


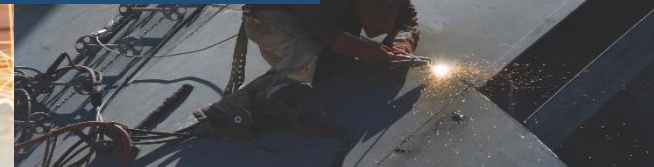


A Procurement Technical Assistance Center (PTAC)

The background of the slide is a photograph of the Wisconsin State Capitol building at dusk. The building is illuminated with warm lights, and its iconic green dome is a prominent feature. The sky is a deep blue, and trees with autumn foliage are visible in the foreground. A dark blue rectangular box is overlaid on the lower half of the image, containing the title and date in white text.

EXPORT CONTROLS – ITAR AND ASSOCIATED REQUIREMENTS ACQUISITION HOUR WEBINAR

June 26, 2018



WEBINAR ETIQUETTE

PLEASE

- Log into the GoToMeeting session with the name that you registered with online
- Place your phone or computer on MUTE
- Use the CHAT option to ask your question(s). We will share the questions with our guest speaker who will respond to the group

THANK YOU!

ABOUT WPI SUPPORTING THE MISSION

SERVING WISCONSIN
COMPANIES FOR 30 YEARS!

Assist businesses in creating,
development and growing their
sales, revenue and jobs through
Federal, state and local government
contracts.

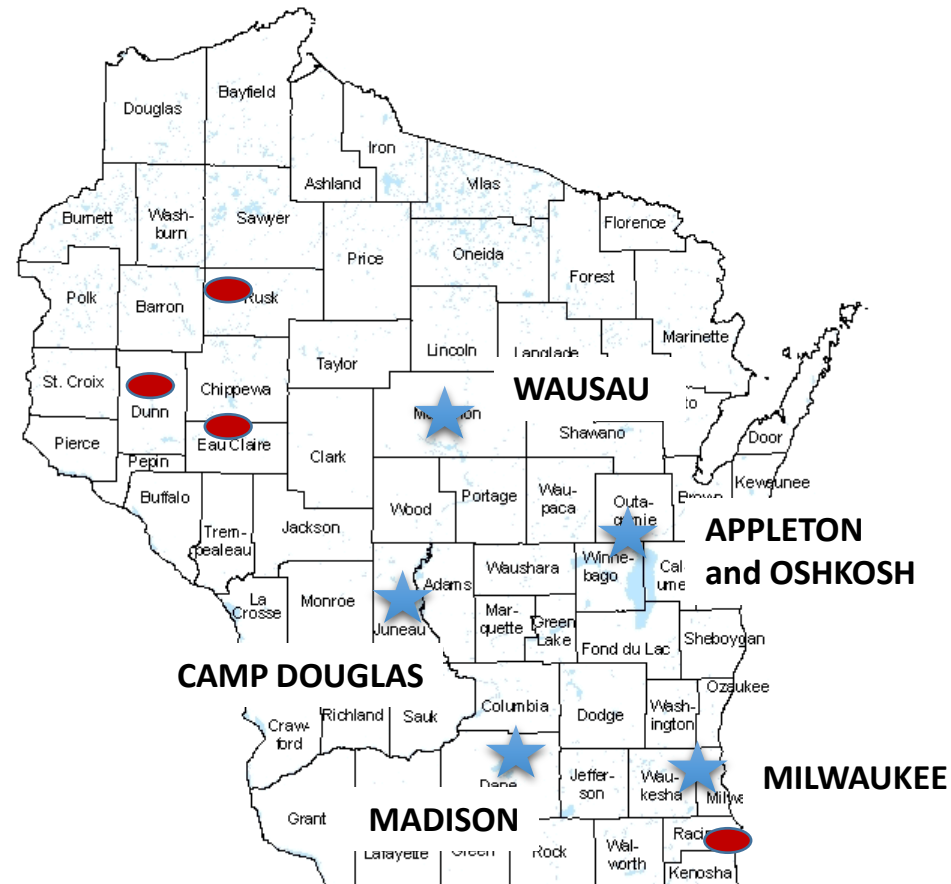
*WPI is a Procurement Technical Assistance Center (PTAC) funded in part by
the Defense Logistics Agency (DLA), WEDC and other funding sources.*

WPI OFFICE LOCATIONS

- MILWAUKEE – *Technology Innovation Center*
- MADISON –
 - *Madison Enterprise Center*
 - *FEED Kitchens*
- CAMP DOUGLAS – *Juneau County Economic Development Corporation (JCEDC)*
- WAUSAU – *Wausau Region Chamber of Commerce*
- APPLETON / OSHKOSH – *Fox Valley Technical College*

WPI partner co-locations

- Eau Claire – *Western Dairyland*
- Ladysmith – *Indianhead Community Action Agency*
- Menomonie – *Dunn County EDC*
- Racine - *Launchbox*



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**12TH ANNUAL VOLK FIELD –
FORT MCCOY SMALL
BUSINESS CONFERENCE,
JUNE 19TH & 20TH.
REGISTRATION CLOSES JUNE
5TH**

www.wispro.org

UPCOMING EVENTS

JUNE 5 2018
ACQUISITION HOUR: INVOICING THE DEPARTMENT OF
DEFENSE USING WAWF/IRAPT

JUNE 6 2018
ACQUISITION HOUR: FLOW-DOWN CLAUSES –
MANAGEMENT AND RESPONSIBILITIES FOR FEDERAL
CONTRACTORS

JUNE 6 2018
DOING BUSINESS WITH THE US FOREST SERVICE
RHINELANDER, WI »

JUNE 7 2018
DOING BUSINESS WITH THE NATIONAL PARK SERVICE
HOUGHTON, MI »

JUNE 12 2018
ACQUISITION HOUR: CODE OF BUSINESS ETHICS AND
CONDUCT IN GOVERNMENT CONTRACTING

CURRENT OPPORTUNITIES (5)



SERVICES OFFERED BY WPI

- FREE Bid Matching Services
- Individual Counseling and Assistance
- Locating Local, State and Federal Opportunities
- Government Market Strategy Development
- Training in use of Government websites and tools
- Assistance with System for Award Management (SAM) Registration
- Assisting in Market Research Process
- Development of Market Profile
- Small Business Subcontracting Plans Development, Outreach and Reporting
- Small Group Training
- Outreach and training with Local, State and Federal agencies
- Assist with Pre and Post Award Functions
- Assistance with Agency Specific Contracting Requirements
- Assistance with Contracting Regulations and Requirements, including FAR, DFAR, CFR
- Assistance with GSA Schedule Preparation and Administration
- Assistance with Local, State and Federal Certifications, including:
 - Service Disabled & Veteran Owned Small Business, HUBZone, Woman Owned Small Business, 8(a) Business Development Program
 - State
 - Local
 - DBE
- Bid review and Submission Assistance
- Proposal review and Submission Assistance
- Capabilities Statement and Related Government Marketing Material Development
- Assistance in Locating and Developing Teaming Partners and Subcontractors
- Updated Government Market Information

ITAR

Overview of program requirements and responsibilities

Marc N. Violante

Wisconsin Procurement Institute

June 26, 2018



Image copied from: <https://www.nh.gov/nhsl/ww2/ww59prt.html>



“The Spies had come without warning. They plied their craft silently, stealing secrets from the world’s most powerful military. They were at work for months before anyone noticed their presence. And when American officials finally detected the thieves, they saw that it was too late. The damage done.”

