

# Export Control Reform Moves Forward

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March 11, 2013

The Obama administration has provided Congress with formal notification of its first set of proposed reforms to export control lists. If Congress does not object to the proposal within 30 days, the administration will begin the process of transferring certain items, mostly relating to aircraft parts and components, from control under the United States Munitions List (USML) to the less-restrictive Commerce Control List (CCL).

The move would be the first transfer of items from the USML to the CCL under the export control reform initiative, which could permit the export of certain military-related items to U.S. allies without pre-approval from export control agencies. Both the Department of State and the Department of Commerce, which administer the USML and CCL, respectively, expect the liberalized controls to boost U.S. exports by reducing administrative burdens and removing the specter of "taint." Today, many potential customers of U.S. military-related goods avoid purchasing items controlled under the USML out of concern that the incorporation of such goods into foreign made products will "taint" the foreign made product. Under current rules, if a foreign made item incorporates a USML item, no matter how insignificant, that USML item will subject the foreign made item to the USML, requiring the foreign producer to obtain a license before exporting the foreign made item to nearly any destination. Foreign made products containing items transferred to the CCL will be subject to a de minimis approach and become subject to U.S. rules only if they contain more than ten percent controlled U.S.-origin content by value.

The proposal would also reform the definition of "specially designed," reducing reliance on design intent and affecting many parts and components that are transferred to the CCL. Manufacturers and exporters, particularly those of parts and components, should monitor the progress of the reforms, including for details on new licensing procedures and how to properly utilize the Strategic Trade Authorization (STA) license exception.

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