in single or rapid fire modes, using methods such as electromagnetic, electrothermal, plasma, light gas, or chemical;

(ii) Prime power generation, electric armor, energy storage, thermal management, conditioning, switching or fuel-handling equipment, and the electrical interfaces between power supply gun and other turret electric drive function,

(iii) Target acquisition, tracking fire control or damage assessment systems, and

(iv) Homing seeker, guidance or divert propulsion

(lateral acceleration) systems for projectiles.

(2) The articles in this category include any end item, component, accessory, attachment

part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category.

(3) The articles specifically designed or

articles controlled in this Category.

(j) All other components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in paragraphs (a) through (i) of this category. This includes but is not limited to mounts and carriages for the articles controlled in this category.

(k) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related

to the defense articles enumerated in paragraphs (a) through (j) of this category. Technical data directly related to the manufacture

or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(l) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter:

(1) The kinetic energy weapons systems in paragraph (d) of this category include but are not limited to:

(i) Launch systems and subsystems capable of accelerating masses larger than 0.1g to velocities

in excess of 1.6 km/s, in single or rapid fire modes, using methods such as electromagnetic, electrothermal, plasma, light gas, or chemical,

(ii) Prime power generation, electric armor, energy storage, thermal management; conditioning, switching or fuel-handling equipment; and the electrical interfaces between power supply gun and other turret electric drive function,

(iii) Target acquisition, tracking fire control or damage assessment systems, and

(iv) Homing seeker, guidance or divert propulsion

(lateral acceleration) systems for projectiles.

(2) The articles in this category include any end item, component, accessory, attachment

part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category.

(3) The articles specifically designed or

systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter.

For II(j), gas turbine hot section components (i.e. combustion chambers and liners, high pressure turbine blades, vanes, disks and related cooled structure, cooled low pressure turbine blades, vanes, disks and related cooled structure) or digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine.

For II(k), technical data and defense services specific to gas turbine hot section components or digital engine controls are not eligible for export under the DTCT.

modified for military application controlled in this category include any article specifically developed, configured, or adapted for military application.

modified for military application controlled in this category include any article specifically developed, configured, or adapted for military application.

**CATEGORY III—AMMUNITION/ORDNANCE**

- \* (a) Ammunition/ordnance for the articles in Categories I and II of this section
- (b) Ammunition/ordnance handling equipment specifically designed or modified for the articles controlled in this category, such as, belting, linking, and de-linking equipment
- (c) Equipment and tooling specifically designed or modified for the production of defense articles controlled by this category.
- (d) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in this category
  - \* (1) Guidance and control components for the articles in paragraph (a) of this category,
  - \* (2) Safing, arming and fuzing components (including target detection and localization devices) for the articles in paragraph (a) of this category, and
  - (3) All other components, parts, accessories, attachments and associated equipment for the articles in paragraphs (a) through (c) of this category.
- (e) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category  
Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.
- (f) The following explains and amplifies the terms used in this category and elsewhere in this subchapter
  - (1) The components, parts, accessories and attachments controlled in this category include, but are not limited to cartridge cases, powder bags (or other propellant charges), bullets, jackets, cores, shells (excluding shotgun shells), projectiles (including canister

**CATEGORY III—AMMUNITION/ORDNANCE**

- \* (a) Ammunition/ordnance for the articles in Categories I and II of this section.
- (b) Ammunition/ordnance handling equipment specifically designed or modified for the articles controlled in this category, such as, belting, linking, and de-linking equipment.
- (c) Equipment and tooling specifically designed or modified for the production of defense articles controlled by this category
- (d) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in this category.
  - \* (1) Guidance and control components for the articles in paragraph (a) of this category;
  - \* (2) Safing, arming and fuzing components (including target detection and localization devices) for the articles in paragraph (a) of this category; and
  - (3) All other components, parts, accessories, attachments and associated equipment for the articles in paragraphs (a) through (c) of this category
- (e) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category  
Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME
- (f) The following explains and amplifies the terms used in this category and elsewhere in this subchapter
  - (1) The components, parts, accessories and attachments controlled in this category include, but are not limited to cartridge cases,

Articles controlled by II(d)(1) or (2) eligible for export under the DTCT must not include items listed in MTCR Items 2 or 9

Software source code for articles controlled by III(d)(1) or (2) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter

U S origin manufacturing know how as defined in 22 CFR §125.4(c)(6) for articles controlled by III(d)(1) or (2), and their specially designed components, parts, accessories, attachments, and associated equipment, shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter

rounds and submunitions therefor), boosters, firing components therefor, primers, and other detonating devices for the defense articles controlled in this category.

(2) This category does not control cartridge and shell casings that, prior to export, have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting or popping

(3) Equipment and tooling in paragraph (c) of this category does not include equipment for hand-loading ammunition.

(4) The articles in this category include any end item, component, accessory, attachment, part, firmware, software, or system that has been designed or manufactured using technical data and defense services controlled by this category

(5) The articles specifically designed or modified for military application controlled in this category include any article specifically developed, configured, or adapted for military application

powder bags (or other propellant charges), bullets, jackets, cores, shells (excluding shotgun shells), projectiles (including canister rounds and submunitions therefor), boosters, firing components therefor, primers, and other detonating devices for the defense articles controlled in this category.

(2) This category does not control cartridge and shell casings that, prior to export, have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting or popping

(3) Equipment and tooling in paragraph (c) of this category does not include equipment for hand-loading ammunition

(4) The articles in this category include any end item, component, accessory, attachment, part, firmware, software, or system that has been designed or manufactured using technical data and defense services controlled by this category.

(5) The articles specifically designed or modified for military application controlled in this category include any article specifically developed, configured, or adapted for military application

**CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES**

\* (a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps (See § 121.11.)

\* (b) Launch vehicles and missile and antimissile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.

**CATEGORY IV—GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, BOMBS AND MINES**

\* (a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps (See § 121.11 )

\* (b) Missile and antimissile systems, launchers, and systems

Category IV(a) items eligible for export under the DTCT do not include rockets listed in MTCR Annex Items 1, 2, 19, or 20, launchers for MTCR rockets, or any other rockets designed or modified for non-military applications. Also, any rocket that incorporates items listed in MTCR Annex Item 2 A 1 may not be exported under the DTCT.

Category IV(b) items eligible for export under the DTCT do not include missiles listed in MTCR Annex Items 1 or 20, any other missile that incorporates items listed in MTCR Annex Item 2.A.1, launchers for MTCR missiles, submarine combat control systems, or Man Portable Air Defense System

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. (See § 121.5)

\* (d) Missile and space launch vehicle powerplants

\* (e) Military explosive excavating devices

\* (f) Ablative materials fabricated or semifabricated

from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category

that are derived directly from or specifically developed or modified for defense articles

\* (g) Non/nuclear warheads for rockets and guided missiles

(h) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category

(i) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category (See § 125.4 of this subchapter for exemptions) Technical data directly related to the manufacture or production of any defense articles

enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category (See § 121.5)

\* (d) Missile powerplants

\* (e) Military explosive excavating devices

\* (f) Ablative materials fabricated or semifabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category

that are derived directly from or specifically developed or modified for defense articles.

\* (g) Non-nuclear warheads for rockets and guided missiles

(h) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category

(i) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category (See § 125.4 of this subchapter for exemptions)

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

(MANPADS) missile systems and specifically designed MANPADS components.

Articles controlled in IV(c), IV(f), or IV(h) that are also controlled in the MTCR Annex are not eligible for export under the DTCT.

Articles controlled in IV(d) that are listed in MTCR Annex Items 2 or 20 are not eligible for export under the DTCT

Articles controlled in IV(g) that are usable for systems listed in MTCR Annex Item 1 are not eligible for export under the DTCT

For IV(h), gas turbine hot section components (i.e. combustion chambers and liners, high pressure turbine blades, vanes, disks and related cooled structure, cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmentors, and cooled nozzles) or digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine.

For IV(i), technical data and defense services specific to gas turbine hot section components or digital engine controls are not eligible for export under the DTCT

Software source code for articles controlled by IV(a), (b), (d), or (g) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter

U.S. origin manufacturing know how as defined in 22 CFR §125.4(c)(6) for articles controlled by IV(a), (b) or (g), and their

specialty designed components, parts, accessories, attachments, and associated equipment, shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

CATEGORY V—EXPLOSIVES AND ENERGETIC MATERIALS, PROPELLANTS, INCENDIARY AGENTS AND THEIR CONSTITUENTS

\* (a) Explosives, and mixtures thereof

- (1) ADNBF (aminodinitrobenzofuroxan or 7-Amino 4,6-dinitrobenzofurazane-1-oxide) (CAS 97096-78-1);
- (2) BNCP (cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate) (CAS 117412-28-9),
- (3) CL-14 (diamino dinitrobenzofuroxan or 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide) (CAS 117907-74-1),
- (4) CL-20 (HNIW or Hexamitrohexaazaisowurtzitane), (CAS 135285-90-4), chlathrates of CL-20 (see paragraphs (g)(3) and (4) of this category),
- (5) CP (2-(5-cyanotetrazolato) penta aminocobalt (III) perchlorate), (CAS 70247-32-4),
- (6) DADE (1,1-diamino-2,2-dinitroethylene, FOX7),
- (7) DDFP (1,4-dinitrodifurazanopiperazine),
- (8) DDPO (2,6-diamino-3,5-dinitropyrazine-1-oxide, PZO), (CAS 194486-77-6),
- (9) DIPAM (3,32-Diamino-2,22,4,42,6,62-hexanitrobiphenyl or dipicramide) (CAS 17215-44-0);
- (10) DNGU (DINGU or dinitroglycoluril) (CAS 55510-04-8),
- (11) Furazans, as follows:
  - (i) DAAOF (diaminoazoxyfurazan),
  - (ii) DAAzF (diaminoazofurazan) (CAS 78644-90-3),
- (12) HMX and derivatives (see paragraph (g)(5) of this category)
  - (i) HMX (Cyclotetramethylenetetramine, octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazine,

CATEGORY V—EXPLOSIVES AND ENERGETIC MATERIALS, PROPELLANTS, INCENDIARY AGENTS AND THEIR CONSTITUENTS

\* (a) Explosives, and mixtures thereof.

- (1) ADNBF (aminodinitrobenzofuroxan or 7-Amino 4,6-dinitrobenzofurazane-1-oxide) (CAS 97096-78-1),
- (2) BNCP (cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate) (CAS 117412-28-9),
- (3) CL-14 (diamino dinitrobenzofuroxan or 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide) (CAS 117907-74-1),
- (4) Chlathrates of CL-20 (see paragraphs (g)(3) and (4) of this category);
- (5) CP (2-(5-cyanotetrazolato) penta aminocobalt (III) perchlorate), (CAS 70247-32-4),
- (6) DADE (1,1-diamino-2,2-dinitroethylene, FOX7),
- (7) DDFP (1,4-dinitrodifurazanopiperazine),
- (8) DDPO (2,6-diamino-3,5-dinitropyrazine-1-oxide, PZO); (CAS 194486-77-6),
- (9) DIPAM (3,32-Diamino-2,22,4,42,6,62-hexanitrobiphenyl or dipicramide) (CAS 17215-44-0),
- (10) DNGU (DINGU or dinitroglycoluril) (CAS 55510-04-8),
- (11) Furazans, as follows.
  - (i) DAAOF (diaminoazoxyfurazan),
  - (ii) DAAzF (diaminoazofurazan) (CAS 78644-90-3),
- (12) HMX derivatives (see paragraph (g)(5) of this category)

1,3,5,7-tetranitro-1,3,5,7-tetraza-cyclooctane, octogen, octogene) (CAS 2691-41-0),  
(ii) Difluoroaminated analogs of HMX,  
(iii) K-55 (2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo [3,3,0]-octanone-3, tetranitrosemiglycouril, or keto-bicyclic HMX) (CAS 130256-72-3),  
(13) HNAD (hexanitroadamantane) (CAS 143850-71-9),  
(14) HNS (hexanitrostilbene) (CAS 20062-22-0),  
(15) Imidazoles, as follows.  
(i) BNNII (Octahydro-2,5-bis(nitroimino)imidazo [4,5-d]imidazole),  
(ii) DNI (2,4-dinitroimidazole) (CAS 5213-49-0),  
(iii) FDIA (1-fluoro-2,4-dinitroimidazole),  
(iv) NTDNIA (N-(2-nitrotriazolo)-2,4-dinitro-imidazole),  
(v) PTIA (1-picryl-2,4,5-trinitroimidazole);  
(16) NTNMH (1-(2-nitrotriazolo)-2-dinitromethylene hydrazine),  
(17) NTO (ONTA or 3-nitro-1,2,4-triazol-5-one) (CAS 932-64-9),  
(18) Polynitrocubanes with more than four nitro groups,  
(19) PYX (2,6-Bis(picrylamino)-3,5-dinitropyridine) (CAS 38082-89-2),  
(20) RDX and derivatives.  
(i) RDX (cyclotrimethylenetrinitramine), cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triazacyclohexane, hexogen, or hexogene) (CAS 121-82-4);  
(ii) Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone (CAS 115029-35-1),  
(21) TAGN (Triaminoguanidinenitrate) (CAS 4000-16-2),  
(22) TATB (Triaminotrinitrobenzene) (CAS 3058-38-6) (see paragraph (g)(7) of this category),  
(23) TEDDZ (3,3,7,7-tetrabis(difluoroamine) octahydro-1,5-dinitro-1,5-diazocine,  
(24) Tetrazoles, as follows  
(i) NTAT (nitrotriazol aminotetrazole),  
(ii) NTNT (1-N-(2-nitrotriazolo)-4-nitrotetrazole);  
(25) Tetryl (trinitrophenylmethylnitramine) (CAS 479-45-8),  
(26) TNAD (1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin) (CAS 135877-16-6)(see paragraph

(ii) Difluoroaminated analogs of HMX,  
(iii) K-55 (2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo [3,3,0]-octanone-3, tetranitrosemiglycouril, or keto-bicyclic HMX) (CAS 130256-72-3),  
(13) HNAD (hexanitroadamantane) (CAS 143850-71-9),  
(14) HNS (hexanitrostilbene) (CAS 20062-22-0),  
(15) Imidazoles, as follows  
(i) BNNII (Octahydro-2,5-bis(nitroimino)imidazo [4,5-d]imidazole),  
(ii) DNI (2,4-dinitroimidazole) (CAS 5213-49-0),  
(iii) FDIA (1-fluoro-2,4-dinitroimidazole),  
(iv) NTDNIA (N-(2-nitrotriazolo)-2,4-dinitro-imidazole),  
(v) PTIA (1-picryl-2,4,5-trinitroimidazole),  
(16) NTNMH (1-(2-nitrotriazolo)-2-dinitromethylene hydrazine),  
(17) NTO (ONTA or 3-nitro-1,2,4-triazol-5-one) (CAS 932-64-9),  
(18) Polynitrocubanes with more than four nitro groups,  
(19) PYX (2,6-Bis(picrylamino)-3,5-dinitropyridine) (CAS 38082-89-2),  
(20) RDX derivatives.  
(ii) Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone (CAS 115029-35-1),  
(21) TAGN (Triaminoguanidinenitrate) (CAS 4000-16-2);  
(22) TATB (Triaminotrinitrobenzene) (CAS 3058-38-6) (see paragraph (g)(7) of this category),  
(23) TEDDZ (3,3,7,7-tetrabis(difluoroamine) octahydro-1,5-dinitro-1,5-diazocine,  
(24) Tetrazoles, as follows  
(i) NTAT (nitrotriazol aminotetrazole),  
(ii) NTNT (1-N-(2-nitrotriazolo)-4-nitrotetrazole),  
(25) Tetryl (trinitrophenylmethylnitramine) (CAS 479-45-8);  
(26) TNAD (1,4,5,8-tetranitro-1,4,5,8-

(g)(6) of this category),  
 (27) TNAZ (1,1,3-trinitroazetidine) (CAS 97645-24-4) (see paragraph (g)(2) of this category),  
 (28) TNGU (SORGUYL or tetranitroglycoluril) (CAS 55510-03-7);  
 (29) TNP (1,4,5,8-tetranitro-pyridazino [4,5-d] pyridazine) (CAS 229176-04-9);  
 (30) Triazines, as follows  
 (i) DNAM (2-oxy-4,6-dinitroamino-s-triazine) (CAS 19899-80-0),  
 (ii) NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5 triazine) (CAS 130400-13-4),  
 (31) Triazoles, as follows.  
 (i) 5-azido-2-nitrotriazole,  
 (ii) ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide)(CAS 1614-08-0),  
 (iii) ADNT (1-amino-3,5-dinitro-1,2,4-triazole);  
 (iv) BDNTA ([Bis-dinitrotriazole]amine),  
 (v) DBT (3,32-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003-46-4),  
 (vi) DNBT (dinitrobistriazole) (CAS 70890-46-9),  
 (vii) NTDNA (2-nitrotriazole 5-dinitramide) (CAS 75393-84-9);  
 (viii) NTDNT (1-N-(2-nitrotriazolo) 3,5-dinitro-triazole),  
 (ix) PDNT (1-picryl-3,5-dinitrotriazole);  
 (x) TACOT (tetranitrobenzotriazolobenzotriazole) (CAS 25243-36-1),  
 (32) Any explosive not listed elsewhere in paragraph (a) of this category with a detonation velocity exceeding 8,700m/s at maximum density or a detonation pressure exceeding 34 Gpa (340 kbar)  
 (33) Other organic explosives not listed elsewhere in paragraph (a) of this category yielding detonation pressures of 25 Gpa (250 kbar) or more that will remain stable at temperatures of 523K (250°C) or higher for periods of 5 minutes or longer,  
 (34) Diaminotrinitrobenzene (DATB) (CAS 1630-08-6),  
 (35) Any other explosive not elsewhere identified in this category specifically designed, modified, adapted, or configured (e.g., formulated) for military application  
 \* (b) Propellants  
 (1) Any United Nations (UN) Class 1.1 solid propellant with a theoretical specific impulse

tetraazadecalin) (CAS 135877-16-6)(see paragraph (g)(6) of this category),  
 (27) TNAZ (1,1,3-trinitroazetidine) (CAS 97645-24-4) (see paragraph (g)(2) of this category);  
 (28) TNGU (SORGUYL or tetranitroglycoluril) (CAS 55510-03-7),  
 (29) TNP (1,4,5,8-tetranitro-pyridazino [4,5-d] pyridazine) (CAS 229176-04-9);  
 (30) Triazines, as follows.  
 (i) DNAM (2-oxy-4,6-dinitroamino-s-triazine) (CAS 19899-80-0),  
 (ii) NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5 triazine) (CAS 130400-13-4),  
 (31) Triazoles, as follows  
 (i) 5-azido-2-nitrotriazole,  
 (ii) ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide)(CAS 1614-08-0),  
 (iii) ADNT (1-amino-3,5-dinitro-1,2,4-triazole),  
 (iv) BDNTA ([Bis-dinitrotriazole]amine);  
 (v) DBT (3,32-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003-46-4),  
 (vi) DNBT (dinitrobistriazole) (CAS 70890-46-9),  
 (vii) NTDNA (2-nitrotriazole 5-dinitramide) (CAS 75393-84-9);  
 (viii) NTDNT (1-N-(2-nitrotriazolo) 3,5-dinitro-triazole),  
 (ix) PDNT (1-picryl-3,5-dinitrotriazole),  
 (x) TACOT (tetranitrobenzotriazolobenzotriazole) (CAS 25243-36-1),  
 (32) Any explosive not listed elsewhere in paragraph (a) of USML category V with a detonation velocity exceeding 8,700m/s at maximum density or a detonation pressure exceeding 34 Gpa (340 kbar)  
 (33) Other organic explosives not listed elsewhere in paragraph (a) of USML category V yielding detonation pressures of 25 Gpa (250 kbar) or more that will remain stable at temperatures of 523K (250°C) or higher for periods of 5 minutes or longer;  
 (34) Diaminotrinitrobenzene (DATB) (CAS 1630-08-6);  
 (35) Any other explosive not elsewhere identified in USML category V specifically designed, modified, adapted, or configured (e.g., formulated) for military application

Propellants controlled in V(b) that are listed in MTCR Annex Item 4 C are not eligible for export under the DTCT.

(under standard conditions) of more than 250 seconds for non-metallized, or 270 seconds for metallized compositions;

(2) Any UN Class 1.3 solid propellant with a theoretical specific impulse (under standard conditions) of more than 230 seconds for non-halogenized, or 250 seconds for non-metallized compositions,

(3) Propellants having a force constant of more than 1,200 kJ/Kg;

(4) Propellants that can sustain a steady-state burning rate more than 38mm/s under standard conditions (as measured in the form of an inhibited single strand) of 6.89 Mpa (68.9 bar) pressure and 294K (21 °C),

(5) Elastomer modified cast double based propellants with extensibility at maximum stress greater than 5% at 233 K (40 °C);

(6) Any propellant containing substances listed in Category V,

(7) Any other propellant not elsewhere identified in this category specifically designed, modified, adapted, or configured

(e.g., formulated) for military application

(c) Pyrotechnics, fuels and related substances, and mixtures thereof

(1) Alane (aluminum hydride)(CAS 7784-21-6),

(2) Carboranes, decaborane (CAS 17702-41-9), pentaborane and derivatives thereof,

(3) Hydrazine and derivatives  
(i) Hydrazine (CAS 302-01-2) in concentrations of 70% or more (not hydrazine mixtures specially formulated for corrosion control);

(ii) Monomethyl hydrazine (CAS 60-34-4);

(iii) Symmetrical dimethyl hydrazine (CAS 540-73-8),

(iv) Unsymmetrical dimethyl hydrazine (CAS 57-14-7),

(4) Liquid fuels specifically formulated for use by articles covered by Categories IV, VI, and VIII,

(5) Spherical aluminum powder (CAS 7429-90-5) in particle sizes of 60 micrometers or less manufactured from material with an aluminum content of 99% or more,

(6) Metal fuels in particle form whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following

**\* (b) Propellants**

(1) Any United Nations (UN) Class 1.1 solid propellant with a theoretical specific impulse (under standard conditions) of more than 250 seconds for non-metallized, or 270 seconds for metallized compositions;

(3) Propellants having a force constant of more than 1,200 kJ/Kg,

(4) Propellants that can sustain a steady-state burning rate more than 38mm/s under standard conditions (as measured in the form of an inhibited single strand) of 6.89 Mpa (68.9 bar) pressure and 294K (21 °C),

(5) Elastomer modified cast double based propellants with extensibility at maximum stress greater than 5% at 233 K (40 °C),

(6) Any propellant containing substances listed in Category V,

(7) Any other propellant not elsewhere identified in USML category V specifically designed, modified, adapted, or configured

(e.g., formulated) for military application

(c) Pyrotechnics, fuels and related substances, and mixtures thereof

(1) Alane (aluminum hydride)(CAS 7784-21-6);

(3) Hydrazine derivatives.