State Department Announces Another Major ITAR Enforcement Case and \$30 Million Penalty

- Failure to apply for and manage export licenses;
- Failure to comply with terms, conditions and provisos of licenses;
- Poor management of use of license exemptions;
- Inaccurate or incomplete shipping documents;
- Improper actions at trade shows;
- Failure to obtain Nontransfer and Use Certificates;
- Failure to properly decrement or report quantities of items shipped;
- Failure to properly record shipments;
- Failure to return items to the U.S. under temporary export licenses;
- Failure to file reports of payments of contributions, fees and sales commissions as required under 22 CFR Part 130;
- Multiple recordkeeping violations.

Feds say Minnesota firm was tricked into illegal shipment of technology to Iran

By STEPHEN MONTEMAYOR | Star Tribune (Minneapolis) | Published: September 2, 2017

MINNEAPOLIS (Tribune News Service) — A Minnesota company was duped into exporting sensitive technology that wound up being shipped to Iran in violation of U.S. export controls, according to a recently unsealed federal indictment.

The indictment names a Malaysian company and two former employees, accusing them of shipping the components to an Iranian firm with close ties to the Iranian government.

The indictment doesn't name the Minnesota company, but a subsequent court filing includes a screenshot of an e-mail addressed to Thief River Falls-based Digi-Key, a large distributor of electronic components such as capacitors, oscillators and integrated circuits.

According to the charges, the company believed it was sending digital communications equipment to “Green Wave Telecommunication, Sdn Bhn” in Kuala Lumpur, Malaysia. But Green Wave later sent the devices to Iran in violation of export controls that cite “national security and anti-terrorism reasons,” according to the indictment.

The devices appear to be “dual use” technology, which can be used in civilian products or in weapons guidance systems that would fall under international export controls.

Prosecutors also charged Alireza Jalali, Green Wave's former head of purchasing, and Negar Ghodskani, a woman who simultaneously worked for Green Wave and the Iranian recipient of the technology at the time of the alleged conspiracy.

It is interesting to note that the Minnesota firm – Digi-Key is not a small business. It has been involved in federal procurement since roughly 2003, has approximately 2,600 employees, \$1.4B in annual revenue and is listed as an OTSB.

6/26/2018

<http://www.startribune.com/feds-say-minnesota-firm-was-tricked-into-illegal-shipment-of-technology-to-iran/442520733//>

Information is a powerful driver!

The screenshot shows the homepage of the Successful Farming website. The logo is "Successful Farming at AGRICULTURE.COM™". The navigation menu includes "Talk", "Magazine", "TV", "Radio", "Login", "Join", "Newsletter", and a search box. The main navigation categories are "NEWS", "MARKETS", "WEATHER", "MACHINERY", "CROPS", "TECHNOLOGY", "FARM MANAGEMENT", "LIVESTOCK", and "FAMILY". A dropdown menu is open under "MARKETS", listing "Commodity Prices", "Newswire", "Markets Analysis", and "Your World in Agriculture".

TALK IN MA
[Blue Sky 2017](#)
 Let's dream. Let's look at best-case scenarios for farming in 2017. These are the days to hope, dream, look forward ...[\[More\]](#)
 Author: [marketeye](#) Posted: 11-07-2016

[Floor Talk November 7](#)

[Home](#) > [News](#) > [Business](#)

CHINESE NATIONALS CHARGED WITH STEALING CORN TECHNOLOGY

By [Jeff Caldwell](#)
 12/13/2013

6/26/2018

Copied from http://www.agriculture.com/news/business/chinese-nationals-charged-with-stealing_5-ar36216

There can be other interests as well

DJIA ▲ 18249.12 2.02% S&P 500 ▲ 2130.80 2.19% Nasdaq ▲ 5167.30 2.40% U.S. 10 Yr ▼ -13/32 Yield 1.824% Crude Oil ▲ 44.92 1.93%

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 EU Officials Vow to Follow Up on Latest Volkswagen Emissions Findings


 CBS Taps Moelis, Goldman to Advise on Possible Viacom Merger


 Tesla to Make New Owners Pay for Some Recharging


 China's Patent-Lawsuit Profile Grows



BUSINESS

U.S. Steel Accuses China of Hacking

Steelmaker alleges Chinese government hackers stole plans for developing new steel technology



6/26/2018

Copied from <http://www.wsj.com/articles/u-s-steel-accuses-china-of-hacking-1461859201>

Widely applicable

Microsoft Software License Terms

Please read the following license agreement carefully

computer or internal network may copy and use the documentation for your internal, reference purposes.

- 8. EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.

Overview & Introduction to ITAR definitions, requirements and resources

U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS

Home DDTC Homepage Updated 04.27.18
 About DDTC Printer Friendly Version
 Getting Started [New to the ITAR? Click Here](#)
 Registration
 DTAS-Online
 DTrade
 Licensing
 Compliance
 Export Control Reform
 Commodity Jurisdiction
 Response Team
 Regulations and Laws
 Country Policies and Embargoes

Mission:
Ensure commercial exports of defense articles and defense services are consistent with U.S. national security and foreign policy objectives.

New Items and Announcements

- **Web Notice: DTAS/DECCS System outage (04.27.18)**
 The current pmddtc.state.gov website will be replaced with an updated version. The current pmddtc.state.gov website will be unavailable from 6:00PM Friday, April 27th, 2018 for scheduled routine maintenance through Monday, April 30th, 2018.
- **DDTC Announcement (04.27.18)**
 This is an update to the leadership announcements posted on December 10 and 26, 2017. Effective April 23, 2018 the below leadership changes in DDTC were made. The web phone roster has been updated as well.

<https://mary.dtas-online.pmdtdc.state.gov/>

6/26/2018

Regulations and resources change.

Verify your information is current prior to acting upon it.

Using out of date information most likely will not be considered a reasonable explanation for a violation.



Registration Code

Technical Data

ITAR

License

Registration

Regulations

Self-report

Manufacturer

Export

USML

US Person

Violation

Release

Agencies with Export Control Responsibilities

- Defense Services and Defense Articles, DOS
- Drugs, Chemicals and Precursors
 - Chemicals, DEA
 - Controlled Substances, DEA
 - Drugs and Biologics, FDA
 - Investigational drugs permitted, FDS
- Fish and Wildlife Controls, Endangered Species, DOI
- Foreign Assets and Transactions Controls, Treasury
- Medical Devices, FDA
- Natural Gas and Electric Power, DOE
- Nuclear Materials and Equipment, NRC
- Nuclear Technology, Tech Data, DOE
- Ocean Freight Forwarders, FMC
- Patent Filing Data sent Abroad, DOC
- U.S Flagged or U.S Manufactured Vessels over 1,000 Gross Tons, MARAD

Interagency effort

- State Department
 - Seeks technical support and national security assessments
 - Department of Defense
 - Works closely with U.S. Customs and Border Protection
 - Review of defense industry registration
 - Performance of defense export end-use check
 - Investigation
 - Civil penalties
 - Works with the Intelligence Community
 - Review alleged diversions and unauthorized transfers
 - Cooperates with the Justice Department and U.S. Attorneys
 - Pre-trial consultations, trial documentary preparation, expert testimony

