

# Export Controls: What's the Difference?



Exploring Dual Use Technology

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# Different Jurisdictions

## Commercial

Export Administration Act (EAA)

Department of Commerce  
Bureau of Industry & Security (BIS)

Export Administration Regulations  
(EAR)

Commerce Control List (CCL)

## Military

Arms Export Control Act (AECA)

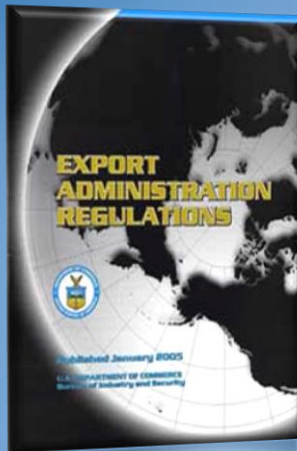
Department of State  
Directorate of Defense Trade  
Controls (DDTC)

International Traffic in Arms  
Regulations (ITAR)

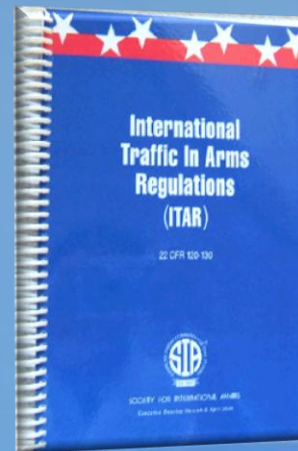
U.S. Munitions List (USML)

# Different Jurisdictions

## Commercial



Commerce Control List Supplement No.	
<b>CATEGORY 7 - NAVIGATION AND AVIONICS</b>	
<b>A. SYSTEMS, EQUIPMENT AND COMPONENTS</b>	
<i>N.B.I: For automatic pilots for underwater vehicles, see Category 8. For radar, see Category 6.</i>	
7A001 Accelerometers as follows (see List of Items Controlled) and specially designed components therefor.	
<b>License Requirements</b>	
<i>Reason for Control:</i> NS, MT, AT	
<i>Control(s)</i>	<i>Country Chart</i>
NS applies to entire entry	NS Column 1
MT applies to commodities that meet or exceed the parameters of 7A101.	MT Column 1
AT applies to entire entry	AT Column 1



## Military

**CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES**

\* (a) Rockets (including but not limited to meteorological and other sounding rockets, bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps. (See §121.11.)

\* (b) Launch vehicles and missile and anti-missile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. (See §121.5.)

\* (d) Missile and space launch vehicle powerplants.

\* (e) Military explosive excavating devices.

\* (f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category that are derived directly from or specifically developed or modified for defense articles.

\* (g) Non/nuclear warheads for rockets and guided missiles.

(h) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category.

(i) Technical data (as defined in §120.10 of this subchapter) and defense services (as defined in §120.9 of this subchapter) directly re-

	Reason for Control															
	Chemical & Biological Weapons			Nuclear Proliferation		National Security		Missile Tech	Regional Stability		Firearms Conviction		Crime Control		Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Israel	X	X	X	X	X	X	X	X	X	X		X		X		
Italy*	X					X	X	X	X	X						
Malaysia	X	X		X		X	X	X	X	X	X					
Malta	X					X		X	X	X	X	X				
Japan*	X					X		X	X	X		X		X		

# Different Jurisdictions

## Commercial

### CCL Categories:

1. Nuclear materials, etc.
2. Materials, Chemicals, etc.
3. Materials Processing
4. Electronics
5. Telecommunications
6. Sensors & Lasers
7. Navigation & Avionics
8. Marine
9. Propulsion Systems, Space, etc.