(ii) Symmetrical dimethyl hydrazine (CAS 540-73-8);

(4) Liquid fuels specifically formulated for use by articles covered by Categories IV, VI, and VIII,

(6) Metal fuels in particle form whether

Liquid fuels controlled in V(b) that are listed in MTCR Annex Item 4.C 4 a are not eligible for export under the DTCT



(i) Metals and mixtures thereof.

(A) Beryllium (CAS 7440-41-7) in particle sizes of less than 60 micrometers,

(B) Iron powder (CAS 7439-89-6) with particle size of 3 micrometers or less produced by reduction of iron oxide with hydrogen,

(ii) Mixtures, which contain any of the following:

(A) Boron (CAS 7440-42-8) or boron carbide (CAS 12069-32-8) fuels of 85% purity or higher

and particle sizes of less than 60 micrometers,  
(B) Zirconium (CAS 7440-67-7), magnesium (CAS 7439-95-4) or alloys of these in particle sizes of less than 60 micrometers;

(iii) Explosives and fuels containing the metals or alloys listed in paragraphs (c)(6)(i) and (c)(6)(ii) of this category whether or not the metals or alloys are encapsulated in aluminum,

magnesium, zirconium, or beryllium,

(7) Pyrotechnics and pyrophoric materials specifically formulated for military purposes to enhance or control the production of radiated

energy in any part of the IR spectrum

(8) Titanium subhydride (TiH<sub>n</sub>) of stoichiometry

equivalent to  $n = 0.65-1.68$ ;

(9) Military materials containing thickeners for hydrocarbon fuels specially formulated for use in flame throwers or incendiary munitions, metal stearates or palmates (also known as octol), and M1, M2 and M3 thickeners,

(10) Any other pyrotechnic, fuel and related substance and mixture thereof not elsewhere identified in this category specifically designed, modified, adapted, or configured (e.g., formulated) for military application

(d) Oxidizers, to include.

(1) ADN (ammonium dinitramide or SR-12) (CAS 140456-78-6),

(2) AP (ammonium perchlorate) (CAS 7790-98-9);

(3) BDNPN (bis,2,2-dinitropropylnitrate) (CAS 28464-24-6);

(4) DNAD (1,3-dinitro-1,3-diazetidene) (CAS 78246-06-7),

(5) HAN (Hydroxylammonium nitrate) (CAS 13465-08-2);

(6) HAP (hydroxylammonium perchlorate)

spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting

of 99% or more of any of the following.

(i) Metals and mixtures thereof

(B) Iron powder (CAS 7439-89-6) with particle

size of 3 micrometers or less produced by reduction of iron oxide with hydrogen,

(8) Titanium subhydride (TiH<sub>n</sub>) of stoichiometry

equivalent to  $n = 0.65-1.68$ ,

(9) Military materials containing thickeners for hydrocarbon fuels specially formulated for use in flame throwers or incendiary munitions; metal stearates or palmates (also known as octol), and M1, M2 and M3 thickeners,

(10) Any other pyrotechnic, fuel and related substance and mixture thereof not elsewhere identified in USML category V specifically designed, modified, adapted, or configured (e.g., formulated) for military application.

(d) Oxidizers, to include.

(4) DNAD (1,3-dinitro-1,3-diazetidene) (CAS 78246-06-7),

(CAS 15588-62-2),  
(7) HNF (Hydrazinium nitroformate) (CAS 20773-28-8),  
(8) Hydrazine nitrate (CAS 37836-27-4),  
(9) Hydrazine perchlorate (CAS 27978-54-7),  
(10) Liquid oxidizers comprised of or containing inhibited red fuming nitric acid (IRFNA) (CAS 8007-58-7) or oxygen difluoride,  
(11) Perchlorates, chlorates, and chromates composited with powdered metal or other high energy fuel components controlled by this category;  
(12) Any other oxidizer not elsewhere identified in this category specifically designed, modified, adapted, or configured (e.g., formulated) for military application  
\* (e) Binders, and mixtures thereof  
(1) AMMO (azidomethylmethyloxetane and its polymers) (CAS 90683-29-7) (see paragraph (g)(1) of this category),  
(2) BAMO (bisazidomethyloxetane and its polymers) (CAS 17607-20-4) (see paragraph (g)(1) of this category),  
(3) BTTN (butanetrioltrinitrate) (CAS 6659-60-5) (see paragraph (g)(8) of this category),  
(4) FAMAO (3-difluoroaminomethyl-3-azidomethyl oxetane) and its polymers,  
(5) FEFO (bis-(2-fluoro-2,2-dinitroethyl)formal) (CAS 17003-79-1),  
(6) GAP (glycidylazide polymer) (CAS 143178-24-9) and its derivatives;  
(7) HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS 69102-90-5),  
(8) NENAS (nitrate ethylnitramine compounds) (CAS 17096-47-8, 85068-73-1 and 82486-82-6),  
(9) Poly-NIMMO (poly nitratomethylmethyloxetane, poly-NMMO, (poly[3-nitratomethyl-3-methyl oxetane]) (CAS 84051-81-0),  
(10) Energetic monomers, plasticizers and polymers containing nitro, azido nitrate, nitraza or difluoromino groups specially formulated for military use;

(5) HAN (Hydroxylammonium nitrate) (CAS 13465-08-2),  
(6) HAP (hydroxylammonium perchlorate) (CAS 15588-62-2),

(12) Any other oxidizer not elsewhere identified in USML category V specifically designed, modified, adapted, or configured (e.g., formulated) for military application  
\* (e) Binders, and mixtures thereof.  
(1) AMMO (azidomethylmethyloxetane and its polymers) (CAS 90683-29-7) (see paragraph (g)(1) of this category),  
(2) BAMO (bisazidomethyloxetane and its polymers) (CAS 17607-20-4) (see paragraph (g)(1) of this category),  
(3) BTTN (butanetrioltrinitrate) (CAS 6659-60-5) (see paragraph (g)(8) of this category),  
(4) FAMAO (3-difluoroaminomethyl-3-azidomethyl oxetane) and its polymers,  
(5) FEFO (bis-(2-fluoro-2,2-dinitroethyl)formal) (CAS 17003-79-1),  
(6) GAP derivatives;

(8) NENAS (nitrate ethylnitramine compounds) (CAS 17096-47-8, 85068-73-1 and 82486-82-6),  
(9) Poly-NIMMO (poly nitratomethylmethyloxetane, poly-NMMO, (poly[3-nitratomethyl-3-methyl oxetane]) (CAS 84051-81-0),  
(10) Energetic monomers, plasticizers and

Oxidizers controlled in V(d)(12) that are listed in MTCR Annex Item 4 C.4 a are not eligible for export under the DTCT

Items controlled in V(e)(10) that are listed in MTCR Annex Items 4.C.5.a, 4.C.5.d or 4.C.5.e are not eligible for export under the DTCT.

(11) TVOPA 1,2,3-Tris [1,2-bis(difluoroamino) ethoxy]propane, tris vinyoxy propane adduct, (CAS 53159-39-0),  
(12) Polynitrorthocarbonates,  
(13) FPF-1 (poly-2,2,3,3,4,4-hexafluoro pentane-1,5-diolformal) (CAS 376-90-9),  
(14) FPF-3 (poly-2,4,4,5,5,6,6-heptafluoro-2-trifluoromethyl-3-oxaheptane-1,7-diolformal);  
(15) PGN (Polyglycidylnitrate or poly(nitratomethyl oxirane), poly-GLYN), (CAS 27814-48-8),  
(16) N-methyl-p-nitroaniline;  
(17) Low (less than 10,000) molecular weight, alcohol-functionalized, poly(epichlorohydrin), poly(epichlorohydrindiol), and triol,  
(18) Bis(2,2-dinitropropyl) formal and acetal,  
(19) Any other binder and mixture thereof not elsewhere identified in this category specifically designed, modified, adapted, or configured (e.g., formulated) for military application  
(f) Additives.  
(1) Basic copper salicylate (CAS 62320-94-9),  
(2) BHEGA (Bis-(2-hydroxyethyl) glycolamide) (CAS 17409-41-5),  
(3) Ferrocene Derivatives.  
(i) Butacene (CAS 125856-62-4),  
(ii) Catocene (2,2-Bis-ethylferrocenyl propane) (CAS 37206-42-1),  
(iii) Ferrocene carboxylic acids;  
(iv) n-butyl-ferrocene (CAS 31904-29-7);  
(4) Lead beta-resorcylate (CAS 20936-32-7);  
(5) Lead citrate (CAS 14450-60-3);  
(6) Lead-copper chelates of betaresorcylate or salicylates (CAS 68411-07-4),  
(7) Lead maleate (CAS 19136-34-6),  
(8) Lead salicylate (CAS 15748-73-9),  
(9) Lead stannate (CAS 12036-31-6),  
(10) MAPO (tris-1-(2-methyl)aziridinyl phosphine oxide) (CAS 57-39-6), BOBBA-8 (bis(2-methyl aziridinyl) 2-(2-hydroxypropanoxy) propylamino phosphine oxide), and other MAPO derivatives;  
(11) Methyl BAPO (Bis(2-methyl aziridinyl) methylamino phosphine oxide) (CAS 85068-72-0),  
(12) 3-Nitrazo-1,5 pentane ducyanate (CAS 7406-61-9),  
(13) Organo-metallic coupling agents, specifically.

polymers containing nitro, azido nitrate, nitraza or difluoromaino groups specially formulated for military use,  
(11) TVOPA 1,2,3-Tris [1,2-bis(difluoroamino) ethoxy]propane; tris vinyoxy propane adduct, (CAS 53159-39-0),  
(12) Polynitrorthocarbonates;  
(13) FPF-1 (poly-2,2,3,3,4,4-hexafluoro pentane-1,5-diolformal) (CAS 376-90-9),  
(14) FPF-3 (poly-2,4,4,5,5,6,6-heptafluoro-2-trifluoromethyl-3-oxaheptane-1,7-diolformal),  
(15) PGN (Polyglycidylnitrate or poly(nitratomethyl oxirane), poly-GLYN), (CAS 27814-48-8),  
(17) Low (less than 10,000) molecular weight, alcohol-functionalized, poly(epichlorohydrin), poly(epichlorohydrindiol), and triol,  
(18) Bis(2,2-dinitropropyl) formal and acetal,  
(19) Any other binder and mixture thereof not elsewhere identified in USML category V specifically designed, modified, adapted, or configured (e.g., formulated) for military application  
(f) Additives  
(1) Basic copper salicylate (CAS 62320-94-9),  
(2) BHEGA (Bis-(2-hydroxyethyl) glycolamide) (CAS 17409-41-5);  
(4) Lead beta-resorcylate (CAS 20936-32-7);  
(5) Lead citrate (CAS 14450-60-3),  
(6) Lead-copper chelates of betaresorcylate or salicylates (CAS 68411-07-4),  
(7) Lead maleate (CAS 19136-34-6),  
(8) Lead salicylate (CAS 15748-73-9),  
(9) Lead stannate (CAS 12036-31-6);  
(10) BOBBA-8 (bis(2-methyl aziridinyl) 2-(2-hydroxypropanoxy) propylamino phosphine oxide), and other MAPO derivatives,  
(11) Methyl BAPO (Bis(2-methyl aziridinyl) methylamino phosphine oxide) (CAS 85068-72-0),

(i) Neopentyl[diallyl]oxy, tri [dioctyl] phosphatotitanate (CAS 103850-22-2); also known as titanium IV, 2,2[bis 2-propenolatomethyl, butanolato, tris (dioctyl) phosphato] (CAS 110438-25-0), or LICA 12 (CAS 103850-22-2),

(ii) Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(dioctyl)pyrophosphate, or KR3538,

(iii) Titanium IV, [2-propenolato-1)methyl, propanolatomethyl] butanolato-1, tris(dioctyl) phosphate,

(14) Polyfunctional aziridine amides with isophthalic, trimesic (BITA or butylene imine trimesamide), isocyanuric, or trimethyladipic backbone structures and 2-methyl or 2-ethyl substitutions on the aziridine ring and its polymers,

(15) Superfine iron oxide (Fe<sub>2</sub>O<sub>3</sub> hematite) with a specific surface area more than 250 m<sup>2</sup>/g and an average particle size of 0.003 [micro]m or less (CAS 1309-37-1);

(16) TEPAN (tetraethylenepentaamineacrylonitrile) (CAS 68412-45-3); cyanoethylated polyamines and their salts,

(17) TEPANOL (Tetraethylenepentaamineacrylonitrileglycidol) (CAS 110445-33-5), cyanoethylated polyamines adducted with glycidol and their salts,

(18) TPB (triphenyl bismuth) (CAS 603-33-8),

(19) PCDE (Polycyanodifluoroaminoethyleneoxide),

(20) BNO (Butadienenitrileoxide),

(21) Any other additive not elsewhere identified in this category specifically designed, modified, adapted, or configured (e.g., formulated) for military application

(g) Precursors, as follows

(1) BCMO (bischloromethyloxetane) (CAS 142173-26-0) (see paragraphs (e)(1) and (2) of this category),

(2) Dinitroazetidine-t-butyl salt (CAS 125735-38-8) (see paragraph (a)(27) of this category),

(3) HBIW (hexabenzylhexaazaisowurtzitane) (CAS

(12) 3-Nitrazo-1,5 pentane dicyanate (CAS 7406-61-9),

(13) Organo-metallic coupling agents, specifically.

(i) Neopentyl[diallyl]oxy, tri [dioctyl] phosphatotitanate (CAS 103850-22-2); also known as titanium IV, 2,2[bis 2-propenolatomethyl, butanolato, tris (dioctyl) phosphato] (CAS 110438-25-0), or LICA 12 (CAS 103850-22-2),

(ii) Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(dioctyl)pyrophosphate, or KR3538,

(iii) Titanium IV, [2-propenolato-1)methyl, propanolatomethyl] butanolato-1, tris(dioctyl) phosphate,

(14) Polyfunctional aziridine amide polymers only,

(15) Superfine iron oxide (Fe<sub>2</sub>O<sub>3</sub> hematite) with a specific surface area more than 250 m<sup>2</sup>/g and an average particle size of 0.003 [micro]m or less (CAS 1309-37-1),

(16) Cyanoethylated polyamines and their salts;

(17) Cyanoethylated polyamines adducted with glycidol and their salts,

(19) PCDE (Polycyanodifluoroaminoethyleneoxide);

(20) BNO (Butadienenitrileoxide),

(21) Any other additive not elsewhere identified in USML category V specifically designed, modified, adapted, or configured (e.g., formulated) for military application

(g) Precursors, as follows

(1) BCMO (bischloromethyloxetane) (CAS 142173-26-0) (see paragraphs (e)(1) and (2)

Items controlled in V(f)(21) that are listed in MTCR Annex Item 4 C 6 2 are not eligible for export under the DTCT.

124782-15-6) (see paragraph (a)(4) of this category),  
(4) TAIW (tetraacetyldibenzylhexaazaisowurtzitane) (see paragraph (a)(4) of this category),  
(5) TAT (1, 3, 5, 7-tetraacetyl-1, 3, 5, 7-tetraaza-cyclooctane) (CAS 41378-98-7) (see paragraph (a)(12) of this category),  
(6) Tetraazadecalin (CAS 5409-42-7) (see paragraph (a)(26) of this category),  
(7) 1,3,5-trichorobenzene (CAS 108-70-3) (see paragraph (a)(22) of this category),  
(8) 1,2,4-trihydroxybutane (1,2,4-butanetriol) (CAS 3068-00-6) (see paragraph (e)(3) of this category),  
(h) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles numerated in paragraphs (a) through (g) of this category (See § 125.4 of this subchapter for exemptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(i) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter

(1) Category V contains explosives, energetic materials, propellants and pyrotechnics and specially formulated fuels for aircraft, missile and naval applications Explosives are solid, liquid or gaseous substances or mixtures of substances, which, in their primary, booster or main charges in warheads, demolition or other military applications, are required to detonate

(2) Paragraph (c)(6)(ii)(A) of this category does not control boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content)

(3) The resulting product of the combination of any controlled or non-controlled substance compounded or mixed with any item controlled by this subchapter is also subject to the controls of this category

NOTE 1 To assist the exporter, an item has

of this category),  
(2) Dinitroazetidine-t-butyl salt (CAS 125735-38-8) (see paragraph (a)(27) of this category),  
(3) HBIW (hexabenzylhexaazaisowurtzitane) (CAS 124782-15-6) (see paragraph (a)(4) of this category),  
(4) TAIW (tetraacetyldibenzylhexaazaisowurtzitane) (see paragraph (a)(4) of this category),  
(5) TAT (1, 3, 5, 7-tetraacetyl-1, 3, 5, 7-tetraaza-cyclooctane) (CAS 41378-98-7) (see paragraph (a)(12) of this category),  
(6) Tetraazadecalin (CAS 5409-42-7) (see paragraph (a)(26) of this category);  
(7) 1,3,5-trichorobenzene (CAS 108-70-3) (see paragraph (a)(22) of this category);  
(8) 1,2,4-trihydroxybutane (1,2,4-butanetriol) (CAS 3068-00-6) (see paragraph (e)(3) of this category),  
(h) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles numerated above

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(i) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter

(1) Category V contains explosives, energetic materials, propellants and pyrotechnics and specially formulated fuels for aircraft, missile and naval applications Explosives are solid, liquid or gaseous substances or mixtures of substances, which, in their primary, booster or main charges in warheads, demolition or other military applications, are required to detonate.

(2) Paragraph (c)(6)(ii)(A) of this category does not control boron and boron carbide enriched

been categorized by the most common use  
Also, a reference has been provided to the related controlled precursors (e.g., see paragraph (a)(12) of this category) Regardless of where the item has been placed in the category, all exports are subject to the controls of this subchapter.

NOTE 2 Chemical Abstract Service (CAS) registry numbers do not cover all the substances and mixtures controlled by this category. The numbers are provided as examples to assist the government agencies in the license review process and the exporter when completing their license application and export documentation.

with boron-10 (20% or more of total boron-10 content).

(3) The resulting product of the combination of any controlled or non-controlled substance compounded or mixed with any item controlled by this subchapter is also subject to the controls of this category

NOTE 1 To assist the exporter, an item has been categorized by the most common use Also, a reference has been provided to the related controlled precursors (e.g., see paragraph (a)(12) of this category) Regardless of where the item has been placed in the category, all exports are subject to the controls of this subchapter.

NOTE 2 Chemical Abstract Service (CAS) registry numbers do not cover all the substances and mixtures controlled by this category The numbers are provided as examples to assist the government agencies in the license review process and the exporter when completing their license application and export documentation

#### CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

\* (a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels and any vessels specifically designed or modified for military purposes. (See § 121.15.)

(b) Patrol craft without armor, armament or mounting surfaces for weapon systems more significant than 50 caliber machine guns or equivalent and auxiliary vessels (See § 121.15)

\* (c) Turrets and gun mounts, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults, mine sweeping equipment (including mine countermeasures equipment deployed by aircraft) and other significant naval systems specifically designed or modified for combatant vessels

(d) Harbor entrance detection devices (magnetic, pressure, and acoustic) and controls therefor

#### CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT.

\* (a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels and any vessels specifically designed or modified for military purposes (See § 121.15)

(b) Patrol craft without armor, armament or mounting surfaces for weapon systems more significant than 50 caliber machine guns or equivalent and auxiliary vessels. (See § 121.15)

\* (c) Turrets and gun mounts, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults, mine sweeping equipment (including mine countermeasures equipment deployed by aircraft) and other significant naval systems specifically designed or modified for combatant vessels.

Defense articles specific to naval technology and systems in the following areas are not eligible for export under the DTCT  
(a) naval nuclear propulsion systems,  
(b) acoustic spectrum control and awareness,  
(c) submarine combat control systems

Defense articles specific to the automatic target acquisition or recognition and cueing of multiple autonomous unmanned systems are not eligible for export under the DTCT

\* (e) Naval nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, and maintenance.

This includes any machinery, device, component, or equipment specifically developed,

designed or modified for use in such plants or facilities (See § 123.20)

(f) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in paragraphs (a) through (e) of this category

(g) Technical data (as defined in § 120.10) and defense services (as defined in § 120.9) directly related to the defense articles enumerated in paragraphs (a) through (f) of this category (See § 125.4 for exemptions)

**Technical**

data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designated SME

(f) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in paragraphs (a) through (e) of this category

(g) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated

**above**

**Technical**

data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designated SME

VI(f) gas turbine hot section components (i.e. combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure, cooled low pressure turbine blades, vanes, disks and related cooled structure) or digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine

For VI(g), technical data and defense services specific to gas turbine hot section components or digital engine controls are not eligible for export under the DTCT

Software source code for articles controlled by VI(a) or (c) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter.

**CATEGORY VII—TANKS AND MILITARY VEHICLES**

\* (a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

\* (b) Military tanks, combat engineer vehicles, bridge launching vehicles, half-tracks and gun carriers.

(c) Military trucks, trailers, hoists, and skids specifically designed, modified, or equipped to mount or carry weapons of Categories

**CATEGORY VII—TANKS AND MILITARY VEHICLES**

\* (a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

\* (b) Military tanks, combat engineer vehicles, bridge launching vehicles, half-tracks and gun carriers.

(c) Military trucks, trailers, hoists, and skids specifically designed, modified, or

VII(c) articles which are listed in the MTCR Annex Item 12 A are not eligible for export under the DTCT

Any "all wheel drive vehicle" that is USML

I, II and IV of this section or for carrying and handling the articles in paragraph (a) of Categories III and IV of this section.