DoD Focused Companies

- Controlled Unclassified Information (www.archives.gov)
- Operational Security programs (OPSEC)
- Cyber – DFARS 252.204-7008/7012
- International Traffic in Arms Regulations (ITAR)
- Joint Certification Program (JCP – DD 2345)
- Withholding Unclassified Information from Public Disclosure (DoD 5230.25)
- FAR - 52.204-21 Basic Safeguarding of Covered Contractor Information Systems
- Other regulations and requirements
- Classified Information

What happens when ----



Images copied from: eglin.af.mil

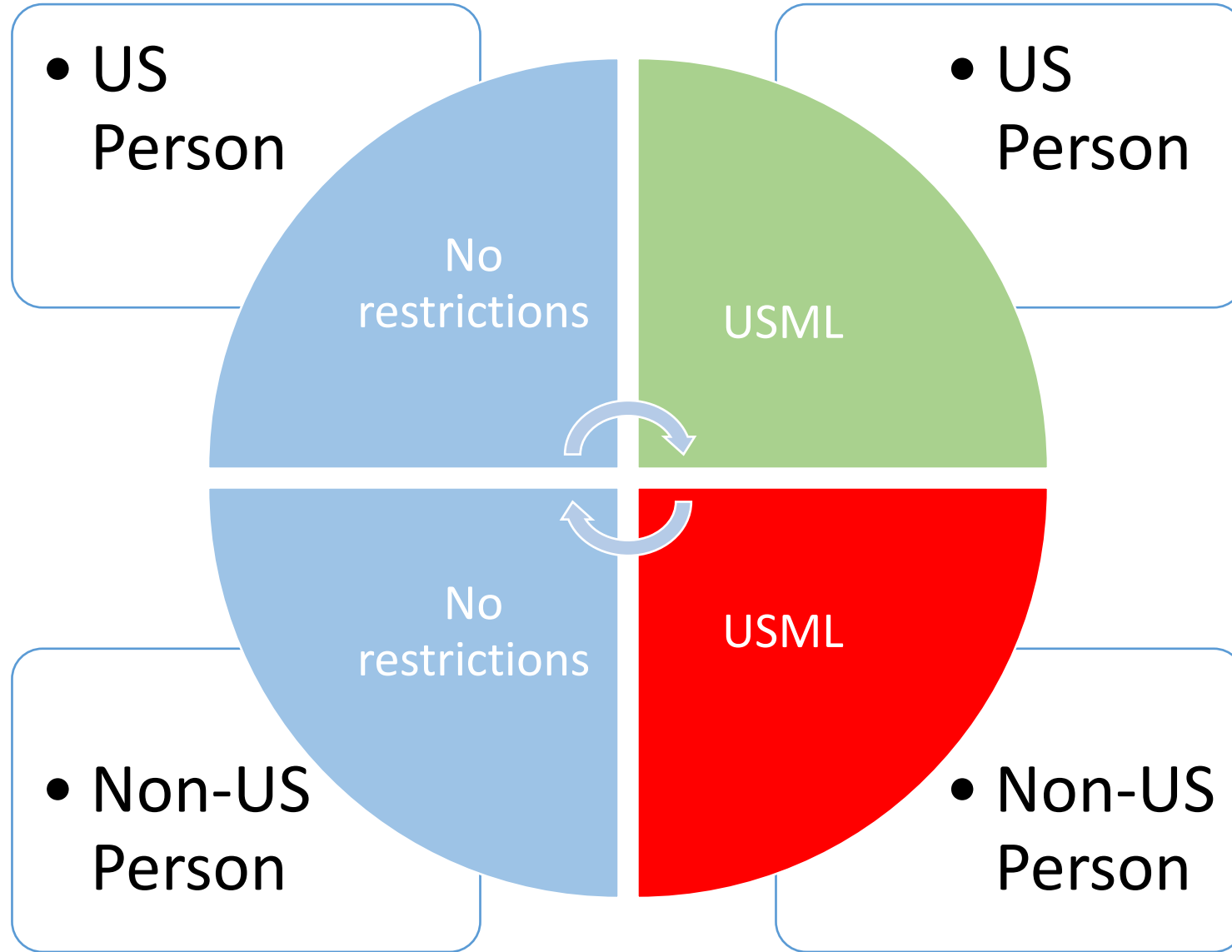
6/26/2018

General Idea – National Intellectual Property

- Intellectual Property – private sector
 - Segregated duties
 - Limited access
 - Controls on distribution***
 - Non-disclosure agreement employees
 - Non-disclosure agreement visitors
 - Trade secrets
 - Copy rights
 - Patents



I have a secret ...



Arms Export Control Act (AECA)

- ITAR implements this act (22CFR 120-130) see: ecfr.gov
- Provides authority to control the export of –
 - Defense articles
 - Defense services
- President (via AECA) charged with exercising this authority
 - Authority delegated to Secretary of State
 - Website: <https://www.pmdtdc.state.gov/index.html>
- Regulations are frequently updated and revised
 - Reflects changes in international political and security climate
 - Takes into account technological development

Selected – U.S. Export Controls

- The U.S. Department of Commerce's Bureau of Industry and Security (BIS)
 - administers and enforces export controls on dual-use and certain munitions items for the Department of Commerce through Export Administration Regulations (EAR) under the authority of the International Emergency Economic Powers Act (IEEPA).
- The Department of State, which controls the export of defense articles and defense services subject to the International Traffic in Arms Regulations (ITAR)
- The Department of Energy, which controls exports and re-exports of technology related to the production of special nuclear materials
- The Nuclear Regulatory Commission, which controls the export of certain nuclear materials and equipment
- The Department of the Treasury -- administers economic sanctions programs.

Program – administration & relationship

- The U.S. State Department’s Directorate of Defense Trade Controls (“DDTC”) administers the International Traffic in Arms Regulations (the “ITAR”)
- ITAR – regulations 22 C.F.R. Parts 120 – 130, which implement the Arms Export Control Act (the “AECA”)
- These regulate international defense trade involving the United States.

*****Registration

- All manufacturers, exporters, and brokers of defense articles, related technical data and defense services as defined on the United States Munitions List (Part 121 of the ITAR) (PDF, 7MB) are required to register with the Directorate of Defense Trade Controls (DDTC).
- Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing, exporting and brokering activities.
- Registration does not confer any export rights or privileges, but is a precondition for the issuance of any license or other approval for export.

Registration Code

- Once an entity has properly registered with DDTC, a unique registration code will be assigned to the registrant.
- The DDTC registration code consist of a letter prefix, M (assigned to a manufacturer and/or exporter) or K (assigned to a broker), followed by four or five digits (e.g. K-1234 or M 12345).
- The code is proprietary to the registrant and should be handled as such.
- Company registration codes should not be posted online or given out freely to the public.

Registration – period of validity

- The period of validity for new and renewal registrations is twelve months from the date of issuance.
- The expiration date is included in the registration letter issued by DDT

6/26/2018

<https://mary.dtas-online.pmdtcc.state.gov/registration/index.html> Visited: June 25, 2018

Registration – review time

- The average review time for a registration request is 45 days.
- We recommend you send your complete registration package electronically through the Electronic Form Submission (EFS) up to a maximum of 60 days in advance of the renewal expiration.
- Intended registrants will save time and money on mail delivery and receive an acknowledgement that their submission has been received. Electronic submission will improve review and adjudication of your registration request.
- Effective January 1, 2014 registration submissions must be submitted electronically.