## Military

### USML Categories:

- I. Firearms
- II. Artillery Projectors
- III. Ammunition
- IV. Launch Vehicles, Guided Missiles, etc.
- V. Explosives, Propellants, etc.
- VI. Vessels of War and Special Naval Equip.
- VII. Tanks and Military Vehicles
- VIII. Aircraft, Spacecraft, etc.
- IX. Military Training Equipment
- X. Protective Personnel Equipment
- XI. Military & Space Electronics
- XII. Fire Control, Range Finder, Optical, etc.
- XIII. Auxiliary Military Equipment
- XIV. Toxicological Agents & Equip, etc.
- XV. Spacecraft Systems & Associated
- XVI. Nuclear Weapons Design and Test Equip.
- XVII. Classified Articles, Tech Data, etc. not otherwise enumerated.
- XVIII. Reserved
- XIX. Reserved
- XX. Submersible Vessels, etc.
- XXI. Miscellaneous Articles



# Changing Jurisdiction



CCL

USML

# Determining Jurisdiction

Step 1: Is it a defense article – US Munitions List - See 22 CFR 120.3

Step 2: Not your part? Contact Manufacturer and request their ECCN number.

Step 3: Your part? If not USML, review CCL, document your review. If you are not sure, you can do the following:

a. If question remains as to USML vs. CCL – submit Commodity Jurisdiction to the US Department of State. Recommendation: Choose your position and state your case.

b. If item wasn't designed, modified, or adapted for military use ...i.e., not USML, and you want to find out where it falls under the CCL, submit a Commodity Classification Request (CCATS) to the US Department of Commerce. Again – Choose your ECCN and state your case.

# ITAR - Authorizations

- ITAR – covers the export of THREE things:
  - USML Hardware (“Defense Article”)
  - Technical data related to Defense Articles
  - Services related to Defense Articles
- Example:
  - F-16
  - Specification and repair manual for F-16 Avionics
  - Training on Operation/Repair of F-16 Avionics

# ITAR - Authorizations

- Export of those three things MUST be authorized by one of the following THREE methods:
  - Export License (DSP-5, DSP-85, DSP-73, etc.)
  - Agreement (Technical Assistance Agreement, Manufacturing License Agreement)
  - ITAR Exemption



# ITAR - Authorizations

## Examples ...



Form DS-123 (US ONLY) - Permanent Export of Unclassified Defense Articles. Includes fields for item description, quantity, and recipient information.

### DSP-5s (permanent export of unclassified defense articles)

- unclassified tech data for marketing
- unclassified spare parts under purchase order
- unclassified parts to support int'l manufacture/assembly
- unclassified technical manuals



Form DS-124 (METHODS OF ASSISTANCE) - Permanent and Temporary Export and Temporary Import of Classified Defense Articles. Includes fields for item description, quantity, and recipient information.

### DSP-85s (permanent and temporary export and temporary import of classified defense articles)

- classified hardware under contract
- classified briefing for marketing (DCS/FMS)
- temporarily import classified item for repair and re-export



Form DS-125 (US ONLY) - Temporary Export of Unclassified Defense Articles. Includes fields for item description, quantity, and recipient information.

### DSP-73s (temporary export of unclassified defense articles)

- tooling needed for overseas production
- assemblies –return to foreign vendor for repair

# ITAR - Authorizations

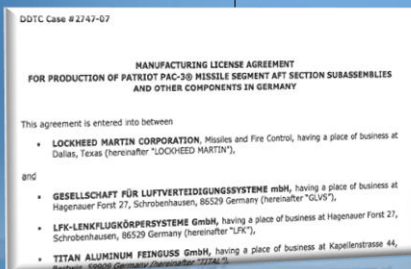
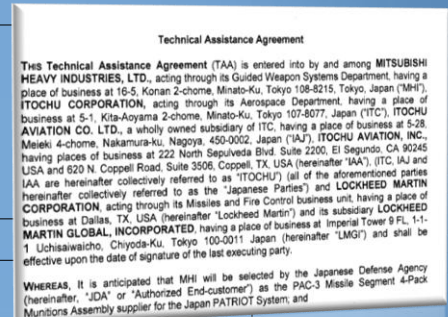
## Examples ...