\* (d) Military recovery vehicles

\* (e) Amphibious vehicles

\* (f) Engines specifically designed or modified for the vehicles in paragraphs (a), (b), and (e) of this category

(g) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category, including but not limited to military bridges and deep water fording kits.

(h) Technical data (as defined in § 120 10 of this subchapter) and defense services (as defined

in § 120 9 of this subchapter) directly related to the defense articles enumerated in

paragraphs (a) through (g) of this category  
Technical data directly related to the manufacture

or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designated SME.

(i) The following explains and amplifies the terms used in this category and elsewhere in this subchapter.

(1) An amphibious vehicle in paragraph (e) of this category is an automotive vehicle or chassis which embodies all-wheel drive, is equipped to meet special military requirements, and which has sealed electrical system or adaptation features for deep water fording

(2) The articles in this category include any end item, component, accessory, attachment part, firmware, software or system that has been designed or manufactured using technical data and defense service controlled by this category

#### CATEGORY VIII—AIRCRAFT AND ASSOCIATED EQUIPMENT

\* (a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones, and lighter-than-air aircraft, which are

equipped to mount or carry weapons of Categories

I, II and IV of this section or for carrying and handling the articles in paragraph (a) of Categories III and IV of this section.

\* (d) Military recovery vehicles.

\* (e) Amphibious vehicles.

\* (f) Engines specifically designed or modified

for the vehicles in paragraphs (a), (b), and (e) of this category.

(g) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in

this category, including but not limited to military bridges and deep water fording kits

(h) Technical data (as defined in 22 CFR 120 10) and defense services (as defined

in 22 CFR 120 9) directly related to the defense articles enumerated in

paragraphs (a) through (g) of this category.  
Technical data directly related to the manufacture

or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designated SME

(i) The following explains and amplifies the terms used in this category and elsewhere in this subchapter

(1) An amphibious vehicle in paragraph (e) of this category is an automotive vehicle or chassis which embodies all-wheel drive, is equipped to meet special military requirements, and which has sealed electrical system or adaptation features for deep water fording

(2) The articles in this category include any end item, component, accessory, attachment part, firmware, software or system that has been designed or manufactured using technical data and defense service controlled by this category.

#### CATEGORY VIII—AIRCRAFT AND ASSOCIATED EQUIPMENT

\* (a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones and lighter-than-air aircraft, which are

controlled solely because of the installation of USML controlled armor that is also fitted with, or designed or modified to be fitted with, a plough or flail for the purpose of land mine clearance may not be exported under the DTCT.

VII(g) gas turbine hot section components (i e combustion chambers and liners, high pressure turbine blades, vanes, disks and related cooled structure, cooled low pressure turbine blades, vanes, disks and related cooled structure) or digital engine controls (e g , Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine

For VII(h), technical data and defense services specific to gas turbine hot section components or digital engine controls are not eligible for export under the DTCT.

Category VIII(a) or (f) aircraft that are listed in MTCR Annex Items 1 A or 19.A are not eligible for export under the DTCT



specifically designed, modified, or equipped for military purposes This includes but is not limited to the following military purposes Gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training (See § 121 3.)

\* (b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category

\* (c) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne refueling equipment) specifically designed or modified for use with the aircraft and engines of the types in paragraphs (a) and (b) of this category

(d) Launching and recovery equipment for the articles in paragraph (a) of this category, if the equipment is specifically designed or modified for military use Fixed land-based arresting gear is not included in this category.

\* (e) Inertial navigation systems, aided or hybrid inertial navigation systems, Inertial Measurement Units (IMUs), and Attitude and Heading Reference Systems (AHRS) specifically designed, modified, or configured for military use and all specifically designed components, parts and accessories For other inertial reference systems and related components refer to Category XII(d)

NOTE. (1) Category XII(d) or Category VIII(e) does not include quartz rate sensors if such items

(i) Are integrated into and included as an integral part of a commercial standby instrument system for use on civil aircraft prior to export or exported solely for integration into such a commercial standby instrument system, and

(ii) When the exporter has been informed in

specifically designed, modified, or equipped for military purposes This includes but is not limited to the following military purposes. Gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training

\* (b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category

\* (c) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne refueling equipment) specifically designed or modified for use with the aircraft and engines of the types in paragraphs (a) and (b) of this category

(d) Launching and recovery equipment for the articles in paragraph (a) of this category, if the equipment is specifically designed or modified for military use Fixed land-based arresting gear is not included in this category.

\* (e) Inertial navigation systems, aided or hybrid inertial navigation systems, Inertial Measurement Units (IMUs), and Attitude and Heading Reference Systems (AHRS) specifically designed, modified, or configured for military use and all specifically designed components, parts and accessories For other inertial reference systems and related components refer to Category XII(d).

NOTE. (1) Category XII(d) or Category VIII(e) does not include quartz rate sensors if such items.

(i) Are integrated into and included as an integral part of a commercial standby instrument system for use on civil aircraft prior to export or exported solely for integration

Defense Articles specific to the automatic target acquisition or recognition and cueing of multiple autonomous systems may not be exported under the DTCT

Category VIII(b) or (f) engines that are listed in MTCR Annex Item 3 A.1 may be exported under the DTCT only as part of a manned aircraft Engines that are listed in MTCR Annex Items 3 A 2, or 3 A 9 are not eligible for export under the DTCT

Category VIII(d) launching and recovery equipment that is listed in MTCR Annex Item 12.A is not eligible for export under the DTCT

Category VIII(e) items that are listed in MTCR Annex Items 9, 10 or 11 are not eligible for export under the DTCT unless exported as part of a manned aircraft.

writing by the Department of State that a specific quartz rate sensor or a quartz rate sensor integrated into a commercial standby instrument system has been determined to be subject to the licensing jurisdiction of the Department of Commerce in accordance with this section.

(2) For controls in these circumstances, see the Commerce Control List. In all other circumstances,

quartz rate sensors remain under the licensing jurisdiction of the Department

of State under Category XII(d) or Category VIII(e) of the U.S. Munitions List and subject to the controls of the ITAR.

(f) Developmental aircraft, engines, and components thereof specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, excluding such aircraft, engines, and components subject to the jurisdiction of the Department of Commerce.

NOTE Developmental aircraft, engines, and components thereof, having no commercial application at the time of this amendment and which have been specifically designed for military uses or purposes, or developed principally with U.S. Department of Defense funding, will be considered eligible for a CCL license when actually applied to a commercial aircraft or commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license application from Commerce in respect of a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction from State

\* (g) Ground effect machines (GEMS) specifically designed or modified for military use, including but not limited to surface effect machines and other air cushion vehicles, and all components, parts, and accessories, attachments, and associated equipment specifically

into such a commercial standby instrument system, and

(u) When the exporter has been informed in writing by the Department of State that a specific quartz rate sensor or a quartz rate sensor integrated into a commercial standby instrument system has been determined to be subject to the licensing jurisdiction of the Department of Commerce in accordance with this section.

(2) For controls in these circumstances, see the Commerce Control List. In all other circumstances,

quartz rate sensors remain under the licensing jurisdiction of the Department

of State under Category XII(d) or Category VIII(e) of the U.S. Munitions List and subject to the controls of the ITAR.

(f) Developmental aircraft, engines, and components thereof specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, excluding such aircraft, engines, and components subject to the jurisdiction of the Department of Commerce.

NOTE Developmental aircraft, engines, and components thereof, having no commercial application at the time of this amendment and which have been specifically designed for military uses or purposes, or developed principally with U.S. Department of Defense funding, will be considered eligible for a CCL license when actually applied to a commercial aircraft or commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license application from Commerce in respect of a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction from State.

All category VIII(f) exports under the DTCT must meet the conditions of section 118 6(a)(4).

VIII(f) components listed in the MTCR Annex are not eligible for export under the DTCT

VIII(f) gas turbine hot section components (i.e. combustion chambers and liners, high pressure turbine blades, vanes, disks and related cooled structure, cooled low pressure turbine blades, vanes, disks and related cooled structure, cooled augmentors; and cooled nozzles) or digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine.

designed or modified for use with such machines

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (e) of this category, excluding aircraft tires and propellers used with reciprocating engines

(i) Technical data (as defined in § 120.10) and defense services (as defined in § 120.9) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category (see § 125.4 for exemptions), except for hot section technical data associated with commercial aircraft engines. Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (e) of this category, excluding aircraft tires and propellers used with reciprocating engines

(i) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated above (see 22 CFR 125.4 for exemptions), except for hot section technical data associated with commercial aircraft engines.

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

VIII(h) gas turbine hot section components (i.e. combustion chambers and liners, high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure, cooled augmentors, and cooled nozzles) or digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) may be exported under the DTCT only as part of an assembled engine.

Defense articles in VIII(h) or (i) that are listed in the MTCR Annex are not eligible for export under the DTCT

VIII(i) technical data and defense services specific to gas turbine hot section components or digital engine controls are not eligible for export under the DTCT.

Software source code for articles controlled by VIII(a), (b), or (c) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4 (a)(1), (2) or (4) of this subchapter

For articles controlled by VIII(a), VIII(b), and VIII(e), and their specially designed components, parts, accessories, attachments, and associated equipment, technical data that includes U.S. origin manufacturing know-how as defined in 22 CFR §125.4(c)(6) shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4 (a)(1), (2) or (4) of this subchapter

**CATEGORY IX—MILITARY TRAINING EQUIPMENT AND TRAINING**

(a) Training equipment specifically designed, modified, configured or adapted for military purposes, including but not limited to weapons system trainers, radar trainers, gunnery training devices, antisubmarine warfare trainers, target equipment, armament training units, pilot-less aircraft trainers,

**CATEGORY IX—MILITARY TRAINING EQUIPMENT AND TRAINING**

(a) Training equipment specifically designed, modified, configured or adapted for military purposes, including but not limited to weapons system trainers, radar trainers, gunnery training devices, antisubmarine warfare trainers, target equipment, armament

Training equipment or simulation devices are exportable under the DTCT to the extent that the associated defense articles for which the training or simulation is being conducted are exportable under the DTCT

Training equipment or simulation devices for

navigation trainers and human-rated centrifuges

(b) Simulation devices for the items covered by this subchapter

(c) Tooling and equipment specifically designed or modified for the production of articles controlled by this category.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed, modified, configured, or adapted for the articles in paragraphs (a), (b) and (c) of this category.

(e) Technical data (as defined in § 120 10 of this subchapter) and defense services (as defined in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category

(f) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter:

(1) The weapons systems trainers in paragraph (a) of this category include individual crew stations and system specific trainers;

(2) The articles in this category include any end item, components, accessory, part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category;

(3) The defense services and related technical data in paragraph (f) of this category include software and associated databases that can be used to simulate trainers, battle management, test scenarios/models, and weapons effects. In any instance when the military training transferred to a foreign person does not use articles controlled by the U S Munitions List, the training may nevertheless be a defense service that requires authorization in accordance with this subchapter. See e.g., § 120 9 and § 124.1 of this subchapter for additional information on military training

**CATEGORY X—PROTECTIVE PERSONNEL EQUIPMENT AND SHELTERS**

(a) Protective personnel equipment specifically designed, developed, configured, adapted,

training units, pilot-less aircraft trainers, navigation trainers and human-rated centrifuges

(b) Simulation devices for the items covered by this subchapter

(c) Tooling and equipment specifically designed or modified for the production of articles controlled by this category

(d) Components, parts, accessories, attachments, and associated equipment specifically designed, modified, configured, or adapted for the articles in paragraphs (a), (b) and (c) of this category.

(e) Technical data (as defined in § 120 10 of this subchapter) and defense services (as defined in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category

(f) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter:

(1) The weapons systems trainers in paragraph (a) of this category include individual crew stations and system specific trainers,

(2) The articles in this category include any end item, components, accessory, part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category,

(3) The defense services and related technical data in paragraph (f) of this category include software and associated databases that can be used to simulate trainers, battle management, test scenarios/models, and weapons effects. In any instance when the military training transferred to a foreign person does not use articles controlled by the U S Munitions List, the training may nevertheless be a defense service

See e.g., 22 CFR 120 9 and 22 CFR 124 1 for additional information on military training

**CATEGORY X—PROTECTIVE PERSONNEL EQUIPMENT AND SHELTERS**

(a) Protective personnel equipment specifically

the following naval technology and systems are not eligible for export under the DTCT:

(a) naval nuclear propulsion systems,

(b) acoustic spectrum control and awareness,

(c) submersible vessels, oceanographic and associated equipment designed or modified for military purposes,

(d) submarine combat control systems, or

(e) torpedoes

Software source code for articles controlled by IX(a) or (b) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

modified, or equipped for military applications

This includes but is not limited to

- (1) Body armor;
  - (2) Clothing to protect against or reduce detection by radar, infrared (IR) or other sensors at wavelengths greater than 900 nanometers, and the specially treated or formulated dyes, coatings, and fabrics used in its design, manufacture, and production,
  - (3) Anti-Gravity suits (G-suits),
  - (4) Pressure suits capable of operating at altitudes above 55,000 feet sea level,
  - (5) Atmosphere diving suits designed, developed, modified, configured, or adapted for use in rescue operations involving submarines controlled by this subchapter,
  - (6) Helmets specially designed, developed, modified, configured, or adapted to be compatible with military communication hardware or optical sights or slewing devices,
  - (7) Goggles, glasses, or visors designed to protect against lasers or thermal flashes discharged by an article subject to this subchapter
- (b) Permanent or transportable shelters specifically designed and modified to protect against the effect of articles covered by this subchapter as follows
- (1) Ballistic shock or impact,
  - (2) Nuclear, biological, or chemical contamination
- (c) Tooling and equipment specifically designed or modified for the production of articles controlled by this category.
- (d) Components, parts, accessories, attachments, and associated equipment specifically designed, modified, configured, or adapted for use with the articles in paragraphs (a) through (c) of this category
- (e) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category
- (f) The following interpretations explain and amplify the terms used in this category

designed, developed, configured, adapted, modified, or equipped for military applications.

This includes but is not limited to

- (1) Body armor,
  - (2) Clothing to protect against or reduce detection by radar, infrared (IR) or other sensors at wavelengths greater than 900 nanometers, and the specially treated or formulated dyes, coatings, and fabrics used in its design, manufacture, and production,
  - (3) Anti-Gravity suits (G-suits),
  - (4) Pressure suits capable of operating at altitudes above 55,000 feet sea level;
  - (5) Atmosphere diving suits designed, developed, modified, configured, or adapted for use in rescue operations involving submarines controlled by this subchapter;
  - (6) Helmets specially designed, developed, modified, configured, or adapted to be compatible with military communication hardware or optical sights or slewing devices;
  - (7) Goggles, glasses, or visors designed to protect against lasers or thermal flashes discharged by an article subject to this subchapter.
- (b) Permanent or transportable shelters specifically designed and modified to protect against the effect of articles covered by this subchapter as follows.
- (1) Ballistic shock or impact,
  - (2) Nuclear, biological, or chemical contamination
- (c) Tooling and equipment specifically designed or modified for the production of articles listed for this category.
- (d) Components, parts, accessories, attachments, and associated equipment specifically designed, modified, configured, or adapted for use with the articles in paragraphs (a) through (c) of this category
- (e) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category.
- (f) The following interpretations explain

For articles controlled by X(a)(1), and their specially designed components, parts, accessories, attachments, and associated equipment, technical data that includes U.S. origin manufacturing know how as defined in 22 CFR §125.4(c)(6) shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118.4(a)(1), (2) or (4) of this subchapter

and throughout this subchapter. (1) The body armor covered by this category does not include

Type 1, Type 2, Type 2a, or Type 3a as defined by the National Institute of Justice Classification,

(2) The articles in this category include any end item, components, accessory, attachment,

part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category,

(3) Pressure suits in paragraph (a) (4) of this category include full and partial suits used to simulate normal atmospheric pressure conditions at high altitude

#### CATEGORY XI—MILITARY ELECTRONICS

(a) Electronic equipment not included in Category XII of the U S Munitions List which is specifically designed, modified or configured for military application This equipment includes but is not limited to.

\* (1) Underwater sound equipment to include active and passive detection, identification, tracking, and weapons control equipment

\* (2) Underwater acoustic active and passive countermeasures and counter-countermeasures.

(3) Radar systems, with capabilities such as:

\* (i) Search,

\* (ii) Acquisition,

\* (iii) Tracking,

\* (iv) Moving target indication,

\* (v) Imaging radar systems,

(vi) Any ground air traffic control radar which is specifically designed or modified for military application

\* (4) Electronic combat equipment, such as

(i) Active and passive countermeasures,

(ii) Active and passive counter-countermeasures,

and

(iii) Radios (including transceivers) specifically designed or modified to interfere with

other communication devices or transmissions

\* (5) Command, control and communications

and amplify the terms used in this category and throughout this subchapter' (1) The body armor covered by this category does not include

Type 1, Type 2, Type 2a, or Type 3a as defined by the National Institute of Justice Classification,

(2) The articles in this category include any end item, components, accessory, attachment,

part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category,

(3) Pressure suits in paragraph (a) (4) of this category include full and partial suits used to simulate normal atmospheric pressure conditions at high altitude

#### CATEGORY XI—MILITARY ELECTRONICS

(a) Electronic equipment not included in Category XII of the U S Munitions List which is specifically designed, modified or configured for military application This equipment includes but is not limited to

(3) Radar systems, with capabilities such as:

\* (i) Search,

\* (ii) Acquisition,

\* (iii) Tracking,

\* (iv) Moving target indication,

\* (v) Imaging radar systems,

(vi) Any ground air traffic control radar which is specifically designed or modified for military application.

\* (5) Command, control and communications systems to include radios

Category XI items that are listed in the MTCR Annex are not eligible for export under the DTCT unless exported as part of a manned aircraft pursuant to a comparable note in the MTCR Annex for that item

Any item of equipment or data determined by Department of State to be subject to control under USML Category XI but dual use controlled in the UK is not eligible for export under the DTCT.

systems to include radios (transceivers), navigation, and identification equipment

(6) Computers specifically designed or developed for military application and any computer specifically modified for use with any defense article in any category of the U S Munitions List

(7) Any experimental or developmental electronic equipment specifically designed or modified for military application or specifically designed or modified for use with a military system

\* (b) Electronic systems or equipment specifically designed, modified, or configured for intelligence, security, or military purposes for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum and electronic systems or equipment designed or modified to counteract electronic surveillance or monitoring A system meeting this definition is controlled under this subchapter even in instances where any individual pieces of equipment constituting the system may be subject to the controls of another

U S Government agency Such systems or equipment described above include, but are not limited to, those

(1) Designed or modified to use cryptographic techniques to generate the spreading code for spread spectrum or hopping code for frequency agility. This does not include fixed code techniques for spread spectrum

(2) Designed or modified using burst techniques

(e g , time compression techniques) for intelligence, security or military purposes

(3) Designed or modified for the purpose of information security to suppress the compromising emanations of information-bearing signals This covers TEMPEST suppression technology and equipment meeting or designed to meet government TEMPEST standards This definition is not intended to include equipment designed to meet Federal Communications Commission (FCC)

(transceivers), navigation, and identification equipment.

(6) Computers specifically designed or developed for military application and any computer specifically modified for use with any defense article in any category of the U S Munitions List

(7) Any experimental or developmental electronic equipment specifically designed or modified for military application or specifically designed or modified for use with a military system.

XI(a)(6) computers that are specifically modified for use with a defense article are eligible for export via the DTCT to the same extent as the associated defense article

All category XI(a)(7) exports under the DTCT must meet the conditions of section 118 6(a)(4).

commercial  
 electro-magnetic interference standards  
 or equipment designed for health and  
 safety  
 (c) Components, parts, accessories,  
 attachments,  
 and associated equipment specifically  
 designed or modified for use with the  
 equipment  
 in paragraphs (a) and (b) of this category,  
 except for such items as are in normal  
 commercial use  
 (d) Technical data (as defined in § 120.10)  
 and defense services (as defined in § 120.9)  
 directly  
 related to the defense articles enumerated  
 in paragraphs (a) through (c) of this  
 category. (See § 125.4 for exemptions )  
 Technical  
 data directly related to the manufacture  
 or production of any defense articles  
 enumerated elsewhere in this category that  
 are designated as Significant Military  
 Equipment  
 (SME) shall itself be designated as  
 SME

(c) Components, parts, accessories,  
 attachments,  
 and associated equipment specifically  
 designed or modified for use with the  
 equipment  
 in paragraphs (a) of this category,  
 except for such items as are in normal  
 commercial use  
 (d) Technical data (as defined in 22 CFR  
 120.10) and defense services (as defined  
 in 22 CFR 120.9) directly  
 related to the defense articles enumerated  
 in paragraphs (a) through (c) of this  
 category (See § 125.4 for exemptions )  
 Technical  
 data directly related to the manufacture  
 or production of any defense articles  
 enumerated elsewhere in this category that  
 are designated as Significant Military  
 Equipment  
 (SME) shall itself be designated as  
 SME.

