



# EIB World Trade Headlines

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## Revisions to the EAR and ITAR: Military Vehicles; Vessels of War; Submersible Vessels, Oceanographic Equipment; Related Items; and Auxiliary and Misc.Items

This rule moves items previously controlled under the United States Munitions List (USML) to the Export Administration Regulations (EAR.) Previous controls on military vehicles and related items; vessels of war and related items; submersible vessels, oceanographic equipment and related items; and auxiliary and miscellaneous items that the President has determined no longer warrant control on the United States Munitions List (USML).

This rule also adds to the EAR controls on items within the scope of the Munitions List (WAML) of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) that are not specifically identified on the USML or the Commerce Control List (CCL) but that were subject to USML jurisdiction. Finally, this rule moves certain items that were already subject to the EAR to the new Export Control Classification Numbers (ECCNs) created by this rule.

This rule is being published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls rule revising USML Categories VII, VI, XX, and XIII to control those articles the President has determined warrant control in those Categories of the USML. Both rules are part of the President's Export Control The revisions in this final rule are also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563. **This rule is effective January 6, 2014.**

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## Revisions to the EAR and ITAR:

This final rule (effective January 6, 2014) revises USML Category VI, covering surface vessels of war and special naval equipment, to establish a clearer line between the USML and the CCL regarding controls for these articles. The revision narrows the types of surface vessels of war and special naval equipment controlled on the USML to only those that warrant control under the requirements of the AECA.

It removes from USML control harbor entrance detection devices formerly controlled under USML Category VI(d) and no longer includes submarines, which are now controlled in USML Category XX. In addition, articles common to the Missile Technology Control Regime (MTCR) Annex and articles in this category are identified with the parenthetical “(MT)” at the end of each section containing such articles.

### **USML Category VI**

The revised USML Category VI does not contain controls on all generic parts, components, accessories, and attachments specifically designed or modified for a defense article, regardless of their significance to maintaining a military advantage for the United States. Rather, it contains a positive list of specific types of parts, components, accessories, and attachments that continue to warrant control on the USML. All other parts, components, accessories, and attachments are subject to the new 600 series controls in Category 8 of the CCL, published separately by the Department of Commerce (see elsewhere in this issue of the Federal Register).

A new “(x) paragraph” has been added to USML Category VI, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category VI and are described in the purchase documentation submitted with the application.

This rule also revises ITAR § 121.15 to more clearly define “surface vessels of war” for purposes of the revised USML Category VI.

### **USML Category VII**

This final rule revises USML Category VII, covering ground vehicles, to more accurately describe the articles within the category and to establish a clearer line between the USML and the CCL regarding controls over these articles manufactured before 1956.

The revision narrows the types of ground vehicles controlled on the USML to only those that warrant control under the requirements of the AECA.

Changes include the removal of most unarmored and unarmed military vehicles, trucks, trailers, and trains (unless specially designed as firing platforms for weapons above .50 caliber), and armored vehicles (either unarmed or with inoperable weapons)

Engines formerly controlled in paragraph (f) are now covered in revised USML Category XIX, published April 16, 2013

In addition, articles common to the MTCR Annex and articles in this category are identified with the parenthetical “(MT)” at the end of each section containing such articles.

A significant aspect of the revised USML Category VII is that it does not contain controls on all generic parts, components, accessories, and attachments that are specifically designed or modified for a defense article, regardless of their significance to maintaining a military advantage for the United States. Rather, it contains a positive list of specific types of parts, components, accessories, and attachments that continue to warrant control on the USML.

All other parts, components, accessories, and attachments are subject to the new 600 series controls in Category 0 of the CCL. A new “(x) paragraph” has been added to USML Category VII, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities software, and technical data are to be used in or with defense articles controlled in USML Category VII and are described in the purchase documentation submitted with the application.

### **This rule also establishes a definition for ground vehicles in ITAR § 121.4.**

structural materials) are controlled in ECCN 0C617, revised USML Categories VI, VII, and VIII, and in paragraphs (d), (e), and new paragraph (f) of USML Category XIII.

Paragraph (i) is redesignated to control signature reduction software, with embrittling agents (formerly controlled in paragraph (i)) moving to the CCL under ECCN 0A617.f.

Paragraph (m) is amended to reflect the revisions made throughout this category

. In addition, articles common to the MTCR Annex and articles in this category are identified with the parenthetical “(MT)” at the end of each section containing such articles. A new “(x) paragraph” has been added to USML Category XIII, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category XIII and are described in the purchase documentation submitted with the application. Although the articles controlled in paragraph (a) (i.e., cameras and



This final rule revises USML Category XIII, covering materials and miscellaneous articles, to more accurately describe the articles within the category and to establish a clearer line between the USML and the CCL regarding controls over these articles.

