



Commodity Jurisdiction and Classification

Chris Weil

Division Chief
U.S. Department of State
Bureau of Political-Military Affairs
Office of Defense Trade Controls Policy
WeilC@state.gov



U.S. DEPARTMENT of STATE

Susan Daoussi

Chief
Regulations, Industry Outreach Division
Defense Technology Security
Administration (DTSA)
U.S. Department of Defense
Susan.g.daoussi.civ@mail.mil

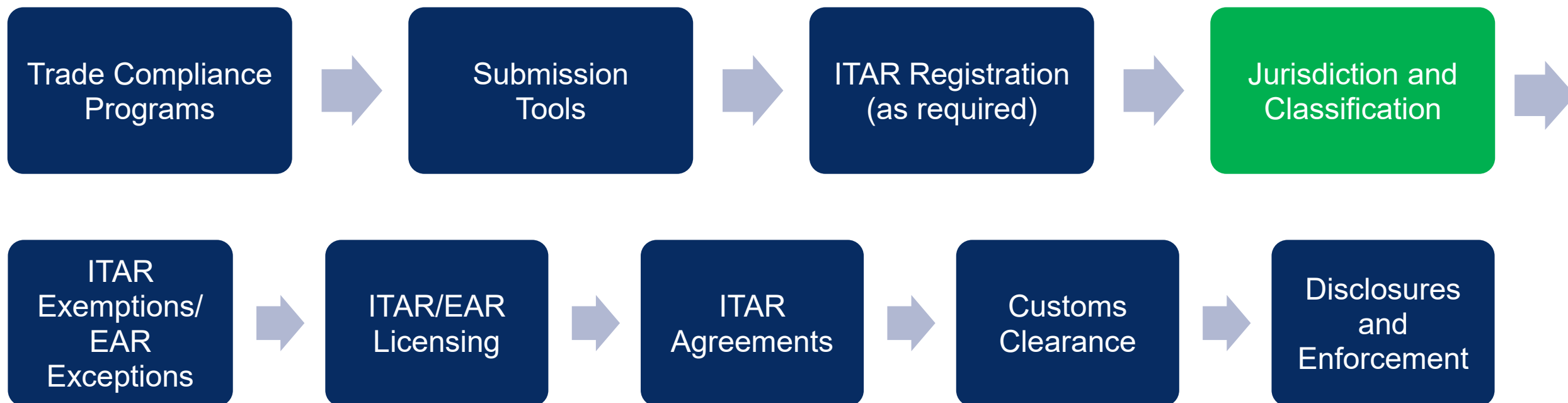
Candace M. J. Goforth

Managing Director
Goforth Trade Advisors LLC
candace@goforthandexport.com



Conference Agenda

We are here in the transaction process!



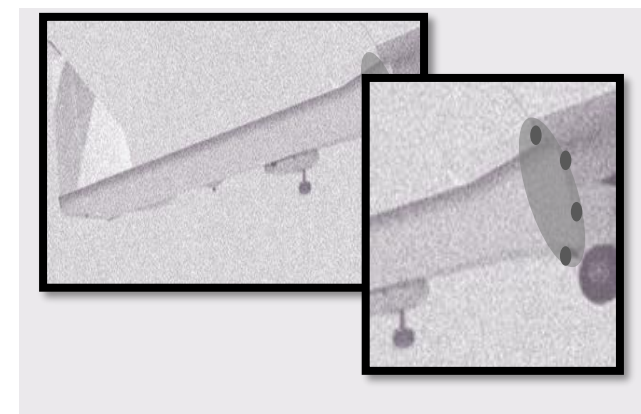


Scenario Refresher

Our company, Anything For A Sale (AFAS), is a manufacturer of the Carmella 500 Tactical UAV. We have only done domestic sales to the U.S. government. We now want to explore the international market.

- Before we jump into making sales, we need to understand the export jurisdiction and classification of our products.
- There are handouts supporting our discussion and scenarios today.

Items for Scenario



Carmella 500 Launcher

Micro-SAR Radar

Carmella 500 Launch Rail



AGENDA

- Jurisdiction and Classification Defined
- Legal Background
- Key Terms and Definitions
- Order of Review and Control List Overview
- Conducting an Order of Review
- Specially Designed Analysis
- Technical Data, Technology, and Software
- Commodity Jurisdiction/CCATS Submissions

DETERMINING JURISDICTION AND CLASSIFICATION

- Two fundamental questions:
 1. Is my item controlled under the ITAR? (Jurisdiction)
 - If yes, which USML Category? (Classification)
 2. If no, is it subject to the EAR? (Jurisdiction)
 - If yes, which ECCN? (Classification)
 - If no, is it controlled by another regulation?



DETERMINING JURISDICTION AND CLASSIFICATION

- Why does the jurisdiction matter?
 - If you get this wrong, every export-related decision going forward will also be wrong
 - This determination will dictate:
 - Regulating agency
 - Registration requirement (ITAR)
 - License requirements
 - Available license exemptions/exceptions
 - Brokering requirements (ITAR)





DETERMINING JURISDICTION AND CLASSIFICATION

- Incorrect classification can lead to problems as well under the ITAR or the EAR:
 - Incorrect export license analysis
 - Invocation of incorrect license exemptions or exceptions
 - Denial or Return Without Action (RWA) of license applications



THE LAW

§ 2778(a)(1) of the Arms Export Control Act (AECA)

“In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to **control the import and the export of defense articles and defense services** and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services.

The President is authorized to designate those items which shall be considered as **defense articles and defense services** for the purpose of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the **United States Munitions List.**”

**This authority is delegated to the Secretary of State by
Executive Order 13637**

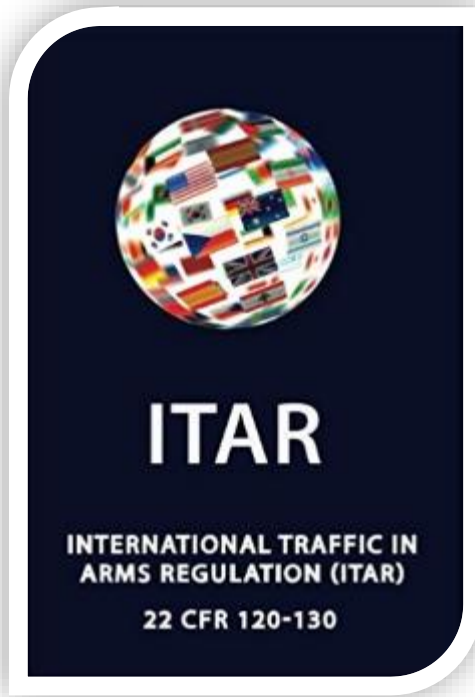


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THE IMPLEMENTING REGULATIONS



International Traffic in Arms Regulations

“ITAR”

22 Code of Federal Regulations 120-130



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DESIGNATING ARTICLES AND SERVICES

ITAR § 120.3 Policy on designating or determining defense articles and services on the U.S. Munitions List

- (a) For purposes of this subchapter, a specific article or service may be designated a defense article or defense service if it:
 - (1) Meets the criteria of a defense article or defense service on the USML; or
 - (2) Provides the equivalent performance capabilities of a defense article on the USML.
- (b) For purposes of this subchapter, a specific article or service shall be determined in the future as a defense article or defense service if it provides a critical military or intelligence advantage such that it warrants control under this subchapter.
- (c) A specific article or service is not a defense article or defense service for purposes of this subchapter if it:
 - (1) Is determined to be under the jurisdiction of another department or agency of the USG pursuant to a CJ determination unless superseded by changes to the USML or by a subsequent CJ determination; or
 - (2) Meets one of the criteria of § 120.41(b) when the article is used in or with a defense article and specially designed is used as a control criteria.





COMMODITY JURISDICTION

- **Commodity Jurisdiction determination (CJ)** refers to the process of identifying whether an item is described on the USML, either as a defense article or a defense service.
- **Export Jurisdiction:** the applicable regulation or department
- **Export Classification:** which paragraph(s) in the regulation describe the item
- Most export jurisdiction and classification (J&C) reviews start the Part 121 of the ITAR (the USML), pursuant to the “Order of Review” at ITAR § 120.11. (Exceptions for nuclear-related items.)





COMMODITY JURISDICTION

ITAR § 120.12 Commodity Jurisdiction:

- (b) A determination that an article or service meets the criteria of a defense article or defense service, or provides the equivalent performance capabilities of a defense article on the U.S. Munitions List, is made on a case-by-case basis, taking into account:
 - (1) The form and fit of the article;
 - (2) The function and performance capability of the article; and
 - (3) Other applicant-provided information, to include a history of the product's design, development, and use, as well as specifications and any other relevant data as described in brochures and other related documents.
- (c) A determination that an article or service has a critical military or intelligence advantage such that it warrants control under Category XXI of § 121.1 of this subchapter is made, on a case-by-case basis, taking into account:
 - (1) The function and performance capability of the article; and
 - (2) The nature of controls imposed by other nations on such items (including the Wassenaar Arrangement and other multilateral controls).





THE PROCESS

- The review of jurisdiction and classification should be an established part of company procedures:
 - Product development gate
 - Proposal review
 - Quote release
 - Export approval
- May be required for products, data, software, or services

BEFORE YOU BEGIN

- Certain information will be required before you can review an item's jurisdiction and classification
- This information will likely come from different functional areas within your company:
 - Engineering/Research & Development
 - Business Development/Sales
 - Contracts
 - Legal
- Determining jurisdiction and classification should be a team effort





BEFORE YOU BEGIN

- You must have a complete understanding of the product:
 - Product description
 - Source of product
 - Understanding of product capabilities
 - Understanding of product end-uses
 - Product specifications and drawings
 - Real and anticipated customers for the product
 - Any past jurisdiction or export history
 - Comparable products, including foreign availability



BEFORE YOU BEGIN

- Similar information is required for data or services to be reviewed
 - What is the source of the data or service?
 - Who receives the service?
 - In what context has the service been provided in the past?
- A checklist or questionnaire is often useful for gathering this information
- These questions are addressed in the Order of Review to determine jurisdiction and classification (more to come)



KEY DEFINITIONS AND TERMS

ITAR 120.40 AND EAR 772

- A **part** is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of designed use.
- A **component** is an item that is useful only when used in conjunction with an end-item:
 - A major component includes any assembled element that forms a portion of an end-item without which the end-item is inoperable; and
 - A minor component includes any assembled element of a major component.
- **Accessories and attachments** are associated articles for any component, equipment, system, or end-item, and which are not necessary for its operation, but which enhance its usefulness or effectiveness.
- Informally referred to as PCAAs