Software source code for articles controlled  
 by XI(a) that exceeds basic operation,  
 maintenance and training for programs,  
 systems and/or subsystems shall be exported  
 under this exemption only pursuant to a  
 written solicitation or contract issued or  
 awarded by the Department of Defense for  
 the end uses identified in section 118.4 (a)(1),  
 (2) or (4) of this subchapter

For articles controlled by XI(a)(3), and their  
 specially designed components, parts,  
 accessories, attachments, and associated  
 equipment; technical data that includes U S  
 origin manufacturing know how as defined in  
 22 CFR §125.4(c)(6) shall be exported under  
 this exemption only pursuant to a written  
 solicitation or contract issued or awarded by  
 the Department of Defense for the end uses  
 identified in section 118.4 (a)(1), (2) or (4) of  
 this subchapter

**CATEGORY XII—FIRE CONTROL, RANGE  
 FINDER,  
 OPTICAL AND GUIDANCE AND CONTROL  
 EQUIPMENT**

\* (a) Fire control systems; gun and missile  
 tracking and guidance systems, gun range,  
 position, height finders, spotting instruments  
 and laying equipment; aiming devices  
 (electronic, optic, and acoustic), bomb  
 sights, bombing computers, military television  
 sighting and viewing units, and periscopes  
 for the articles of this section  
 \* (b) Lasers specifically designed, modified  
 or configured for military application

**CATEGORY XII—FIRE CONTROL, RANGE  
 FINDER,  
 OPTICAL AND GUIDANCE AND CONTROL  
 EQUIPMENT**

\* (a) Fire control systems, gun and missile  
 tracking and guidance systems, gun range,  
 position, height finders, spotting instruments  
 and laying equipment, aiming devices  
 (electronic, optic, and acoustic), bomb  
 sights, bombing computers, military  
 television  
 sighting and viewing units, and periscopes  
 for the articles of this section  
 \* (b) Lasers specifically designed, modified

Defense articles in Category XII (a), (d), (e),  
 or (f) that are listed in the MTCR Annex  
 (primarily in Annex Items 11 or 12) are not  
 eligible for export under the DTCT

Defense articles in Category XII specific to  
 the naval technology and systems in the  
 following areas are not eligible for export  
 under the DTCT.  
 (a) acoustic spectrum control and awareness,



including those used in military communication devices, target designators and range finders, target detection systems, and directed energy weapons

\* (c) Infrared focal plane array detectors specifically designed, modified, or configured for military use, image intensification and other night sighting equipment or systems specifically designed, modified or configured for military use, second generation and above military image intensification tubes (defined below) specifically designed, developed, modified, or configured for military use, and infrared, visible and ultraviolet devices specifically designed, developed, modified, or configured for military application Military second and third generation image intensification tubes and military infrared focal plane arrays identified in this subparagraph

are licensed by the Department of Commerce (ECCN 6A002A and 6A003A) when part of a commercial system (i.e., those systems originally designed for commercial use) This does not include any military system comprised of non-military specification components. Replacement tubes or focal plane arrays identified in this paragraph being exported for commercial systems are subject to the controls of the ITAR

\* (d) Inertial platforms and sensors for weapons or weapon systems, guidance, control and stabilization systems except for those systems covered in Category VIII; astro-compasses and star trackers and military accelerometers and gyros For aircraft inertial reference systems and related components refer to Category VIII

(e) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in paragraphs

(a) through (d) of this category, except for such items as are in normal commercial use

(f) Technical data (as defined in § 120.10) and defense services (as defined in § 120.9)

or configured for military application including those used in military communication devices, target designators and range finders, target detection systems, and directed energy weapons.

\* (c) Infrared focal plane array detectors specifically designed, modified, or configured for military use, image intensification and other night sighting equipment or systems specifically designed, modified or configured for military use, second generation and above military image intensification tubes (defined below) specifically designed, developed, modified, or configured for military use, and infrared, visible and ultraviolet devices specifically designed, developed, modified, or configured for military application Military second and third generation image intensification tubes and military infrared focal plane arrays identified in this subparagraph

are licensed by the Department of Commerce (ECCN 6A002A and 6A003A) when part of a commercial system (i.e., those systems originally designed for commercial use) This does not include any military system comprised of non-military specification components Replacement tubes or focal plane arrays identified in this paragraph being exported for commercial systems are subject to the controls of the ITAR

\* (d) Inertial platforms and sensors for weapons or weapon systems, guidance, control and stabilization systems except for those systems covered in Category VIII, astro-compasses and star trackers and military accelerometers and gyros For aircraft inertial reference systems and related components refer to Category VIII

(e) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in

(b) submarine combat control systems, or  
(c) torpedoes

Technical data or defense services for night vision equipment described in USML Category XII(c) beyond basic operations, maintenance and training data shall be exported under this exemption only pursuant to

directly related to the defense articles enumerated in paragraphs (a) through (e) of this category. (See § 125 4 for exemptions )  
Technical data directly related to manufacture and production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME

paragraphs (a) through (d) of this category, except for such items as are in normal commercial use  
(f) Technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) directly related to the defense articles enumerated in paragraphs (a) through (e) of this category (See § 125 4 for exemptions )  
Technical data directly related to manufacture and production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME.

to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

Software source code for articles controlled by XII(a), (b), (c) or (d) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

For articles controlled by XII(d), and their specially designed components, parts, accessories, attachments, and associated equipment, technical data that includes U S origin manufacturing know how as defined in 22 CFR §125 4(c)(6) shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

CATEGORY XIII—AUXILIARY MILITARY EQUIPMENT

(a) Cameras and specialized processing equipment therefor, photointerpretation, stereoscopic plotting, and photogrammetry equipment which are specifically designed, developed, modified, adapted, or configured for military purposes, and components specifically designed or modified therefor;  
(b) Military Information Security Assurance Systems and equipment, cryptographic devices, software, and components specifically designed, developed, modified, adapted, or configured for military applications (including command, control and intelligence applications) This includes (1) Military cryptographic (including key management) systems, equipment assemblies, modules, integrated circuits, components or software with the capability of maintaining secrecy or confidentiality of information or information systems, including equipment and software

CATEGORY XIII—AUXILIARY MILITARY EQUIPMENT

(a) Cameras and specialized processing equipment therefor, photointerpretation, stereoscopic plotting, and photogrammetry equipment which are specifically designed, developed, modified, adapted, or configured for military purposes, and components specifically designed or modified therefor;

for tracking, telemetry and control (TT&C) encryption and decryption,  
(2) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components of software which have the capability of generating spreading or hopping codes for spread spectrum systems or equipment;  
(3) Military cryptanalytic systems, equipment, assemblies, modules, integrated circuits, components or software,  
(4) Military systems, equipment, assemblies, modules, integrated circuits, components or software providing certified or certifiable multi-level security or user isolation exceeding Evaluation Assurance Level (EAL) 5 of the Security Assurance Evaluation Criteria

and software to certify such systems, equipment or software;

(5) Ancillary equipment specifically designed, developed, modified, adapted, or configured for the articles in paragraphs (b)(1), (2), (3), and (4) of this category.

(c) Self-contained diving and underwater breathing apparatus as follows

(1) Closed and semi-closed (rebreathing) apparatus,  
(2) Specially designed components and parts for use in the conversion of open-circuit apparatus to military use, and,  
(3) Articles exclusively designed for military use with self-contained diving and underwater swimming apparatus

(d) Carbon/carbon billets and preforms not elsewhere controlled by this subchapter (e.g., Category IV) which are reinforced with continuous unidirectional tows, tapes, or woven cloths in three or more dimensional planes (e.g., 3D, 4D) specifically designed, developed, modified, configured or adapted for defense articles

(e) Armor (e.g., organic, ceramic, metallic), and reactive armor and components, parts and accessories not elsewhere controlled by this subchapter which have been specifically designed, developed, modified, configured or adapted for a military application

(f) Structural materials, including carbon/carbon and metal matrix composites, plate, forgings, castings, welding consumables and

(c) Self-contained diving and underwater breathing apparatus as follows

(1) Closed and semi-closed (rebreathing) apparatus;  
(2) Specially designed components and parts for use in the conversion of open-circuit apparatus to military use, and,  
(3) Articles exclusively designed for military use with self-contained diving and underwater swimming apparatus.

(e) Armor (e.g., organic, ceramic, metallic), and reactive armor and components, parts and accessories not elsewhere controlled by this subchapter which have been specifically designed, developed, modified, configured or adapted for a military application.

(f) Structural materials, including carbon/carbon and metal matrix composites, plate, forgings, castings, welding consumables and

Defense articles specific to or controlled in XIII(f) that are listed in the MTCR Annex are not eligible for export under the DTCT.

rolled and extruded shapes that have been specifically designed, developed, configured, modified or adapted for defense articles.

(g) Concealment and deception equipment specifically designed, developed, modified, configured or adapted for military application, including but not limited to special paints, decoys, smoke or obscuration equipment

and simulators and components, parts and accessories specifically designed, developed,

modified, configured or adapted therefor

(h) Energy conversion devices for producing electrical energy from nuclear, thermal, or solar energy, or from chemical reaction that are specifically designed, developed, modified, configured or adapted for military application

(i) Metal embrittling agents

\* (j) Hardware and equipment, which has been specifically designed or modified for military applications, that is associated with the measurement or modification of system signatures for detection of defense articles This includes but is not limited to signature measurement equipment; reduction techniques and codes, signature materials and treatments, and signature control design methodology

(k) Tooling and equipment specifically designed

or modified for the production of articles controlled by this category.

(l) Technical data (as defined in § 120.10 of this subchapter), and defense services (as defined

in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (k) of this category (See also, § 123 20 of this subchapter )

Technical

data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designed SME

(m) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter.

(1) Paragraph (d) of this category does not control carbon/carbon billets and preforms

rolled and extruded shapes that have been specifically designed, developed, configured, modified or adapted for defense articles otherwise eligible for export under the DTCT

(k) Tooling and equipment specifically designed

or modified for the production of articles enumerated above.

(l) Technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) directly related to the defense articles enumerated above.

Technical

data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment

(SME) shall itself be designed SME

Software source code for articles controlled by XIII(a) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter.

where reinforcement in the third dimension is limited to interlocking of adjacent layers only, and carbon/carbon 3D, 4D, etc. end items that have not been specifically designed or modified for military applications (e.g., brakes for commercial aircraft or high speed trains);

(2) Metal embrittlement agents in paragraph (1) of this category are non-lethal weapon substances that alter the crystal structure of metals within a short time span. Metal embrittling agents severely weaken metals by chemically changing their molecular structure. These agents are compounded in various substances to include adhesives, liquids, aerosols, foams and lubricants.

CATEGORY XIV—TOXICOLOGICAL AGENTS,  
INCLUDING  
CHEMICAL AGENTS, BIOLOGICAL  
AGENTS, AND ASSOCIATED EQUIPMENT

\* (a) Chemical agents, to include

(1) Nerve agents

(i) O-Alkyl (equal to or less than C<sub>10</sub>, including cycloalkyl) alkyl (Methyl, Ethyl, n-Propyl or Isopropyl)phosphonofluoridates, such as. Sarin (GB) O-Isopropyl methylphosphonofluoridate (CAS 107-44-8) (CWC Schedule 1A), and Soman (GD)

OPinacolyl

methylphosphonofluoridate (CAS 96-64-0) (CWC Schedule 1A),

(ii) O-Alkyl (equal to or less than C<sub>10</sub>, including cycloalkyl) N,N-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphoramidocyanidates, such as.

Tabun (GA) O-Ethyl N, Ndimethylphosphoramidocyanidate (CAS 77-

81-6) (CWC Schedule 1A),

(iii) O-Alkyl (H or equal to or less than C<sub>10</sub>, including cycloalkyl) S-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl)aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonothiolates and corresponding alkylated and protonated salts, such as: VX O-Ethyl S-2-

diisopropylaminoethyl methyl phosphonothiolate (CAS 50782-69-9) (CWC Schedule 1A),

(2) Amiton O,O-Diethyl S-

[2(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated

CATEGORY XIV—TOXICOLOGICAL AGENTS,  
INCLUDING  
CHEMICAL AGENTS, BIOLOGICAL  
AGENTS, AND ASSOCIATED EQUIPMENT

salts (CAS 78-53-5) (CWC Schedule 2A);

(3) Vesicant agents

(i) Sulfur mustards, such as. 2-

Chloroethylchloromethylsulfide (CAS 2625-76-5) (CWC Schedule 1A), Bis(2-chloroethyl)sulfide (CAS 505-60-2) (CWC Schedule 1A), Bis(2-chloroethylthio)methane (CAS 63839-13-6) (CWC Schedule 1A); 1,2-bis

(2-chloroethylthio)ethane (CAS 3563-36-8) (CWC Schedule 1A), 1,3-bis (2-chloroethylthio)-n-propane (CAS 63905-10-2) (CWC Schedule 1A), 1,4-bis (2-chloroethylthio)-n-butane (CWC Schedule 1A); 1,5-bis (2-chloroethylthio)-n-pentane (CWC Schedule 1A); Bis (2-chloroethylthiomethyl)ether (CWC Schedule 1A); Bis (2-chloroethylthioethyl)ether (CAS 63918-89-8) (CWC Schedule 1A),

(ii) Lewisites, such as. 2-

chlorovinylchloroarsine (CAS 541-25-3) (CWC Schedule 1A); Tris (2-chlorovinyl) arsine (CAS 40334-70-1) (CWC Schedule 1A), Bis (2-chlorovinyl) chloroarsine (CAS 40334-69-8) (CWC Schedule 1A),

(iii) Nitrogen mustards, such as. HN1. bis

(2-chloroethyl) ethylamine (CAS 538-07-8) (CWC Schedule 1A), HN2 bis (2-chloroethyl) methylamine (CAS 51-75-2) (CWC Schedule 1A), HN3. tris (2-chloroethyl)amine (CAS 555-77-1) (CWC Schedule 1A),

(iv) Ethyldichloroarsine (ED),

(v) Méthyldichloroarsine (MD),

(4) Incapacitating agents, such as.

(i) 3-Quinuclidinyl benzilate (BZ) (CAS 6581-06-2) (CWC Schedule 2A),

(ii) Diphenylchloroarsine (DA) (CAS 712-48-1),

(iii) Diphenylcyanoarsine (DC);

\* (b) Biological agents and biologically derived substances specifically developed, configured, adapted, or modified for the purpose of increasing their capability to produce casualties

in humans or livestock, degrade equipment or damage crops

\* (c) Chemical agent binary precursors and key precursors, as follows

(1) Alkyl (Methyl, Ethyl, n-Propyl or Isopropyl)

phosphonyl difluorides, such as DF Methyl Phosphonyldifluoride (CAS 676-99-3)

(CWC Schedule 1B);

**Methylphosphinyldifluoride;**

(2) O-Alkyl (H or equal to or less than C<sub>10</sub>, including cycloalkyl) O-2-dialkyl (methyl, ethyl, n-Propyl or isopropyl)aminoethyl alkyl (methyl, ethyl, N-propyl or isopropyl) phosphonite and corresponding alkylated and protonated salts, such as QL. O-Ethyl-2-di-isopropylaminoethyl methylphosphonite (CAS 57856-11-8) (CWC Schedule 1B),

(3) Chlorosarin. O-Isopropyl methylphosphonochloridate (CAS 1445-76-7) (CWC Schedule 1B),

(4) Chlorosoman O-Pinakolyl methylphosphonochloridate (CAS 7040-57-5) (CWC Schedule 1B),

(5) DC Methylphosphonyl dichloride (CAS 676-97-1) (CWC Schedule 2B),

**Methylphosphinyldichloride;**

(d) Tear gases and riot control agents including

(1) Adamsite (Diphenylamine chloroarsine or DM) (CAS 578-94-9);

(2) CA (Bromobenzyl cyanide) (CAS 5798-79-8),

(3) CN (Phenylacetyl chloride or w-Chloroacetophenone) (CAS 532-27-4),

(4) CR (Dibenz-(b,f)-1,4-oxazepine) (CAS 257-07-8);

(5) CS (o-Chlorobenzylidenemalononitrile or o-Chlorobenzalmalononitrile) (CAS 2698-41-1),

(6) Dibromodimethyl ether (CAS 4497-29-4),

(7) Dichlorodimethyl ether (ClC<sub>l</sub>) (CAS 542-88-1),

(8) Ethyldibromoarsine (CAS 683-43-2),

(9) Bromo acetone;

(10) Bromo methylethylketone,

(11) Iodo acetone,

(12) Phenylcarbylamine chloride,

(13) Ethyl iodoacetate,

(e) Defoliants, as follows.

(1) Agent Orange (2,4,5-Trichlorophenoxyacetic acid mixed with 2,4-dichlorophenoxyacetic acid),

(2) LNF (Butyl 2-chloro-4-fluorophenoxyacetate)

\* (f) Equipment and its components, parts, accessories, and attachments specifically designed

or modified for military operations

and compatibility with military equipment

(d) Tear gases and riot control agents including

(2) CA (Bromobenzyl cyanide) (CAS 5798-79-8),

(3) CN (Phenylacetyl chloride or w-Chloroacetophenone) (CAS 532-27-4),

(4) CR (Dibenz-(b,f)-1,4-oxazepine) (CAS 257-07-8),

(5) CS (o-Chlorobenzylidenemalononitrile or o-Chlorobenzalmalononitrile) (CAS 2698-41-1),

as follows.

- (1) The dissemination, dispersion or testing of the chemical agents, biological agents, tear gases and riot control agents, and defoliants listed in paragraphs (a), (b), (d), and (e), respectively, of this category,**
- (2) The detection, identification, warning or monitoring of the chemical agents and biological agents listed in paragraph (a) and (b) of this category,**
- (3) Sample collection and processing of the chemical agents and biological agents listed in paragraph (a) and (b) of this category,**
- (4) Individual protection against the chemical and biological agents listed in paragraphs (a) and (b) of this category**
- (5) Collective protection against the chemical agents and biological agents listed in paragraph (a) and (b) of this category.**
- (6) Decontamination or remediation of the chemical agents and biological agents listed in paragraph (a) and (b) of this category.**
- (g) Antibodies, polynucleotides, biopolymers or biocatalysts specifically designed or modified for use with articles controlled in paragraph (f) of this category**
- (h) Medical countermeasures, to include pre- and post-treatments, vaccines, antidotes and medical diagnostics, specifically designed or modified for use with the chemical agents listed in paragraph (a) of this category and vaccines with the sole purpose of protecting against biological agents identified in paragraph (b) of this category. Examples include: barrier creams specifically designed to be applied to skin and personal equipment to protect against vesicant agents controlled in paragraph (a) of this category, atropine auto injectors specifically designed to counter nerve agent poisoning**
- (i) Modeling or simulation tools specifically designed or modified for chemical or biological weapons design, development or employment**  
**The concept of modeling and simulation includes software covered by paragraph (m) of this category specifically designed to reveal susceptibility or vulnerability to biological agents or materials listed in paragraph (b) of this category**
- (j) Test facilities specifically designed or modified for the certification and qualification**



of articles controlled in paragraph (f) of this category

(k) Equipment, components, parts, accessories, and attachments, exclusive of incinerators (including those which have specially designed waste supply systems and special handling facilities), specifically designed or modified for destruction of the chemical agents in paragraph (a) or the biological agents in paragraph (b) of this category This destruction equipment includes facilities specifically designed or modified for destruction operations.

(l) Tooling and equipment specifically designed or modified for the production of articles controlled by paragraph (f) of this category.

(m) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) related to the defense articles enumerated in paragraphs (a) through (l) of this category (See § 125.4 of this subchapter for exemptions )  
Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this Category that are designated as Significant Military Equipment (SME) shall itself be designated as SME

(n) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter

(1) A chemical agent in category XIV(a) is a substance having military application, which by its ordinary and direct chemical action, produces a powerful physiological effect.

(2) The biological agents or biologically derived substances in paragraph (b) of this category are those agents and substances capable of producing casualties in humans or livestock, degrading equipment or damaging crops and which have been modified for the specific purpose of increasing such effects Examples of such modifications include increasing resistance to UV radiation or improving dissemination characteristics This does not include modifications made only for civil applications (e g , medical or

(m) Technical data (as defined in 22 CFR 120.10) and defense services (as defined in 22 CFR 120.9) related to the defense articles enumerated in the above paragraphs

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this Category that are designated as Significant Military Equipment (SME) shall itself be designated as SME

**environmental**

**use)**

**(3) The destruction equipment controlled by this category related to biological agents in paragraph (b) is that equipment specifically designed to destroy only the agents**

**identified in paragraph (b) of this category**

**(4)(i) The individual protection against the chemical and biological agents controlled by this category includes military protective clothing and masks, but not those items designed**

**for domestic preparedness (e.g., civil defense) Domestic preparedness devices for individual protection that integrate components**

**and parts identified in this subparagraph are licensed by the Department of Commerce when such components are:**

**(A) Integral to the device,**

**(B) inseparable from the device; and,**

**(C) incapable of replacement without compromising**

**the effectiveness of the device**

**(ii) Components and parts identified in this subparagraph exported for integration into domestic preparedness devices for individual protection are subject to the controls of the ITAR,**

**(5) Technical data and defense services in paragraph (l) include libraries, databases and algorithms specifically designed or modified for use with articles controlled in paragraph (f) of this category**

**(6) The tooling and equipment covered by paragraph (l) of this category includes molds used to produce protective masks, overboots, and gloves controlled by paragraph (f) and leak detection equipment specifically designed to test filters controlled by paragraph**

**(f) of this category**

**(7) The resulting product of the combination of any controlled or non-controlled substance compounded or mixed with any item controlled by this subchapter is also subject to the controls of this category**

**NOTE 1: This Category does not control formulations**

**containing 1% or less CN or CS or individually packaged tear gases or riot control agents for personal self-defense purposes.**

**NOTE 2: Categories XIV(a) and (d) do not include the following:**

**NOTE 1: This Category does not control formulations**

**containing 1% or less CN or CS or individually packaged tear gases or riot control**

**agents for personal self-defense purposes**

**NOTE 2: Categories XIV(a) and (d) do not include the following**

**(1) Cyanogen chloride,**

**(2) Hydrocyanic acid;**

**(3) Chlorine,**

**(4) Carbonyl chloride (Phosgene);**

**(5) Ethyl bromoacetate,**

- (1) Cyanogen chloride;
- (2) Hydrocyanic acid,
- (3) Chlorine,
- (4) Carbonyl chloride (Phosgene),
- (5) Ethyl bromoacetate,
- (6) Xylyl bromide,
- (7) Benzyl bromide,
- (8) Benzyl iodide,
- (9) Chloro acetone,
- (10) Chloropicrin (trichloronitromethane),
- (11) Fluorine,
- (12) Liquid pepper

NOTE 3- Chemical Abstract Service (CAS) registry numbers do not cover all the substances and mixtures controlled by this category. The numbers are provided as examples to assist the government agencies in the license review process and the exporter when completing their license application and export documentation.

NOTE 4. With respect to U S obligations under the Chemical Weapons Convention (CWC), refer to Chemical Weapons Convention Regulations (CWCER) (15 CFR parts 710 through 722) As appropriate, the CWC schedule is provided to assist the exporter

- (6) Xylyl bromide,
- (7) Benzyl bromide,
- (8) Benzyl iodide,
- (9) Chloro acetone,
- (10) Chloropicrin (trichloronitromethane),
- (11) Fluorine,
- (12) Liquid pepper

NOTE 3- Chemical Abstract Service (CAS) registry numbers do not cover all the substances and mixtures controlled by this category. The numbers are provided as examples to assist the government agencies in the license review process and the exporter when completing their license application and export documentation.

