U.S Export Control Laws

Any item that is sent from the U.S. to a foreign destination is considered an export, including commodities, software, and technology (such as blueprints or technical information).

All U.S. exports (goods and services) are regulated by the U.S. Federal Government. In order to comply with federal law, your company must determine which government agency has jurisdiction over its exports.

The two most important export control laws are: Export Administration Regulations (EAR) (U.S. Department of Commerce) and International Traffic in Arms Regulations (ITAR) (U.S. Department of State).

A relatively small percentage of exports require a license. License requirements are dependent upon an item's technical characteristics, the destination, the end-user, and the end-use. You, the exporter, must determine whether your export requires a license.

Which Agency Regulates Your Exports?

Your company must determine which regulations apply to its exports. Most exports are regulated by either EAR or ITAR. Certain exports, such as those related to nuclear technology, are regulated by other U.S. agencies.

If you can't determine which agency regulates your exports, the U.S. Department of State can issue a free Commodity Jurisdiction Determination within 45 days. Click here to access the electronic submission form (DS-4076).

(Source: U.S. Department of Commerce)

Export Compliance Best Practices

- Develop a customized compliance manual for your company and ensure its adoption (Visit bis.doc.gov)
- Screen each customer and export transaction for prohibited end users (Visit Export.gov or UPS.com)
- Be aware of and report "red flags," such as a customer's unwillingness to disclose an item's end use (Visit Export.gov)
- Maintain records of all export transactions and compliance efforts for 5 years (Learn more)
Export Administration Regulations (EAR)

Bureau of Industry and Security, U.S. Dept. of Commerce

EAR regulates the export of:
- Most commercial goods
- Dual use items with civilian and military applications

While some of these items require an export license, many fall under the designation EAR 99, which refers to items that can be shipped without a license to most destinations under most circumstances.

International Traffic in Arms Regulations (ITAR)

U.S. Department of State

ITAR regulates the export of:
- Items specifically designed, developed, or adapted for a military application—regardless of intended use
- Technical data/software or services related to any item controlled by ITAR

An export is regulated by ITAR if it is listed on the U.S. Munitions List, or if it is technical data/software or a service related to an item on the U.S. Munitions List.

Departments and Agencies with Export Control Responsibilities

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<th>Department/Agency</th>
<th>Responsibilities</th>
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<td>Defense Technology Security Administration</td>
<td>Administers the export of defense-related goods, services and technologies</td>
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<td>Department of Agriculture</td>
<td>Guides exports of meat, poultry, and egg products</td>
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<td>Department of Energy</td>
<td>Licenses nuclear technology, natural gas, and electric power</td>
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<td>Department of State</td>
<td>Licenses defense services and defense (munitions) articles (ITAR)</td>
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<td>Department of the Treasury</td>
<td>Oversees economic and trade sanctions against, terrorism sponsoring organizations, and international narcotics traffickers</td>
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<td>Drug Enforcement Administration</td>
<td>Oversees the export of controlled substances and chemicals</td>
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<td>Environmental Protection Agency</td>
<td>Regulates hazardous waste exports</td>
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<td>Food and Drug Administration</td>
<td>Controls the export of unapproved medical devices and licenses drugs for export</td>
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<tr>
<td>Nuclear Regulatory Commission</td>
<td>Licenses nuclear material and equipment</td>
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<td>Patent and Trademark Office</td>
<td>Oversees patent filing data sent abroad</td>
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<tr>
<td>U.S. Fish and Wildlife Service</td>
<td>Controls the import and export of wildlife and endangered species</td>
</tr>
<tr>
<td>U.S. Department of Commerce</td>
<td>Licenses “dual use” items and most commercial goods (EAR)</td>
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Exporting Under EAR

START HERE
Is the item classified under an Export Control Classification Number (ECCN) on the Commerce Control List?
The ECCN is a code (ex: 3A001) that describes the item and indicates licensing requirements.
Click here for instructions.

YES

Do any of the General Prohibitions 4-10 apply?
See Part 736: General Prohibitions

NO

Using the Commerce Country Chart, is there an “X” in the box?
Cross-reference the ECCN against the Commerce Country Chart to see if you need an export license. Look at “reasons for control” and the country.
Click here for instructions.

YES

Is a license exception available?
See Part 740: License Exceptions

NO

Submit an export license application.

NO

Your product is designated as EAR 99.
It can be shipped without a license to most destinations under most circumstances.

Export under “No License Required” (NLR).

YES

Export using a license exception.

NO

Exporting Under ITAR

START HERE
Your company, manufacturer(s), and broker(s)/agent(s) must all register with the Directorate of Defense Trade Controls.
Registration takes 4-6 weeks and does not confer export privileges.
Click here to begin registration.

NO

If performing a service or disclosing data, consider a Technical Assistance Agreement (TAA).
Consider a Manufacturing License Agreement (MLA) to grant manufacturing rights to a foreign party.

NO

Does your export qualify for one of the following license exemptions?
Technical data of general applicability exemption
Canadian exemption

YES

No License Required.
Keep records showing how exemption was determined.

NO

Apply for a license prior to exporting.
This takes 12-20 days.
Additional Export Compliance Considerations

Anti-Boycott Compliance

U.S. exporters may not participate in international boycotts not sanctioned by the U.S., such as boycotts against Israeli goods and ports. All U.S. export documents should be examined to make certain that boycott language is not included in any correspondences, purchase orders, letters of credit or sales contract terms. Click here for more information.

Embargoes

U.S. exporters must comply with foreign trade embargoes. Depending on your product, you may be able to obtain an export license, but be aware of export sanctions and other market risks associated with shipping to: Cuba, Iran, Iraq, North Korea, Somalia, Sudan, Syria, Democratic Republic of the Congo, Burma, Lebanon, Liberia, Balkans, Belarus, Ukraine, Yemen, Zimbabwe, Central African Republic, and the Ivory Coast. Click here for more information.

Re-Exports and Deemed Exports

Exporters should be aware of restrictions on “re-exports” and “deemed exports”, as defined in the EAR. A “re-export” occurs if the final destination of your product is in a country beyond where you shipped it. A “deemed export” occurs when information is shared with a foreign national within the U.S. If a U.S. company has a product or technology that is controlled by the EAR’s Commerce Control List and it wants to hire or offer a tour of their facility to a foreign national, an export license could be required.
Certain products are subject to export controls under the U.S. Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). If a product is subject to export controls, disclosure of technical data related to that product to a foreign national is also subject to export control, even if the disclosure occurs in the U.S. Technical data includes information for the design, manufacture or use of the product, including technical drawings, instruction manuals, training materials, etc. It is the company’s responsibility to determine if products that it is promoting through VEDP trade promotion programs are subject to export restrictions. All responsibility for compliance to U.S. export control regulations rests with the company. The VEDP bears no liability for obtaining nor complying with a company’s applicable export controls. It is further the company’s responsibility to determine if disclosure of technology, software, or other information to VEDP’s foreign national representatives or contractors is subject to export controls, and if so, to obtain the requisite export license authority.