

## ITAR Developments in 2021... And Looking Ahead to 2022

**WORLDECR**

**12.13.2021**

In this article, Christopher Stagg discusses the Directorate of Defense Trade Controls' (DDTC's) notable developments throughout 2021 regarding the International Traffic in Arms Regulations (ITAR) and the U.S. Munitions List (USML). The DDTC has made multiple licensing policy updates, including the Afghanistan licensing review, the continuation of defense trade policy towards Cyprus, the revisions of defense trade policy towards Eritrea, and the addition of Ethiopia and Russia as proscribed countries. The DDTC also issued regulatory and enforcement updates that include a proposed rule to amend the "regular employee" definition which would permit these individuals to work remotely, the continuation of temporary measures due to COVID-19, temporary modification of USML Category XI(b) to ensure that certain intelligence-analytics software is controlled on the USML, civil monetary penalty adjustment for violations of the Arms Export Control Act (AECA) and ITAR, and Justice Department (DOJ) criminal enforcement action. Stagg notes that there are a number of regulatory developments that are pending or planned. "DDTC has currently pending for final interagency review a modification to ITAR section 120.54, which would expand the listing of activities that do not constitute exports, reexports, retransfers, or temporary imports," Stagg wrote, adding that "a proposed pilot programme has been publicly mentioned by DDTC over the last couple of years that would...make exports to certain countries easier by not requiring individual licenses for every transactions." Commentary was also provided regarding the decision of the U.S. Court of Appeals for the Ninth Circuit in *State of Washington v. U.S. Department of State*, in which a divided panel held that removals of items from the USML are not subject to judicial review.