KEY DEFINITIONS AND TERMS

ITAR 120.40 AND EAR 772

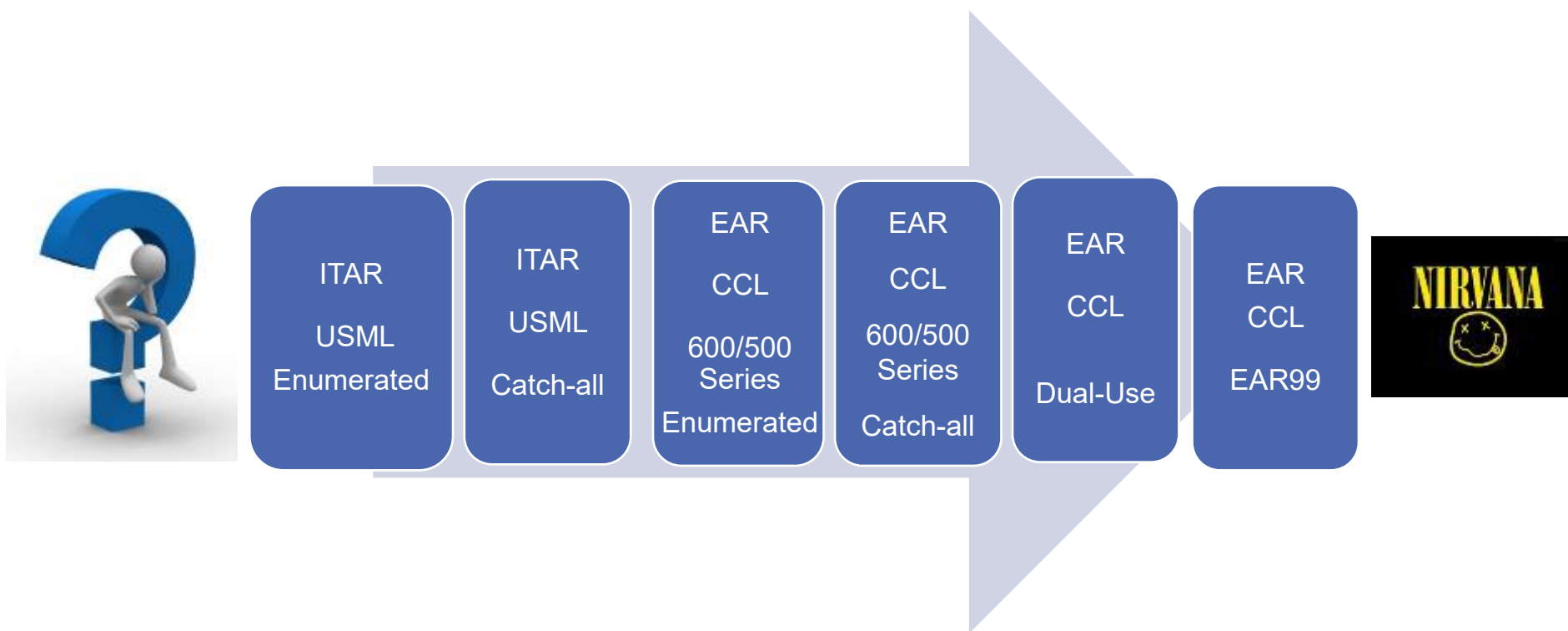
- A **system** is a combination of parts, components, accessories, attachments, firmware, software, equipment, or end-items that operate together to perform a function.
- An **end-item** is a system, equipment, or an assembled article ready for its intended use. Only ammunition or fuel or other energy source is required to place it in an operating state.
- **Equipment** is a combination of parts, components, accessories, attachments, firmware, or software that operate together to perform a function of, as, or for an end-item or system. Equipment may be a subset of an end-item based on the characteristics of the equipment. Equipment that meets the definition of an end-item is an end-item. Equipment that does not meet the definition of an end-item is a component, accessory, attachment, firmware, or software.



ORDER OF REVIEW

- Similar information is required for data or services to be reviewed
 - What is the source of the data or service?
 - Who receives the service?
 - In what context has the service been provided in the past?
- A checklist or questionnaire is often useful for gathering this information
- Concept of Order of Review added to the ITAR and the EAR in October 2013

ORDER OF REVIEW





USML STRUCTURE

- Divided into 21 categories
- Items may be described by multiple USML paragraphs, across categories
- Paragraphs for articles, technical data, and defense services
- Paragraphs within a category generally follow a set structure
- A USML control may contain the term “specially designed” in paragraphs that “enumerate” articles or in “catch-all” controls

It's an open-book test; use the regulation every time!





USML STRUCTURE

- “Catch-all” controls refer to unspecified parts, components, accessories, or attachments. For example:
 - USML Category VIII(h)(1) – Parts, components, accessories, and attachments specially designed for the following U.S.-origin aircraft: the B-1B, B-2, B-21 . . .
- All other USML entries are “enumerated.” For example:
 - USML Category VIII(a)(1) – “Bombers”
 - USML Category VIII(a)(5) – “Unmanned Aerial Vehicles (UAVs)” *specially designed* to incorporate a defense article
 - USML Category X(d) – Parts, components, accessories, attachments, and associated equipment for PPE as follows:
 - (1) “Ceramic or composite plates” that provide protection to or greater than NIJ Level IV





ORDER OF REVIEW

Enumerated entries:

- If your article is enumerated in a USML entry that does not use the term “specially designed,” then your analysis of that entry is complete
 - USML Category VIII(a)(1) – Bombers
- If your article is enumerated in a USML entry that uses the term “specially designed,” then a specially designed analysis will be required
 - USML Category VIII(a)(5) – Unmanned aerial vehicles specially designed to incorporate a defense article





ORDER OF REVIEW

Catch-all controls:

- If your commodity is not in an enumerated USML paragraph, your next step is to see if it is described in a “catch-all” control. For example:
 - USML Category XII(e)(1) – *Parts and components specially designed for fire control systems*
 - USML Category XIX(f)(1) – *Parts, components, accessories, and attachments specially designed for the U.S.-origin engines listed*
 - USML Category IV(h)(3) – *Kinetic kill vehicles and specially designed parts and components therefor*





ORDER OF REVIEW

- If your commodity is described in a paragraph that uses “specially designed” control text, be it either an “enumerated” or a “catch-all” control, a “specially designed” analysis is required (see ITAR § 120.41)
- If your commodity is described on the USML in one or more locations, the Order of Review stops once the ITAR analysis is complete and the most applicable USML entry has been selected from all relevant USML entries
- If your commodity is not described in either an enumerated, or a catch-all control, then it is not described on the USML, and the Order of Review moves to the EAR





ORDER OF REVIEW

Commodities described in multiple paragraphs are export classified

- Using an enumerated entry in preference to a catch-all control
- If classified for reasons of national security, as Significant Military Equipment (SME) using the appropriate USML entry, regardless of asterisk denoting global SME entries
- If unclassified for reasons of national security, using an SME entry in preference to a non-SME entry





ORDER OF REVIEW (SUPP. NO. 4 TO PART 774)

- Review the USML
 - Specifically enumerated items
 - “Catch-all” controls and ITAR definition of “specially designed”
- If not on the USML, review the CCL
 - Review characteristics of item to determine applicable CCL category and product group
 - Review applicable 600 series ECCNs
 - Specifically enumerated items
 - “Catch-all” controls and EAR definition of “specially designed”
 - Review applicable non-600 series ECCNs



COMMERCE CONTROL LIST (CCL) PART 774

- The primary tool for determination of licensing requirements
 - Positive list which identifies each item by specific technical parameters using a five-digit alpha-numeric entry called the Export Control Classification Number (ECCN)
- ECCNs list the reasons for control and are used to determine license requirements via the Commerce Country Chart (Sup 1 to part 740)
 - Common reasons for control include: National Security, Nuclear Nonproliferation, Regional Stability, Anti-Terrorism, etc.

STRUCTURE OF AN ECCN

1

- Category

C

- Product Group

350

- Type of Control



CATEGORIES OF THE COMMERCE CONTROL LIST

0	Nuclear Materials, Facilities & Equipment (Miscellaneous Items)
1	Materials, Chemicals, Microorganisms, and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Part 1 – Telecommunication
5	Part 2 – Information Security
6	Sensors & Lasers
7	Navigation & Avionics
8	Marine
9	Aerospace & Propulsion



ECCN PRODUCT GROUPS

- A** – “End Items”, “Equipment”, “Accessories”, “Attachments”, “Parts”, “Components”, and “Systems”
- B** – Test, Inspection, and “Production Equipment”
- C** – “Materials”
- D** – “Software”
- E** – “Technology”



ECCN TYPES OF CONTROLS

001-099 – National Security

101-199 – Missile Technology

201-299 – Nuclear Nonproliferation

301-399 – Chemical and Biological

501-521 – National Security or Foreign Policy

601-620 – Wassenaar Arrangement Munitions List (WAML) or U.S. Munitions List (USML)

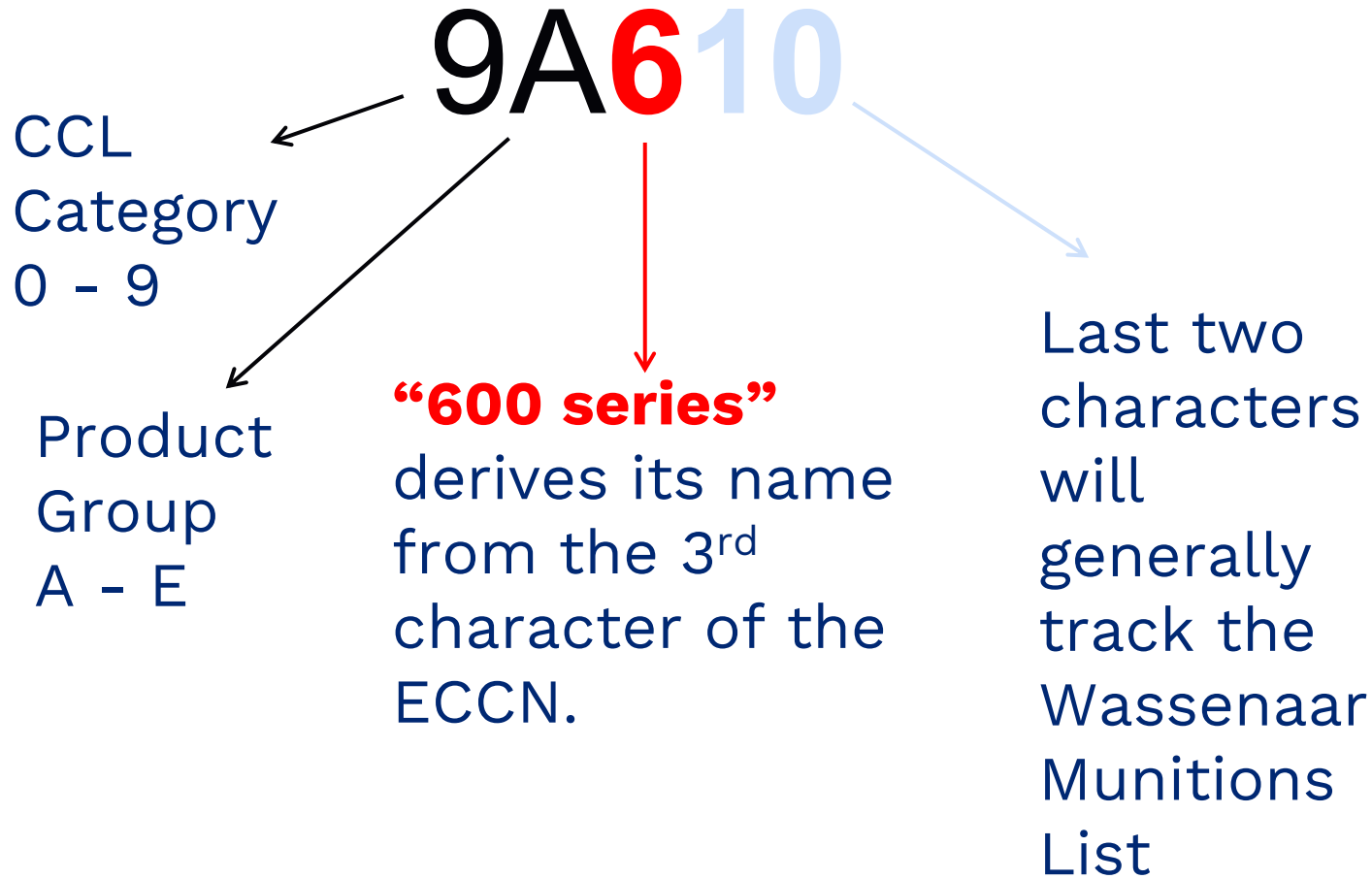
910-979 – Plurilateral National Security and Regional Stability

980-989 – Crime Control, Short Supply

990-999 – Anti-terrorism, Regional Stability, UN Sanctions



600 SERIES AND 9X515 ECCNs



Order of review – former USML items (and -018 items) listed in the “Items” paragraph:

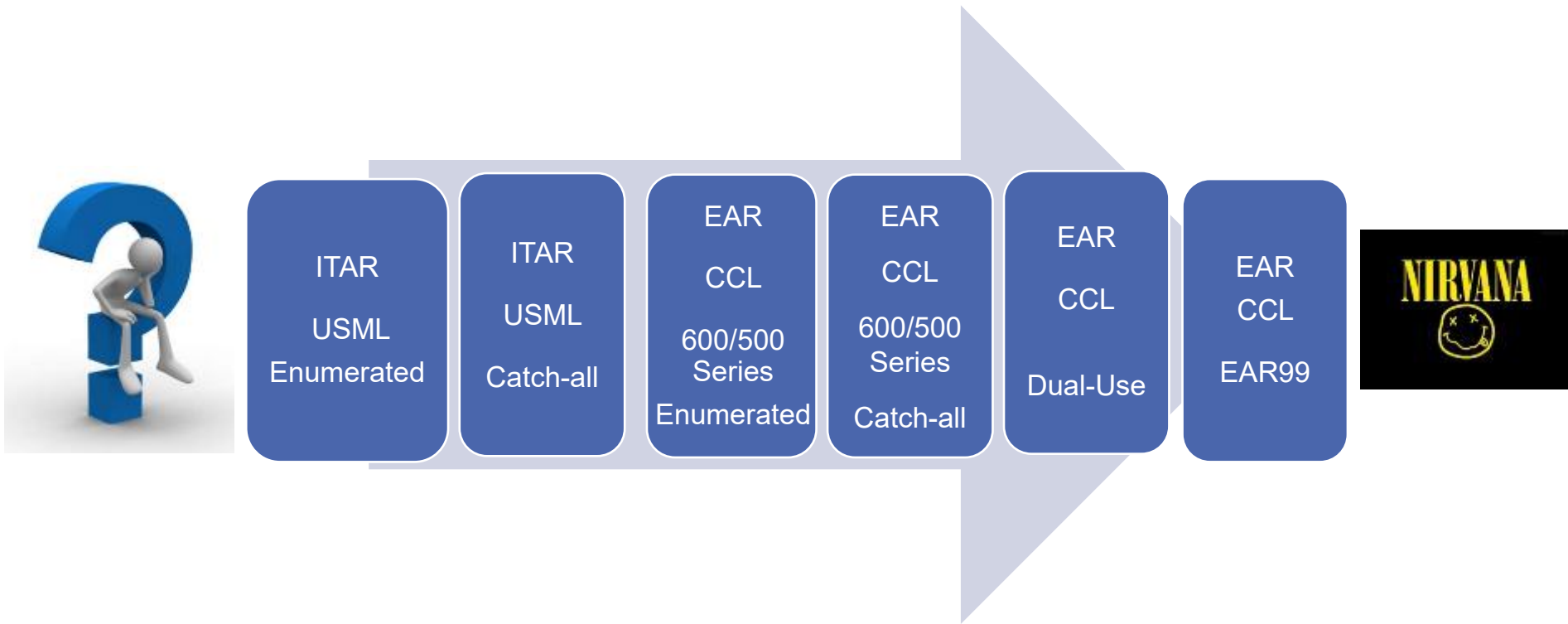
- **.a - .w** **enumerated** end items, materials, parts, components, accessories, and attachments.
- **.y** specifically **enumerated** parts, components, accessories, and attachments that are **“specially designed”**.
- **.x** **“specially designed”** parts, components, accessories, and attachments that are **not enumerated**.



EAR99

- At the end of each Product Category to capture items that are not listed on the Commerce Control List (CCL), such as pens, chairs, textiles – but they may not require a license
- EAR99 items may require a license if destined for a prohibited or restricted end user, end use or destination. See paragraphs (g) through (n) of § 732.3 “Steps Regarding the Ten General Prohibitions,” or General Prohibitions Four through Ten of part 736 of the EAR for license requirements other than those imposed by the CCL.
- EAR99 items may require separate permission to export per Department of Treasury’s Office of Foreign Asset Control (OFAC)

ORDER OF REVIEW





Jurisdiction and Classification Scenarios

- Where do you Start?
 - Order of review
 - Enumerated
 - Specially designed
- What do you need?
 - ITAR and EAR
 - Technical specifications

Order of Review

- ITAR
- CCL 600/500 Series
- CCL Dual-use



Item #1

The review of the first item focuses on the identification of enumerated commodities.



Micro-SAR Radar Jurisdiction and Classification

State of the Art Synthetic Aperture Radar

- Provides location, detection, and classification of targets in all weather conditions.
- Provides real-time images from a state-of-the-art radar designed to be mounted on small to medium air platforms, manned or unmanned.



Specifications:

- | | |
|-------------------------------------|---|
| • <i>Image Resolution</i> | <i>Less than 0.3, 0.3, 0.5, and up to 10m</i> |
| • <i>Communications</i> | <i>Serial and Ethernet</i> |
| • <i>Sensor Cueing</i> | <i>Cue on target</i> |
| • <i>Real Time Image processing</i> | |
| • <i>Size:</i> | <i>6"x6"x3"</i> |
| • <i>Weight</i> | <i>3.4lbs</i> |



Where To Start?

Review of the USML

I – Firearms and Related Articles

II – Guns and Armament

III – Ammunition and Ordnance

IV – Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines

V – Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents

VI – Surface Vessels of War and Special Naval Equipment

VII – Ground Vehicles

VIII – Aircraft and Related Articles

IX – Military Training Equipment and Training

X – Personal Protective Equipment

XI – Military Electronics

XII – Fire Control, Laser, Imaging, and Guidance Equipment

XIII – Materials and Miscellaneous Articles

XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment

XV – Spacecraft and Related Articles

XVI – Nuclear Weapons Related Articles

XVII – Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated

XVIII – Directed Energy Weapons

XIX – Gas Turbine Engines and Associated Equipment

XX – Submersible Vessels and Related Articles

XXI – Unclassified Articles, Technical Data, and Defense Services Not Otherwise Enumerated

Need to Select the Correct Category



Where To Start?

USML Category XI

- (a) Electronic systems and equipment not included in Cat XII of the USML as follows:
 - *(1) Underwater Hardware, equipment or systems...
 - *(2) Underwater acoustic countermeasures or counter countermeasures systems...
 - *(3) Radar Systems and Equipment as follows:
 - *(4) Electronic Combat (*i.e.*, Electronic Warfare) systems and equipment,...
 - *(5) Command, control, and communications (C3);
- (6) – (12)
- (b) Electronic systems or equipment, not elsewhere enumerated in this subchapter,(
- (c) Parts, components, accessories and attachments
- (d) Technical data and defense services
- (e) – (w) Reserved
- (x) “subject to the EAR”

Need to Select the Correct Sub-Category



Where To Start?

USML Category XI

(a)*(3) Radar Systems and Equipment as follows:

- (i) Airborne radar that maintains positional state of an object or objects of interest, other than weather phenomena, in a received radar signal through time;
- **(ii) Synthetic Aperture Radar (SAR) incorporating image resolution less than (better than) 0.3 m, or** incorporating Coherent Change Detection (CCD) with geo-registration accuracy less than (better than) 0.3 m, not including concealed object detection equipment operating in the frequency range from 30 GHz to 3,000 GHz and having a spatial resolution of 0.1 milliradians up to and including 1 milliradians at a standoff distance of 100 m;
- (iii) Inverse Synthetic Aperture Radar (ISAR);
- (iv) Radar that geodetically-locates (i.e., geodetic latitude, geodetic longitude, and geodetic height) with a target location error 50 (TLE50) less than or equal to 10 m at ranges greater than 1 km;
- (v) Any Ocean Surveillance Radar with an average-power-aperture product of greater than 50 Wm²;
- (vi) Any ocean surveillance radar that transmits a waveform with an instantaneous bandwidth greater than 100 MHz and has an antenna rotation rate greater than 60 revolutions per minute (RPM);
- (vii) –(xxix)



Micro-SAR Radar Jurisdiction and Classification

USML Category XI Military Electronics

- (a)*(3)(ii) Synthetic Aperture Radar (SAR) incorporating image resolution less than (better than) 0.3 m, or incorporating Coherent Change Detection (CCD) ...
- Entries can contain different control criteria
- Look for the use of **and** as well as **or**
- In this entry, the **or** is separating the two different criteria for capturing SAR

What other important information did you find?

- Hint: “*”



ENUMERATION TO SPECIALLY DESIGNED

- Completed the first step of Order of Review – reviewing for enumerated items without qualifiers
- You may have noticed enumerated entries using the qualifier of pecially designed
 - Intention to create a bright-line but not always possible

The next slides will address the definition and application of specially designed

- ITAR §120.41
- EAR §772



§ 120.41 SPECIALLY DESIGNED

- Specially designed criteria are implemented through a “catch and release” mechanism, with two “catches”:
- A commodity or software may be specially designed if:
 - § 120.41(a)(1) As a result of development, it has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant USML paragraph
 - § 120.41(a)(2) – it is a part, component, accessory, attachment, or software for use in or with a defense article





§ 120.41 SPECIALLY DESIGNED

§ 120.41(a)(1) has three essential elements that are more easily analyzed in reverse order (3-2-1):

1. [Determine whether they are] *a result of development.*
2. [Determine whether it] *has properties peculiarly responsible for achieving or exceeding the controlled [element].*
3. [Identify the] *performance levels, characteristics, or functions described in the relevant USML paragraph.*





§ 120.41 SPECIALLY DESIGNED

§ 120.41(a)(1) As a result of development, it has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant USML paragraph.

It is not possible to evaluate this paragraph in isolation from a specific USML entry, as you must first identify: “What is the controlled performance level, characteristic, or function under consideration?”

As such, a thorough order of review may require multiple (a)(1) reviews.





§ 120.41 SPECIALLY DESIGNED

§ 120.41(a)(1) As a result of development, it has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant USML paragraph

If you can identify at least one property that is responsible for the commodity meeting the control text of the entry, that would not have otherwise been present, that is sufficient to meet the standard.





§ 120.41 SPECIALLY DESIGNED

§ 120.41(a)(1) As a result of development, it has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant USML paragraph

Even if a commodity or software is capable of being used in or with a defense article, it is not captured by this paragraph unless someone did something during the commodity's development for it to achieve or exceed the performance levels, characteristics, or functions described in a USML entry that uses the term, "specially designed."



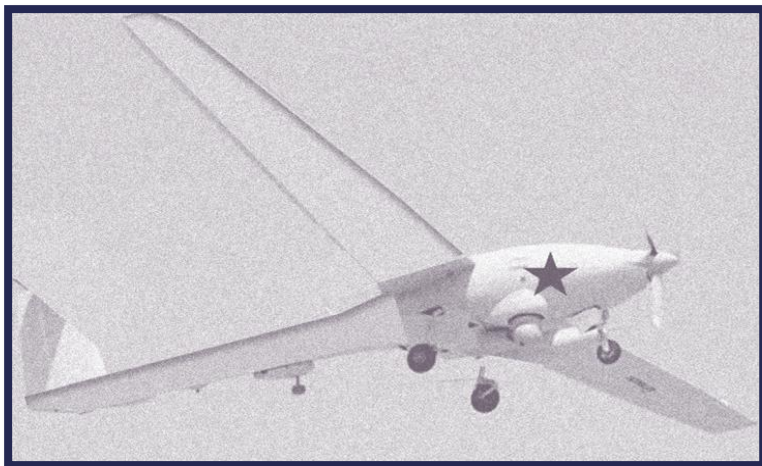


Item #2

The review of the second item focuses on the application of the first specially designed catch.

Carmella 500

Jurisdiction and Classification



Specifications (Carmella 500 Unarmed UAV)

Payload and Comms	Up to 75 lbs (34 kg)
Wingspan	24 ft (7.2 m)
Length.....	12 ft (3.6 m)
Max. Gross Takeoff Weight	220 lbs (99.8 kg)
Max. Altitude	15,000 ft MSL (4.5 m)
Max. Speed (Level Flight)	89 ktas
Loiter Speed.....	60 ktas
Electrical Power	Up to 1200 watts

AFAS Company unmanned air vehicles that can be configured for tactical missions such as counter IED, communications relay, signals intelligence, electronic warfare (EW), and maritime surveillance. Standard equipment includes a Micro-SAR radar.

The Carmella 500 unarmed UAV has a blended wing-body design, which can carry up to 100lbs with more than 6 cubic feet of payload space. The GAS Company 2-stroke 15.8 HP reciprocating engine powers the Carmella 500.

Runway-independent launch and recovery, and fully autonomous - launches from a rail launcher and runway or portable net recoverable.

Detachable light-weight composite tail section allows for ease of transport by ground or air

Range > 300 km; but cannot carry 500 kg to a range of 300 km



Where To Start?

Review of the USML

I – Firearms and Related Articles

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III – Ammunition and Ordnance

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VI – Surface Vessels of War and Special Naval Equipment

VII – Ground Vehicles

VIII – Aircraft and Related Articles

IX – Military Training Equipment and Training

X – Personal Protective Equipment

XI – Military Electronics

XII – Fire Control, Laser, Imaging, and Guidance Equipment

XIII – Materials and Miscellaneous Articles

XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment

XV – Spacecraft and Related Articles

XVI – Nuclear Weapons Related Articles

XVII – Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated

XVIII – Directed Energy Weapons

XIX – Gas Turbine Engines and Associated Equipment

XX – Submersible Vessels and Related Articles

XXI – Unclassified Articles, Technical Data, and Defense Services Not Otherwise Enumerated

Need to Select the Correct Category



Where To Start?