Paragraph (c) is removed and placed in reserve; the articles formerly controlled there (i.e., self-contained diving and underwater breathing apparatus) are controlled in ECCN 8A620.f. Paragraphs (d), (e), (g), and (h) are reorganized and expanded to better describe the articles controlled therein. Paragraph (f) is re-designated to cover articles that are classified. The articles in the former paragraph (f) (i.e.,

This final rule revises USML Category XX, covering submersible vessels and related articles. The revision accounts for the movement of submarines from USML Category VI and consolidates the controls that apply to all submersible vessels in a single category.

In addition, naval nuclear propulsion power plants for submersible vessels controlled under USML Category XX, formerly controlled under USML Category VI(e), are now controlled under USML Category XX(b). In addition, articles common to the MTCR Annex and articles in this category are identified with the parenthetical “(MT)” at the end of each section containing such articles. Revised USML Category XX controls only those parts, components, accessories, and attachments that are specially designed for a defense article controlled therein.

All other parts, components, accessories, and attachments become subject to the new 600 series controls in Category 8 of the CCL published separately by the Department of Commerce (see elsewhere in this issue of the Federal Register). A new “(x) paragraph” has been added to USML Category XX, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category XX and are described in the purchase documentation submitted with the application.

This rule also creates ITAR § 121.14 to more clearly define “submersible vessels and related articles,” and makes conforming edits to ITAR §§ 123.20, 124.2, and 125.1 (nuclear related controls). This revision of USML Category XX was first published as a proposed rule (RIN 1400–AD01) on



## Underwear Bomber Was Working for the CIA

'Underwear bomber' involved in a plot to attack jet was in fact working as an undercover informer with the CIA, it has emerged. Photograph: Yahya Arhab/EPA

A would-be "underwear bomber" involved in a plot to attack a US-based jet was in fact working as an undercover informer with Saudi intelligence and the [CIA](#), it has emerged.

The revelation is the latest twist in an increasingly bizarre story about the disruption of an apparent attempt by al-Qaida to strike at a high-profile American target using a sophisticated device hidden in the clothing of an attacker.

The plot, which the White House said on Monday had involved the seizing of an underwear bomb by authorities in the Middle East sometime in the last 10 days, had caused alarm throughout the US.

It has also been linked to a suspected US drone strike in [Yemen](#) where two Yemeni members of al-Qaida were killed by a missile attack on their car on Sunday, one of them a senior militant, Fahd Mohammed Ahmed al-Quso.

But the news that the individual at the heart of the bomb plot was in fact an informer for US intelligence is likely to raise just as many questions as it answers.

Citing US and Yemeni officials, Associated Press reported that the unnamed informant was working under cover for the Saudis and the CIA when he was given the bomb, which was of a new non-metallic type aimed at getting past airport security.

The informant then turned the device over to his handlers and has left Yemen, the officials told the news agency. The LA Times, which first broke the news that the plot had been a "sting operation", said that the bomb plan had also provided the intelligence leads that allowed the strike on Quso.

Earlier John Brennan, Barack Obama's top counter-terrorism adviser and a former CIA official, told ABC's Good Morning America that authorities are "confident that neither the device nor the intended user of this device pose a threat to us".



The device used a more refined detonation system, and Brennan said "it was a threat from a standpoint of the design".

When it comes to who made the device the focus is on an al-Qaida's offshoot, Al-Qaida in the Arabian Peninsula (AQAP). Matthew Levitt, a counter-terrorism expert at the Washington Institute, said that the interception of the plot amounted to a significant achievement for US security agencies.

He said: "The FBI is holding the device, which suggests that this was done by having boots on the ground. This was a sophisticated operation that shows we are making in-roads in serious places."

Levitt, who was involved as a senior analyst in the FBI's investigation into 9/11, said that it was natural to be sceptical in a presidential election year about security announcements. "But this was not political, it didn't come from the White House and my sense was that it was a really unique success," he said.

Levitt said that the spotlight would now be even more intense on Ibrahim Hassan al-Asiri, AQAP's assumed bomb-making chief, who is thought to be hiding out in Yemen.

Asiri is believed to have been the creator of the Detroit underwear bomb as well as explosives that were packed into printer cartridges bound for Chicago in 2010.



## DOJ Charges Sinovel and Two of Its Employees with Industrial Espionage; AMSC wants review of U.S./China Trade Relationship

Daniel McGhan, CEO of AMSC said, "Three years ago, President Obama heralded the AMSC trade relationship with China as a model for job creation in the U.S. and China. Today, we believe it's clear that a crime has been committed. We ask that AMSC be a model for how intellectual property theft be handled in a fair and just manner. "

### [Patricia Resende](#)

Managing Editor MHT- *Boston Business Journal*

After a two-year investigation by the FBI, the Department of Justice has charged China-based Sinovel and two of its employees for stealing trade secrets from Devens, Mass. - based [American Superconductor Corp.](#) (Nasdaq:AMSC), the company and the DOJ announced Thursday.