6/26/2018

<https://mary.dtas-online.pmdtcc.state.gov/registration/index.html> Visited: June 25, 2018

Registration Fees – 3 Tier

- To align registration fees with the cost of licensing, compliance and other related activities
- The first tier is an annual flat fee of \$2,250.00. The first tier fee is applicable to:
 - First time registrants (Manufacturer, Exporters and stand-alone Brokers);
 - Annual registration renewals for stand-alone Brokers (U.S. and foreign owned or controlled by U.S. persons);
 - Registrants who did not submit any license applications or request for authorization during the twelve month period, ending 90 days prior to the expiration of the current registration.
- The second tier is a set fee of \$2,750 for registrants renewing their registration who have submitted and received a favorable authorization on ten or fewer license applications or request for authorization during a twelve month period, ending 90 days prior to the expiration of their current registration.
- The third tier is a calculated fee for registrants who have submitted and received favorable authorization on more than ten license applications or request for authorization during the twelve month period, ending 90 days prior to the expiration of the current registration. For these registrants, the fee calculation is \$2,750 plus \$250 times the total number of applications over ten. To ensure fairness to those registrants who may fall within the third tier who may have many applications but all of a low value, there is a provision for a reduced fee if the fee calculated above is greater than 3 percent of the total value of all applications. In such cases, the fee will be 3 percent of the total value of all applications or \$2,750, whichever is greater.

Is it only about the registration fee?

Rationale for Regulating Defense Exports

- Sale, export, and re-transfer of defense articles and defense services
 - Integral part of safeguarding U.S. national security
 - Furthering U.S. foreign policy objectives
- Authorizations to transfer defense articles and provide defense services – if applied judiciously
 - Can help meet the legitimate needs of friendly countries
 - Deter aggression
 - Foster regional stability
 - Promote the peaceful resolution of disputes
- Indiscriminate arms transfers --- potentially adverse consequences

Basic Framework -

- ITAR – implements AECA – Arms Export Control Act (22 U.S.C. 2778-2780)
- DDTC – Directorate of Defense Trade Controls, Bureau of Political-Military Affairs
 - Administers Defense Export Regulations
 - Controlling the export and temporary import of defense articles and defense services covered by the United States Munitions List (USML)

- Registration
- Licensing
- Monitoring
- Compliance

Basic Framework - requirements

- Registration
 - U.S. persons that manufacture or export defense articles, furnish defense services
 - U.S. and foreign person engaged in arms brokering
 - Information submitted – reviewed by Treasury Department
 - Ensure there are no outstanding law enforcement concerns
 - Does not confer any export privileges
 - Is a prerequisite to export licensing approval
- Registrants, IAW AECA are charged a fee - \$2,250 (initial fee)
 - State Department retains the money
 - Helps support defense export control function

Advisory opinion and related authorizations

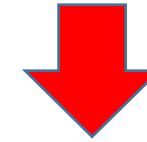
- Any person desiring information as to whether the Directorate of Defense Trade Controls would be likely to grant a license or other approval for the export or approval of a particular defense article or defense service to a particular country may request an advisory opinion from the Directorate of Defense Trade Controls.
- Advisory opinions are issued on a case-by-case basis and apply only to the particular matters presented to the Directorate of Defense Trade Controls. These opinions are not binding on the Department of State, and may not be used in future matters before the Department.
- A request for an advisory opinion must be made in writing and must outline in detail the equipment, its usage, the security classification (if any) of the articles or related technical data, and the country or countries involved. An original and seven copies of the letter must be provided along with seven copies of suitable descriptive information concerning the defense article or defense service.

6/26/2018

Commodity Jurisdiction (CJ)

- The purpose of a commodity jurisdiction (CJ) request is to determine whether an item or service is covered by the U.S. Munitions List (USML) and therefore subject to export controls administered by the U.S. Department of State pursuant to the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR).
- If after reviewing the USML and other relevant parts of the ITAR, in particular ITAR §120.3 and §120.4, you are unsure of the export jurisdiction of an item or service, you should request a CJ determination.
- Registration – not required
- Identify, article or service, and include a history of this product's design, development, and use.
- ... take into account -form and fit of the article; function and performance capability

Commodity Jurisdiction - outcomes



Stock Tube Sling Mount Attachment	TangoDown, Inc.	Two-piece sling attachment that mounts around the stock tube of firearms	EAR99	4/9/2018
Linear Actuator Stepper Motor, P/N S36443-12-051	Ametek Haydon Kerk Motion Solutions, Inc.	A component of a camera system with IR capability, part of a remotely controlled weapon station on a multi-purpose armored vehicle	USML Category XII(e)(8)	4/3/2018
Model QT-695 RX	Q-Track Corporation	A small receiver used in the ALERTS wireless tracking system	EAR99	4/2/2018
Unmanned Aerial System Ground Control Station, Block 3	The Boeing Company	Common-architecture UAS GCS, excluding vehicle-specific hardware and software	CCATS	4/2/2018
Proposed Transaction of Pre-Owned Boeing 737-400/800/900 MAX Aircraft	Transaction Broker: Kastelow Investments, Ltd. (ROMANIA) Manufacturer/OEM: The Boeing Company (Not party to sale)	Sales and re-export services between foreign persons for approx. 20 commercial, pre-owned Boeing 737-400/800/900 MAX aircraft	ECCN 9A991.b	4/2/2018

https://mary.dtas-online.pmdtcc.state.gov/commodity_jurisdiction/determination.html -- visited June 25, 2018

6/26/2018

Specially designed – re: §120.41(b)

- (b) For purposes of this subchapter, a part, component, accessory, attachment, or software is not specially designed if it:
 - (1) Is subject to the EAR pursuant to a commodity jurisdiction determination;
 - (2) Is, regardless of form or fit, a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder;
 - (3) Has the same function, performance capabilities, and the same or “equivalent” form and fit as a commodity or software used in or with a commodity that:
 - (i) Is or was in production (*i.e.*, not in development); and
 - (ii) Is not enumerated on the U.S. Munitions List;
 - (4) Was or is being developed with knowledge that it is or would be for use in or with both defense articles enumerated on the U.S. Munitions List and also commodities not on the U.S. Munitions List; or
 - (5) Was or is being developed as a general purpose commodity or software, *i.e.*, with no knowledge for use in or with a particular commodity (e.g., a F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool).
- NOTE TO PARAGRAPHS (A) AND (B): The term “commodity” refers to any article, material, or supply, except technology/technical data or software.

Violation

- (a) Without first obtaining the required license or other written approval from the Directorate of Defense Trade Controls, it is unlawful:
 - (1) **To export** or attempt to export from the United States **any defense article or technical data** or to furnish or attempt to furnish any defense service for which a license or written approval is required by this subchapter;
 - (2) To reexport or retransfer or attempt to reexport or retransfer any defense article, technical data, or defense service from one foreign end-user, end-use, or destination to another foreign end-user, end-use, or destination for which a license or written approval is required by this subchapter, including, as specified in §126.16(h) and §126.17(h) of this subchapter, any defense article, technical data, or defense service that was exported from the United States without a license pursuant to any exemption under this subchapter;
 - (3) **To import or attempt to import any defense article** whenever a license is required by this subchapter;
 - (4) To conspire to export, import, reexport, retransfer,

License

- License means a document bearing the word “license” issued by the Deputy Assistant Secretary of State for Defense Trade Controls, or his authorized designee, that permits the export, temporary import, or brokering of a specific defense article or defense service controlled by this subchapter.
- Other approval means a document issued by the Deputy Assistant Secretary of State for Defense Trade Controls, or his authorized designee, that approves an activity regulated by this subchapter (e.g., approvals for brokering activities or retransfer authorizations), or the use of an exemption to the license requirements as described in this subchapter.