USML Category VIII

USML Category VIII Aircraft and Related Articles

- (a) Aircraft, whether manned, unmanned, remotely piloted, or optionally piloted, as follows (MT if...)
- (b) Reserved
- (c) Reserved
- (d) Launching and recovery equipment...to take off or land on a vessel described in Category VI
- (e) Reserved
- (f) Developmental aircraft
- (g) Reserved
- (h) Parts, components, accessories, attachments, associated equipment and systems, as follows
- (i) Technical data and defense services
- (j) – (w) Reserved
- (x) “subject to the EAR”



Is The Carmella 500 Enumerated? Category VIII(a) Aircraft

(a) Aircraft, whether **manned, unmanned, remotely piloted, or optionally piloted**, as follows (MT if the aircraft, excluding manned aircraft, has a range equal to or greater than 300 km):

*(1) Bombers;

(10) Target drones;

*(2) Fighters, fighter bombers, and fixed-wing attack aircraft;

(11) Reserved;

*(3) Turbofan- or turbojet-powered trainers used to train pilots for fighter, attack, or bomber aircraft;

(12) Aircraft capable of being refueled in flight including hover-in-flight refueling (HIFR); or

*(4) Attack helicopters;

*(13) Reserved

***(5) Unmanned aerial vehicles (UAVs) specially designed to incorporate a defense article**

(14) Aircraft with a roll-on/roll-off ramp, capable of airlifting payloads over 35,000 lbs. to ranges over 2,000 nm without being refueled in-flight...;

*(6) Reserved

*(15) Aircraft not enumerated in paragraphs (a)(1) through (a)(14) as follows:

*(7) performing an intelligence, surveillance, and reconnaissance function

(i) U.S.-origin aircraft that bear an original military designation of A, B, E, F, K, M, P, R, or S; or

*(8) Electronic warfare, airborne warning and control aircraft;

(ii) Foreign-origin aircraft specially designed to provide functions equivalent to those of the aircraft listed in paragraph (a)(15)(i) of this category; or

(9) incorporate a defense article for the purpose of performing an air refueling function;

(16) are armed or are specially designed to be used as a platform to deliver munitions or otherwise destroy targets (e.g., firing lasers, launching rockets, firing missiles, dropping bombs, or strafing);



Carmella 500 Tactical UAV Jurisdiction and Classification

USML Category VIII Aircraft and Related Articles

- (a)*(5) Unmanned aerial vehicles (UAVs) **specially designed** to incorporate a defense article
- As a result of development, the Carmella TUAV has properties peculiarly responsible for incorporating a defense article
 - “...can be configured for tactical missions such as counter IED, communications relay, signals intelligence, electronic warfare (EW), and maritime surveillance.”
- This is a yes or no analysis

What other important information did you find?

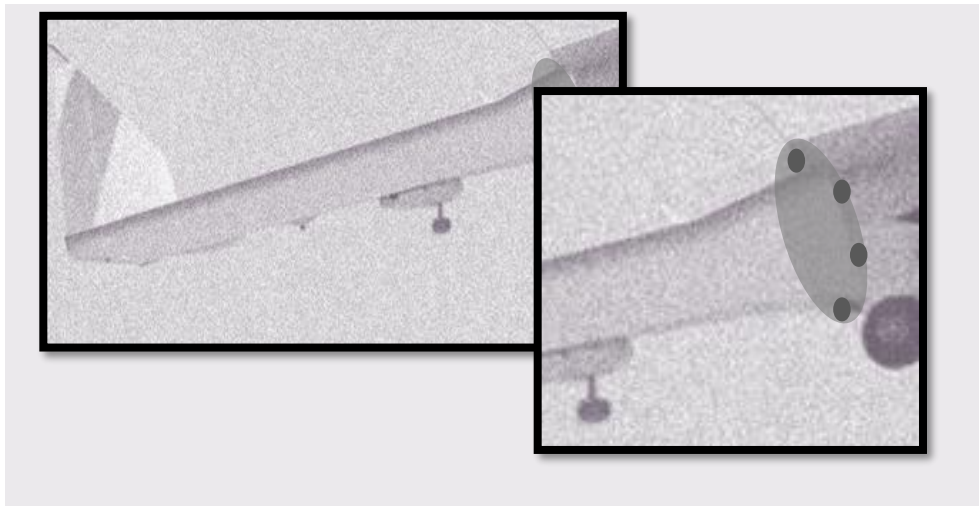
- Hint: “*” and “MT”



Item #3

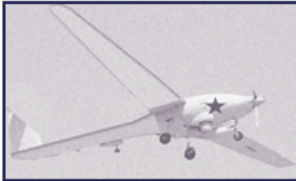
The review of the third commodity also discusses the application of the first specially designed catch.

Carmella 500 Tail Section Jurisdiction and Classification





Carmella 500 Jurisdiction And Classification



Specifications (Carmella 500 Unarmed UAV)

Payload and Comms	Up to 75 lbs (34 kg)
Wingspan	24 ft (7.2 m)
Length	12 ft (3.6 m)
Max. Gross Takeoff Weight	220 lbs (99.8 kg)
Max. Altitude	15,000 ft MSL (4.5 m)
Max. Speed (Level Flight)	85 kts
Loiter Speed	60 kts
Electrical Power	Up to 1200 watts

AFAS Company unmanned air vehicles that can be configured for tactical missions such as counter IED, communications relay, signals intelligence, electronic warfare (EW), and maritime surveillance.

The Carmella 500 unarmed UAV has a blended wing-body design, which can carry up to 100lbs with more than 6 cubic feet of payload space. The GAS Company 2-stroke 15.8 HP reciprocating engine powers the Carmella 500.

Runway-independent launch and recovery, and fully autonomous - launches from a rail launcher and runway or portable net recoverable.

Detachable light-weight composite tail section allows for ease of transport by ground or air

Range > 300 km; but cannot carry 500 kg to a range of 300 km

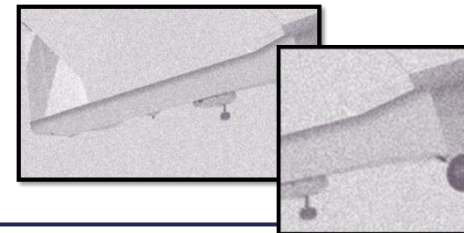
- Detachable light-weight composite tail section allows for ease of transport by ground or air
- Carbon fiber reinforced polymer (CFRP) provides incredible strength-to-weight ratio



Carmella 500 Tail Section Jurisdiction and Classification

USML Category VIII Aircraft and Related Articles

- (a) Aircraft, whether manned, unmanned, remotely piloted, or optionally piloted, as follows (MT if...
- (b) Reserved
- (c) Reserved
- (d) Launching and recovery equipment...to take off or land on a vessel described in Category VI
- (e) Reserved
- (f) Developmental aircraft
- (g) Reserved
- (h) Parts, components, accessories, attachments, associated equipment and systems, as follows
- (i) Technical data and defense services
- (j) – (w) Reserved
- (x) “subject to the EAR”



Need to Select the Correct Category

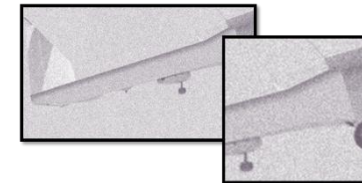
Carmella 500 Tail Section Jurisdiction and Classification

Cat VIII(h) Enumerated Parts

1. SD Parts for B-2, F-35 etc.
2. Variety of gearboxes, etc.
3. Tail boom, stabilator, etc.
4. Wing folding systems
5. Tail hooks, arresting equipment etc.
6. Bomb racks, missile launchers, etc.
7. Damage or failure adaptive FCS
8. Threat-adaptive FCS
9. Non-surface-based FCS
10. Radar altimeters (w/LPI)
11. Air to Air, etc. refueling systems
12. UAV FCS
13. Reserved
14. Lift fans etc. for STOVL

FCS – Flight Control Systems. LPI – Low Probability of Intercept, SD – Specially Designed, STOVL – Short Take-off/Vertical Landing, UAV – Unmanned Air Vehicle

15. Integrated Helmets, etc.
16. Fire control computers, etc.
17. SD Mission Computers, etc.
18. SD FCS to function after > 7.62mm hit
19. SD Thrust Reversers
20. Classified Parts, etc.
- 21-26. Reserved
27. Variable speed gearboxes
28. Elec. power or thermal management systems SD
29. ...equipment if specially designed for a defense article described in paragraph (h)(1):
 - (i) Scale test models;
 - (ii) Full scale iron bird ground rigs used to test major aircraft systems; or
 - (iii) Jigs, locating fixtures, templates, gauges, molds, dies, or caul plates.



Is the Composite A/C structure enumerated or controlled under specially designed?



Carmella 500 Tail Section Jurisdiction and Classification

USML Category VIII Aircraft and Related Articles

- As a component of the TUAV, the review starts with the entries in USML Category VIII
- There is no entry which enumerates or otherwise describes the tail section of an aircraft
- The jurisdiction is not the ITAR; the review moves to the EAR
- USML Category VIII(i) gives us a pointer of where to start the CCL review:
 - “...directly related to items controlled in ECCNs 9A610, 9B610, 9C610, and 9D610...”

Need to Identify the Correct Jurisdiction



Carmella 500 Tail Section Jurisdiction and Classification

CCL Category 9 for Aerospace and Propulsion

- Once in CCL Category 9, the review of the appropriate Product Group
 - A: End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems
 - B: Test, Inspection and Production Equipment
 - C: Materials
 - D: Software
 - E: Technology
- Our review will be in ECCN 9A610 for the TUAV tail section
- Need to check if enumerated in 9A610.a-.w, then 9A610.y before reviewing 9A610.x

Need to Identify the Correct Category



Carmella 500 Tail Section Jurisdiction and Classification

ECCN 9A610

- a: SD Military aircraft not in USML Cat VIII
- b: L-100 aircraft manufactured prior to 2013
- c-d: Reserved
- e: Mobile aircraft arresting and engagement runway systems
- f: SD Pressure refueling equipment and equipment that facilitates operations in confined areas
- g: Aircrew life support/safety equipment
- h: SD Parachutes, paragliders, etc.
- i: Controlled opening equipment or automatic piloting systems
- j: SD Ground effect machines
- k-s: Reserved
- t: SD Composite structures, laminates... for UAVs with a range equal to or greater than 300 km.
- u. SD devices for handling, control, activation and non-ship-based launching of UAVs w/R > 300km
- v. Radar altimeters designed or modified for use in UAVs or drones
- w: Pneumatic hydraulic, mechanical, electro-optical, or electromechanical flight control systems (including fly-by-wire systems) and attitude control equipment
- x: Parts, components, accessories, attachments that are “specially designed”
- y: Specific parts, components, accessories, attachments that are “specially designed”

Need to check if enumerated in 9A610.a-.w, then 9A610.y before reviewing 9A610.x



Carmella 500 Tail Section Jurisdiction and Classification

9A610 Military Aircraft and Related Commodities, Other Than Those Enumerated in 9A991.a

t. **Composite** structures, laminates, and manufactures thereof "specially designed" for unmanned aerial vehicles controlled under USML Category VIII(a) with a **range equal to or greater than 300 km.**

- Detachable light-weight composite tail section allows for ease of transport by ground or air
- TUAV Carmella 500 has a range greater than 300km
- Specially designed analysis IAW paragraph (a)(1)
- If less than 300 km the analysis would continue



SD ENUMERATION TO SD CATCH-ALLS

- Completed the next step of Order of Review – applying the definition of specially designed in enumerated entries
- Specially designed is also used with catch-all entries

We will now turn to the next part of the specially designed definition



§ 120.41 SPECIALLY DESIGNED

§ 120.41(a)(2) it is a part, component, accessory, attachment, or software for use in or with a defense article.

If your commodity is instead an end-item, equipment, system, material, device, technical data, or any other type of commodity not listed within (a)(2), *STOP*, as these are not eligible for (a)(2) capture.

PRO TIP: Consider the context of the control in assessing commodity type(s).

While this paragraph is a very broad catch, there are five potential “releases” from a specially designed control provided by §§ 120.41(b)(1) through (b)(5).





§ 120.41 SPECIALLY DESIGNED

*§ 120.41(b) A part, component, accessory, attachment, or software is **not** specially designed if it meets one of the five release criteria listed*

PRO TIP:

§ 120.41(b) releases may be applied without evaluating (a) captures, but exercise caution:

- Only releases from text that explicitly uses the term “specially designed.”
- Only applies to controls for parts, components, accessories, attachments, and software.