### TAA's (Technical Assistance Agreements)

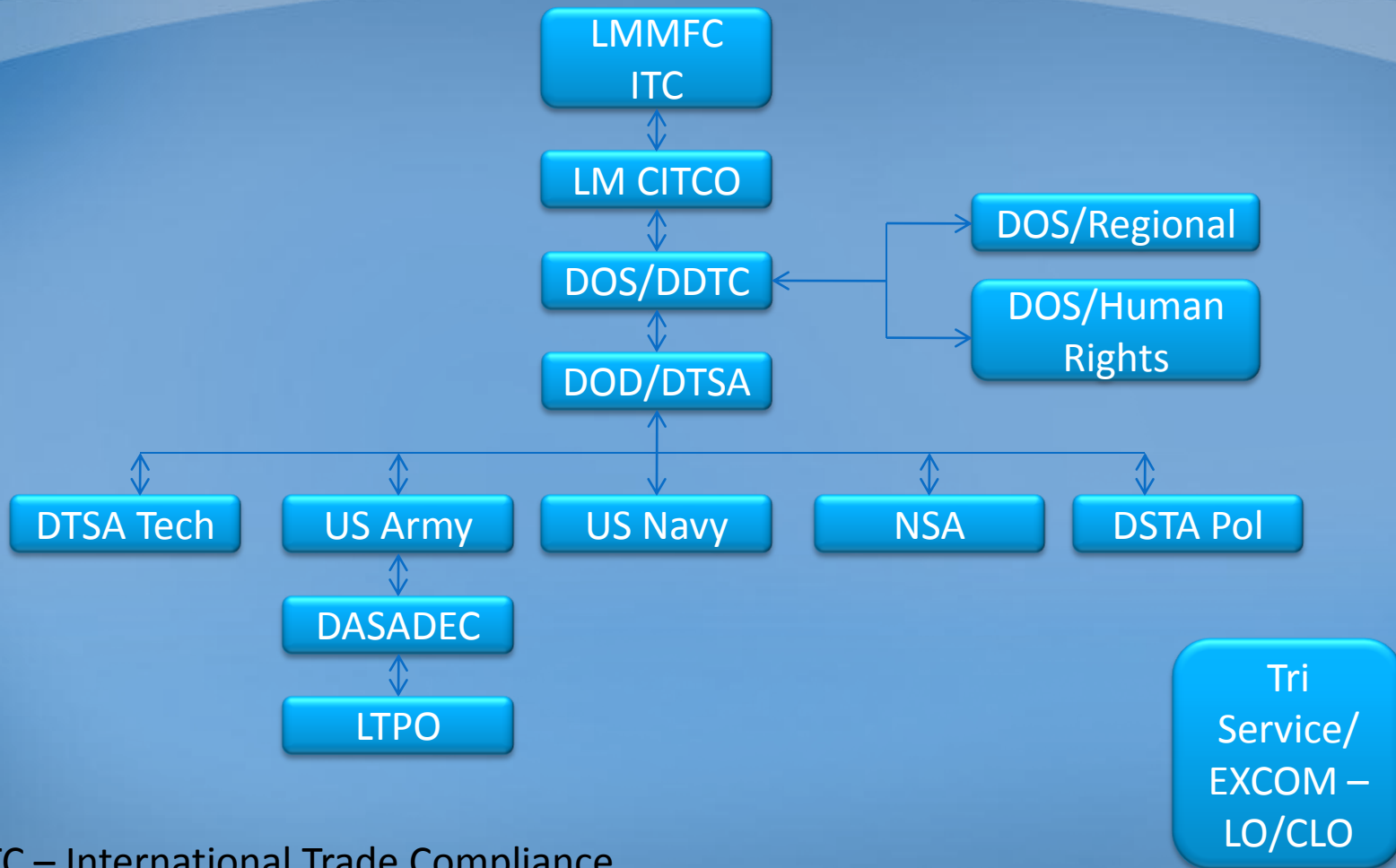
- Assembly of F-16
- Collaborate on proposal with foreign partner

### MLAs (Manufacturing License Agreements)

- potential manufacturing of structural assemblies
- manufacture of classified items
- manufacture of unclassified components
- manufacture of sensitive items
- production of product and sale within territory



# USG Process



ITC – International Trade Compliance

CITCO – Corporate International Trade Compliance Office

DTSA – Defense Technology Security Administration

# What is an ECCN?

## CCL Categories:

1. Nuclear materials, etc.
2. Materials, Chemicals, etc.
3. Materials Processing
4. Electronics
5. Telecommunications
6. Sensors & Lasers
7. Navigation & Avionics
8. Marine
9. Propulsion Systems, Space, etc.