NOTE 4 With respect to U S obligations under the Chemical Weapons Convention (CWC), refer to Chemical Weapons Convention Regulations (CWCER) (15 CFR parts 710 through 722) As appropriate, the CWC schedule is provided to assist the exporter

**CATEGORY XV—SPACECRAFT SYSTEMS AND ASSOCIATED EQUIPMENT**

\* (a) Spacecraft, including communications satellites, remote sensing satellites, scientific satellites, research satellites, navigation satellites, experimental and multi-mission satellites

\*NOTE TO PARAGRAPH (a) Commercial communications satellites, scientific satellites, research satellites and experimental satellites are designated as SME only when the equipment is intended for use by the armed forces of any foreign country.

(b) Ground control stations for telemetry, tracking and control of spacecraft or satellites, or employing any of the cryptographic items controlled under category XIII of this subchapter

(c) Global Positioning System (GPS) receiving equipment specifically designed, modified or configured for military use; or GPS receiving equipment with any of the

**CATEGORY XV—SPACECRAFT SYSTEMS AND ASSOCIATED EQUIPMENT**

(c) Global Positioning System (GPS) receiving equipment specifically designed, modified or configured for military use

GPS receiving equipment listed in MTCR Annex 11 A.3 is not eligible for export under the DTCT

following

characteristics

- (1) Designed for encryption or decryption (e.g., Y-Code) of GPS precise positioning service (PPS) signals,
- (2) Designed for producing navigation results above 60,000 feet altitude and at 1,000 knots velocity or greater;
- (3) Specifically designed or modified for use with a null steering antenna or including a null steering antenna designed to reduce or avoid jamming signals,
- (4) Designed or modified for use with unmanned air vehicle systems capable of delivering at least a 500 kg payload to a range of at least 300 km

NOTE: GPS receivers designed or modified for use with military unmanned air vehicle systems with less capability are considered to be specifically designed, modified or configured

for military use and therefore covered under this paragraph (d)(4).

Any GPS equipment not meeting this definition

is subject to the jurisdiction of the Department of Commerce (DOC).

Manufacturers

or exporters of equipment under DOC jurisdiction are advised that the U.S. Government

does not assure the availability of the GPS P-Code for civil navigation. It is the policy of the Department of Defense (DOD) that GPS receivers using P-Code without clarification as to whether or not those receivers

were designed or modified to use YCode will be presumed to be Y-Code capable and covered under this paragraph. The DOD policy further requires that a notice be attached

to all P-Code receivers presented for export. The notice must state the following:

“ADVISORY NOTICE: This receiver uses the GPS P-Code signal, which by U.S. policy, may be switched off without notice.”

(d) Radiation-hardened microelectronic circuits that meet or exceed all five of the following characteristics

- (1) A total dose of  $5 \times 10^5$  Rads (SI);
- (2) A dose rate upset of  $5 \times 10^6$  Rads (SI)/sec,

(3) A neutron dose of  $1 \times 10^{14}$  N/cm<sup>2</sup>;  
(4) A single event upset of  $1 \times 10^7$  or less error/bit/day,

(5) Single event latch-up free and having a dose rate latch-up of  $5 \times 10^8$  Rads (SI)/sec or greater

(e) All specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment for the articles in this category, including the articles identified in section 1516 of Public Law 105-261 satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines (see also Categories IV and V in this section).

NOTE: This coverage by the U S Munitions List does not include the following unless specifically designed or modified for military application (see § 120.3 of this subchapter) (For controls on these items see the Export Administration Regulations, Commerce Control

List (15 CFR Parts 730 through 799) )

(1) Space qualified travelling wave tubes (also known as helix tubes or TWTs), microwave solid state amplifiers, microwave assemblies, and travelling wave tube amplifiers operating at frequencies equal to or less than 31GHz

(2) Space qualified photovoltaic arrays having silicon cells or having single, dual, triple junction solar cells that have gallium arsenide as one of the junctions.

(3) Space qualified tape recorders

(4) Atomic frequency standards that are not space qualified

(5) Space qualified data recorders

(6) Space qualified telecommunications systems, equipment and components not designed or modified for satellite uses

(7) Technology required for the development or production of telecommunications equipment specifically designed for non-satellite uses

(8) Space qualified focal plane arrays having more than 2048 elements per array and having a peak response in the wavelength

(e) All specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment for the articles enumerated above,

Defense articles specific to GPS/PPS security modules are not eligible for export under the DTCT

range exceeding 300nm but not exceeding 900nm

(9) Space qualified laser radar or Light Detection

and Ranging (LIDAR) equipment

(f) Technical data (as defined in § 120 10 of this subchapter) and defense services (as defined

in § 120 9 of this subchapter) directly related to the articles enumerated in paragraphs

(a) through (e) of this category, as

well as detailed design, development, manufacturing

or production data for all spacecraft and specifically designed or modified components for all spacecraft systems This

paragraph includes all technical data, without exception, for all launch support activities

(e g , technical data provided to the launch provider on form, fit, function, mass, electrical, mechanical, dynamic,

environmental,

telemetry, safety, facility, launch

pad access, and launch parameters, as well as

interfaces for mating and parameters for launch ) (See § 124.1 for the requirements for

technical assistance agreements before defense services may be furnished even when

all the information relied upon by the U S person in performing the defense service is in

the public domain or is otherwise exempt

from the licensing requirements of this subchapter )

Technical data directly related to the manufacture or production of any article

enumerated elsewhere in this category that is designated as Significant Military

Equipment

(SME) shall itself be designated SME.

Further, technical data directly related to the manufacture or production of all

spacecraft,

notwithstanding the nature of the intended

end use (e g , even where the hardware

is not SME), is designated SME

NOTE TO PARAGRAPH (f) The special export controls contained in § 124.15 of this

subchapter

are always required before a U S

person may participate in a launch failure

investigation or analysis and before the export

of any article or defense service in this

category for launch in, or by nationals of, a

(f) Technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) directly related to the articles enumerated in the paragraphs above

country that is not a member of the North Atlantic Treaty Organization or a major non-NATO ally of the United States. Such special export controls also may be imposed with respect to any destination as deemed appropriate in furtherance of the security and foreign policy of the United States.

CATEGORY XVI—NUCLEAR WEAPONS, DESIGN AND TESTING RELATED ITEMS

\* (a) Any article, material, equipment, or device which is specifically designed or modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices (See § 123 20 of this subchapter and Department of Commerce Export Administration Regulations, 15 CFR 742 3 and 744.2).

\* (b) Any article, material, equipment, or device which is specifically designed or modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions (including for modeling or simulating the employment of nuclear weapons or the integrated operational use of nuclear weapons), except such items as are in normal commercial use for other purposes

\* (c) Nuclear radiation detection and measurement devices specifically designed or modified for military applications

(d) All specifically designed or modified components and parts, accessories, attachments, and associated equipment for the articles in this category.

(e) Technical data (as defined in § 120 10 of this subchapter), and defense services (as defined in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category. (See also, § 123 20 of this subchapter )

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

CATEGORY XVI—NUCLEAR WEAPONS, DESIGN AND TESTING RELATED ITEMS

\* (c) Nuclear radiation detection and measurement devices specifically designed or modified for military applications  
(d) All specifically designed or modified components and parts, accessories, attachments, and associated equipment for the articles in XVI(c)  
(e) Technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) directly related to the defense articles enumerated above

Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME

Defense articles related to or controlled in Category XVI(c) may be exported under the DTCT unless they are specifically designed or modified for the design or testing of nuclear weapons

Software source code for articles controlled by XVI(c) that exceeds basic operation, maintenance and training for programs, systems and/or subsystems shall be exported under this exemption only pursuant to a written solicitation or contract issued or awarded by the Department of Defense for the end uses identified in section 118 4 (a)(1), (2) or (4) of this subchapter

CATEGORY XVII—CLASSIFIED ARTICLES,  
TECHNICAL  
DATA AND DEFENSE SERVICES NOT  
OTHERWISE ENUMERATED

(a) All articles, technical data (as defined in § 120 10 of this subchapter) and defense services (as defined in § 120 9 of this subchapter) relating thereto which are classified in the interests of national security and which are not otherwise enumerated in the U S Munitions List.

CATEGORY XVIII—DIRECTED ENERGY  
WEAPONS

\* (a) Directed energy weapon systems specifically designed or modified for military applications (e g , destruction, degradation or rendering mission-abort of a target) These include, but are not limited to.

- (1) Laser systems, including continuous wave or pulsed laser systems, specifically designed or modified to cause blindness;
- (2) Lasers of sufficient continuous wave or pulsed power to effect destruction similar to the manner of conventional ammunition;
- (3) Particle beam systems,
- (4) Particle accelerators that project a charged or neutral particle beam with destructive power,
- (5) High power radio-frequency (RF) systems,
- (6) High pulsed power or high average power radio frequency beam transmitters that produce fields sufficiently intense to disable electronic circuitry at distant targets;
- (7) Prime power generation, energy storage, switching, power conditioning, thermal management or fuel-handling equipment,
- (8) Target acquisition or tracking systems,
- (9) Systems capable of assessing target damage, destruction or mission-abort,
- (10) Beam-handling, propagation or pointing equipment,
- (11) Equipment with rapid beam slew capability for rapid multiple target operations,
- (12) Negative ion beam funneling equipment, and,
- (13) Equipment for controlling and slewing

CATEGORY XVII—CLASSIFIED ARTICLES,  
TECHNICAL  
DATA AND DEFENSE SERVICES NOT  
OTHERWISE ENUMERATED

(a) All articles, technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) relating thereto which are classified in the interests of national security and which are not otherwise enumerated in the U.S. Munitions List

Category XVIII defense articles are not exportable under the DTCT

IAW section 118.6(a)(3), US-origin classified defense articles may be exported under the DTCT only via a written request, directive or contract from the US Department of Defense that provides for the export of the defense article(s) or defense services.



a high-energy ion beam.

\* (b) Equipment specifically designed or modified for the detection or identification of, or defense against, articles controlled in paragraph (a) of this category

(c) Tooling and equipment specifically designed or modified for the production of defense articles controlled by this category

(d) Test and evaluation equipment and test models specifically designed or modified for the defense articles controlled by this category  
This includes, but is not limited to, diagnostic instrumentation and physical test models.

(e) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in paragraphs

(a) through (d) of this category.

(f) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (e) of this category.  
Technical data directly related to the manufacture or production of any defense articles enumerated in this category that are designated

as Significant Military Equipment (SME) shall itself be designated SME

(g) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter

- (1) The components, parts, accessories, attachments and associated equipment include, but are not limited to adaptive optics and phase conjugators components, spacequalified accelerator components, targets and specifically designed target diagnostics, current injectors for negative hydrogen ion beams, and space-qualified foils for neutralizing negative hydrogen isotope beams
- (2) The particle beam systems in paragraph (a)(3) of this category include devices embodying particle beam and electromagnetic

pulse technology and associated components and subassemblies (e.g., ion beam current injectors, particle accelerators for neutral or charged particles, beam handling and projection equipment, beam steering, fire control, and pointing equipment, test and diagnostic instruments, and targets) which are specifically designed or modified for directed energy weapon applications.

(3) The articles controlled in this category include any end item, component, accessory, attachment, part, firmware, software or system that has been designed or manufactured using technical data and defense services controlled by this category.

(4) The articles specifically designed or modified for military application controlled in this category include any articles specifically developed, configured, or adapted for military application

**CATEGORY XIX [RESERVED]**

**CATEGORY XX—SUBMERSIBLE VESSELS, OCEANOGRAPHIC AND ASSOCIATED EQUIPMENT**

Category XX defense articles are not exportable under the DTCT

\* (a) Submersible vessels, manned or unmanned,

tethered or untethered, designed or modified for military purposes, or powered by nuclear propulsion plants

\* (b) Swimmer delivery vehicles designed or modified for military purposes

(c) Equipment, components, parts, accessories, and attachments specifically designed or modified for any of the articles in paragraphs

(a) and (b) of this category

(d) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined

in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category (See § 125.4 of this subchapter for exemptions) Technical data directly related to the manufacture or production of any defense articles

enumerated elsewhere in this Category that are designated as Significant Military Equipment (SME) shall itself be designated as SME

**CATEGORY XXI—MISCELLANEOUS ARTICLES**

**CATEGORY XXI—MISCELLANEOUS ARTICLES**

(a) Any article not specifically enumerated in the other categories of the U S Munitions List which has substantial military applicability and which has been specifically designed, developed, configured, adapted, or modified for military purposes The decision on whether any article may be included in this category shall be made by the Director, Office of Defense Trade Controls Policy

(b) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120 9 of this subchapter) directly related to the defense articles enumerated in paragraph (a) of this category

(a) Any article not specifically enumerated in the other categories of the U S Munitions List which has substantial military applicability and which has been specifically designed, developed, configured, adapted, or modified for military purposes The decision on whether any article may be included in this category shall be made by the Director, Office of Defense Trade Controls Policy.

(b) Technical data (as defined in 22 CFR 120 10) and defense services (as defined in 22 CFR 120 9) directly related to the defense articles enumerated in paragraph (a) of this category

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(Date)

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John C. Rood,  
Acting Under Secretary for  
Arms Control and International Security,  
Department of State.

[Billing Code 4710-25]

**DEPARTMENT OF STATE**

**22 CFR Part 121**

[Public Notice ]

**RIN 1400-AC47**

**Amendment to the International Traffic in Arms Regulations: The United States Munitions List Category VIII**

**AGENCY:** Department of State.

**ACTION:** Final Rule.

**SUMMARY:** The Department of State is amending the text of the International Traffic in Arms Regulations (ITAR), Part 121 to add language clarifying how the criteria of Section 17(c) of the Export Administration Act of 1979 (“EAA”) are implemented in accordance with the Department of State’s obligations under the Arms Export Control Act (“AECA”), and restating the Department’s longstanding policy and practice of implementing the criteria of this provision

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

**FOR FURTHER INFORMATION CONTACT:** Director Ann Ganzer, Office Defense Trade Controls Policy, Department of State, Telephone (202) 663-2792 or Fax (202) 261-8199; Email [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov). ATTN: Regulatory Change, ITAR Part 121.

**SUPPLEMENTARY INFORMATION:** On April 11, 2008, the Department published a Notice of Proposed Rulemaking (NPRM) to add language clarifying how the criteria of Section 17(c) of the Export Administration Act of 1979 are implemented in accordance with the Arms Export Control Act by amending Category VIII \*(b), (h), and the Note. Further background is provided with the NPRM at 73 FR 19778.

This rule reinstates the Section 17(c) reference in the ITAR to assist exporters in understanding the scope and application of the Section 17(c) criteria to parts and components for civil aircraft. It also clarifies that any part or component that (a) is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of

Military Commercial Derivative Aircraft), defined by FAA Order 8110.101 effective date September 7, 2007 as “civil aircraft procured or acquired by the military”); and (c) is an integral part of such civil aircraft. Where such part or component is not Significant Military Equipment (“SME”), no Commodity Jurisdiction (CJ) determination is required to determine whether the item meets these criteria for exclusion under the United States Munitions List (USML), unless doubt exists as to whether these criteria have been met. However, where the part or component is SME, a CJ determination is always required, except where a SME part or component was integral to civil aircraft prior to the effective date of this rule.

Additionally, this rule adds language in a new Note after Category VIII(h) to provide guidelines concerning the parts or components meeting these criteria. The change to Category VIII\*(b) also identifies and designates certain sensitive military items, heretofore controlled under Category VIII(h), as SME. Previous and current licenses and other authorizations concerning these items will not require notification in accordance with §124.11, and will not require a DSP-83, unless they are amended, modified or renewed.

This requirement for a CJ determination by the Department of State helps ensure the U.S. Government is made aware of, and can reach an informed decision regarding, any sensitive military item proposed for standardization in the commercial aircraft industry before the item or technology is actually applied to a commercial aircraft program, whether such item is integral to the aircraft, and, if so, whether the development, production and use of the technology associated with the item should nevertheless be controlled on the USML. It will also ensure the Department of State fulfills the requirements of Section 38(f) of the Arms Export Control Act.

This regulation is intended to clarify the control of aircraft parts and components, and does not remove any items from the USML, nor does it change any CJ determinations. Should there be an apparent conflict between this regulation and a CJ determination issued prior to this date, the holder of the determination should seek reconsideration, citing this regulation.

The Proposed Rule had a comment period ending May 12, 2008. Twenty (20) parties filed comments by May 12<sup>th</sup> recommending changes. Having thoroughly reviewed and evaluated the comments and the recommended changes, the Department has determined that it will, and hereby does, adopt the Proposed Rule, with minor edits, and promulgates it as a Final Rule. The Department’s evaluation of the written comments and recommendations follows.

Comment Analysis

Ten (10) commenting parties criticized the Department for making “specifically designed military hot section components and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC))” significant military equipment in paragraph \*(b) of Category VIII. The Department believes that the designation of these military hot section components and digital engine controls as significant military equipment is necessary to safeguard the national security of the United States.

Six (6) commenting parties recommended paragraph (h) of Category VIII start with the phrase “Except as noted below.” That phrase does not conform with the regulatory language used in other sub-paragraphs of United States Munitions List categories that have associated notes paragraphs.

One commenting party recommended the commodity jurisdiction requirement for significant military equipment be removed from the explanatory note. The inclusion of the commodity jurisdiction requirement for significant military equipment is needed to ensure the government has an opportunity to review proposals to use military equipment in a civil application and to avoid the removal of items from the United States Munitions List through company self-determinations. Before placing a defense article considered significant military equipment on a civil aircraft, a written commodity jurisdiction determination must be obtained.

Seven (7) commenting parties recommended the first sentence of the explanatory note add the EAR term “or item.” The Department has chosen to use ITAR terms.

One (1) commenting party recommended the first sentence of the explanatory note use the phrase “component, part, accessory, attachment, and associated equipment” instead of “part or component.” That recommendation was adopted.

Eleven (11) commenting parties recommended the first sentence of the explanatory note delete “exclusively.” The suggestion was not adopted. The word is necessary, since the Department claims no jurisdiction over parts or components designed exclusively for civil, non-military aircraft. Such parts and components are subject to Department of Commerce jurisdiction.

Four (4) commenting parties recommended the “and” linking “civil, non-military aircraft” and “civil, non-military aircraft engines” in the first sentence of the explanatory note be changed to an “or.” There was a concern about coverage of a part or component of a civil, non-military aircraft engine. The sentence in the final rule was changed to clarify that a part or

component designed exclusively for civil, non-military aircraft and a part or component designed exclusively for a civil, non-military aircraft engine are both controlled by the Department of Commerce.

Two (2) commenting parties recommended part (b) of the second sentence of the explanatory note add Parts Manufacturer Approval (PMA). As a PMA may be issued for an exclusively USML item, inclusion of PMAs is not appropriate here.

Six (6) commenting parties recommended part (b) of the second sentence of the explanatory note be expanded to include foreign government civil aviation authorities. As Section 17(c) is limited to certifications issued by the Federal Aviation Administration, it is appropriate to limit the civil aircraft type certificate (including amended type certificates and supplemental type certificates) to those issued by the U.S. Federal Aviation Administration.

Six (6) commenting parties recommended part (b) of the second sentence of the explanatory note add “FAA Order 8110.10” after “Military Commercial Derivative Aircraft.” That reference has been included in the supplementary information above.

Six (6) commenting parties recommended part (c) of the second sentence of the explanatory note change “control of the EAR” to “jurisdiction of the EAR.” This change was adopted.

One (1) commenting party recommended explaining the Department of State’s policy concerning its jurisdiction over an ITAR-controlled article that is incorporated into a civil item. With few exceptions specified in the ITAR (e.g. USML Category XIV(n)(4)(i)), a USML item does not change jurisdiction when it is incorporated into another item. As stated above, it is important for the government to review, via the Commodity Jurisdiction process, the proposed use of military items in commercial applications.

One (1) commenting party recommended the fourth sentence of the explanatory note change “part or component” to “components, parts, accessories, attachments, and associated equipment.” An “accessory,” an “attachment,” and “associated equipment” are not considered standard equipment integral to the civil aircraft.

Four (4) commenting parties recommended the fourth sentence of the explanatory note change “a part” to “such a part” and delete “designated as SME in this category.” The purpose of this sentence is to grandfather from obtaining a commodity jurisdiction determination a part or component designated as SME in Category VIII that was standard equipment, integral to civil

aircraft prior to the effective date of the final rule. This recommendation was editorial in nature and without substantive effect. The language of the proposed rule is clearer and has been retained.

Ten (10) commenting parties recommended the eighth sentence of the explanatory note add at the end of the sentence “of the item’s form, fit, or function.” This change was adopted.

Four (4) commenting parties recommended the ninth sentence of the explanatory note delete “radomes” and “low observable blades” and add “rotodomes” and “bomb bay doors.” The Department accepted the substitution of rotodomes for radomes.

Fifteen (15) commenting parties recommended the tenth sentence of the explanatory note add “manufacturer’s specification or standard” and add Technical Standard Order “TSO” in the parenthesis. As a TSO may be issued for an exclusively USML item, inclusion of TSOs is not appropriate here.

Eleven (11) commenting parties recommended the eleventh sentence of the explanatory note change “unpublished civil aviation industry specifications” to “unpublished (e.g. proprietary) manufacturer’s specifications.” Also, it was recommended to add “bolts” to the e.g. list. The Department believes that many of the concerns raised with regard to sentences ten and eleven are alleviated when the two sentences are read together. Parts and components meeting published industry or government standards or established but unpublished industry standards.

Eleven (11) commenting parties recommended the twelfth sentence of the explanatory note be deleted, noting that aircraft parts are routinely tested beyond the applicable specification for a variety of reasons, including marketing purposes or warranty obligations. This recommendation was not accepted. If a part is required to exceed established standards, such requirements call into question whether it is the “standard part.”

Ten (10) commenting parties recommended the thirteenth sentence of the explanatory note delete “unless the item was designed or modified to meet that specification or standard.” That change was adopted.

Fourteen (14) commenting parties recommended the fourteenth sentence of the explanatory note clarify the jurisdiction of exporting spare parts when the part or component is not installed in the aircraft at the time of export. The Department believes it is clear that parts and components exported separately are captured by this language.