If you're reviewing a control paragraph for an end-item, equipment, system, material, technical data, or any other type of commodity not listed within (b), **STOP**. Those entries are not eligible for release from specially designed.





§ 120.41 SPECIALLY DESIGNED

*§ 120.41(b) A part, component, accessory, attachment, or software is **not** specially designed if it meets one of the five release criteria listed*

1. If it is subject to the EAR pursuant to a CJ determination (rare);
2. If it is, regardless of form or fit, a fastener, washer, spacer, insulator, grommet, bushing, spring, wire, or solder;

PRO TIP:

Do NOT stretch the definition of the listed commodity types. For example, wire includes single and stranded conductors, with or without insulation.



U.S. DEPARTMENT of STATE

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§ 120.41 SPECIALLY DESIGNED

This, on the other hand, is not “wire.”



U.S. DEPARTMENT *of* STATE

Distribution Limited to SIA Members/Attendees and Subject to SIA Code of Conduct



§ 120.41 SPECIALLY DESIGNED

These are nut plates (a type of “fastener”)



U.S. DEPARTMENT *of* STATE

Distribution Limited to SIA Members/Attendees and Subject to SIA Code of Conduct



§ 120.41 SPECIALLY DESIGNED

These, on the other hand, are not nut plates. They are brackets.



U.S. DEPARTMENT *of* STATE

Distribution Limited to SIA Members/Attendees and Subject to SIA Code of Conduct



§ 120.41 SPECIALLY DESIGNED

*§ 120.41(b) A part, component, accessory, attachment, or software is **not** specially designed if it meets one of the five release criteria listed*

1. If it is subject to the EAR pursuant to a CJ determination (rare);
2. If it is, regardless of form or fit, a fastener, washer, spacer, insulator, grommet, bushing, spring, wire, or solder;
3. If it has the same function, performance capabilities, and the same or “equivalent” form as a commodity or software used in or with a commodity that:
 - is or was in production (i.e., not in development); and
 - is not enumerated on the USML





§ 120.41 SPECIALLY DESIGNED

Defined terms in § 120.42:

- Function – action or actions a commodity is designed to perform
- Performance capability – the measure of a commodity's effectiveness to perform a designated function in a given environment

(b)(3) If it has the *same* function, performance capabilities, and the same or “equivalent” form as a commodity or software used in or with a commodity that:

- is or was in production (i.e., not in development); and
- is not enumerated on the USML





§ 120.41 SPECIALLY DESIGNED

Defined terms in § 120.42:

- Equivalent – form has been modified solely for fit purposes
- Form – configuration (including the geometrically measured configuration), material, and material properties that uniquely characterize a commodity
- Fit – the ability of a commodity to physically interface or connect with or become an integral part of another commodity

(b)(3) If it has the *same* function, performance capabilities, and the *same* or “equivalent” form as a commodity or software used in or with a commodity that:

- is or was in production (i.e., not in development); and
- is not enumerated on the USML



U.S. DEPARTMENT *of* STATE

Distribution Limited to SIA Members/Attendees and Subject to SIA Code of Conduct



§ 120.41 SPECIALLY DESIGNED

(b)(3) If it has the same function, performance capabilities, and the same or “equivalent” form as a commodity or software used in or with a commodity that:

- is or was in production (i.e., not in development); and
- is not enumerated on the USML

Defined terms in § 120.43(b):

- Production means all production stages, such as product engineering, manufacture, integration, assembly (mounting), inspection, testing, and quality assurance





§ 120.41 SPECIALLY DESIGNED

(b)(3) If it has the same function, performance capabilities, and the same or “equivalent” form as a commodity or software used in or with a commodity that:

- is or was in production (i.e., not in development); and
- is not enumerated on the USML

Defined terms in § 120.43(a):

- Development is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, and layouts





§ 120.41 SPECIALLY DESIGNED

*§ 120.41(b) A part, component, accessory, attachment, or software is **not** specially designed if it meets one of the five release criteria listed*

4. If it was or is being developed with knowledge that it is or would be for use in or with both defense articles and commodities not on the USML.
5. If it was or is being developed as a general purpose commodity or software, with no knowledge for use in or with a particular commodity or type of commodity (e.g., an aircraft or machine tool)

Note to § 120.41(b)(4) and (b)(5): Must have documents contemporaneous with development that establish, in their totality, that the commodity was or is being developed as a general purpose commodity, or for use in or with both defense articles and commodities not on the USML. Such documentation includes concept design information, marketing plans, declarations in patent applications, or contracts.





“SPECIALLY DESIGNED” DEFINITION

- EAR “specially designed” definition is in Part 772.1 and became effective October 15, 2013.
- The “specially designed” definition is common to the EAR and ITAR, although slight differences in wording to make definition EAR and ITAR specific.
- Pay close attention to the paragraph (b) which releases “parts,” “components,” “accessory,” “attachments,” or “software” from specially designed.



PARAGRAPH (B)(6) ‘RELEASE’

Paragraph (b)(6) criteria	Meets (b)(6) criteria	Does not meet (b)(6) criteria
Was or is the “part,” “component,” “accessory,” “attachment,” or “software” being developed with “knowledge” that it would be for use in or with commodities or software: (i) described in ECCN controlled for AT-only reasons and also for EAR99 commodities or software, <u>or</u> (ii) exclusively for use in or with EAR99 commodities or software?	Yes. <u>NOT</u> “specially designed.”	No. <u>NOT</u> ‘released’ under (b)(6). Review other (b) ‘releases.’



NOTE TO (B)(4), (5), AND (6)

- *For a commodity or software to be not “specially designed” on the basis of paragraphs (b)(4), (b)(5) or (b)(6), documents contemporaneous with its “development,” in their totality, must establish the elements of paragraphs (b)(4), (b)(5) or (b)(6). Such documents may include concept design information, marketing plans, declarations in patent applications, or contracts. Absent such documents, the “commodity” may not be excluded from being “specially designed” by paragraphs (b)(4), (b)(5) or (b)(6).*



POLICY

DoD Perspective on Specially Designed



- “Releases” in paragraph (b):
 - Only apply to a part, component, accessory, attachment (PCAA), or software.
 - Do not apply to systems.
- So... a HMMWV (assuming it is caught) cannot be “released” from specially designed via specially designed paragraph (b) (1), specially designed paragraph (b) (2), specially designed paragraph (b) (3)...
- A PCAA or Software that meets the criteria of one or more of the paragraphs under (b) is ‘released’ from “specially designed.”



POLICY

DoD Perspective on Specially Designed



Third release, (b)(3):

- Most taxing release, a lot of notes, “equivalent” is a source of contention.**
- Objective release, same = “not different”.**



POLICY

DoD PERSPECTIVE ON SPECIALLY DESIGNED (B)(3)



- Explain how the non-USML commodity was determined “not enumerated on the USML”.
- Clearly state if the in-production, non-USML applications are finalized sales. (b)(3) does not typically apply to pending or potential uses.
- Provide detailed information on the end-use.
- Walk us through how the “in-production, non-USML application” makes use of the item’s functions and performance capabilities.
- Provide a detailed product-to-product comparison.
- Explain how each variance in form is limited to fit purposes only (i.e. the item’s “ability to physically interface or connect with or become an integral part of another commodity”).
 - Refer to Note 4 and 5 to paragraph (b)(3).



POLICY



APPLYING “EQUIVALENT”

Scenario 1 - A transient voltage suppressor used for a variety of in-production commercial uses, was modified to use a specific mount type for a military aircraft customer. All other parameters are identical to items for commercial use, identical function, identical performance capability. All modifications in form are limited to the component’s ability to physically interface with the military system. This meets the “equivalent” standard for paragraph (b)(3) release.



POLICY

APPLYING “EQUIVALENT”



Scenario 2 - An accumulator used in commercial aircraft hydraulic systems, modified for a military aircraft manufacturer from 110 in³ to 115 in³, volume modified to become an integral part of the military aircraft hydraulic system. Although this modification is made only to accommodate the new hydraulic system, it exceeds the scope of ‘fit,’ which refers only to the items ability to physically interface. Since, the modification to the volume modifies the capacity of the item to deliver pressure to the hydraulic system, the accumulator is not released from “specially designed” by paragraph (b)(3). This item does NOT meet “equivalent” standard.



Key Take Reminders



- **If using the Specially Designed 120.41(b)(3) release, please ensure your applying the appropriate “equivalent” definition in the notes.**
 - **Provide a detailed product-to-product comparison.**
- **Specially Designed §120.41(b)(4) release requires historical documentation contemporaneous with product development. The note to (b)(4) and (5) emphasizes “in their totality” which DoD views as a very high standard.**
 - **Companies may consider creating archives for this documentation for each new project undertaken for possible future (b)(4) or (5) release opportunities.**



Item #4

The review of the fourth commodity discusses the application of the second specially designed catch.

Carmella 500 Engine Propeller Jurisdiction and Classification

Carmella 500 Engine Propeller



Designed exclusively for 15.8 HP reciprocating engine powering the Carmella 500, this 5-Blade aluminum propeller provides all the power you will need.

The Carmella 500 unarmed UAV has a blended wing-body design, which can carry up to 100lbs with more than 6 cubic feet of payload space. The GAS Company 2-stroke 15.8 HP reciprocating engine powers the Carmella 500.



Carmella 500 Jurisdiction And Classification



AFAS Company unmanned air vehicles that can be configured for tactical missions such as counter IED, communications relay, signals intelligence, electronic warfare (EW), and maritime surveillance.

The Carmella 500 unarmed UAV has a blended wing-body design, which can carry up to 100lbs with more than 6 cubic feet of payload space. The GAS Company 2-stroke 15.8 HP reciprocating engine powers the Carmella 500.

Specifications (Carmella 500 Unarmed UAV)	
Payload and Comms	Up to 75 lbs (34 kg)
Wingspan	24 ft (7.2 m)
Length	12 ft (3.6 m)
Max. Gross Takeoff Weight	220 lbs (99.8 kg)
Max. Altitude	15,000 ft MSL (4.5 m)
Max. Speed (Level Flight)	89 kts
Loiter Speed	60 kts
Electrical Power	Up to 1200 watts

Runway-independent launch and recovery, and fully autonomous - launches from a rail launcher and runway or portable net recoverable.

Detachable light-weight composite tail section allows for ease of transport by ground or air

Range > 300 km; but cannot carry 500 kg to a range of 300 km



Where To Start?

USML Category VIII

USML Category VIII Aircraft and Related Articles

- (a) Aircraft, whether manned, unmanned, remotely piloted, or optionally piloted, as follows (MT if...
- (b) Reserved
- (c) Reserved
- (d) Launching and recovery equipment...to take off or land on a vessel described in Category VI
- (e) Reserved
- (f) Developmental aircraft
- (g) Reserved
- (h) Parts, components, accessories, attachments, associated equipment and systems, as follows
- (i) Technical data and defense services
- (j) – (w) Reserved
- (x) “subject to the EAR”



Need to Select the Correct Category

Carmella 500 Engine Propeller Jurisdiction and Classification

Cat VIII(h) Enumerated Parts

1. SD Parts for B-2, F-35 etc.
2. Variety of gearboxes, etc.
3. Tail boom, stabilator, etc.
4. Wing folding systems
5. Tail hooks, arresting equipment etc.
6. Bomb racks, missile launchers, etc.
7. Damage or failure adaptive FCS
8. Threat-adaptive FCS
9. Non-surface-based FCS
10. Radar altimeters (w/LPI)
11. Air to Air, etc. refueling systems
12. UAV FCS
13. Reserved
14. Lift fans etc. for STOVL

FCS – Flight Control Systems. LPI – Low Probability of Intercept, SD – Specially Designed, STOVL – Short Take-off/Vertical Landing, UAV – Unmanned Air Vehicle

15. Integrated Helmets, etc.
16. Fire control computers, etc.
17. SD Mission Computers, etc.
18. SD FCS to function after > 7.62mm hit
19. SD Thrust Reversers
20. Classified Parts, etc.
- 21-26. Reserved
27. Variable speed gearboxes
28. Elec. power or thermal management systems
SD
29. ...equipment if specially designed for a defense article described in paragraph (h)(1):
 - (i) Scale test models;
 - (ii) Full scale iron bird ground rigs used to test major aircraft systems; or
 - (iii) Jigs, locating fixtures, templates, gauges, molds, dies, or caul plates.