## Product Groups:

- A. Systems, Equipment and Components
- B. Test, Inspection, Production Equipment
- C. Materials
- D. Software
- E. Technology

First position: 9 Categories from CCL  
Second position: 5 product groups

**9A990** =

9. Propulsion Systems, Space, etc.  
A. Systems, Equipment and components.

# Definitions

**Dual use**. Items that have both commercial and military or proliferation applications. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also subject to the EAR (see §734.2(a) of the EAR).

**Export**. Export means an actual shipment or transmission of items out of the United States. (see §734.2(b) of the EAR.) And Deemed Exports...

**Technology**". (General Technology Note)--Specific information necessary for the "development", "production", or "use" of a product. The information takes the form of "technical data" or "technical assistance". Controlled "technology" is defined in the General Technology Note and in the Commerce Control List (Supplement No. 1 to part 774 of the EAR).

# Need a license? How to tell

- Step 1: What are you exporting?
  - Classify your item (State vs. Commerce, ECCN?)

**3A981 Polygraphs** (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.

## License Requirements

Reason for Control: CC

### Control(s)

CC applies to entire entry

### Country Chart

CC Column 1

### License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

### List of Items Controlled

Unit: Equipment in number

Related Controls: N/A

Related Definitions: N/A

The list of items controlled is contained in the ECCN heading.

# Need a license? How to tell

- Step 2 - Where are you exporting?
  - Restricted country? Embargos? Country Chart?

**Commerce Country Chart**

**Reason for Control**

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convection	Crime Control			Arms
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1
	Guyana	X	X		X		X	X	X	X	X	X	X		X
Haiti	X	X		X		X	X	X	X	X	X	X		X	
Honduras	X	X		X		X	X	X	X	X	X	X		X	
Hong Kong	X	X		X		X		X	X	X		X		X	
Hungary	X					X	X	X	X						
Iceland	X			X		X	X	X	X						
India	X	X	X	X	X	X	X	X	X	X		X		X	
Indonesia	X	X		X		X	X	X	X	X		X		X	

# Need a license? How to tell

- Step 3 - Who will receive your item?
  - Entity List, Specially Designated Nationals, Denied Persons, etc.

Contact Us eCustoms.com Log Off

**VISUAL Compliance II**  
ONLINE

Verify your export transactions with Visual Compliance

Restricted Parties Controlled Goods Munitions Regulations Schedule B Resources News

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**WELCOME "CRYSTAL SCHNEIDER"**  
[LOCKHEED MARTIN]

- RESTRICTED PARTY SCREENING
- CONTROLLED GOODS ANALYST
- THE U.S. MUNITIONS LIST (ITAR)
- FEDERAL REGULATIONS, RULES, and NOTICES
- CUMULATIVE LIST OF RECENT FEDERAL DOCUMENTS
- FEDERAL DOCUMENTS SEARCH
- SCHEDULE B
- RESOURCES
- EXPORT INDUSTRY NEWS HEADLINES

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# Need a license? How to tell

- Step 4 - What will your item be used for?
  - End Use Controls



# Summary

**ITAR** = military = ALWAYS REQUIRES AUTHORIZATION

**EAR** = dual-use & commercial = maybe yes, maybe no

# Helpful Links

- Bureau of Industry and Security (BIS) (DoC)  
<http://www.bis.doc.gov/>
  - Export Administration Regulations  
[http://www.access.gpo.gov/bis/ear/ear\\_data.html](http://www.access.gpo.gov/bis/ear/ear_data.html)”
  - Classify your item within EAR- Commodity Classifications:  
[http://www.bis.doc.gov/licensing/bis\\_eccn.pdf](http://www.bis.doc.gov/licensing/bis_eccn.pdf)
  - Check other classifications:  
<http://www.bis.doc.gov/commodityclassificationpage.htm>
- 
- Directorate of Defense Trade Controls (DTC) (DoS)  
<http://pmddtc.state.gov>
  - International Traffic in Arms Regulations  
[http://pmddtc.state.gov/regulations\\_laws/itar.html](http://pmddtc.state.gov/regulations_laws/itar.html)
  - Jurisdictional (commodity jurisdictions) -  
[http://pmddtc.state.gov/commodity\\_jurisdiction/index.html](http://pmddtc.state.gov/commodity_jurisdiction/index.html)