Five (5) commenting parties recommended the fifteenth sentence of the explanatory note add “APUs, seats, and flaps” to e.g. parenthesis. This change was not adopted. We believe the examples provided are sufficient, and note that all APUs, for example, are not subject to Commerce jurisdiction

One (1) commenting party objected to disqualifying “unique application parts or components not integral to the aircraft” in the sixteenth sentence of the explanatory note. Section 17(c) applies to standard parts and components integral to the aircraft. Parts that are not standard or are not integral to the aircraft are clearly not included in the law, and are therefore not included here.

#### **REGULATORY ANALYSIS AND NOTICES:**

##### *Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

##### *Regulatory Flexibility Act*

Since this amendment is exempt from the procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

##### *Unfunded Mandates Reform Act of 1995*

This amendment 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*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

##### *Executive Orders 12372 and 13132*

This amendment will not have substantial 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, it is determined that this amendment 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 amendment.

*Executive Order 12866*

This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*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 121**

**Arms and munitions, Exports, U.S. Munitions List.**

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121 is amended as follows:

**PART 121 – THE UNITED STATES MUNITIONS LIST**

1. The authority citation for part 121 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S. C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp, p. 79; 22 U.S.C. 2658; Pub L. 105-261, 112 Stat.1920.

2. Section 121.1, paragraph (c) Category VIII is amended by revising Category VIII paragraphs (b) and (h) to read as follows:

**§121.1 General. The United States Munitions List.**

\* \* \* \* \*

**Category VIII – Aircraft and Associated Equipment**

\* \* \* \* \*

\*(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category, and all specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)).

\* \* \* \* \*

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (d) of this category, excluding aircraft tires and propellers used with reciprocating engines.

NOTE: The Export Administration Regulations (EAR) administered by the Department of Commerce control any component, part, accessory, attachment, and associated equipment (including propellers) designed exclusively for civil, non-military aircraft (see §121.3 for the definition of military aircraft) and control any component, part, accessory, attachment, and associated equipment designed exclusively for civil, non-military aircraft engines. The International Traffic in Arms Regulations administered by the Department of State control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified, or for military aircraft and control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified for military aircraft engines. For components and parts that do not meet the above criteria, including those that may be used on either civil or military aircraft, the following requirements apply. A non-SME component or part (as defined in §§121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, that: (a) is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for a civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and (c) is an integral part of such civil aircraft, is subject to the jurisdiction of the EAR. In the case of any part or component designated as SME in this or any other USML category, a determination that such item may be excluded from USML coverage based on the three criteria above always requires a commodity jurisdiction determination by the Department of State under § 120.4 of this subchapter. The only exception to this requirement is where a part or component designated as SME in this category was integral to civil aircraft prior to [*insert date of publication in the Federal Register*]. For such part or component, U.S. exporters are not required to seek a commodity jurisdiction determination from State, unless doubt exists as to whether the item meets the three criteria above (See §120.3 and §120.4 of this subchapter). Also, U.S. exporters are not required to seek a commodity jurisdiction determination from State regarding any non-SME component or part (as defined in

§121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, unless doubt exists as to whether the item meets the three criteria above (See §120.3 and §120.4 of this subchapter). These commodity jurisdiction determinations will ensure compliance with this section and the criteria of Section 17(c) of the Export Administration Act of 1979. In determining whether the three criteria above have been met, consider whether the same item is common to both civil and military applications without modification of the item's form, fit, or function. Some examples of parts or components that are not common to both civil and military applications are tail hooks, rotodomes, and low observable rotor blades. "Standard equipment" is defined as a part or component manufactured in compliance with an established and published industry specification or an established and published government specification (e.g., AN, MS, NAS, or SAE). Parts and components that are manufactured and tested to established but unpublished civil aviation industry specifications and standards are also "standard equipment," e.g., pumps, actuators and generators. A part or component is not standard equipment if there are any performance, manufacturing or testing requirements beyond such specifications and standards. Simply testing a part or component to meet a military specification or standard for civil purposes does not in and of itself change the jurisdiction of such part or component. Integral is defined as a part or component that is installed in an aircraft. In determining whether a part or component may be considered as standard equipment and integral to a civil aircraft (e.g., latches, fasteners, grommets and switches) it is important to carefully review all of the criteria noted above. For example, a part approved solely on a non-interference/provisions basis under a type certificate issued by the Federal Aviation Administration would not qualify. Similarly, unique application parts or components not integral to the aircraft would also not qualify.

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(Date)

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John C. Rood,  
Acting Under Secretary for  
Arms Control and International Security,  
Department of State.

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**NOTE: Personal contact information has been deleted from the following comments on the three draft regulations.**

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At the June 19, 2002 DTAG Plenary meeting, DTAG members and public sector attendees were invited to submit questions and comments for the record in conjunction with the DTAG Plenary. The following e-mail messages received by the DTAG Recorder and/or DDTC and are included here for the record.

E-mail from AIA Remy Nathan on June 20, 2008

As AIA and other commenting parties have expressed in written submissions and through oral comments at the DTAG Plenary meeting, the Department offers no explanation or justification in the draft Final Rule for the proposed movement of hot section parts and components and digital engine controls to USML Category VIII(b) and designation as SME pursuant to the established definitions in 22 U.S.C. 2794(9) and ITAR 120.7(a). Such a major substantive change to the control environment for these items, which also represents a departure from the Department's treatment of parts and components across the USML, warrants a full explanation of the reasons underlying the proposed change and why the alternative approach proposed in public comments was not accepted.

AIA remains opposed to the movement of military aircraft engine hot section parts and components and digital engine controls to category VIII(b) and the designation of these items as significant military equipment for the reasons we and other commenting parties have detailed.

If the proposed SME designation for these items is retained in the Final Rule, AIA urges the Department to mitigate to the greatest extent possible the collateral impact on exporters resulting from enhanced licensing requirements applicable to SME. To the extent SME-specific license requirements are not mandated by statute, the Department should exercise its discretion to eliminate the requirements for (or limitations on) exports, reexports and retransfers of hot section parts and components and digital engine controls, including:

-- Requirements to obtain a non-transfer and use certificate (DSP-83) for the export, manufacture abroad, TAA/MLA, or use of the Canadian

exemptions relating to SME pursuant to ITAR sections 123.10(a), 124.9(b)(1), 124.10 and 126.5(b);

-- Requirements to obtain prior approval of, or make prior notification to, DDTC before making certain proposals to foreign persons for the sale or manufacture abroad of SME per ITAR section 126.8 (in the context of proposals for sales of spare parts prior notification would be redundant considering prior licensed engine sales).

-- The exclusion of SME from exemptions of general applicability in ITAR section 123.16;

-- The exclusion of SME from the NATO plus two reexport and retransfer exemption for U.S.-origin components incorporated into a foreign defense article per ITAR section 123.9(e); and

-- Additional approval and notification requirements for brokering activities, pursuant to ITAR sections 129.7(a)(2) and 129.8.

-- Establish a presumption that hot section parts and components and digital engine controls do not qualify as Major Defense Equipment under ITAR 120.8, given that it will be quite difficult if not impossible for manufacturers to produce non-recurring R&D and production cost data at the individual part/component level.

In the aggregate these SME requirements and limitations, if applied to newly designated hot section parts and components and digital engine controls, would impose additional burdens on foreign engine customers and impair the ability and flexibility of U.S. military engine companies to manufacture, assemble, test, maintain, repair and service their products around the world. This would detrimentally impact the competitiveness of U.S. military engine manufacturers and those companies' ability to provide timely support of products vital to U.S. national security.

In addition, we support DDTC's proposed "grandfathering" of previous and current licenses and other authorizations concerning hot section parts and components and digital engine controls. We encourage the Department to mitigate the adverse impact of additional license requirements for both future as well as previous/current licenses and authorizations when they are amended, modified or renewed.

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E-mail received June 20, 2008

Terry:

My additional comments on the three proposed regulations discussed at today's DTAG plenary are summarized below.

1. Registration Fee Change

- Is there a reason that the registration requirement (*i.e.*, submission of form DS-2032 and supporting documents) must be tied to the assessment of the registration fee? Instead of having to resubmit a new registration package every year, the registration period could be extended to a longer time, perhaps 5 years (or more). Each year, though, DDTC could provide notice to a registrant regarding how much money the registrant owes for its annual registration fee. This notice could also include a reminder of the obligation to notify DDTC of material changes in the registration statement. This could have the added benefit of reducing the additional workload that would be created by requiring every registrant to submit (and DDTC to review) a registration statement every year.
- Another option for potentially increasing the amount of fees from existing registrants based on a rough estimate of the services that they use might be to increase the fee owed by a registrant by a set amount for each subsidiary that is identified in Block 9 of the registrant's DS-2032. This block only identifies subsidiaries that are engaged in ITAR-controlled activities, so you would not have to worry about assessing fees on subsidiaries that do not use DDTC services. DDTC also could exempt a subsidiary from the fee if that subsidiary did not have any "license applications" (however defined by DDTC) in the previous year.
- Section 122.3(4) defines "license applications." This should specifically identify each of the types of submissions that will form the basis for the calculation of the registration fees. As it is currently drafted, the language would include Voluntary Disclosures and Directed Disclosures (which Mr. Kovac stated was not the intent). The language

would also include registration statements and emails to the Response Team (when they respond).

- Section 122.2(a), 9<sup>th</sup> line: The word “empowered” should be changed to “authorized.” The current language could be interpreted as requiring that the person signing the registration statement be an Empowered Official, and there is no such requirement in the ITAR. The signatory must only be a senior officer who is authorized to sign on behalf of the registrant.
- DDTC’s position (as expressed in letters approving registration statements) is that the Empowered Official must be a full-time employee of the registrant. This requirement is not currently in the ITAR. Rather than incorporate this requirement into the ITAR, DDTC should establish a process where small companies can have outside personnel (whether it be contract employees, consultants, etc.) serve as the Empowered Official. Requirements could be imposed so that DDTC’s concerns are addressed, such as a written agreement between the registrant and the Empowered Official, requirements that the Empowered Official work and be located at the registrant, the outside person only be able to serve as the Empowered Official for one registrant, etc. This would provide assistance to small, start up companies who may not have a full-time, U.S. person that can satisfy current DDTC requirements.
- Section 122.2(a), last sentence: It appears that there is a typo in this sentence. I think that the sentence should read: “A new registration cannot be submitted for the purpose of evading requirements that may be imposed under Section 127.9 of this subchapter.”
- 2. Section 17(c)
  - There is a typo on page 2, line 4. There is a parenthesis after “Aircraft” that appears out of place.
  - Page 3, 4<sup>th</sup> paragraph: The text notes that DDTC declined to remove the requirement for obtaining a CJ for “significant military equipment” (“SME”). The text states that the government must maintain this requirement to ensure that it has an opportunity to review proposals to use military equipment in a civil application. The text further states “Before placing a defense article considered significant military equipment on a civil aircraft, a written commodity jurisdiction must be obtained.” This statement is not entirely accurate. There is no requirement that a CJ be obtained before installing an SME item on a



civil aircraft in the United States. The ITAR issue is raised only when the aircraft is exported – if it has an SME part that has not been the subject of a CJ, then the entire aircraft would be subject to ITAR licensing requirements. Moreover, keeping this requirement does not achieve DDTC’s stated purpose of being able to review proposals to use military equipment in civil applications. If the intended requirement was that a CJ be obtained before any military equipment is included on a civil aircraft, that this is much broader than what is currently required in the regulation and should be stated explicitly.

- □ Page 5, last sentence: There appears to be a typo here – there is no predicate to this sentence.
- □ Page 8, first sentences of NOTE: The text states that the EAR controls items “designed exclusively for civil, non-military aircraft.” This is not entirely accurate. It seems that the proper formulation would be that the ITAR controls items specifically designed or developed for military aircraft, and the EAR controls items that were either designed for both civil and military aircraft or exclusively for civil/commercial aircraft. Alternatively, it is not clear that it is even necessary to define the respective jurisdictions of the ITAR and EAR in the note. The section could simply start with a modified third sentence such as “For parts and components that can be used on either military or civil aircraft, the following rules apply. . .”
- 3. US-UK Defense Trade Cooperation Treaty Regulations
- □ Figure 1: The second block from the top on the left side is misleading. It could be interpreted as allowing the exporter to determine whether an end use is in one of the four identified categories when, in fact, the Treaty requires the two governments to develop and publish a list of the “authorized end uses.” In light of this, the block should state “Defense Article’s End Use for one of the pre-approved end uses identified on the list available at [ ]” (or some equivalent language).
- □ Figure 1: The block referring to the inclusion/excluded lists is also confusing. There is only one list, but the text implies that there are two (a U.S. “inclusion” list and a U.K. “excluded” list). The block should be clarified to state that “Defense Article is identified in Section 110.6” or “in Supplement 1 to this Part” (or something equivalent).
- □ Section 110.5(a) is misleading as it could be interpreted as allowing the exporter to determine whether the end use qualifies for one

or more of the four categories of approved end uses. Section (b) states that there will be a list of authorized end uses, defined by the parties. Thus, subsection (a) does not appear to be necessary and should be considered for deletion.

- □ Section 110.5(b)(3): This subsection implements the requirement of the Implementing Regulations that the authorized “U.S. Government end uses” be identified specifically in the solicitation or contract when issued. Given that U.S. Contracting Officers do not always include every required clause (and are not always familiar with ITAR requirements), it might make sense to provide some flexibility and allow a contract to be included on the approved list even if the solicitation or contract does not include the reference to Treaty coverage, after consultations between the contracting officer and DDTC.
- □ Section 110.6: The structure of this section is confusing. It might be more clear if it was reorganized with the grant of authorization (which is currently in subsection (b)) coming first, followed by the list of “exceptions” to the general authorization (which are currently included in subsection (a)).
- □ Section 110.7: Is there a specific reason that this section is titled “Legislative Notification” when the similar sections in Part 123 and 124 are titled “Congressional certification”? If not, then the reference in Section 110.7 should be modified to “Congressional certification.” Also, instead of repeating the same congressional certification thresholds, why not just refer to Section 123.15, as is currently done in Section 124.11?
- □ Section 110.10(b): This section addresses AES requirements for exports under the Treaty. This subsection is not really related to “recordkeeping” and should be broken out into its own section. It should also be expanded to include more specific guidance regarding AES requirements, export clearance requirements and the DS-4071 electronic notification requirements for exports of Technical Data (although they are not yet implemented). Finally, for enforcement purposes, it might be useful to include a provision clearly stating that submitting the AES entry or DS-4071 as indicated constitutes a certification by the exporter that the conditions for using the Treaty have been satisfied and any changes in circumstances must immediately be reported to DDTC. (This might help address some of the enforcement concerns raised by the Department of Justice with respect to exports that are not subject to prior licensing requirements.) .

- Section 110.13: This section on “transitions” assumes that there is some type of submission by the exporter requesting transition. However, there is no guidance on how this submission is to be made, what information must be included, how it should be submitted, etc. A new subsection should be added before the current (b)(1) to direct that the first step in transition is for the exporter to submit such a request. Subsection (b)(2) should also be expanded to include “other authorizations” (*e.g.*, Part 124 Agreements, GC requests, etc.)” in addition to “licenses.”
- Section 110.14: This section should be expanded to include (i) more detail on timing for such notifications, (ii) the information that DDTC wants the exporter to report and (iii) the desired format for such reports.

Thanks.

Mike C.

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To reiterate my oral comments from the DTAG meeting on the 17(c) issue:

DTAG should reiterate its prior concerns regarding the proposed designation of military hot section components and FADEC/digital electronic engines controls as controlled by Category VIII(b) of the USML, which would make these items significant military equipment. It is unexplained, inconsistent with other USML categories, with the prior treatment of hardware vs technology by the USG and is not necessary to ensure that industry obtains CJs for these items, rather the same language could be moved into the note under Category VIII, as several commenting parties suggested.

If the SME designation is retained, State should consider whether the licensing impact of the SME designation could be mitigated by limiting SME applicability to obtaining Commodity Jurisdictions and Congressional notification requirements in ITAR 124.11.

Many thanks.

**Kathleen Palma**  
Counsel, International Trade Regulation

General Electric Company GE imagination at work

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Terry,

As discussed during the DTAG session yesterday, the three subjects I took notes on for comment included the registration fee proposal (pay as you go), the UK treaty exclusions (MTCR, LO/CLO, sensor fusion, and anti-tamper), and the 17C proposal (low observable helicopter blades).

Regarding registration fees, I asked DDTC for a demographic breakout of the 5200 registrants they cited yesterday at the DTAG meeting. Have not received a reply yet. So, it was not possible to derive a solution absent that data. However, below are some thoughts regarding it.

DDTC stated yesterday they are looking for a fair, easy to implement, predictable (known revenue source year after year) system

Current annual registration fee is \$1750, multiplied by 5200 registrants, equals \$9.1M currently being generated

As stated yesterday, \$22M is the target. \$22M divided by 5200 registrants equals \$4,231...that's the average

Understanding the non-profits, brokers, and other non-exporting registrants probably make up a third of the pool, holding the bottom 2000 registrants at the current fee of \$1750 sounds as reasonable as anything else. Doing so generates \$3.5M, leaving \$18.5 remaining

If you tier the fees at \$4K for the next 1000, \$6K for the following 1000, and \$6.5K for the last 1000 that generates another \$16.5M, leaving \$2M remaining.

Charging \$10K per for the top 200 provides the final \$2M.

Although \$10K sounds like a lot, it's significantly smaller than the \$100K to \$400K they would pay under the proposed "pay as you go" system in the draft FR notice.

As stated above, no way to really bore down in to this one without the demographic breakout. Do believe though that any proposed pay as you go will be too complex and cumbersome to implement and will have negative unintended consequences.

Regarding the treaty exclusion list:

The first issue is with the blanket MTCR exclusion. I certainly understand their wanting to exclude MTCR category 1 as that is complete systems and subsystems. But, excluding MTCR category 2 needlessly restricts operations under the treaty and causes some serious confusion with regard to what is permissible under the treaty as stated further in the draft FR notice.

There are many category 2 items that are permitted else where in the USML matrix contained in the draft FR notice. Some examples of this include inertial navigation systems...excluded under MTCR (category 2, item 9), but permitted under USML category 8(d), or lightweight turbojet and turbofan engines that are small and fuel efficient...excluded under MTCR (category 2, item 3), but permitted under USML category 8(b) or category 4(h). This disconnect between MTCR being excluded, but many MTCR category 2 items appearing to be permitted later in the document will cause great confusion on the part of the exporting community. This will be further complicated by the large number of non-MTCR platforms that these MTCR category 2 systems are also used on...both manned and unmanned. For example, General Atomics makes the Predator and Predator B UAVs. The Predator B is an MTCR category 1 system, the basic Predator does not fall under the MTCR (shorter range and payload the Predator B). Regardless, both UAVs share many common parts that are MTCR Category 2. So, as written it will be permissible to export a non-MTCR UAV under the treaty, but not many of the spare parts to support that UAV (such as the engine, the flight control system, or the navigation system). Of course, given that they have excluded MTCR Category 2, applying the see through policy, I'm not completely sure that it would be permissible to export a non-MTCR UAV given it contains Category 2 components. That would mean the result of the language would exclude all UAVs, regardless of range and payload.

A final note regarding MTCR is with regard to the nomenclature used in the "additional treaty limitations" column in Supplement No. 1 to Part 110 – United States Munitions List Annotated. The MTCR references cited on the additional limitations are not consistent with ITAR Part 121.16 (the MTCR Annex). For

example, the note for USML Category VIII(b) states “engines that are listed in MTCR Annex Items 3.A.2 or 3.A.9 are not eligible for export under the DTCT.” The problem is that there is no 3.A.2 or 3.A.9 in part 121.16. Part 121.16 contains an Item 3 – Category II with subparagraphs (a) through (f) followed by the Note to Item 3 with subparagraphs (1) through (5). Most likely these references reflect the information location in the actual MTCR document rather than the ITAR itself, which uses a slightly different numbering system. There are numerous other similar instances of this error throughout Supplement No. 1.

The second issue with the exclusion list is with part 110.6 (a)(5), the exclusion paragraph relating to reduced observables or counter low observables. The first sentence reads “Defense articles specific to reduced observables, or counter low observables in any part of the spectrum, including radio frequency (RF), infrared (IR), Electro-Optical, visual, ultraviolet (UV), acoustic, and magnetic shall not be exported.” There is no further qualifying or clarifying guidance provided, including no definition of what is meant by “reduced observables” and “counter low observables.” So, as written this prohibition could reasonably apply to almost any defense article. The DoD guidance used regarding these two subjects is very closely controlled and access is not available to the general public. Within that guidance however, the individual spectrums (RF, IR, EO, visual, UV, acoustic, and magnetic) only apply to certain types of defense articles (ex. some spectrums apply only to aircraft where others apply only to ships). Additionally, there are clear performance thresholds for a given category of defense article within a given spectrum. Part 110.6(a)(5) does not contain any qualifiers assigning specific spectrums to specific types of defense articles nor does it contain any defining thresholds a defense article must meet to be deemed reduced observable or counter low observable. The result is that any signature reduction on any defense article, in any spectrum, for whatever reason is excluded from the treaty. For example, if the manufacturer of the Army mine-resistant, ambush protected (MRAP) vehicle decides to slant the front grill and driver windshield back and lower the cab roof to help reduce the forward visible signature in an effort to reduce wind resistance and improve fuel efficiency, the MRAP vehicle would then be excluded from export under the treaty. In another example, if an electronics manufacturer decides to change the material of the external casing of their component in an effort to reduce the magnetic signature such that it eliminates interference with other nearby electrical devices, that item would similarly be excluded from export under the treaty.

Regarding anti-tamper, I reread the exclusion language in part 110.6(a)(2). It contains a qualifying statement to the effect of “anti-tamper measure made at the

direction of the U.S. government;” This qualifier would appear to eliminate restrictions with regard to industry self-imposed measures installed for proprietary/business reasons. There is still the issue with the overly restrictive statement with regard to acknowledging the existence of such a measure. Not all AT measures are sensitive to the point of requiring this sort of secretive protection, and in many cases industry has been directed to inform a foreign recipient of unclassified AT measures to ensure they are made aware to reinforce the requirement to not open certain items (ex. seals on an access panel). There are levels of anti-tamper, each with definitions, and it would be an improvement to the treaty exclusion list if DoD were to modify this restriction to encompass the levels of AT they are actually concerned with versus restricting the entire subject.