§120.20 License or other approval; visited November 9, 2016

Licensing (1)

- Department of State approval of a licensing application required
 - Prior to –
 - Export of defense articles or services
 - ➔ • About 30% of the applications are referred to other offices and agencies
 - Computerized review of all parties to the proposed transaction
 - Compared to “watch list”
 - Match triggers full compliance review before final action
- License application review process
 - Clarifies the ultimate end-use and end-users
 - Related facts

Licensing (2)

- Enforcement perspective
 - Avenue to prevent or eliminate diversions
 - Assists the U.S. Government in
 - Investigations and prosecutions should an export violation be suspected or reported
- Submission of license application
 - Companies must certify eligibility to export
 - Understanding of the laws governing such exports
 - Meet conditions in terms of documentation
 - Handling requirements – especially classified material
- Required legends on shipping documents – re: selling/transfer

Form DSP-73

- **Application/License for Temporary Export of Unclassified Defense Articles**
- **Government Furnished Equipment (GFE) For Use by Contractors**
- **Q: Does each contract personnel need their own DSP-73?**
A: No. Your company may obtain a DSP-73 for all the defense articles required by your personnel (that they will carry with them). The DSP-73 may request enough of each piece of equipment so as to allow for changes in manpower on short notice. A single DSP-73 can cover multiple personnel.

6/26/2018

http://www.pmdtcc.state.gov/faqs/GFE_Procedure.html#v - visited November 7, 2016

Required information(1)

- All applications for licenses (DSP-5, DSP-61, DSP-73, and DSP-85), all requests for approval of agreements and amendments thereto under part 124 of this subchapter, and all requests for other written authorizations (including requests for retransfer or reexport pursuant to §123.9 of this subchapter) must include a letter signed by a responsible official empowered by the applicant and addressed to the Directorate of Defense Trade Controls, stating whether:
 - (1) The applicant or the chief executive officer, president, vice-presidents, secretary, partner, member, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is the subject of an indictment or has been otherwise charged (e.g., by criminal information in lieu of indictment) for, or has been convicted of, violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter;

Required information(2)

- (2) The applicant or the chief executive officer, president, vice-presidents, secretary, partner, member, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is ineligible to contract with, or to receive a license or other approval to temporarily import or export defense articles or defense services from any agency of the U.S. Government;
- (3) To the best of the applicant's knowledge, any party to the export as defined in §126.7(e) has been convicted of violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter, or is ineligible to contract with, or to receive a license or other approval to temporarily import or export defense articles or defense services from any agency of the U.S. government; and

Special/Expedited processing – location dependent

- **§126.14 Special comprehensive export authorizations for NATO, Australia, Japan, and Sweden.**
- **§126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia or the United Kingdom.**

Exemptions

- **§126.16 Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and Australia.**
- **§126.17 Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom.**
- **§126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.**

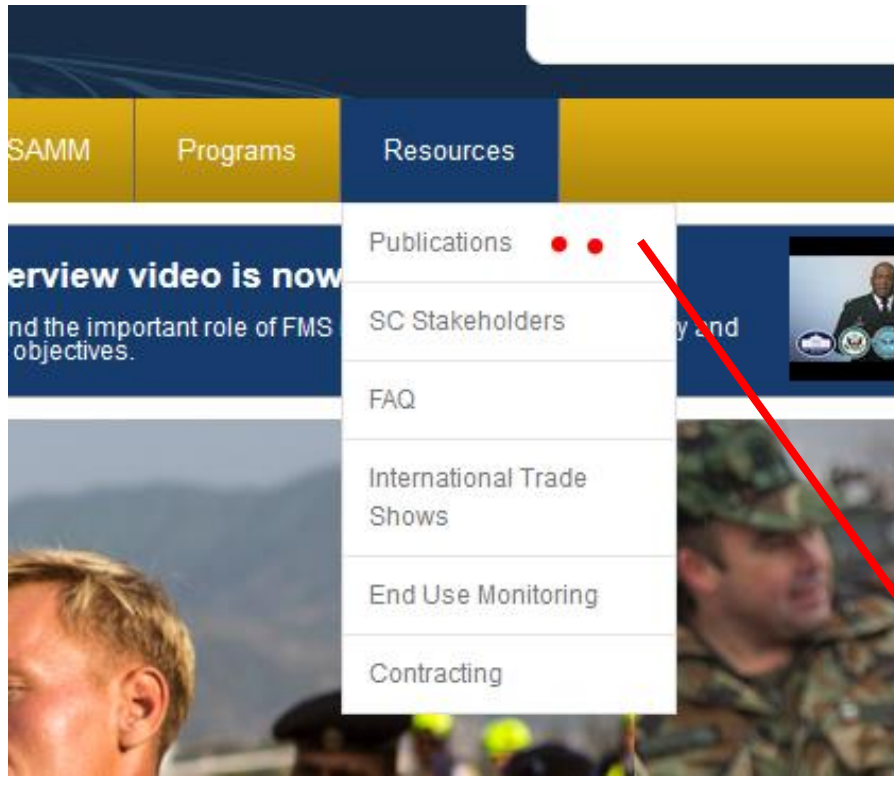
Shipments by or for United States Government agencies

- A license is not required for the temporary import, or temporary export, of any defense article, including technical data or the performance of a defense service, by or for any agency of the U.S. Government for official use by such an agency, or for carrying out any foreign assistance, cooperative project or sales program authorized by law and subject to control by the President by other means.
- This exemption applies only when all aspects of a transaction (export, carriage, and delivery abroad) are affected by a United States Government agency or when the export is covered by a United States Government Bill of Lading.

The screenshot shows the top portion of the Defense Security Cooperation Agency (DSCA) website. At the top left is the DSCA logo, which features a globe with two hands shaking, surrounded by the text "SECURITY COOPERATION AGENCY" and "DEPARTMENT OF DEFENSE". To the right of the logo is the agency name "Defense Security Cooperation Agency" in a large, bold font, with the tagline "Security Through Global Partnerships" underneath. In the top right corner, there are icons for YouTube and RSS, and a search bar. Below the header is a horizontal navigation menu with yellow buttons for "Home", "About DSCA", "Press & Media", "Major Arms Sales", "E-SAMM", "Programs", and "Resources". The main content area features a dark blue banner with the text "Foreign Military Sales (FMS) overview video is now available." and a sub-headline "A brief tutorial providing: what FMS is, the stakeholders involved, and the important role of FMS in supporting national security and foreign policy objectives." The banner includes small video thumbnails on either side. Below the banner is a large image of an F-35 fighter jet in flight, with the word "LEADERSHIP" overlaid in large, white, bold letters. A person's hands are visible in the bottom left corner of the image, suggesting a person is looking at the jet.

