ITAR FINAL RULE REVISES THE USML AND ADDS NEW LICENSE EXEMPTION FOR COVERED ACTIVITIES INVOLVING UNMANNED UNDERWATER VEHICLES

Date: 10 September 2025

US Policy and Regulatory Alert

By: Marissa N. Cloutier, David R. Allman, Nathaniel B. Bolin, Guillermo S. Christensen

On 27 August 2025, the US Department of State's Directorate of Defense Trade Controls (DDTC) published a final rule amending the International Traffic in Arms Regulations (ITAR) by removing and clarifying certain entries under the US Munitions List (USML), updating existing and adding new definitions, and creating a new license exemption for certain activities involving unmanned underwater vehicles (UUVs). Notably, the amended rule will extend export controls to large UUVs used in civil industry, such as oceanographic research, oil and gas industry, and subsea infrastructure work, and adds a license exemption to address operations that involve providing services with UUVs. This final rule is effective 15 September 2025 and updates a prior interim final rule published on 17 January 2025 (January IFR).

KEY CHANGES

USML Items Removed and Definitions Revised

The final rule removes the following items from the USML with some caveats:

- Global Navigation Satellite System (GNSS) anti-jam and GNSS anti-spoofing systems are removed from USML Category XI(a)(4)(iii);
    - USML Category XII(d)(3) survives and certain GNSS anti-jam systems that continue to provide a critical military or intelligence advantage are still ITAR controlled.
- Controlled Reception Pattern Antennas (CRPAs) are removed from USML Categories XI(c)(10)(i), (ii), and (iv);
    - However, new paragraphs (c)(10)(v) through (vii) were added to control CRPAs specially designed for functions *other than* Position, Navigation, and Timing (PNT) and that meet certain technical parameters involving electronic steering of angular beams, angular null depth, beam switching speed, adaptive null attenuation, convergence time, and signal angle of arrival.
- Airborne Collision Avoidance System (ACAS) antennas are removed from USML Category XI(c)(10); and
- Tungsten-based and steel-based shotgun pellets with diameters less than or equal to 0.230 inches are removed from USML Category III(d)(6).

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Additionally, this final rule makes permanent the existing temporary controls on items specially designed for the US Air Force's F-47 Next Generation Air Dominance Platform by adding the F-47 to the list of aircraft under USML Category VIII(h)(1)(i). Adding the F-47 to the list of aircraft in (h)(1)(i) ensures that specially designed parts, components, accessories, and attachments remain controlled under the USML after the F-47 enters production.

This rule also augments the definition of "foreign advanced military aircraft" that is included in ITAR § 121.0 by adding "integrated" to "electronic warfare (EW) systems" under the definition's criteria for advanced military capabilities. This change is intended to clarify that the inclusion of integrated EW systems is an advanced military capability and does not include federated (i.e., standalone) EW systems.

The final rule also moves the definition of "gross weight rating" from note 1 of USML Category XX(a)(10) to ITAR § 121.0. This is because "gross weight rating" is a term used in both Category XX(a)(10) and ITAR § 126.9(u), as discussed in further detail below. The definition itself remains unchanged.

US exporters of these items should be cautious and scrutinize the entire USML because certain items removed from specific USML paragraphs via this final rule may still be described in other USML paragraphs. Items that are no longer on the USML fall under the jurisdiction of the US Department of Commerce's Export Administration Regulations (EAR) and may be subject to country-specific licensing controls as well as end use and end user restrictions.

New License Exemption for Certain UUVs

Pursuant to the January IFR and effective 15 September 2025, USML Category XX(a)(10) will control UUVs with a gross weight rating exceeding 3,000 pounds that are designed to operate without human interaction for longer than 24 hours or for more than 70 nautical miles. The weight rating was reportedly selected as a threshold for a UUV to have significant weaponization capabilities. To facilitate US participation in civil tasks, the final rule introduces a new license exemption under ITAR § 126.9(u) for certain activities related to USML Category XX(a)(10) controlled UUVs.

The license exemption has the following requirements:

- Applies to UUVs that are controlled *only* by USML Category XX(a)(10) *and* that have a gross weight rating exceeding 3,000 pounds but less than or equal to 8,000 pounds.
- Applies *only* if the purpose of the activity is one of the following:
  - Scientific research or natural resource exploration;
  - Commercial or civil infrastructure maintenance, installation, or repair (e.g., oil and gas pipelines, telecommunication cables); or
  - Search and rescue operations.
- Authorized transactions are limited to the following:
  - (1) Temporary export, reexport, or temporary import of an exempted UUV;
  - (2) Furnishing of assistance to a foreign person in the maintenance, repair, operation, or use of an exempted UUV; and

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- (3) Brokering activities to facilitate (1) or (2) above.

It is important to note that the license exemption is based on contractor-owned, contractor-operated (COCO) services and does not authorize any transaction that involves transferring registration, control, or ownership of a UUV to a foreign person. A COCO service in the context of the ITAR involves a contractor who owns and operates a defense article that it uses to provide a service rather than selling the defense article. For example, a contractor that owns and operates a UUV is hired by a foreign entity to survey the sea floor so that the foreign entity may use the acquired data when laying subsea cables.

TAKEAWAYS

The § 126.9(u) license exemption provides new flexibility for commercial and scientific UUV operations, but careful compliance guardrails remain essential. US exporters should closely examine their current and planned UUV inventories and operations to confirm whether any systems will now be controlled under USML Category XX(a)(10) and whether the new license exemption applies to planned activities. Additionally, US exporters should evaluate whether any future business development plans contemplate the transfer of newly controlled technical data or defense services relating to USML Category XX(a)(10) controlled UUVs.

In light of the revisions made to the ITAR pursuant to the final rule, companies that manufacture, sell, export, reexport, or transfer items subject to the USML Categories impacted by the final rule should review and update their trade compliance procedures accordingly. For example, if a company's items are now no longer controlled under a previously relevant USML Category, the company should conduct a jurisdiction and classification analysis to determine whether the item is still subject to the ITAR or is now subject to the EAR. Such changes to the jurisdiction and classifications of a company's items may require timely revisions to the company's export compliance procedures and personnel training modules.

The firm's International Trade group actively monitors regulatory changes and is available to answer any questions and assist in navigating this landscape.

We acknowledge the contributions to this publication from our law clerks Bonny Lee, Alicia Lantz, and Grace Greer.

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KEY CONTACTS



MARISSA N. CLOUTIER
NATIONAL SECURITY POLICY ADVISOR

WASHINGTON, DC
+1.202.778.7946
MARISSA.CLOUTIER@KLGATES.COM



DAVID R. ALLMAN
PARTNER

WASHINGTON, DC
+1.202.778.4396
DAVE.ALLMAN@KLGATES.COM



NATHANIEL B. BOLIN
PARTNER

WASHINGTON, DC
+1.202.778.9181
NATE.BOLIN@KLGATES.COM



GUILLERMO S. CHRISTENSEN
PARTNER

WASHINGTON, DC
+1.202.778.9095
GUILLERMO.CHRISTENSEN@KLGATES.COM

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