Regarding sensor fusion, part 110.6(a)(5) contains a qualifying statement with regard to sensor fusion that reads “sensor fusion capabilities beyond that required for display or identification correlation,” Although this qualifier is not completely consistent with DoD published descriptions of levels of sensor fusion, it is relatively common within DoD and major defense company circles.

Regarding 17(c), there is a concern with the term “low observable helicopter blades.” The recommendation to have this replaced with another example was rejected by DDTC during the public comment period. That notwithstanding, the term itself is problematic. The above comments regarding reduced observables apply to this example as well. There is no clarifying guidance provided with the example with regard to what portion of the electromagnetic spectrum (EM), nor to what degree the signature reduction in that portion of the spectrum should be applied to determine if a particular helicopter blade is deemed to be “low observable.” The result of this is that any helicopter blade can easily be deemed to be low observable in some portion of the EM spectrum (ex. acoustic) and therefore subject to the ITAR, regardless of their original design being civil.

Sorry for the lengthy email here. Let me know if you have any questions regarding any of it or need further clarification. Take care and thanks,

Greg Hill

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A summary of my comments on the UK Treaty Implementation proposed reg is below:

- Cross references to sections that don't exist – section 110.4(a)(1), (2), (4) and section 118.4(a)(1), (2), (4) – need to be fixed
- Does Section 110.9 reference to US freight forwarders mean that UK freight forwarders are not allowed to handle the items or does it mean that only UK freight forwarders in the approved community can be used or something else?
- Section 110.10(a) says that any exporter authorized under this section must keep records of all exports, imports and transfers. This could be read to say that the recordkeeping requirement applies to exports that are not subject to the treaty or even the ITAR (for example, ATF imports, commercial exports, etc.).
- In Section 110.10(a)(12), can the requirement to include purchase order, letter of intent or contract be modified to say “if any” or “if applicable.”
- Is the requirement in Section 110.10(b) to file an SED through AES meant to apply only to physical shipments or also to data that is discussed, emailed, faxed, etc? If it is only the former, can the language be modified or clarified?

My comments on the Registration Fee proposed rule were as follows:

- Has any consideration been given to automatically placing non-profit organizations (such as universities) in the first tier?
- The method for using the alternative calculation (3% of the value of license applications) is unclear. For example, how do you value a GC or an amendment to a TAA that doesn't change the value of the TAA?
- If DDTC is currently able to raise \$9 million under the existing system, has any thought been given to simply doubling (or slightly more than doubling) the fee for everyone to raise the \$22 million needed? That seems much more straightforward and gives organizations much more certainty.

Thanks,  
Jahna

Jahna M. Hartwig  
Associate General Counsel  
JHU Applied Physics Laboratory



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-----Original Message-----

From: Rein, Norma B

Sent: Wednesday, June 18, 2008 7:17 PM

To: PM-DDTC-Response-Team-DL

Cc: Cornnor-Jackson, Sharon V

Subject: Final Comment on the DDTC's Draft Final Rule Regarding  
Implementation of Section 17c of the EAA

Importance: High

Thank you for the opportunity to review DDTC's draft final rule on  
implementation of Section 17c of the Export Administration Act.

The purpose of this note is to submit a comment regarding the two new sentences  
that DDTC added to the draft Final Rule, following the first sentence in the  
NOTE. The two sentences are:

"The [ITAR] administered by [DDTC] control any component, part,  
accessory, attachment, and associated equipment designed, developed, configured,  
adapted or modified, for military aircraft and control any component, part,  
accessory, attachment, and associated equipment designed, developed, configured,  
adapted or modified for military aircraft engines. For components and parts that  
do not meet the above criteria, including those that may be used on either civil or  
military aircraft, the following requirements apply."

The limitation in the second sentence of the Note's applicability to those parts and  
components "that do not meet the above criteria" - i.e., those that are neither (a)  
exclusively designed or modified for civil aircraft or aircraft engines nor (b)  
designed or modified for military aircraft or aircraft engines -- completely  
undercuts the entire purpose of the Note, which is to allow exporters to make self-  
determinations that aircraft parts and components specifically designed or modified  
for military aircraft or military aircraft engines are nonetheless EAR-controlled if  
they are standard, integral equipment on a civil aircraft or civil aircraft engine and  
covered by an FAA certification.

We do not believe that DDTC intended to undercut the entire purpose of the Note

by adding in the two new sentences and are, therefore, interpreting them as merely being a partial summary of what USML subcategories VIII(b) and VIII(h) would otherwise control but for the addition of the Note. To avoid the need for such a strained interpretation, however, we respectfully requests DDTC remove the two new summary sentences from the final Note. They are confusing when read together and do not add any benefit to describing what Category VIII otherwise already does and does not control. Indeed, they are inconsistent with the description of what subcategories VIII(b) and VIII(h) control because they are not limited to describing as ITAR controlled only those parts and components that are "specifically" designed or modified for military aircraft or military aircraft engines DDTC has added a new sentence, as follows, "The ITAR administered by the Department of State control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified for military aircraft and control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified for military aircraft engines."

Thank you for your consideration.

Sincerely,

Kathie Greaney  
Vice President, Global Trade Controls, Office of Internal Governance The Boeing  
Company \_\_\_\_\_

\_\_\_\_\_  
Sent by Norma Rein on behalf of Ms. Kathie Greaney

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**From:** Ashby, David  
**Sent:** Tuesday, June 17, 2008 9:14 PM  
**To:** PM-DDTC-Response-Team-DL  
**Cc:** Ashby, David  
**Subject:** Regulatory Change, ITAR Part 121

Dear Ms Ganzer,

Korry Electronics Co. (“Korry”) has reviewed the draft final Note DDTC published on June 12th and asks that the following 3 comments be sent to the DTAG for consideration regarding the Note before it becomes final.

#### 1. Summaries of What the EAR and the ITAR Control

The draft final Note includes the following two new sentences after the summary of the parts and components the EAR controls:

“The [ITAR] administered by [DDTC] control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified, or for military aircraft and control any component, part, accessory, attachment, and associated equipment designed, developed, configured, adapted or modified for military aircraft engines. For components and parts that do not meet the above criteria, including those that may be used on either civil or military aircraft, the following requirements apply.”

The limitation in the second sentence of the Note’s applicability to those parts and components “that do not meet the above criteria” – i.e., those that are neither (a) exclusively designed or modified for civil aircraft or aircraft engines nor (b) designed or modified for military aircraft or aircraft engines -- completely undercuts the entire purpose of the Note, which is to allow exporters to make self-determinations that aircraft parts and components specifically designed or modified for military aircraft or military aircraft engines are nonetheless EAR-controlled if they are standard, integral equipment on a civil aircraft or civil aircraft engine and covered by an FAA certification.

Korry does not believe that DDTC intended to undercut the entire purpose of the Note by adding in the two new sentences and is, therefore, interpreting them as merely being a partial summary of what USML subcategories VIII(b) and VIII(h) would otherwise control but for the addition of the Note. To avoid the need for such a strained interpretation, however, Korry strongly and respectfully requests DDTC remove the two new summary sentences from the final Note. They are extraordinarily confusing when read together and do not add any benefit to describing what Category VIII otherwise already does and does not control. Indeed, they are inconsistent with the description of what subcategories VIII(b) and VIII(h) control because they are not limited to describing as ITAR controlled only those parts and components that are "specifically" designed or modified for military aircraft or military aircraft engines.

## 2. “Unpublished Civil Aviation Industry Specifications”

As DDTC points out, most of the commentators asked that the reference to “unpublished civil aviation industry specifications” in the proposed Note be changed to “unpublished (e.g. proprietary) manufacturer’s specifications.” The commentators believed that this edit was necessary because many civil aircraft and civil aircraft parts manufacturers publish their own specifications for their own products. The commentators took the position that such specifications are, as a definitional matter, not “industry” standards.

In addition, the commentators noted that the words “civil aviation” needed to be removed from this sentence to (a) make it consistent with the standard pertaining to published specifications (which is not so limited) and (b) account for the fact that many parts used on civil aircraft are manufactured and tested to generic parts specifications and standards, which are not necessarily “civil aviation” specifications of standards. For example, a bolt used on a civil aircraft may be tested to a specification for bolts generally and, although used on an aircraft, may not refer to civil aircraft in the standard.

DDTC disagreed with these definitional points and wrote that such “concerns are alleviated when” sentences ten and eleven are read together. Based on DDTC’s response to the commentators’ suggestions, Korry’s understanding is that DDTC includes manufacturers’ proprietary specifications within the scope of the phrase “unpublished civil aviation industry specifications.” If our understanding in this regard is in any way incorrect, please let us know.

## 3. Testing Beyond the Required Specification

The draft final Note states that a “part or component is not standard equipment if there are any performance, manufacturing or testing *requirements* beyond such specifications and standards.” (Emphasis supplied). The referenced specifications and standards are those that are either (a) established and published industry or government specifications or (b) established but unpublished civil aviation industry specifications and standards, which DDTC indicated in its commentary include proprietary manufacturers’ specifications that are established.

Almost all who commented on the draft Note took the position that the sentence needed to be removed because civil aircraft parts are routinely tested and manufactured beyond the applicable specification for purely civil purposes. The thought of commentators was that the proposed sentence would take all of these and other similarly purely civilian situations out from consideration of the

definition of “standard equipment.” DDTC rejected the commentators’ request and took the position that “If a part is *required* to exceed established standards, such *requirements* call into question whether it is the ‘standard part.’” (Emphasis supplied).

Upon reflection and considering DDTC’s emphasis on the “requirement” element in the sentence, it appears that the position of the commentators and DDTC are aligned. Specifically, the commentators focused on the fact that industry often *voluntarily* chooses to test a part or component beyond the applicable, required specification. Under DDTC’s wording, such *optional* testing beyond the minimum required specification will not affect whether the part or component can qualify as “standard equipment.”

Moreover, when read in connection with the next sentence in the draft final Note, DDTC is making it clear that merely testing an item to a higher, more demanding standard such as a military standard does not affect the jurisdictional status of the part or component. Thus, if a company chooses to voluntarily test a part or component beyond the applicable minimum required specification for marketing, safety of flight, insurance, or other reasons and an identical part or component is tested to the regular, *required* standard, then the sentence in DDTC’s note does not preclude the treatment of all such parts as “standard equipment.” A contrary conclusion would lead to the illogical outcome that one particular part is “standard equipment” and EAR-controlled (assuming the FAA certification and integral requirements are met) if tested to the required established industry specification but that an identical part is not standard equipment and, thus, potentially ITAR-controlled if it is merely tested to a higher, more demanding specification for a different application. As DDTC noted in its proposed rule, the ITAR does not identify testing as a criteria that affects the jurisdictional status of aircraft parts and components. If our understanding in this regard is in any way incorrect, please advise.

We appreciate DDTC’s effort to give industry a chance to comment on the Note before it becomes law.

Regards, David Ashby

David Ashby  
Empowered Official

VP, Program Office & General Counsel  
Esterline Avionics & Optics Group  
Korry Electronics Co.  
[www.korry.com](http://www.korry.com)

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**Written Comments Submitted by the Industrial Fasteners Institute (IFI)  
To the Defense Trade Advisory Group (DTAG)  
For Consideration at the June 19, 2008 Open Meeting  
Regarding the  
New USML Category VIII Regulations Implementing Section 17(c) of the  
EAA**

As a follow-up to the public comments submitted by IFI on May 12, 2008 on Proposed Amendments to ITAR Section 121 to clarify Section 17(c) of the EAA, IFI respectfully submits the following two comments for clarification and discussion at the DTAG Open Meeting on June 19, 2008.

- 1) IFI is concerned that the wording and order of the first 3 sentences of the Note could potentially lead readers to conclude that if a part or component was originally designed for military aircraft 30-50 years ago but is now used in civil aircraft, or both military and civil aircraft, then the three part test for a part or component to rely on 17(c) would not apply. The following simple revision to the third sentence would provide much needed clarification:

“For components and parts that may be used on either civil or military aircraft, the following requirements apply.”

- 2) IFI would like to clarify its interpretation of the definition of “standard equipment”. The Department makes it clear that merely testing an item to a higher, more demanding standard such as a military standard does not affect the jurisdictional status of the part or component. Therefore, if a company chooses to *voluntarily* test a part or component beyond the applicable minimum required specifications and standards for marketing, safety of flight, insurance, or other reasons and an identical part or component is only tested to the regular, *required* standard, then the Note does not preclude the

treatment of all such parts as “standard equipment.” A contrary conclusion would lead to the outcome that one particular part is “standard equipment” and EAR-controlled (assuming the FAA certification and integral requirements are met) if tested to the required established industry and/or government specification, but that an absolutely identical part is not “standard equipment” and, thus, potentially ITAR-controlled if it is merely tested to a higher, more demanding specification for a different application.

(END)

-----Original Message-----

From: Rein, Norma B

Sent: Tuesday, June 24, 2008 12:05 PM

To: Otis, Terry - DEHQ

Subject: FW: UK Treaty Comments

Importance: High

Terry,

I am probably asking for too much, but we added two bullets to our comments, so I thought I would send you a revised version in case it can be used. Please let me know.

Thanks!

Norma

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> Thank you for the opportunity to comment on the Defense Trade  
> Cooperation Treaty regulations. Given that the deadline for comments  
> was provided only one day in advance, our response reflects a very  
> preliminary assessment of the language and should therefore be  
> considered as informal input.

- >
- > \* Section 110.6(a)(1) states that regardless of category a defense article may be marketed to the UK Government if the export of the identical defense article has been licensed by the Department of State to any foreign person. We assume "marketed" refers to the export of technical data to support the marketing activity, but the language should probably be clarified. Also, is this regardless of what U.S. company originally received the license, or does it apply only to the particular company doing the marketing?; if the former, what mechanism will be in place to assist the potential exporter in determining whether an article identical to that which the exporter is considering for export has been previously licensed by the State Department?
- >
- > \* Section 110.5(b)(3). How will exports under the Treaty be handled under current contracts? Will the contracts have to be modified prior to invoking the Treaty for exports in support of current contracts? Will future contracts or solicitations contain language relevant to the Treaty where applicable?
- >
- > \* Section 110.5(b)(1). What is the process for adding new programs?
- >
- > \* Under 110.13(b), would it be possible to maintain a license while using the Treaty or must the license be retired?
- >
- > \* Under 110.8((b), we are concerned about the fact that identical technologies could either be classified and marked in accordance with the Treaty requirements as well as unclassified and unmarked under the normal licensing process, since those inventories may be held by the same contractor under both scenarios. We recommend that the Department reconsider this provision with the goal of simplifying record keeping and inventory management.
- >
- > \* Section 110.1 (a) states that the Treaty provides for exports, temporary imports, and transfers, but other references to export or temporary import in that section omit the word "transfer." Does that mean that transfers within the UK are not subject to all of the requirements of 110.1 (b) or is the omission an inadvertent one? Also, we recommend that any variances in definitions between the U.S. and the UK be addressed to avoid confusion.



- >
- > \* Section 110.9. How will the U.S. exporter know what the requirements are for selecting a UK freight forwarder potentially handling a transfer within the UK? Who is the responsible party?
- >
- > \* Section 110.14 states that a person who has exported a defense article that has been removed from the exempted list shall notify the Directorate of all such exports. In that case, should the exporter halt all related exports or should the exporter continue to support the effected export until guidance from DDTC is received?
- >
- > \* Section 110.10(a). Are there any due diligence obligations regarding the requirement to maintain records of all re-transfers and re-exports "to the extent that the exporter is aware"? How is "aware" defined?
- >
- > \* Section 110.6(a)(7), which requires separate compliance with any restrictions on systems, subsystems and components embedded in a larger system which itself is eligible under the Treaty, has the potential for causing significant confusion, since not all items on the list not covered by the Treaty are described to the same level of detail. We believe that more clarity and specificity is required, either in the regulations or in separate guidance.
- >
- > \* Section 110.10, requires records to document technical data actually exported. We assume that does not mean the actual technical data but an identification of the data; clarification may be necessary.
- >
- > \* Section 110.6 makes reference to the UK Exclusion list; however, there is no other reference to it nor does that list seem to be included here other than in the most general of terms elsewhere in this section. Is there in fact a separate "UK Exclusion List" or is it simply embedded in Supplement #1?
- >
- > \* In Section 110.8(b), the requirement to remove the markings on tangible parts upon return to the U.S. may be quite burdensome in practice.. For example, for parts that are exported from the UK to the U.S. for repair and return, it might be easier to keep the markings, since if they were to be removed at the time of import they

- > would have to be reapplied once the goods are repaired and returned.
- >
- > \* Section 110.8c(1) requires tangible defense articles to be
- > individually labeled, or, "where such labeling is impracticable", to
- > be accompanied by documentation. It might be useful to provide
- > clarification, such as examples of items where labeling would be
- > impracticable. As an example, CBP regulations provide a section with
- > examples of items by name that are exempt from marking requirements.
- >
- > \* We recommend that the regulations be issued in Proposed Rule
- > form. Publication of DDTC's amendments to Category VIII of the ITAR
- > to implement Section 17c of the Export Administration Act allowed
- > aerospace experts to provide insight and analysis regarding the
- > language; we believe this was helpful to the Directorate because it
- > led to reconsideration of a number of provisions and it was certainly
- > of benefit to industry.
- >
- > Norma Rein
- > Senior Manager, Global Trade Controls Policy The Boeing Company
- >
- >
- > \_\_\_\_\_

-----Original Message-----

From: Darla Hobson

Sent: Tuesday, June 24, 2008 11:49 AM

To: Otis, Terry - DEHQ

Cc: Lisa Bencivenga

Subject: Proposed Rule Regarding Increase in DDTC Registration Fees

Hello Terry,

Attached is a letter with HiRel's comments regarding the new proposed rule. I do not have any way to stop the proprietary notes on the bottom of my e-mail, so I will make this statement:

\*The attachment to this e-mail, SUBJECT: Proposed Rule Regarding Increase in DDTC Registration Fees, dated June 23, 2008, is exempt from the proprietary notice that is part of this e-mail, and is released by HiRel for public Record.

\*Hopefully that will do it. Should I have our friendly competitors and other interested parties also forward comments to you?

Thanks,

Darla

--

Darla Hobson  
Export Compliance Officer  
Empowered Official  
HiRel Connectors, Inc.

---

This message and any attachments are for the sole use of the intended recipients and may contain proprietary and/or confidential information which may be privileged or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy the original message, and any copies of the message, as well as any attachments to the original message. This message may also be subject to export controls which can be viewed at <http://www.hirelco.com/export-warning.html>

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June 23, 2008

To: Terry Davis, DTAG

RE: Proposed Rule Regarding Increase in DDTC Registration Fees

Dear Terry,

HiRel Connectors, Inc. is very concerned about the proposed rule regarding a potential increase in registration fees as well as a new fee per license structure. To give some background, we are a privately held small business manufacturing electrical connectors and wiring harnesses. Since we make lower tier components, our products typically go into sub-assemblies at facilities two or three times removed from the foreign government of ultimate destination. I think the concerns for component manufacturers can be slightly different than those of end item manufacturers and I would like an opportunity to express some of those concerns so that our perspective is considered during the dialog with DDTC.

I ran some numbers based on our general licensing history. Like all other registered companies, we are currently paying a \$1750/year registration fee. I looked at the number of licenses processed by DDTC in the past 2 years, and based on the numbers for DSP-5's alone, under the new proposed rule we would see our registration fees increased to over \$21,000 annually. The provision for those whose registration fees are greater than 3% of total licensing value would not be of help to us. **In our case, the fees would represent more than a thousand percent increase in one sweep.** If DDTC is attempting to increase their budget from 9 million to 22 million dollars, I think this might be overkill. I don't know where they got the \$250 number, but it seems a bit unreasonable when plugged in to our real life scenario.

I can foresee issues with charging industry for licensing that DDTC personnel or policy causes, i.e., RWA's for omission of information that, in fact, has been supplied if the person processing the case had only carefully read the documentation or erroneous RWA's based on inconsistent decisions about how things should be processed when the regulations are not clear. We generally have no recourse when unreasonable judgments are made on a licensing case. It can be difficult to get the proper personnel at DDTC to even talk to us - and they do not reverse decisions even when they're wrong. Requiring a DSP-119 because a freight forwarder changes their name after the license is issued is another potential trap for additional charges. If a party has a name change, it's going to cost \$250 for every license they are listed on just to make this simple change. There are times when new licensing must be obtained based on currency conversion rate changes because DDTC dictates that the license value must be in dollars.

It is also more costly for industry and DDTC to process the renewals annually. If the objective is to balance the budget, why make more work? There are a number

of things DDTC could do to increase revenue or decrease processing costs in their budget:

- 1) Actually get all companies who manufacture defense articles to register and pay the fees. There is a lack of awareness at the small manufacturer level.
- 2) Use dollars collected from fines/penalties to supplement the budget.
- 3) Keep the 2 year option to reduce related processing costs, but increase the flat rate representative of a more reasonable increase (\$2500/\$5000?).
- 4) Make the proposed per license fee more reasonable - \$15 or 25, so that it could be amortized into the order cost at the component level.
- 5) Make use of more open/general licenses (similar to the UK) for hardware going only to NATO, allied or specifically named countries.
- 6) Make use of an open license format for all parties/countries involved in a particular program, such as Eurofighter, where the primes and subs are well established, and DDTC knows full well who's involved. Possible open quantity/value to a set limit might eliminate the need to obtain multiple licenses which duplicate information.
- 7) Allow more than one country of ultimate destination on a hardware license.

If DDTC persists with the per license fee, I think they really need to look at items 4, 5, 6, & 7. Particularly at the component level where we are shipping a small component to the manufacturer of a sub-assembly, and it is the aircraft itself that will be re-exported. Obviously, some of these suggestions would require major long-term changes to the regulations that would require time to implement, but the issues need to be raised. If the budget is inflated due to inefficient policies, then it would not be acceptable to penalize industry for that. We already pay in resources every day, and we are taking a serious hit with our customers.

