

To: Our Clients and Friends

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## **New Guidance Regarding the Use of the ITAR's "Miscellaneous" USML Category**

The State Department has announced that applicants for licenses to export defense articles may no longer use the "miscellaneous" U.S. Munitions List ("USML") Category XXI when identifying the classification status of the defense articles to be exported unless the applicant also provides:

- A copy of a Commodity Jurisdiction determination identifying the articles as controlled under Category XXI; or
- A letter from the Director, Office of Defense Trade Controls Policy, Directorate of Defense Trade Controls ("DDTC") granting the exporter permission to classify the articles under Category XXI.

Failure to follow this instruction will result in the application being "Returned Without Action."

The primary implication of this announcement is that exporters who use Category XXI to describe defense-related hardware, software, or technical data will need to review the USML more carefully to determine which USML subcategory is applicable. If it is unclear whether a USML subcategory exists to describe the hardware, software, or technical data to be exported then the exporter may need to file a Commodity Jurisdiction request or consult with ITAR counsel to resolve the issue.

A full copy of this Web Notice is available on DDTC's website at: [www.pmdtc.state.gov](http://www.pmdtc.state.gov).

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