



## Ensuring Appropriate Scope and Application of U.S. Export Controls

**ISSUE: Industry seeks greater clarity, consistency, and coordination from the U.S. Government and Congress on how technology is identified, evaluated, and controlled for export by the State Department's International Traffic in Arms Regulations (ITAR).**

### **AIA RECOMMENDATIONS**

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#### Improve the Commodity Jurisdiction (CJ) Process

The Administration has established a process to resolve interagency differences in CJ determinations in a more timely fashion. Improvements in both definitions and regulatory scope would lend still greater transparency and consistency to the process.

- Affirm that ITAR Section 120.3 criteria for designating and determining defense articles/services serve as the primary policy guidance for CJ determinations.
- Adopt proposed revisions to Section 120.3 and 120.4, as well as clarifications of ITAR terms, put forward by the Defense Trade Advisory Group (DTAG).
- Identify specific criteria, such as military/intelligence sensitivity, risk of diversion, and impact to civilian and defense production lines, as the basis for allowing continued treatment of items as Commerce-controlled if they are the subject of a pending CJ determination.
- Provide more comprehensive explanations to individual CJ applicants regarding the rationale behind jurisdictional determinations in light of Section 120.3 and 120.4.

#### Transition Technologies from the U.S. Munitions List (USML)

If parts or components are determined via the CJ process to be controlled under Commerce's Export Administration Regulations (EAR), some policymakers have expressed concern that effective controls may not be applied if they are transferred from the USML to the Commerce Control List (CCL). The CCL currently provides for a range of possible controls (some unilateral) based on the technical parameters of the items in question.

- Develop new Export Control Classification Numbers (ECCNs) as needed to include previously ITAR-controlled technologies in the CCL with appropriate control requirements.
- Establish a Commerce/DoD review process to adjust the level of control over time on a specific commodity within these new ECCNs.
- Formalize industry consultative bodies to provide updates on global trends in defense hardware/technology, foreign availability, marketing, and related recommendations for changes to the USML. Such information should be factored into decisions regarding addition of new items, updates to technical parameters of controlled items, and removal of items from the USML with no military or intelligence significance or dual-use items that could be adequately controlled by Commerce.

#### Support Congressional Action on Commercial Satellites

Commercial communications satellites are the only technology on the USML for which licensing jurisdiction is mandated by law rather than regulation.

- Urge Congress to adopt legislation restoring Executive Branch authority to determine licensing jurisdiction for commercial satellite components and technology.
- Once enacted into law, move expeditiously to identify and remove appropriate items from control on the USML.