It doesn't seem logical to charge by license when we do not control how many licenses we are required to submit. I try to get my customers to have some foresight, but the customers are often in situations that make it impossible for them to plan too far ahead. Some of the issues that are frustrating to our customers

relate to the number of licenses we have to do for a single order. I have had a single 10 piece connector order require up to 5 separate DSP-5's because the finished aircraft is going to 5 different countries of ultimate destination. The order was less than \$2000, yet according to the proposed rule, the licensing fees alone would be \$1250! I have also had DDTC dictate to me recently that they wanted me to prepare 3 separate DSP-5's for an order which had 3 foreign end users - all in the U.K. This is not a regulatory requirement, but there is no choice but to comply with whatever the particular licensing officer might request. It is going to be a problem when it represents an extra \$500 in license fees. I think these issues need to be addressed by DDTC prior to a fee for license scenario being implemented.

I have many license applications that are less than \$1000, and the licensing fee of \$250 could easily represent 25, 50 or even 100% of the order value. Maybe if you are selling satellites or planes, \$250 isn't going to hurt too much. If you are selling components, or perhaps a single test connector, the impact is going to be disproportionate. In this way, the flat fee may impact small component manufacturers to a greater degree than big defense companies.

Currently, the restrictions and regulations are costing us business. We have competitors in Germany, France, and the U.K. who can, and do, engineer and make the same types of products as we do. The regulations and provisos cause many difficulties and inconveniences to our customers, and for this reason we have several large foreign accounts that have now implemented policy that specifically states that no ITAR controlled content can be designed into new foreign programs. This makes us ineligible to compete in the global marketplace. Now, in addition to that, DDTC is proposing additional costs that will have to be passed on to our customers. Why would our customers want to continue to work with us when they have other options in Europe that do not include these hassles and expenses?

We cannot absorb the additional expense at a time when energy, raw material, and almost every other manufacturing cost is on the rise. Our customers expect price decreases, and our profit margins don't allow for it. The logical result will be that more programs will go to foreign competitors. I suspect that is not what the government wants, but it is an unintended consequence of broad regulations that have become extremely laborious for industry as well as DDTC. Small manufacturers in particular may end up losing a substantial amount of foreign market share due to export issues outside of our control.

I hope that at least some of the input will prove to be of interest in the pending discussions. HiRel is very concerned about this proposed rule and the consequences to small manufacturers who already struggle with the financial impact of compliance. If given the chance, we would love to have the opportunity to participate in discussions where small business might not have adequate representation.

Kind Regards,  
Darla Hobson  
Export Compliance Officer  
Empowered Official

---

**From:** Joseph Lai  
**Sent:** Friday, June 27, 2008 9:48 AM  
**To:** Frantz, Alexandra  
**Subject:** RE: Aerospace Industries Submission for DTAG

Please disregard the confidentiality clause at the bottom of my original e-mail sent 17 June 2008. That e-mail included a written aerospace industry submission in advance of the DTAG meeting on Thursday 19 June. The disclaimer language is a function on our outbound server that cannot be removed.

---

**From:** Joseph Lai  
**Sent:** Tuesday, June 17, 2008 5:00 PM  
**To:** Frantz, Alexandra  
**Cc:** Remy Nathan; Michael Berger  
**Subject:** Aerospace Industries Submission for DTAG

Allie:

Please find attached AIA's written submission in advance of Thursday's DTAG open meeting.

Do let me know if you have any problems with this electronic attachment.

Best.

Joe Lai

Joseph Lai  
Manager, International Affairs  
Aerospace Industries Association

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June 17, 2008

Allie Frantz  
Directorate of Defense Trade Controls  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

Ms. Frantz:

Please find attached the aerospace industry's written submission for the Defense Trade Advisory Group (DTAG) meeting on Thursday, June 19, 2008

Sincerely,

Remy Nathan  
Assistant Vice President, International

Affairs

Attachment

**Aerospace Industries Association  
Written Submission  
Defense Trade Advisory Group  
June 19, 2008**

**Introduction**

In accordance with the Department of State's June 4, 2008 *Federal Register* notice [Public Notice 6177] inviting written submissions in advance of the Defense Trade Advisory Group (DTAG) open meeting on June 19, this submission from the Aerospace Industries Association (AIA) provides brief industry comments on: (1) Proposed registration fee changes at the Directorate of Defense Trade Controls; (2) Clarification on Implementation of Section 17(c) of the Export Administration Act of 1979; and (3) the Implementing Regulations for the U.S.-U.K. Defense Trade Cooperation Treaty

AIA represents 100 regular members and 185 associate members encompassing leading U.S. manufacturers and suppliers of civil, military, and business aircraft, helicopters, unmanned aerial vehicles, space systems, aircraft engines, missiles, materiel, and related components, equipment, services, and information technology.

Our industry appreciates this opportunity to provide written comments to the DTAG.

**1) Registration Fee Changes at the Directorate of Defense Trade Controls (DDTC)**

## ***DDTC Financing***

The Aerospace Industries Association supports increased funding for DDTC operations, in particular to provide an adequate number of officers to process the growing licensing, agreement, and commodity jurisdiction caseload. Such funding is necessary to ensure continued progress in making the export control system more predictable, efficient, and transparent.

However, industry raises strong objections to a user-fee system to finance such a critical national security and foreign policy function. These concerns are especially relevant in the absence of mechanisms to clarify how the money is being used, to measure performance, and enforce accountability.

Among the other concerns AIA would raise to the draft regulations are:

- Questions about the budgetary assumptions, given the probability that companies may soon pay 200 to 300 times more in registration fees on an annual basis.
- The prospect of creating incentives for industry to minimize license applications (and other submissions to DDTC falling within the range of actions used to determine fees) as well as disincentives for the State Department to adopt reforms to reduce licensing requirements, such as programmatic or comprehensive licenses, while still achieving national security and foreign policy objectives.
- Concern that fees per individual submission will provide a disincentive for progressive jurisdictional shifts as well as ideas such as programmatic licensing.
- The lack of specificity in the definition of “license applications” and the assumption that it is reasonable to value the processing of licenses, agreements, commodity jurisdictions, voluntary disclosures, general correspondence, etc. equally at \$250 per submission.
- Concern that current law only authorizes DDTC to use a portion of revenue collected, while the rest reverts to the U.S. Treasury. Therefore extra monies generated by these increased fees will not automatically go

to DDTC. A legislative change would therefore be required before this regulatory change could take effect.

- Concern that there is no mechanism to challenge the fee assessment.
- Concern that annual registration versus biannual registration will increase workload for both DDTC and industry.

Given these concerns, AIA continues to endorse an appropriate accounting of DDTC funding requirements in the State Department's budgeting process.

## **2) Clarification on Implementation of Section 17(c)**

### ***Technical Standard Orders (TSO)***

The *Federal Register* notice states that "Fifteen (15) commenting parties recommended the tenth sentence of the explanatory note add "manufacturer's specification or standard" and add Technical Standard Order "TSO" in the parenthesis. As a TSO may be issued for an exclusively USML item, inclusion of TSOs is not appropriate here."

We note that a TSO is a standard published by the FAA. The FAA's regulations state that "A TSO is a minimum performance standard for specified materials, parts, and appliances used on civil aircraft"  
[<http://www.faa.gov/aircraft/air%5Fcert/design%5Fapprovals/tso/>].

The language from the ITAR proposed rule reads " "Standard equipment" is defined as a part or component manufactured in compliance with an established and published industry specification or an established and published government specification." A TSO is exactly that, a published government specification for a part used on a civil aircraft. The complete list of TSOs is available for review on the website at  
[http://rgl.faa.gov/Regulatory\\_and\\_Guidance\\_Library/rgTSO.nsf/MainFrame?OpenFrameSet](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet).

Unlike some other FAA certifications, a TSO is not issued to an item which is manufactured and then submitted to FAA for certification. In the case of the

TSO, the standard itself is published, with the item subsequently made to that standard.

As this is a standard that is common in the aerospace industry, and affects so many of our parts, inclusion of TSO into that parenthesis would help to clarify this for many companies.

### ***“Three Sentences”***

AIA is concerned that the first three sentences of the note are potentially too constrictive in the description of what is subject to the EAR (limited to items designed exclusively for civil, non-military aircraft) and too expansive as to what is subject to the ITAR (items designed, developed, configured, adapted or modified for military aircraft), and could be interpreted in a way that would eliminate the clarity on the 17(c) issue that the Department of State and industry are seeking. We do not believe it is necessary to describe the jurisdiction of the EAR and the ITAR in this note. One possible solution would be to delete these introductory sentences. Alternatively, the third sentence could be revised to read:

"In all cases for components and parts that may be used on either civil or military aircraft, the following requirements apply."

This should ensure that those sentences that describe jurisdiction are not misinterpreted to eliminate the possibility of relying on 17(c) for a part that meets the criteria but was originally designed for military use and has been installed on civil aircraft for decades.

### ***Engines***

AIA is disappointed that the Department has not adopted any changes on the issue of appropriate USML designation of military hot section components and digital engine controls. The proposed movement to USML \*VIII(b) designation is a major substantive change, which has licensing consequences for these parts, components, software and associated technical data related to manufacture or production of these articles. Further, designation of hot section components and digital engine controls as SME is inconsistent with the treatment of parts and components across the USML (components for nuclear weapons and missiles are not considered SME) and no justification has been offered as to why they meet the

definition of SME in ITAR 120.7(a) (based on capacity for substantial military utility or capability).

As AIA and other commenting parties previously explained, the Department can achieve the stated objective of ensuring that industry seeks commodity jurisdictions and does not self-determine jurisdiction based on 17(c) by moving the defining language to the note without designating military hot section components and digital engine controls as SME. If despite these points the USML Category \*VIII(b) designation is retained, AIA urges the Department of State to mitigate the collateral impact by stating that such defense articles shall be considered to be SME only for purposes of (1) commodity jurisdiction determinations as set forth in this Final Rule, and (2) the Congressional certification requirement in ITAR Section 124.11.

### ***Testing Beyond Specification***

The draft final rule states that a “part or component is not standard equipment if there are any performance, manufacturing or testing *requirements* beyond such specifications and standards.” (Emphasis supplied). The referenced specifications and standards are those that are either (a) established and published industry or government specifications or (b) established but unpublished civil aviation industry specifications and standards, which DDTC indicated in its commentary include proprietary manufacturers’ specifications that are established.

Almost all who commented on the draft Note took the position that the sentence needed to be removed because civil aircraft parts are routinely tested and manufactured beyond the applicable specification for purely civil purposes. The thought of industry was that the proposed sentence would take all of these and other similarly purely civilian situations out from consideration of the definition of “standard equipment.”

DDTC rejected the industry request and took the position that “If a part is *required* to exceed established standards, such *requirements* call into question whether it is the ‘standard part’” (Emphasis supplied).

Upon reflection and considering DDTC’s emphasis on the “requirement” element in the sentence, it appears that the industry commentators may be in alignment of thought. Industry’s comments focused on the fact that industry often *voluntarily* chooses to test a part or component beyond the applicable, required specification. Under DDTC’s wording, such *optional* testing beyond the minimum required specification will not affect whether the part or component can qualify as “standard equipment.”

Moreover, when read in connection with the next sentence in the draft Note, DDTC is making it clear that merely testing an item to a higher, more demanding standard such as a military standard does not affect the jurisdictional status of the part or component. Thus, if a company chooses to voluntarily test a part or component beyond the applicable minimum required specification for marketing, safety of flight, insurance, or other reasons and an identical part or component is tested to the regular, *required* standard, then the sentence in DDTC’s note does not preclude the treatment of all such parts as “standard equipment.”

If this interpretation is incorrect please alert AIA as we would like to ensure clarity of all aspects of the regulation.

### **3) Implementing Regulations for the U.S.-U.K. Defense Trade Cooperation Treaty**

AIA looks forward to the discussion of the United Kingdom Defense Trade Regulations at the Defense Trade Advisory Group meeting on June 19. Industry remains very supportive of the Treaty and will provide substantive written comments on the regulations in short order.

Assuming favorable Senate action in the coming weeks, we look forward to working with the U.S. Government to make this Treaty regime effective during its implementation.



## DTAG Open Plenary Thursday, June 19, 2008 Attendees

### DTAG Members:

1. William Schneider
2. Terrell R. Otis
3. Arnold Kanter
4. Charles Graves
5. Joyce Remington
6. George Sam Sevier
7. Bill Wade
8. D. Michael Cormaney
9. Tom White
10. Lawrence Keane
11. Gregory Bourn
12. Ginger Carney
13. Spence Leslie
14. Dale Rill
15. Joe Mariani
16. Tina Luther
17. Debbie Shaffer
18. Christine McGinn
19. Herb Riley
20. Lawrence Fink
21. Jahna Hartwig
22. Lisa Bencivenga
23. Spencer Armstrong
24. Dennis Burnett
25. Janet Rishel
26. Salvatore Ceraolo
27. Peter Jordan
28. Steve Westfall
29. Catherine Robinson

### Public attendees

30. John Priecko
31. Larry Seligman
32. Morgan Paul Muchnick
33. Candace Miller
34. Kathleen Palma
35. Peter Lichtenbaum

36. Beth Mersch  
37. Jerry McGinn  
38. Kay Morrell  
39. Cheryl Holt  
40. Bruce Graham  
41. Jerry Hawkins  
42. James Bartlett  
43. Sharon Cornor-Jackson  
44. James Newton  
45. Samuel Gilston  
46. Tomoko da Luz  
47. Michael Dixon  
48. Peggy Randall  
49. Greg Suchan  
50. David Levy  
51. Mary Fromyer  
52. Timothy Rolland  
53. Gregory Hill  
54. David Peyton  
55. Judyt Mandel  
56. Sarah Greenbaum  
57. Mark Reynolds  
58. Shannon Daily  
59. David Broyles  
60. Remy Nathan  
61. Jeff Abramson  
62. Matt Schroeder  
63. Laurin Baker  
64. Emily Meyer  
65. Viktor Sulzynsky  
66. Ed Kenny  
67. Steve Brotherton  
68. Marjorie Chorlins  
69. Jack Morton  
70. Carrie Fletcher  
71. Frank Record  
72. Nik Khanna  
73. Suzanne Palmer  
74. Tomothy Lee  
75. C J Allen

76. Paul Lauper Ellison
77. Eric Lundell
78. Gary Stanley
79. Kathleen Pellot
80. Luke Engan
81. Don Pettit
82. Terry Murphy
83. Ed O'Connor
84. Roberta Kienast Dagher
85. Dubi Galezky
86. Dror Harel
87. Cecil Hunt
88. Raymond Jones
89. Joseph Lai
90. Gideon Mertz
91. Jason Monahan
92. Eli Pincu
93. Theodore Thanos
94. Antonia Tzinova

USG attendees

95. Dave Lee
96. Mary Ann Rashid
97. Raymond Lynn
98. Michele Hizon
99. Michele Truitt
100. Paula Geisz
101. Rachael-Therese Joubert-Lin
102. Jae Shin
103. Lisa Studtmann
104. Ed Peartree
105. Laurell Brault
106. Malcolm Greene
107. Mal Zerden
108. Kevin Maloney
109. Robert DeSilva
110. Judd Stitzel
111. Tim Watkins
112. Wesley Cox
113. Robert S. Kovac

114. Allie Frantz
115. Mona Hazera
116. Patricia Slygh
117. Frank Ruggiero

[Federal Register: June 4, 2008 (Volume 73, Number 108)]

[Notices]

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From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr04jn08-110]

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DEPARTMENT OF STATE

[Public Notice 6177]

Defense Trade Advisory Group; Notice of Open Meeting

**SUMMARY:** The Defense Trade Advisory Group (**DTAG**) will meet in open session from 9 a.m. to 12 noon on Thursday, June 19, 2008, in the East Auditorium at the U.S. Department of State, Harry S. Truman Building, Washington, DC. Entry and registration will begin at 8:15 a.m. Please use the building entrance located at 21st Street, NW., Washington, DC between C & D Streets. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The purpose of the meeting will be to discuss current defense trade issues and topics for further study.

Members of the public may attend this open session and will be permitted to participate in the discussion in accordance with the Chair's instructions. Members of the public may, if they wish, submit a brief statement to the committee in writing.

As access to the Department of State facilities is controlled, persons wishing to attend the meeting must notify the **DTAG** Executive Secretariat by COB Thursday, June 12, 2008. If notified after this date, the **DTAG** Secretariat cannot guarantee that the Department's Bureau of Diplomatic Security can complete the necessary processing required to attend the June 19 plenary.

Each non-member observer or **DTAG** member needing building access that wishes to attend this plenary session should provide: his/her name; company or organizational affiliation; phone number; date of birth; and identifying data such as driver's license number, U.S.

Government ID, or U.S. Military ID, to the **DTAG** Secretariat contact person, Allie Frantz, via e-mail at [FrantzA@state.gov](mailto:FrantzA@state.gov). **DTAG** members planning to attend the plenary session should notify the **DTAG** Secretariat contact person, Allie Frantz, at the e-mail provided above. A RSVP list will be provided to Diplomatic Security. One of the following forms of valid photo identification will be required for

[[Page 31909]]

admission to the Department of State building: U.S. driver's license, passport, U.S. Government ID or other valid photo ID.

For additional information, contact Allie Frantz, PM/DDTC, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522-0112; telephone (202) 736-9220; FAX (202) 261-8199; or e-mail [FrantzA@state.gov](mailto:FrantzA@state.gov).

Dated: May 28, 2008.

Robert S. Kovac,  
Designated Federal Official, Defense Trade Advisory Group, Department of State.

[FR Doc. E8-12510 Filed 6-3-08; 8:45 am]  
BILLING CODE 4710-25-P

[Federal Register: June 13, 2008 (Volume 73, Number 115)]

[Notices]

[Page 33871-33872]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr13jn08-103]

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DEPARTMENT OF STATE

[Public Notice 6254]

Defense Trade Advisory Group; Notice of Meetings June 19, 2008

**SUMMARY:** On June 4, 2008, a Federal Register Notice (73 FR 31908) was published announcing the Defense Trade Advisory Group's (**DTAG's**) open meeting on June 19, 2008 from 9 a.m. to 12 noon in the East Auditorium at the U.S. Department of State, Harry S. Truman Building, Washington, DC. This notice serves to announce the closed meeting being held from 8 a.m. to 9 a.m. as well as the purpose and topics for discussion of the June 19th meetings.

**DATES:** There will be two meetings held the morning of June 19. The first meeting will be held from 8 a.m. to 9 a.m. and is for **DTAG**-members only. A second meeting will be held from 9 a.m. to 12 noon and is open to the public.

**ADDRESSES:** Both meetings on June 19th will be held in the East Auditorium at the U.S. Department of State, Harry S. Truman Building, Washington DC. **DTAG** members and non-member observers are required to pre-register due to security reasons; for further information regarding pre-registration requirements please see the notice published on June 4, 2008 (73 FR 31908).

**FOR FURTHER INFORMATION CONTACT:** Members of the public who need additional information regarding these meetings or the **DTAG** should contact the **DTAG** Executive Secretariat contact person, Allie Frantz,

PM/DDTC, SA-1, 12th Floor, Directorate of Defense Trade Controls,  
Bureau of Political-Military Affairs, U.S. Department of State,  
Washington, DC 20522-0112; telephone (202) 736-9220; FAX (202) 261-  
8199; or e-mail [FrantzA@state.gov](mailto:FrantzA@state.gov).

## SUPPLEMENTARY INFORMATION:

### (a) Background

The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. Individuals interested in defense trade issues are invited to attend the open session and will be able to participate in the discussion in accordance with the Chair's instructions. Members of the public may, if they wish, submit a brief statement to the committee in writing.

June 19, 2008, 8 a.m. to 9 a.m. Meeting--The purpose of this **DTAG**-members only meeting is to provide the new **DTAG** membership for the 2008-2010 term an overview of administrative procedures, and to conclude other preparatory work. The meeting will be closed in accordance with 41 CFR 102-3.160. Individuals who have been appointed to the **DTAG** for the 2008-2010 term have already been notified.

June 19, 2008, 9 a.m. to 12 noon Meeting--Topics for discussion and assigned time frames are as follows: Self-Financing Options available for the Directorate of Defense Trade Controls 0900-1000; UK-US Defense Trade Cooperation Treaty Implementing Regulations--1000-1100; and the new USML Category VIII regulations implementing Section 17(c) of the Export Administration Act (EAA)--1100-1230.

### (b) Availability of Materials for the Meetings

Please visit the Directorate of Defense Trade Controls' Web site at <http://pmdrtc.state.gov/index.htm> for any available materials pertaining to the topics for discussion. Draft Federal Register Notices on the **DTAG** topics of discussion will be posted on the PM/DDTC Web site under the **DTAG** tab no later than June 12, 2008.

### (c) Procedures for Providing Public Comments



The **DTAG** will accept written public comments as well as oral public comments. Comments should be relevant to the topics for discussion. Public participation at the open meeting will be based on recognition by the chair and may not exceed 5 minutes per speaker. Written comments should be sent to the **DTAG** Executive Secretariat contact person not later than June 17, 2008 so that the comments may be made available to the **DTAG** members for consideration. Written comments should be supplied to the **DTAG**

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Executive Secretariat contact person at the mailing address or e-mail provided above, in Adobe Acrobat or Word format. Note: The **DTAG** operates under the provisions of the Federal Advisory Committee Act, as amended; all public comments will be treated as public documents and will be made available for public inspection, and might be posted on DDTC's Web site.

(d) Meeting Accommodations

Individuals requiring special accommodation to access the open meeting referenced above should contact Ms. Frantz at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 9, 2008.

Robert S. Kovac,

Designated Federal Official, Defense Trade Advisory Group, Department of State.

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**Defense Trade Advisory Group (DTAG)**  
U.S. Department of State – June 19, 2008  
East Auditorium, Harry S. Truman Building

- I. **0800:** Administrative Procedures and FACA Regulations – DTAG Members Only
- II. **0900:** Welcome – Frank J. Ruggiero, Deputy Assistant Secretary, Bureau of Political-Military Affairs
- III. **0910:** Self-Financing Options available for the Directorate of Defense Trade Controls
- IV. **1010:** UK-US Defense Trade Cooperation Treaty Implementing Regulations
- V. **1110:** New USML Category VIII Regulations Implementing Section 17(c) of the Export Administration Act (EAA)
- VI. **1220:** DTAG Chair William Schneider's Closing Remarks
- VII. **1230:** Adjournment – DTAG Designated Federal Officer Robert S. Kovac