

Export Control Terminology

Export (verb)

Involves sending or taking tangible items, software, or information out of the United States in any manner. This includes, but is not limited to, hand-carrying tangible items to another country or sharing information during a phone call or in an email message to someone in another country. A license may be required to export certain items or information to certain countries, depending upon the nature of the items/info., the export destination, the background of the recipient(s) and how they are expected to use what they receive.

Deemed Export

Involves the release of technology or source code to a Foreign Person in the U.S. (the information is *deemed* to have been released to the Foreign Person's country of citizenship). Deemed exports can require licenses, depending upon the nature of the information released, the background of the recipient(s), and how they are expected to use the information.

U.S. Persons and Foreign Persons

U.S. Persons are those who are U.S. nationals or citizens, lawfully admitted for permanent residency in the U.S., or officially recognized as refugees or asylees. Foreign Persons are those who are not U.S. Persons.

U.S. Export Controls

The United States has created a number of laws and regulations that place restrictions upon the kind of tangible goods and information that we might wish to export to persons who are in or from other countries. The Export Administration Regulations ("EAR") and the International Traffic in Arms Regulations ("ITAR") represent two of several bodies of law/regulation that make up what are collectively referred to as U.S. Export Controls.

U.S. Sanctions Programs

The United States has created regulations that require that we do – or refrain from doing – certain things, in order to place economic pressure on certain individuals, organizations, or governments (often being foreign). Such regulations are typically created by the Department of the Treasury, in order to implement sanctions programs called for by presidential Executive Orders. Sanctions Programs are similar to Export Controls in that they place limits on the things that we might wish to do with people in or from foreign countries. They differ in that they do not typically distinguish among the tangible goods or information that we might wish to share with them.

“Technology” and “Technical Data”

U.S. Export Control regulations restrict the export of certain tangible items and information about them that is required for their design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification. The Department of Commerce refers to such information as technology, and the Department of State refers to it as technical data.

Dual-Use Items

“Dual-use” items are commodities, software and technology that have the potential for both civilian and military applications. The Commerce Control List (CCL), which is a component of the U.S. Department of Commerce’s Export Administration Regulations (EAR), lists and describes numerous dual-use items that the United States (either unilaterally, or in consultation with certain other countries) has determined should not be exported to certain other countries without a license from the Department of Commerce’s Bureau of Industry and Security. Such restrictions are considered justified to promote U.S. national security and policy objectives.

Defense Articles

Defense articles are items that have been specifically designed, developed, configured, adapted, or modified for military, intelligence or space applications. The United States Munitions List, which is a component of the Department of State’s International Traffic in Arms Regulations (ITAR), lists and describes numerous defense articles, which generally may not be exported to other countries without a license from the Department of State’s Directorate of Defense Trade Controls.

Technical Data

When used in connection with the ITAR, “technical data” is the term used for information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of a defense article. A license is typically required for technical data to be released to a person who is in, or is ordinarily resident in, another country.

Defense Services

Involve furnishing assistance to foreign persons in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, destruction, demilitarization, processing, or use of defense articles. This applies, even if only public-domain information is furnished.