

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 121

Amendment to the International Traffic In Arms Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations by removing from the U.S. Munitions List (USML), for transfer to the Department of Commerce's Commerce Control List (CCL), all cryptographic items except those specifically designed, developed, configured, adapted, or modified for military applications (including command, control and intelligence applications).

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Office of Defense Trade Controls, Department of State, Telephone (703) 812-2568 or FAX (703) 875-6647 ATTN: Regulatory Change, Cryptographic Items.

SUPPLEMENTARY INFORMATION: On October 1, 1996, the Administration announced a decision to transfer from the USML to the CCL all cryptographic items designated in USML Category XIII(b), except those specifically designed, developed, configured, adapted, or modified for military applications (including command, control and intelligence applications). New control procedures and regulations have been developed for the CCL that will provide for strong national security and foreign policy controls to all destinations and end users worldwide for these items. Enhanced interagency review of CCL licenses for these items has been established. This decision does not result in the decontrol of any of these items.

In order to ensure an orderly transition, the Department of Commerce is providing special authorization in a revision to the Export Administration Regulations being published in parallel with this amendment for U.S. persons to ship the remaining balances of outstanding USML licenses and to continue to carry-out overseas activities authorized by other approvals (e.g., distribution agreements), without applying for a new Department of Commerce license, through filing of Shippers' Export Declarations (SEDs) with District Directors of Customs and direct reporting to the Department of Commerce on previously authorized distribution activities. U.S. persons are

advised to consult the Department of Commerce's EAR publication for details. Therefore, effective upon the date of this publication, all USML licenses and other approvals issued by the Department of State, in accordance with ITAR, for Category XIII(b) items being removed from the USML are no longer valid.

In carrying out the decision, Category XIII(b) of the USML is amended.

This amendment involves a foreign affairs function of the United States and, thus, is excluded from the procedures of Executive Order 12866 (68 FR 51735) and 9 U.S.C. 553 and 554. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Cryptographic Items, Room 200, SA-6, Washington, DC 20520-0602.

List of Subjects in 22 CFR Part 121

Arms and Munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 121, is amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629 Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 121.1, Category XIII(b) is revised to read as follows:

§ 121.1 General. The United States Munitions List.

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Category XIII—Auxiliary Military Equipment

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(b) Military Information Security Systems and equipment, cryptographic devices, software, and components specifically designed or modified therefor (i.e., such items when specifically designed, developed, configured, adapted or modified for military applications (including command, control and intelligence applications)). This includes:

(1) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components or software with the capability of maintaining secrecy or confidentiality of information or information systems, except cryptographic equipment and software as follows:

(i) Tracking, telemetry and control (TT&C) encryption/decryption when

embedded in a commercial communications satellite identified in ECCN 9A004a of the Export Administration Regulations; embedded means that the device or system cannot feasibly be removed from the satellite and that it cannot be used for other purposes.

(2) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components of software which have the capability of generating spreading or hopping codes for spread spectrum systems or equipment.

(3) Military cryptanalytic systems, equipment, assemblies, modules, integrated circuits, components or software.

(4) Military systems, equipment, assemblies, modules, integrated circuits, components or software providing certified or certifiable multi-level security or user isolation exceeding class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) and software to certify such systems, equipment or software.

(5) Ancillary equipment specifically designed or modified for paragraphs (b) (1), (2), (3), and (4) of this category.

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Dated: December 23, 1996.

Lynn E. Davis,

Under Secretary of State for Arms Control and International Security Affairs.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8702]

RIN 1545-AT42

Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain transfers of stock or securities of domestic corporations by United States persons to foreign corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the Internal Revenue Code. These final regulations modify the rules contained in the temporary regulations to reflect certain taxpayer comments received in response to those temporary regulations. This