Is the propeller enumerated or controlled under specially designed?



Carmella 500 Engine Propeller Jurisdiction and Classification

USML Category VIII Aircraft and Related Articles

- As a component of the TUAV, the review starts with the entries in USML Category VIII
- There is no entry which enumerates or otherwise describe the engine propeller; the review moves to the EAR

CCL Category 9 for Aerospace and Propulsion

- Our review will be in ECCN 9A610 for the TUAV engine propeller
- Need to check if enumerated in ECCN 9A610.a-.w, then 9A610.y before reviewing 9A610.x
- A review of ECCN 9A610.a-.w identified no enumerated entry for the engine propeller; ECCN 9A610.y is reviewed next



Carmella 500 Engine Propeller Jurisdiction and Classification

ECCN 9A610

- a: SD Military aircraft not in USML Cat VIII
- b: L-100 aircraft manufactured prior to 2013
- c-d: Reserved
- e: Mobile aircraft arresting and engagement runway systems
- f: SD Pressure refueling equipment and equipment that facilitates operations in confined areas
- g: Aircrew life support/safety equipment
- h: SD Parachutes, paragliders, etc.
- i: Controlled opening equipment or automatic piloting systems
- j: SD Ground effect machines
- k-s: Reserved
- t: SD Composite structures, laminates... for UAVs with a range equal to or greater than 300 km.
- u. SD devices for handling, control, activation and non-ship-based launching of UAVs w/R > 300km
- v. Radar altimeters designed or modified for use in UAVs or drones
- w: Pneumatic hydraulic, mechanical, electro-optical, or electromechanical flight control systems (including fly-by-wire systems) and attitude control equipment
- x: Parts, components, accessories, attachments that are “specially designed”
- y: Specific parts, components, accessories, attachments that are “specially designed”**

Need to check if enumerated in 9A610.a-.w, then 9A610.y before reviewing 9A610.x



Carmella 500 Engine Propeller Jurisdiction and Classification

ECCN 9A610.y

y. Specific “parts,” “components,” “accessories,” and “attachments” “specially designed” for a commodity subject to control in this ECCN or a defense article in USML Category VIII and not elsewhere specified in the USML or the CCL, and other aircraft commodities “specially designed” for a military use, as follows:

- y.1. Aircraft tires;
- y.2. Analog cockpit gauges and indicators;
- y.3. Audio selector panels;
- y.4. Check valves for hydraulic and pneumatic systems;
- y.5. Crew rest equipment;
- y.6. Ejection seat mounted survival aids;

...

Y.25. Propeller, propeller systems, and propeller blades used with reciprocating engines

...

- y.29. ‘Military Aircraft’ that were first manufactured from 1946 to 1955 that do not...
- y.30. Parts, “components,” “accessories,” and “attachments,” other than electronic items or navigation equipment,;
- y.31. Identification plates and nameplates; *and*
- y.32. Fluid manifolds.

**What still
needs to be
done?**



Carmella 500 Engine Propeller Jurisdiction and Classification

y.25. Propeller, propeller systems, and propeller blades used with reciprocating engines

- Chapeau language for ECCN 9A610.y includes the “specially designed” qualifier
- While an enumerated list, .y relates to PCAAs so treated like a catch-all entry making it eligible for paragraph (b) releases
- Specially designed analysis
- Language in technical description
 - “Designed exclusively for 15.8 HP reciprocating engine powering the Carmella 500...”

What if...?

Carmella 500 Engine Propeller



Designed exclusively for 15.8 HP reciprocating engine powering the Carmella 500, this 5-Blade aluminum propeller provides all the power you will need.

...the Carmella 500 Engine Propeller is made of composite material and not aluminum?



Carmella 500 Engine Propeller



Designed exclusively for 15.8 HP reciprocating engine powering the Carmella 500, this 5-Blade **Carbon Composite** propeller provides all the power you will need.

What if...? Composite Engine Propeller

...

t: SD Composite structures, laminates... for UAVs with a range equal to or greater than 300 km.

...

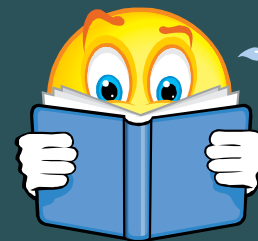
...

y: Specific parts, components, accessories, attachments that are “specially designed”

y.25. Propeller, propeller systems, and propeller blades used with reciprocating engines

MTCR Annex Handbook: Composites and laminates are generally used in critical structural components of ballistic missiles or unmanned aerial vehicles (UAVs), including cruise missiles. Uses include solid rocket motor cases, interstages, wings, inlets, nozzles, heat shields, nosetips, structural members, and frames.

Is a “UAV Engine Propeller” or “Engine Propeller System” considered a UAV structure?



Significant Difference in Controls between .t and .y

May wish to submit a CCATS



Item #5

The review of the fifth commodity also discusses the application of the second specially designed catch.

Carmella 500 Launcher Jurisdiction and Classification



- Does not have a commercial equivalent
- Unique to the Carmella 500 Program

Provides the thrust required to propel the pre-activated aircraft with adequate lift for the ground controller to gain and maintain flight



Carmella 500 Launcher Jurisdiction and Classification

USML Category VIII Aircraft and Related Articles

- As a component of the TUAV, the review starts with the entries in USML Category VIII
- There is no entry which enumerates or otherwise describe the launcher; the review moves to the EAR

CCL Category 9 for Aerospace and Propulsion

- Our review will be in ECCN 9A610 for the TUAV launcher
- Need to check if enumerated in ECCN 9A610.a-.w, then 9A610.y before reviewing 9A610.x



Carmella 500 Launcher Jurisdiction and Classification

ECCN 9A610

- a: SD Military aircraft not in USML Cat VIII
- b: L-100 aircraft manufactured prior to 2013
- c-d: Reserved
- e: Mobile aircraft arresting and engagement runway systems
- f: SD Pressure refueling equipment and equipment that facilitates operations in confined areas
- g: Aircrew life support/safety equipment
- h: SD Parachutes, paragliders, etc.
- i: Controlled opening equipment or automatic piloting systems
- j: SD Ground effect machines
- k-s: Reserved
- t: SD Composite structures, laminates... for UAVs with a range equal to or greater than 300 km.
- u. SD devices for handling, control, activation **and** non-ship-based launching of UAVs w/R > 300km
- v. Radar altimeters designed or modified for use in UAVs or drones
- w: Pneumatic hydraulic, mechanical, electro-optical, or electromechanical flight control systems (including fly-by-wire systems) and attitude control equipment
- x: Parts, components, accessories, attachments that are “specially designed”
- y: Specific parts, components, accessories, attachments that are “specially designed”

Need to check if enumerated in 9A610.a-.w, then 9A610.y before reviewing 9A610.x



Carmella 500 Launcher Jurisdiction and Classification

u. Apparatus and devices "specially designed" for the handling, control, activation **and non-ship-based launching of UAVs controlled by either USML paragraph VIII(a) or ECCN 9A610.a, and capable of a range equal to or greater than 300 km**

- REMINDER: Careful to review for “and’s” and “or’s” in the control criteria
- “... required to propel the **pre-activated** aircraft...”
- A review of ECCN 9A610.y identified no enumerated entry for the launcher; ECCN 9A610.x is reviewed next



Carmella 500 Launcher Jurisdiction and Classification

x. “Parts,” “components,” “accessories,” and “attachments” that are “**specially designed**” for a commodity enumerated or otherwise described in ECCN 9A610 (except for 9A610.y) or a defense article enumerated or otherwise described in USML Category VIII and not elsewhere specified on the USML or in 9A610.y, 9A619.y, or 3A611.y.

- Specially designed analysis of the paragraph (b) releases
- “Does not have a commercial equivalent”
- “Unique to the Carmella 500 Program”

What just happened?



MTCR ANNEX:

12.A.1. Apparatus and devices, designed or modified for the handling, control, activation **and** launching of the systems specified in 1.A., 19.A.1., or 19.A.2.

Does “and” mean “or”?

USML CAT IV(c)

(c) Apparatus and devices specially designed for the handling, control, activation, monitoring, detection, protection, discharge, **or** detonation of the articles enumerated in paragraphs (a) and (b) of this category

USML makes translation from “and” to “or”

CCL 9A610.u

.u. SD devices for handling, control, activation **and** non-ship-based launching of UAVs w/R > 300km

CCL - Does “and” mean “or”?

BIS Verification: **“and” means “and”**

CCL 9A610.x

.x. Parts, components, accessories, and attachments that are “specially designed”

Launcher does not meet definition of Parts, components, accessories, and attachments. Could go to EAR 99

Submit CCATS.

Do not believe the intent is to drop to EAR 99. Classify as 9A610.u until determined

CCATS Determination – 9A610.x



§ 120.41 SPECIALLY DESIGNED

- Specially designed has been discussed at length by State and Commerce:
 - State's rule: 78 Federal Register 22740
 - Commerce's rule: 78 Federal Register 22660





Two Decision Tools

- CCL Order of Review Decision Tool
 - Guides public through steps to take in reviewing CCL, in light of addition of “600 series” and new “specially designed” definition.
 - Includes questions under Step 4:
 - to determine if an item is “specially designed” for “600 series,” and non-“600 series.”
- Specially Designed Decision Tool
 - Is a web-based decision tool to assist your understanding and application of “specially designed.”
 - Interconnects with the *CCL Order of Review Decision Tool*.
 - A good resource to use to train other people in your organization on “specially designed.”
 - Includes optional feature where you can insert name of item you are reviewing for “specially designed.”



OTHER CONSIDERATIONS

- Completed steps of Order of Review
 - Enumerated and catch-all items
 - Application of specially designed
 - USML and CCL
- Focused on review of hardware

Now, let's look at other ECCNs and considerations



ECCN 9x515 FOR SPACECRAFT ITEMS

- Spacecraft items do not meet the definition of defense article thus the EAR Order of Review starts in ECCN 9x515, not the 600 series ECCNs
- 9A515.w “Parts,” “components,” “accessories,” and “attachments” that would otherwise be within the scope of ECCN 9A515.x but that have been identified by the interagency as warranting control in 9A515.w
- 9A515.x is not a catch-all like the 600 series but an enumerated list which references other ECCNs
- 9A515.y Items that would otherwise be within the scope of ECCN 9A515.x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A515.y.



FIREARM AND AMMUNITION ECCNs

- Like space and satellite items, the EAR Order of Review for firearms and ammunition starts in the 500 series ECCNs in Product Category 0
- 0A501 Firearms
- 0A502 Shotguns
- 0A503 Discharge type arms; non-lethal or less-lethal grenades and projectiles
- 0A504 Optical sighting devices for firearms
- 0A505 Ammunition
- 0A506 Semi-automatic rifles
- 0A507 Semi-automatic pistols
- 0A508 Semi-automatic shotguns
- 0A509 Parts, components, etc. for 0A506, 0A507, or 0A508



SEE-THROUGH RULE AND SUBJECT TO THE ITAR

§ 120.11 Order of review.

(c) Integration of controlled items. Defense articles described on the USML are controlled and remain subject to this subchapter following incorporation or integration into any item not described on the USML, unless specifically provided otherwise in this subchapter.

Category XIX—Gas Turbine Engines and Associated Equipment

Note to paragraph (d): Engines subject to the control of this paragraph are licensed by the Department of Commerce when incorporated in an aircraft subject to the EAR and controlled under ECCN 9A610. Such engines are subject to the controls of the ITAR in all other circumstances.





CLASSIFICATION AT SYSTEM LEVEL VICE INDIVIDUAL ECCNs

- **“Equipment”**
 - combination of parts, components, accessories, attachments, firmware, or software that operate together to perform a function of, as, or for an end item or system. Equipment may be a subset of “end items” based on the characteristics of the equipment. Equipment that meets the definition of an end-item is an end-item. Equipment that does not meet the definition of an end-item is a part, component, accessory, attachment, firmware, or software.
- **“Part”**
 - This is any single unassembled element of a “component,” “accessory,” or “attachment” which is not normally subject to disassembly without the destruction or the impairment of design use. Examples include threaded fasteners (e.g., screws, bolts, nuts, nut plates, studs, inserts), other fasteners (e.g., clips, rivets, pins), common hardware (e.g., washers, spacers, insulators, grommets, bushings), springs and wire.