<http://www.dscamilitary.com/>

6/26/2018



Online Green Book "The Management of Security Cooperation"



The basic textbook employed by the Defense Institute of Security Cooperation Studies (DISCS - formerly DISAM) for instruction of all classes covering the full range of security cooperation activities. The text is revised annually and commonly referred to as the "Green Book" as it is bound in a green cover.

<http://www.dsca.mil/>

6/26/2018

Defense Security Cooperation Agency

- www.dsca.mil
- Defense Security Cooperation Agency is responsible for administering the Department of Defense's Excess Defense Articles (EDA) program.
- Working under authorities established in the Foreign Assistance Act of 1961 and the Arms Export Control Act, defense articles declared as excess by the Military Departments can be offered to foreign governments or international organizations in support of U. S. national security and foreign policy objectives. Typically, EDA is transferred to support U. S. allies in their modernization efforts and to assist Latin American and Caribbean nations in their counter-narcotics programs.

DSCA – Purpose of the Program

- Transfers excess defense equipment to foreign governments or international organizations.
- Typically used for modernization of partner forces.
- Excess defense articles provided to partner nation at a reduced price (based on the condition of the equipment) or as a grant.
- Partner nations pay for packing, crating, handling, and transportation (PCH&T), as well as refurbishment if applicable – EDA is “as is, where is”.

Export –

- (a) Except as set forth in §126.16 or §126.17, *export* means:
 - (1) An actual shipment or transmission out of the United States, including the sending or taking of a **defense article** out of the United States in any manner;
 - • (2) **Releasing or otherwise transferring technical data to a foreign person** in the United States (a “deemed export”);
 - (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to the ITAR by a U.S. person to a foreign person;
 - (4) Releasing or otherwise transferring a defense article to an embassy or to any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States;
 - (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad; or
 - (6) A launch vehicle or payload shall not, by reason of the launching of such vehicle, be considered an export for purposes of this subchapter. However, for certain limited purposes (see §126.1 of this subchapter), the controls of this subchapter may apply to any sale, transfer or proposal to sell or transfer defense articles or defense services.
- (b) **Any release in the United States of technical data to a foreign person is deemed to be an export to all countries** in which the foreign person has held or holds citizenship or holds permanent residency.

Release –

- (a) Technical data is released through:
 - (1) Visual or other inspection by foreign persons of a defense article that reveals technical data to a foreign person; or
 - (2) Oral or written exchanges with foreign persons of technical data in the United States or abroad.
- (b) [Reserved]

22 CFR §120.50 https://www.ecfr.gov/cgi-bin/text-idx?SID=86008bdffd1fb2e79cc5df41a180750a&node=22:1.0.1.13.57&rgn=div5#se22.1.120_150

6/26/2018

Person

- *Person* means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. If a provision in this subchapter does not refer exclusively to a foreign person (§120.16) or U.S. person (§120.15), then **it refers to both**
- Corporation – partnership – society – trust or ---
- Any other entity, organization or group,
- Including governmental entities

U.S. Person

- U.S. person means a person (as defined in §120.14 of this part) who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in §120.16 of this part.

Foreign Person

- Foreign person means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

Technical data

- (a) *Technical data* means, for purposes of this subchapter:
 - (1) Information, other than software as defined in §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
 - (2) Classified information relating to defense articles and defense services on the U.S. Munitions List and 600-series items controlled by the Commerce Control List;
 - (3) Information covered by an invention secrecy order; or
 - (4) Software (*see* §120.45(f)) directly related to defense articles.
- (b) The definition in paragraph (a) of this section does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in §120.11 of this subchapter or telemetry data as defined in note 3 to Category XV(f) of part 121 of this subchapter. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

----- Shipments -----

- A defense article licensed or otherwise authorized for export, temporary import, reexport, or retransfer under this subchapter **may not** be shipped on a vessel, aircraft, spacecraft, or other means of conveyance that is owned by, operated by, leased to, or leased from any of the proscribed countries, areas, or other persons referred to in this section.

6/26/2018

22 CFR §126.1 (b) Prohibited exports, imports, and sales to or from certain countries. - visited June 25, 2018

----- Duty to notify -----

- Any person who knows or has reason to know of a proposed, final, or actual sale, export, transfer, reexport, or retransfer of articles, services, or data as described in paragraph (e)(1) of this section must immediately inform the Directorate of Defense Trade Controls. Such notifications should be submitted to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls.
- “Of this section” >>> **§126.1 Prohibited exports, imports, and sales to or from certain countries.**

6/26/2018

Defense Article

- any item or technical data designated in §121.1 <USML> of this subchapter. The policy described in §120.3 is applicable to designations of additional items.
- includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items designated in §121.1 of this subchapter.
- includes forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles.
- It does not include basic marketing information on function or purpose or general system descriptions.

22 CFR §120.6 -- https://www.ecfr.gov/cgi-bin/text-idx?SID=86008bdffd1fb2e79cc5df41a180750a&node=22:1.0.1.13.57&rgn=div5#se22.1.120_16

6/26/2018

Defense Article -2

- (a) For purposes of this subchapter, a specific article or service may be designated a defense article (*see* §120.6 of this subchapter) or defense service (*see* §120.9 of this subchapter) if it:
 - (1) Meets the criteria of a defense article or defense service on the U.S. Munitions List; or
 - (2) Provides the equivalent performance capabilities of a defense article on the U.S. Munitions List.
- (b) For purposes of this subchapter, a specific article or service shall be determined in the future as a defense article or defense service if it provides a critical military or intelligence advantage such that it warrants control under this subchapter.
- NOTE TO PARAGRAPHS (A) AND (B): An article or service determined in the future pursuant to this subchapter as a defense article or defense service, but not currently on the U.S. Munitions List, will be placed in U.S. Munitions List Category XXI until the appropriate U.S. Munitions List category has been amended to provide the necessary entry.
- (c) A specific article or service is not a defense article or defense service for purposes of this subchapter if it:
 - (1) Is determined to be under the jurisdiction of another department or agency of the U.S. Government (*see* §120.5 of this subchapter) pursuant to a commodity jurisdiction determination (*see* §120.4 of this subchapter) unless superseded by changes to the U.S. Munitions List or by a subsequent commodity jurisdiction determination; or
 - (2) Meets one of the criteria of §120.41(b) of this subchapter when the article is used in or with a defense article and specially designed is used as a control criteria (*see* §120.41 of this subchapter).
- NOTE TO §120.3: The intended use of the article or service after its export (*i.e.*, for a military or civilian purpose), by itself, is not a factor in determining whether the article or service is subject to the controls of this subchapter.
- [78 FR 22753, Apr. 16, 2013]

USML – Composition of an entry

- Defense articles are enumerated by an alpha paragraph designation
- May include subparagraphs
- Each category starts with end platform designation
 - Major systems
 - Parts
 - Components
 - Accessories
 - Attachments
- Most categories will contain an entry tech data

USML – Order of review

- Begin with a review of the general characteristics
- These will guide you to the appropriate category
- Then match the particular
 - Characteristics
 - Function

USML categories

- Category I—Firearms, Close Assault Weapons and Combat Shotguns
- Category II—Guns and Armament
- Category III—Ammunition/Ordnance
- Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
- Category V—Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
- Category VI—Surface Vessels of War and Special Naval Equipment
- Category VII—Ground Vehicles
- Category VIII—Aircraft and Related Articles
- Category IX—Military Training Equipment and Training
- Category X—Personal Protective Equipment
- Category XI—Military Electronics
- Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Category XIII— Materials and Miscellaneous Articles
- Category XIV—Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- Category XV— Spacecraft and Related Articles
- Category XVI—Nuclear Weapons Related Articles
- Category XVII—Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
- Category XVIII—Directed Energy Weapons
- Category XIX—Gas Turbine Engines and Associated Equipment
- Category XX—Submersible Vessels and Related Articles
- Category XXI—Articles, Technical Data, and Defense Services Not Otherwise Enumerated

SME – extension to

- (b) *Significant military equipment*: An asterisk precedes certain defense articles in the following list. The asterisk means that the article is deemed to be “Significant Military Equipment” to the extent specified in § 120.7 of this subchapter. The asterisk is placed as a convenience to help identify such articles.
- Note that technical data directly related to the manufacture or production of any defense articles enumerated in any category that are designated as Significant Military Equipment (SME) shall itself be designed SME.