Sinovel and its two employees were charged with stealing AMSC's software code and IP property in four Sinovel turbines installed in three Massachusetts towns after AMSC worked with law enforcement officials to verify that the Sinovel-manufactured turbines installed in Charlestown, Fairhaven and Scituate included AMSC's stolen IP, according to CEO [Daniel McGhan](#). The news of the charges sent AMSC's shares up nearly 7 percent in after hours trading.

A federal grand jury in the Western District of Wisconsin indicted Sinovel Wind Group Co. Ltd., dba Sinovel Wind Group (USA) Co. Ltd.; Su Liying, 36, the deputy director of Sinovel's research and development department; Zhao Haichun, 33, a technology manager for Sinovel; and Dejan Karabasevic, 40, a former employee of AMSC Windtec GmbH, a wholly-owned subsidiary of AMSC, with one count each of conspiracy to commit trade secret theft, theft of trade secrets and wire fraud.

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"Today, we announce charges against Sinovel and three individuals for stealing proprietary wind turbine technology from AMSC in order to produce their own turbines powered by stolen intellectual property," said Acting Assistant Attorney General Raman in a statement. "This charged IP theft caused significant harm to a domestic company that develops cutting edge technology and employs Americans throughout the country. Stamping out intellectual property theft is a top priority for this administration, and we will continue to work with our IP Task Force partners to ensure that American ingenuity is protected."

## U.S., Canada Begin Phase II of Entry/Exit Project

(Wednesday, July 03, 2013)

**Washington, D.C.** — The Department of Homeland Security (DHS) announced today the implementation of Phase II of the Entry/Exit information system, a commitment of the Beyond the Border Action Plan.

Under Phase II, DHS and the Canada Border Services Agency (CBSA) will expand the exchange of biographic entry data collected on third-country nationals (those who are neither citizens of Canada nor of the United States), permanent residents of Canada who are not U.S. citizens, and lawful permanent residents of the United States who are not Canadian citizens, to all automated land ports of entry at the common border, including all major land border crossings.

A coordinated Entry/Exit information system will facilitate exchanges of entry information such that an entry into country becomes and exit from the other. It will help the U.S. and Canada identify persons who potentially overstay their lawful period of admission; better monitor the departure of persons subject to removal orders; and verify that residency requirements are being met by applicants for continued eligibility in immigration programs.

The process of collecting and sharing information will be done in accordance with each country's privacy laws and policies and consistent with the Action Plan, Joint Statement of Privacy Principles, and an Annex to the Statement of Mutual Understanding on Information Sharing agreed to by DHS and the CBSA.

## BIS posts public comments received for the proposed rule:

July 12, 2013

Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML). The comment period closed July 8, 2013.

<http://www.bis.doc.gov/index.htm>

July 10, 2013

BIS publishes Rule: Additions to the List of Validated End-Users in the People's Republic of China: Samsung China Semiconductor Co. Ltd. and Advanced Micro-Fabrication Equipment, Inc., China

<http://www.bis.doc.gov/index.htm>

July 12, 2013

Homeland Security:

Janet Napolitano announces resignation to run the University System of California. The Administration is in the midst of an immigration battle. Napolitano will stay on until early September.

## Upcoming BIS Seminars

The Bureau of Industry and Security invites you to register for one of these upcoming seminars to learn about export control requirements under the Export Administration Regulations.

"Complying with U.S. Export Controls" - 2 Days This program provides an in-depth examination of the Export Administration Regulations (EAR). September 10-11, 2013, Smithfield, RI, cost \$350

"Complying with U.S. Export Controls" - 2 Days This program provides an in-depth examination of the Export Administration Regulations (EAR). September 10-11, Milpitas, CA, cost \$475

"Encryption Controls" - 1 Day This full day program is an in-depth session that will focus on the unique provisions related to encryption under the Export Administration Regulations (EAR). September 12, Milpitas, CA, cost \$325

For further details and registration, go to: <http://beta-www.bis.doc.gov/index.php/compliance-a-training/export-administration-regulations-training/current-seminar-schedule?id=43>

Visit the BIS web site at [www.bis.doc.gov](http://www.bis.doc.gov). For general information about the BIS Seminar Program contact the Outreach and Educational Services Division at: [OESDSeminar@bis.doc.gov](mailto:OESDSeminar@bis.doc.gov), or 202/482-6031.

## Company Allegedly Mislead Government About Security Clearance Checks

Federal investigators have told lawmakers they have evidence that USIS, the contractor that screened Edward Snowden for his top-secret clearance, repeatedly misled the government about the thoroughness of its background checks, according to people familiar with the matter. The alleged transgressions are so serious that a federal watchdog indicated he plans to recommend that the Office of Personnel Management, which oversees most background checks, end ties with USIS unless it can show it is performing responsibly, the people said.