Part 772 DEFINITIONS



CLASSIFICATION AT SYSTEM LEVEL VICE INDIVIDUAL ECCNs

- Classification of “parts” of machinery, equipment, or other items
 - (1) **an assembled machine or unit of equipment is being exported.** In instances where one or more assembled machines or units of equipment are being exported, the individual component parts that are physically incorporated into the machine or equipment do not require a license. The license or general exception under which the complete machine or unit of equipment is exported will also cover its component parts, provided that the parts are normal and usual components of the machine or equipment being exported, or that the physical incorporation is not used as a device to evade the requirement for a license
 - (2) **Parts are exported as spares, replacements, for resale, or for stock.** In instances where parts are exported as spares, replacements, for resale, or for stock, a license is required only if the appropriate entry for the part specifies that a license is required for the intended destination.



Item #6

The review of the sixth commodity also discusses the application of the second specially designed catch.



Carmella 500 Launch Rail Jurisdiction and Classification

- Part of the Carmella 500 Launcher
- Unique design to launch the Carmella 500





Carmella 500 Launch Rail Jurisdiction and Classification

- As a component of the TUAV launcher, the review starts with the classification of the launcher: ECCN 9A610.x
- **x. “Parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a commodity enumerated or otherwise described in ECCN 9A610 (except for 9A610.y) or a defense article enumerated or otherwise described in USML Category VIII and not elsewhere specified on the USML or in 9A610.y, 9A619.y, or 3A611.y.**
- Specially designed analysis
- “Unique design to launch the Carmella 500”
- A major component and its specially designed PCAAS can be in the same catch-all



TECHNICAL DATA PER ITAR §120.33

- Information, other than software as defined in §120.40(g), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles.
 - Information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
 - Does not include basic marketing information on function or purpose or general system descriptions.
- Different verbs from definition of defense services.
- “Required for” is the first step in identifying technical data
- Language in the USML entry covering technical data and defense services



TECHNOLOGY PER THE EAR

- EAR “Technology” includes data and assistance, but not all EAR technology is enumerated or requires a license
- Specific information necessary for the “development”, “production”, “use”, operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control “technology”) of a product
- The information may be in any “tangible” or “intangible” form
- Controlled “technology” is defined in the General Technology Note and in the Commerce Control List

TECHNOLOGY PER THE EAR

- “Development” is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts
- “Production” means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance
- “Use” means operation, installation (including on-site installation), maintenance (checking), repair, overhaul **and** refurbishing



TECHNICAL DATA VERSUS TECHNOLOGY

- Under the ITAR, the technical data and defense services directly related to defense articles are controlled at the same level
 - All transactions require a license unless an exemption applies
- The EAR is different...products (hardware) may be controlled differently than the directly related technology
 - This is particularly true of items in “catch-all entries” such as the .x entries for 600-series
- For example, a landing gear for a military aircraft is not specifically enumerated or described in 9A610.a-.w thus it is captured in 9A610.x so the landing gear is eligible for the STA license exception.
- Conversely, technology required for the development or production of landing gears (and specially designed parts, components, accessories and attachments) for aircraft weighing more than 21,000 lbs. (ECCN 9E610.b.7) is not eligible for the STA license exception and a license must be obtained.



SOFTWARE

- Limited entries on the USML which call out software
 - Software is included in the definition of technical data; further clarified in ITAR §120.40(g)
 - Classified entries, paragraph (x), USML IX(b)(4), XI(b), XIII(b), XIII(i), XIV(f)(2), XIV(i)
 - Limited application of specially designed XIII(i)
- On the CCL, software controls are in Product Group D of the related Product Category

When the combination of Software + EAR Hardware is described on the USML

- Hardware subject to the EAR
- Add certain software, and the combination is described on the USML
- That software is controlled in the relevant technical data paragraph as software directly related to the defense article that exists when the hardware and software are combined



§ 120.41 SPECIALLY DESIGNED

(b)(3) If it has the same function, performance capabilities, and the same or “equivalent” form as a commodity or *software* used in or with a commodity that:

- is or was in production (i.e., not in development); and
- is not enumerated on the USML

Defined terms in the definition specifically for software:

- Form means the design, logic flow, and algorithms
- Fit means its ability to interface or connect with a defense article
- Function means the action or actions the software performs directly related to a defense article or as a standalone application
- Performance capability is the measure of the software's effectiveness to perform a designated function





ENCRYPTION

- If item has encryption, see CAT 5, part 2 (“Information Security” or “IS”)
- ECCN 5A002.a.1-.a.4 provides a positive list of IS systems, systems and components
- See license exception ENC (740.17(b))
 - Generally, items that are described in 740.17(b)(2) and (b)(3) require submission of a CCATS prior to export.



CONDUCTING YOUR REVIEW

- Review the regulations every time, it's an open-book test!
- If the term is defined in the regulation, it doesn't matter what alternate definitions or interpretations your union representative or engineer proposes, or the terms of art your industry uses.
- Don't blindly apply definitions from other regulations!
- Check with your Empowered Official or your Export Counsel
- Check with the Regulatory Agency
 - Department of State, Office of Defense Trade Controls Policy for ITAR
 - Department of Commerce, Bureau of Industry and Security for EAR



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FORMAL SUBMISSIONS TO THE USG

- Self-classification is not the only option
 - Helpful for your submission to the U.S. government
- Obtaining information from your third-party suppliers and vendors
- Formal request to the U.S. government
 - Jurisdiction (ITAR or EAR) request = Department of State
 - Classification (within USML) request = Department of State
 - Classification (within CCL) request = Department of Commerce
- Generally, when there is doubt or divergence between parties



SUBMITTING A CJ DETERMINATION REQUEST

- The ITAR does not require the submission of CJ determination requests. Self-determination is warranted when there is no doubt as to both the commodity's jurisdiction and classification
- When doubt exists, you may submit a CJ request to DDTC using form DS-4076 via the automated Defense Export Control and Compliance System (DECCS).



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SUBMITTING A CJ DETERMINATION REQUEST

Submit CJ requests online via DECCS (accessible from the DDTC website)

The screenshot displays the DECCS Industry Service Portal. At the top, the U.S. Department of State logo and the text "U.S. DEPARTMENT OF STATE DECCS Industry Service Portal" are visible. Below this, there are navigation links for "Applications", "Learning Tools", and "Support". A dark blue header bar contains the text "DS-4076" and "Commodity Jurisdiction (CJ)". To the right of this bar are icons for "Out" and "Help".

The main content area is titled "CJ Request Launching Pad". It includes a section for "Estimated Burden: 4 Hours" with a disclaimer about the Paperwork Reduction Act. To the right, it shows the "DMC control number: 1405-0183" and the "Expiration date: 11/30/2022".

Below this is a "PLEASE NOTE" section with an information icon. The note states: "The new collection format for Commodity Jurisdiction for DS-4076 version 3.0 is now live. For users with existing forms in 'Draft' status, please review your entire form before submitting, to verify accuracy of the request. For previously submitted requests, a PDF version of the original submission and any associated supporting documentation are available in the 'Your Legacy CJ Requests' section below."

Under the note, there is a link "To access the CJ User Guide, click HERE" and a button "Start a New CJ Request".

Below the button is a section titled "Your Saved CJ Requests". It states "Requests you have started but have not yet submitted can be selected to complete." Below this is a table with one entry:

CJ0073048 -
Created: 2022-05-17 09:45:54 by kate.mallard@do
Out Delete

At the bottom of the page, there is a disclaimer: "YOU ARE ACCESSING A DEPARTMENT OF STATE INFORMATION SYSTEM. USE OF UNAUTHORIZED PERSONS, OR FOR UNAUTHORIZED PERSONAL PURPOSES, IS PROHIBITED AND MAY CONSTITUTE A VIOLATION OF U.S.C. 552 AND OF FEDERAL LAWS AND REGULATIONS. DEPARTMENT POLICIES AND PROCEDURES, YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY IN THIS SYSTEM. IT IS THE POLICY OF THE DEPARTMENT OF STATE TO MAKE ALL DATA TRANSMITTED AND STORED ON THIS INFORMATION SYSTEM AVAILABLE TO THE PUBLIC, EXCEPT WHERE IT IS PROHIBITED BY LAW. INFORMATION CONTAINED HEREIN IS UNCLASSIFIED AND IS NOT TO BE RELEASED TO THE PUBLIC, EXCEPT WHERE IT IS PROHIBITED BY LAW. INFORMATION CONTAINED HEREIN IS UNCLASSIFIED AND IS NOT TO BE RELEASED TO THE PUBLIC, EXCEPT WHERE IT IS PROHIBITED BY LAW."



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SUBMITTING A CJ DETERMINATION REQUEST

Portion of the CJ form (DS-4076) that elicits “specially designed” information:

Block 7. Commodity Origin		
Was or is this commodity being developed with knowledge for use in or with a particular commodity (e.g., F/A-18 or HMMWV)?		
☐ Yes	☐ No	Explain:
Was or is this commodity being developed with knowledge for use in or with a type of commodity (e.g., aircraft or machine tool)?		
☐ Yes	☐ No	Explain:
Was or is this commodity being developed with knowledge that it would be used in or with defense articles enumerated on the U.S. Munitions List?		
☐ Yes	☐ No	Explain:
Was or is this commodity being developed with knowledge that it would be used in or with commodities not on the U.S. Munitions List?		
☐ Yes	☐ No	Explain:
Regardless of form or fit, is this commodity a fastener, washer, spacer, insulator, grommet, bushing, spring, wire, or solder?		
☐ Yes	☐ No	Explain:
Does this commodity have the same function and performance capabilities, and same or equivalent form and fit, as another commodity used in or with an item that is both (a) currently or formerly in production and (b) <u>not</u> enumerated on the U.S. Munitions List?		
Same function?	☐ Yes	☐ No ☐ Unknown
Same performance capabilities?	☐ Yes	☐ No ☐ Unknown
Same or equivalent form and fit?	☐ Yes	☐ No ☐ Unknown

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SUBMITTING A CJ DETERMINATION REQUEST

- Applicant should be the original equipment manufacturer (OEM)
 - The OEM should be able to provide customers the export classification
 - If you're not the OEM, you must have OEM authorization to submit a CJ (with limited case-by-case exceptions)
 - Template for an authorization letter is on the CJ webpage
- Review guidelines, instructions, and FAQs on the DDTC website (click on “Conduct Business,” then “Commodity Jurisdictions” for the CJ webpage)





CJ DETERMINATION PROCESS

- After applicant submits CJ through DECCS
 - CJ request is assigned a case number (format: CJ000XXXX)
 - A State Department CJ analyst conducts a first level review (which includes a proposed determination), then staffs to the interagency for review
 - Interagency review participants:
 - Department of Commerce
 - Department of Defense
 - Department of Homeland Security
 - Other agencies as necessary (NASA, Department of Energy)





CJ DETERMINATION PROCESS

- State will review your request and issue a jurisdictional determination (ITAR-controlled, EAR-controlled, or neither)
- ITAR results *will* include classification
- EAR results *may* include classification
- A CJ determination issued by State is the only authoritative document issued by the government regarding the jurisdiction of a commodity





CJ DETERMINATION PROCESS

- Unanimous jurisdiction recommendations from the reviewing agencies result in a final determination letter (ideally within 60 days)
- State is responsible for resolving differing recommendations among the reviewing agencies and has final authority on the determination (we have a process for handling disagreements)
- Disagreement on the determination can significantly slow down conclusion of the CJ request





POLICY



Legal Authority for Defense Reviews

- § 120.2 Designation of defense articles and defense services.
- The Arms Export Control Act ([22 U.S.C. 2778\(a\)](#) and [2794\(7\)](#)) provides that the President shall designate the articles and services deemed to be defense articles and defense services for purposes of import or export controls. The President has delegated to the Secretary of State the authority to control the export and temporary import of defense articles and services. The items designated by the Secretary of State for purposes of export and temporary import control constitute the U.S. Munitions List (USML) specified in [part 121 of this subchapter](#). Defense articles on the USML specified in [part 121 of this subchapter](#) that are also subject to permanent import control by the Attorney General on the U.S. Munitions Import List enumerated in [27 CFR part 447](#) are subject to temporary import controls administered by the Secretary of State. Designations of defense articles and defense services on the USML in [part 121 of this subchapter](#) are made by the Department of State *with the concurrence of the Department of Defense*. The scope of the USML shall be changed only by amendments made pursuant to section 38 of the Arms Export Control Act ([22 U.S.C. 2778](#)). For a designation or determination on whether a particular item is enumerated on the USML, see [§ 120.4](#).