Significant Military Equipment

- (a) *Significant military equipment* means articles for which special export controls are warranted because of their capacity for substantial military utility or capability.
- (b) Significant military equipment includes:
 - (1) Items in §121.1 of this subchapter which are preceded by an asterisk; and
 - (2) All classified articles enumerated in §121.1 of this subchapter.
- [58 FR 39283, July 22, 1993, as amended at 62 FR 67275, Dec. 24, 1997]

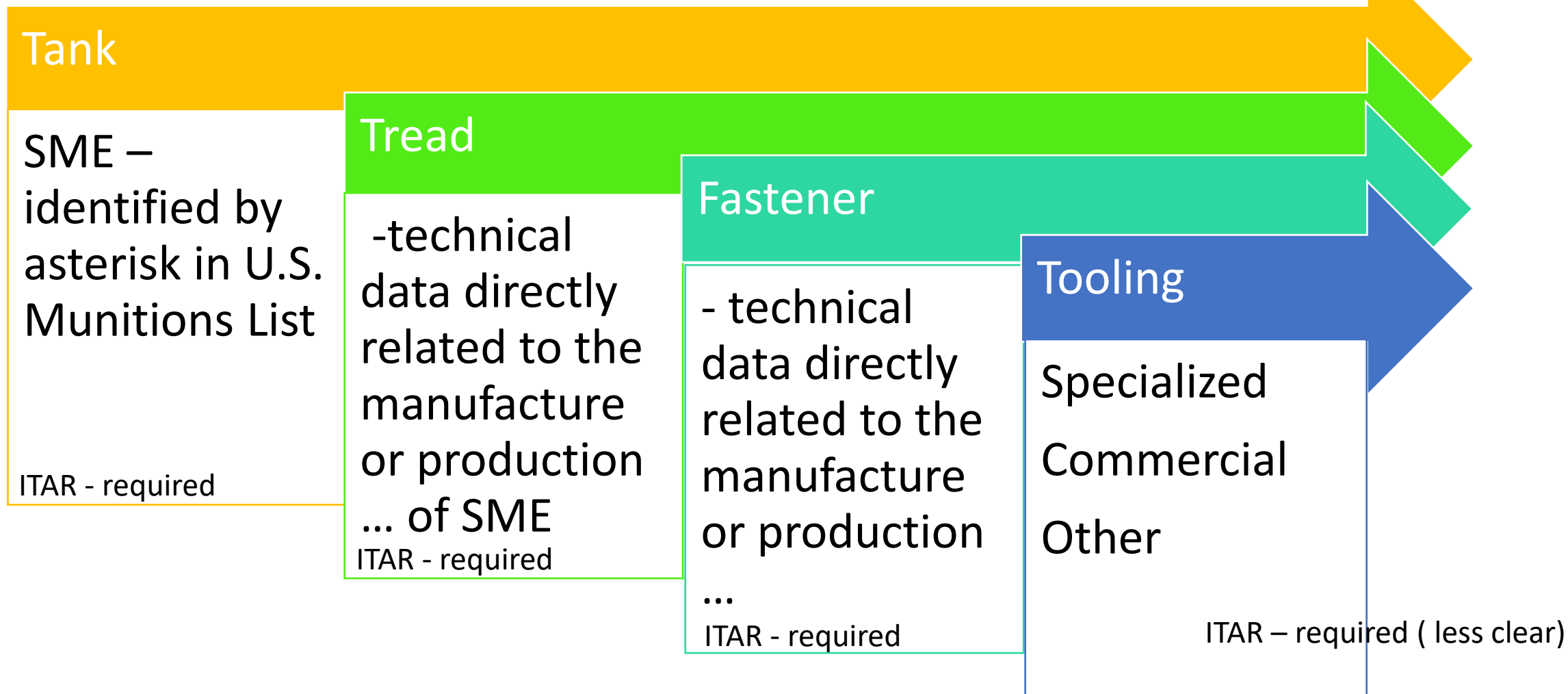
PART 120—Purpose and Definitions; §120.7 Significant military equipment; [visited](#) November 9, 2016

USML – example

- Category II – Guns and Armament – category 2 of 16
- (a) Guns over caliber .50 (12.7 mm, whether towed, airborne, self-propelled, or fixed, including but not limited to, howitzers mortars, cannon and recoilless rifles.
- (g) Tooling and equipment specifically ...
- (h) Test and evaluations equipment – designed or modified for ..
- (j) All other components, parts, accessories, attachments and associated equipment specifically designed or modified for this cat
- (k) Technical data – para's (a-j) directly related to mfg or prd of any DA

Paragraphs b through f and i not included - §121.1 The United States Munitions List visited, November 9, 2016

SME – Application of definition (example)



Proposed and final sales

- No sale, export, transfer, **reexport**, or retransfer of, and no proposal or presentation to sell, export, transfer, reexport, or retransfer, any defense articles or defense services subject to this subchapter may be made to any country referred to in this section (including the embassies or consulates of such a country), or to any person acting on its behalf, whether in the United States or abroad, without first obtaining a license or written approval of the Directorate of Defense Trade Controls.
- However, in accordance with paragraph (a) of this section, it is the policy of the Department of State to deny licenses and approvals in such cases.

6/26/2018

Reexport

- (a) *Reexport*, except as set forth in §126.16 or §126.17, means:
 - (1) An actual shipment or transmission of a defense article from one foreign country to another foreign country, including the sending or taking of a defense article to or from such countries in any manner;
 - (2) Releasing or otherwise transferring technical data to a foreign person who is a citizen or permanent resident of a country other than the foreign country where the release or transfer takes place (a “deemed reexport”);
or
 - (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to the ITAR between foreign persons.
- (b) Any release outside the United States of technical data to a foreign person is deemed to be a reexport to all countries in which the foreign person has held or holds citizenship or holds permanent residency.

[81 FR 35616, June 3, 2016, as amended at 81 FR 62008, Sept. 8, 2016] Reviewed November 8, 2016

6/26/2018

§126.1 Prohibited exports, imports, and sales to or from certain countries.