POLICY

DoD Role in the CJ Process



- **DTSA oversees DoD's review of commodity jurisdiction (CJ) requests received from the Department of State (DoS).**
- **Coordinates National Security and Technical Analysis review in accordance with ITAR/USML & DoD Policy.**
- **Provides DoD recommendations for commodities' jurisdictional control to DoS/DDTC for:**
 - **Warfighter Protection**
 - **Technical Expertise**
 - **National Security Perspective**
 - **Program Insight**
 - **Interface with State**



DTSA Staffing Points



DTSA Integrated Product Team (IPT; Technical Reviewers)

U.S. Military Services:

U.S. Air Force - International Affairs Division (SAF/IA; Elisa: DF/TT).

U.S. Army - Deputy Assistant Secretary of the Army, Defense Exports & Cooperation (DASA DE&C; Elisa: DA/TT).

U.S. Navy and U.S. Marine Corps - Navy International Programs Office (Navy-IPO; Elisa: DN/TT).

Other DoD organizations, as appropriate: Joint Staff, DISA, DARPA, DTRA, MDA, DoD intelligence community (DIA, NASIC, NGA, NRO, NSA).



POLICY



What is the Design Pedigree?

Commodity Jurisdiction (CJ) Application:

Commodity/Service Type

Is this an end item, part, component, system, software, information or a service?

Commodity/Service Basic Information

Product Name /Generic Description

Commodity/Service Detailed Description

Describe what it does, how it operates, next higher assembly

Special/Unique Characteristics and Capabilities

E.g., Ballistic Protection, Intelligence Applications, Low Observable/Counter Low Observable



POLICY



What is the Design Pedigree?

Commodity Jurisdiction (CJ) Application Form:

Commodity Origin

Who was the product originally developed for and why?

Product Development Stage

Concept/ Design Stage through Design complete/ Sales

Funding History

Private R&D funds

U.S. Government contract

DARPA

Sales Information

Reason for Submitting CJ Request



POLICY



Key Take Aways

- **What's at stake? Our national security!**
 - **Get the jurisdiction and classification wrong, the domino effect impacts every export decision.**
- **Write to a broad audience: Reviewers range from senior engineers to junior military. All are endeavoring to interpret the regulations and find a best fit for your commodity.**
 - **Write the assuming the reviewers are not familiar with your company, product or foundational technology. Provide relevant documentation to support statements made in the application.**
- **A cover letter with narrative story greatly assists the reviewer in grasping the “Why” of the application—this is especially true for the Order of Review logic flow and rationale.**
- **Limit empty box entries**



BIS'S ROLE IN COMMODITY JURISDICTION

Department of Commerce / Bureau of Industry and Security
receives CJs staffed from DoS/DDTC

- Considers the EAR/CCL & ITAR/USML during their reviews of CJs
- Provides DoC Jurisdictional Control recommendations to DoS/DDTC for CJs

Per 22 CFR 120.12 BIS Munitions Control Division (MCD) supports the CJ process when:

- Applicant Self Selects 600 Series and/or
- DTC Determines it is a possible 600 Series and/or
- BIS initial screening believes it's a possible 600 Series

Classification submissions are only as good as the quality, clarity, and the accuracy of the information provided in the classification request. The submission must validate that the item, technical data or software is subject to the EAR to allow DOC jurisdiction.

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CJ DETERMINATION WEBSITE

- You will find:
 - Link to DECCS
 - Tips for completing a successful CJ application
 - CJ case status via USXPORTS.gov (<https://usxports.gov/>)
 - For informational purposes, the DS-4076 in PDF
 - FAQs
 - Contact information
 - Final determinations database

From <https://www.pmddtc.state.gov>, click “Conduct Business,” then
“Commodity Jurisdictions”

U.S. DEPARTMENT of STATE





RECENT CJ DETERMINATION ISSUES

Do NOT select USML Category XXI when you are uncertain of the correct classification (e.g., registering with DDTC, or exporting).

- Only select USML Category XXI if you were previously advised by DDTC of a Category XXI designation (this is not common; see CJ web page (previous slide) for valid Category XXI designations).
- Instead,
 - for registration, select the USML Category most closely related to the registrant's commodities or services. Do NOT submit a CJ to substantiate selecting Category XXI.
 - for exporting, contact the OEM, conduct a self-classification if you are the OEM, or submit a CJ. Do NOT guess.

Process control implemented via Automated Export System Jan 1, 2025



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EAR CLASSIFICATION

- Once you have determined that an item is not subject to the ITAR (via self-determination or CJ), you proceed to the EAR and follow the EAR Order of Review to determine the applicable CCL ECCN, such as 9A515 or submit a Commodity Classification Request
- Any person, wherever located, may submit a Commodity Classification request
 - FY 2024 BIS processed 2,177 requests (non-encryption)
 - Average processing days 59 days
 - FY 2023 BIS processed 2,423 requests (non-encryption)
 - Average processing days 149 days

Before submitting a request, try to self-classify and/or check with manufacturer.



APPLYING FOR A CLASSIFICATION REQUEST

SECTION 748.3

Refer to Section 748.3 for specific information to be entered into SNAP-R.

§ 748.3(b)(1): Each Classification Request must be limited to **six items**.

Exceptions may be granted on a case-by-case basis... Classification requests **must be** supported by any descriptive literature, brochures, precise technical specifications or papers that describe the items in sufficient technical detail to enable classification by BIS...

§ 748.3(b)(2): Commodity Classification Request: 1-5, 9, 14-15, 22, 24

§ 748.3 Supplement 1: Export License: 1-11, 13-15, 18-19, 21-24



[Dashboard](#) > Create

Create a Work Item

Required fields are marked with an asterisk (*)

Type*

Commodity Classification Request

Reference Number*

Format: XXXXXXX (must be exactly 7 characters)

GSI0625

Create

Note:

- Reference Number is a number you create for internal reference to this work item.
- It can contain numbers and letters, and must be exactly 7 characters long.
- The number must be unique within your CIN.
- In communications with BIS, do not use this number to refer to the work item. Instead use the work item's ACN.

Reuse a Work Item

Click "Search to Reuse" to find a Work Item to copy

Search to Reuse

OR



Commodity Classification Request

Status **DRAFT**

Copy and Reuse

Delete

Required fields are marked with an asterisk (*)

To grant or delete rights to others to view, edit, or submit this Work Item, [Manage User Permissions](#)

Application Steps

1 Edit Details

Contact Information

License Information

Applicant Information

Other Party Information

Item Information

Additional Information

Documents attached to application

2 Check for Errors

3 Preview

4 Sign & Submit

Contact Information

Reference Number
GSI0625

1. Contact Person (First Name, Last Name)
Candace Goforth

2. Telephone Number*

7033622970

3. Fax Number

Email

candace@contentenablers.com

4. Creation Date
06/25/2025

5. Type of Application
Commodity Classification Request

Save and Continue



Item (#GSI0625)

Commodity Classification

Required fields are marked with an asterisk (*)
To grant or delete rights to others to view, edit, or submit

Application Steps

1 Edit Details

Contact Information

License Information

Applicant Information

Other Party Information

Item Information

Additional Information

Documents attached to application

2 Check for Errors

3 Preview

4 Sign & Submit

Add Item

Enter information for a new Item

Required fields are marked with an asterisk (*)

22. a. ECCN

b. APP (9.9999999)

-Select- 

c. Product/Model Number

d. CCATS Number

i. Manufacturer

j. Technical Description*

1440 characters allowed.

Add Item

Reset

Status **DRAFT**

Copy and Reuse

Delete

BRIEF
TECHNICAL
DESCRIPTION
BUT
SUFFICIENT
TO MATCH TO
SUBMITTED
TECHNICAL
DOCUMENTS.

ANYTHING
THAT MIGHT
HELP THE LO
PROCESS
YOUR
APPLICATION



Commodity Classification Request

Required fields are marked with an asterisk (*)

To grant or delete rights to others to view, edit, or submit this Work Item, [Manage User Permissions](#)



There are no errors. Please review the work item.

Application Steps

1

Edit Details

2

Check for Errors

3

Preview

4

Sign & Submit

Contact Information

Reference Number

GS10625

1. Contact Person (First Name, Last Name)

Candace Goforth

2. Telephone Number

7033622970

3. Fax Number

-

Email

candace@contentenablers.com

4. Creation Date

06/25/2025

5. Type of Application

Commodity Classification Request



Commodity Classification Request

Required fields are marked with an asterisk (*)

To grant or delete rights to others to view, edit, or submit this Work Item, [Manage User Permissions](#)

Application Steps

- 1 Edit Details
- 2 Check for Errors 
- 3 Preview
- 4 **Sign & Submit**

Signer Information

Once a Work Item is submitted, it can no longer be modified. You also cannot attach any

Name*

Format: F.M.LNAME or F.LNAME (example: John Allen Smith would be J.A.Smith)

Title*

Email



Work Items

+ Create a Work Item

Search Work Items

Reference Number	POC	ACN	Case Number	Type	Creation Date↓	Status
GSI0625	Candace Goforth			Commodity Classification Request	06/25/2025	SUBMITTED



SNAP-R Bureau of Industry and Security
U.S. Department of Commerce

FAQ | Help | Contact Us

Home Work Items Messages Documents STELA Candace Goforth

Work Items

+ Create a Work Item

Search Work Items

Reference Number	POC	ACN	Case Number	Type	Creation Date↓	Status
GSI0625	Candace Goforth	<u>Z1872994</u>		Commodity Classification Request	06/25/2025	ACCEPTED



CLASSIFICATION HELPFUL HINTS

- Use our website www.bis.doc.gov, Index 774 sup 1, and/or Category/Group
- Define your item in the control parameters of the potentially applicable ECCN(s)
- Use relevant and accurate specifications, sales literature, etc. to determine end use of the item
- Determine if the item can be released from a “specially designed” catch-all
 - Define item in the release parameters of “specially designed” b(1) thru b(6) as applicable
 - For b(2) your item must meet the dictionary definition of the items listed
 - For b(3) your item must meet all three criteria. Side by side comparison (performance, form and fit) is helpful
- Be responsive to agency requests for information



POLICY

DTSA's Role in the CCATS Process



- **DTSA oversees DoD's review of all commodity classification requests (CCATs) received from the Department of Commerce (DoC)**
- **Technical Analysis review in accordance with EAR/CCL & DoD Policy**
- **Helpful Tips:**
 - ✓ **Conduct a “Specially Designed” Analysis**
 - ✓ **Remember no more than six items**
 - ✓ **Don't forget descriptive literature**
 - ✓ **LOE – not mandatory but extremely helpful**
 - ✓ **Don't overlook conducting a 748.3(e) Analysis**

TIPS

- Jurisdiction and classification determinations require a team approach
- More information is usually better than less
- Remember two audiences – subject-matter experts and generalists
- Information must be accurate and complete – garbage in/garbage out





RECORDKEEPING

- Document this analysis and maintain the records!
 - Completed Jurisdiction and Classification Determination Questionnaire
 - Dated memo to file
 - Complete copy of CJ request and determination
 - Identify team members involved in decision
 - Describe product/service with specificity, including part number, version, iteration
 - Describe analysis, step by step, including regulatory provisions reviewed
 - State conclusions
 - Attach all documents used in the analysis



RESOURCES

- **BIS Website:** <http://www.bis.doc.gov>
 - FAQ's
 - Technical Advisory Committees (TAC) meeting schedule
 - Webinars
 - Advisory Opinions
 - Seminars (<https://www.bis.doc.gov/index.php/compliance-a-training/current-seminar-schedule>)
- **Code of Federal Regulations:** <http://www.ecfr.gov/>



CONTACTS

Bureau of Industry and Security

www.bis.gov

Outreach & Educational Services

14th St. & Pennsylvania Ave. NW

Ph. (202) 482-4811

Washington, DC 20230

Fax (202) 482-2927

E-mail: ECDOEXS@bis.doc.gov

Western Regional Offices

Newport Beach, CA

Ph. (949) 660-0144

Fax (949) 660-9347

San Jose, CA

Ph. (408) 998-8806

Fax (408) 998-8677



CONTACTS

Regulatory Interpretation and Transition Guidance

- Regulatory Policy Division: rp2@bis.doc.gov, 1-202-482-2440

Outreach Assistance: Outreach and Educational Services Division

- OESDseminar@bis.doc.gov, 1-202-482-4811
- Western Regional Office: 1-949-660-0144



QUESTIONS