1. *Exports and sales prohibited by United Nations Security Council sanctions measures.*
2. *Terrorism*
3. *Arms embargoes and sanctions*


Countries subject to certain prohibitions

- For defense articles and defense services, the following countries have a policy of denial:
 - Belarus
 - Burma
 - China
 - Cuba
 - Iran
 - North Korea
 - Syria
 - Venezuela

6/26/2018

Countries subject to certain prohibitions**

- For defense articles and defense services, a policy of denial applies to the following countries except as specified in the associated paragraphs below:

Country	Country specific paragraph location
Afghanistan	See also paragraph (g) of this section.
Central African Republic	See also paragraph (u) of this section.
Cyprus	See also paragraph (r) of this section.
Democratic Republic of Congo	See also paragraph (i) of this section.
Eritrea 	See also paragraph (h) of this section.
Haiti	See also paragraph (j) of this section.
Iraq	See also paragraph (f) of this section.
Lebanon	See also paragraph (t) of this section.
Libya	See also paragraph (k) of this section.
Somalia	See also paragraph (m) of this section.
South Sudan	See also paragraph (w) of this section.
Sudan	See also paragraph (v) of this section.
Zimbabwe	See also paragraph (s) of this section.

6/26/2018

Paragraph (h) - Eritrea

(h) *Eritrea*. It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Eritrea, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the relevant committee of the Security Council; or

(2) Personal protective clothing, including flak jackets and military helmets, temporarily exported to Eritrea by United Nations personnel, representatives of the media, humanitarian and development workers, and associated personnel for their personal use only.

6/26/2018

TAA – Technical Assistance Agreement

- An agreement (e.g., contract) for the performance of a defense service(s) or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles. Assembly of defense articles is included under this section, provided production rights or manufacturing know-how are not conveyed. Should such rights be transferred, §120.21 is applicable. (See part 124 of this subchapter).

Manufacturing license agreement

- An agreement (e.g., contract) whereby a U.S. person grants a foreign person an authorization to manufacture defense articles abroad and which involves or contemplates:
 - (a) The export of technical data (as defined in §120.10) or defense articles or the performance of a defense service; or
 - (b) The use by the foreign person of technical data or defense articles previously exported by the U.S. person. (See part 124 of this subchapter).

Temporary import

- means bringing into the United States from a foreign country any defense article that is to be returned to the country from which it was shipped or taken, or any defense article that is in transit to another foreign destination. Temporary import includes withdrawal of a defense article from a customs bonded warehouse or foreign trade zone for the purpose of returning it to the country of origin or country from which it was shipped or for shipment to another foreign destination. Permanent imports are regulated by the Attorney General under the direction of the Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives (see 27 CFR parts 447, 478, 479, and 555).

Distribution agreement

- An agreement (e.g., a contract) to establish a warehouse or distribution point abroad for defense articles exported from the United States for subsequent distribution to entities in an approved sales territory (see part 124 of this subchapter).

Business Considerations

6/26/2018

Impact on supply chain and costs

- Suppliers may have to also be ITAR compliant
- May impact production
- May impact transportation requirements
- May increase costs
- May create a need for greater planning and lead times
- What path are your emails taking?
 - What if the route uses a non-US router?
- Data storage – who has access?/who performs maintenance?

Contract management issues

- Flowdown clauses
- Managing access to information
 - Internally – staff and/or employees
 - On site – in the office
 - Offsite – home, conference, during travel
- Selection of subcontractors
- Print & document control, emails, copy services
- Copier hard drive
- IT systems and IT technical staff – in house / contract
- Visitor control/Plant visits/Owners and others

Employee considerations

- Access to information
 - Country of birth
 - If not U.S.
 - No access
 - Access requires TAA – country of birth, may require more than 1 TAA
 - Segregation of duties
 - Badge identification
 - Document control
 - Hiring policy – administration, briefing
 - Departure process

Gateway to new opportunities or barrier

- Many primes will only work with ITAR registered subcontractors
- Primes seek
 - Partners & problems solvers
 - Companies that help to manage and reduce risk
 - Strengthen and support the overall effort
- ITAR registration
 - Indicates
 - Awareness of program
 - Establishment of procedures
 - Ability to maintain control over information

Compliance Guidelines

6/26/2018

Compliance

It's all about -
Keeping within
the lines




Copied from: <http://www.crayola.com/free-coloring-pages/print/disney-cars-race-coloring-page/>

Pick an approach for success!



6/26/2018

Program elements

- Organization Structure
- Corporate Commitment and Policy
- Identification, Receipt and Tracking of ITAR Controlled Items/Tech Data
- Restricted/Prohibited Exports and Transfers
- Recordkeeping
- Internal Monitoring
- Training 
- Violations and Penalties

Oops

- In horse-shoes and hand grenades – close counts
- In golf there are Mulligans
- When you hit send – who is receiving your email?
- When dealing with ITAR program information there are no
 - “do overs”

Whether you hit send, do not protect documents or service an order without performing due diligence, if the information is controlled by the program any of these events may create major issues.

Violations (partial) 22 CFR 127

- a) Without first obtaining the required license or other written approval from the Directorate of Defense Trade Controls, it is unlawful:
 - (1) To export or attempt to export from the United States any defense article or technical data or to furnish or attempt to furnish any defense service for which a license or written approval is required by this subchapter;
 - (2) To reexport or retransfer or attempt to reexport or retransfer any defense article, technical data, or defense service from one foreign end-user, end-use, or destination to another foreign end-user, end-use, or destination for which a license or written approval is required by this subchapter

Authority of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection Officers

- (a) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers may take appropriate action to ensure observance of this subchapter as to the export or the attempted export or the temporary import of any defense article or technical data, including the inspection of loading or unloading of any vessel, vehicle, or aircraft. This applies whether the export is authorized by license or by written approval issued under this subchapter or by exemption.
- (b) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers have the authority to investigate, detain or seize any export or attempted export of defense articles or technical data contrary to this subchapter.
- (c) Upon the presentation to a U.S. Customs and Border Protection Officer of a license or written approval, or claim of an exemption, authorizing the export of any defense article, the customs officer may require the production of other relevant documents and information relating to the final export. This includes an invoice, order, packing list, shipping document, correspondence, instructions, and the documents otherwise required by the U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.
- (d) If an exemption under this subchapter is used or claimed to export, transfer, reexport or retransfer, furnish, or obtain a defense article, technical data, or defense service, law enforcement officers may rely upon the authorities noted, additional authority identified in the language of the exemption, and any other lawful means or authorities to investigate such a matter.

70 FR 50965, Aug. 29, 2005, as amended at 77 FR 16642, Mar. 21, 2012, Reviewed, November 8, 2016

Misrepresentation and omission of facts

(a) It is unlawful to use or attempt to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting, transferring, reexporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service. Any false statement, misrepresentation, or omission of material fact in an export or temporary import control document will be considered as made in a matter within the jurisdiction of a department or agency of the United States for the purposes of 18 U.S.C. 1001, 22 U.S.C. 2778, and 22 U.S.C. 2779.

(b) For the purpose of this subchapter, export or temporary import control documents include the following: ***continued on following slide

58 FR 39316, July 22, 1993, as amended at 77 FR 16642, Mar. 21, 2012; 78 FR 52689, Aug. 26, 2013, Reviewed, November 8, 2016

Misrepresentation and omission of facts

- (1) An application for a permanent export, reexport, retransfer, or a temporary import license and supporting documents.
- (2) Electronic Export Information filing.
- (3) Invoice.
- (4) Declaration of destination.
- (5) Delivery verification.
- (6) Application for temporary export.
- (7) Application for registration.
- (8) Purchase order.
- (9) Foreign import certificate.
- (10) Bill-of-lading.
- (11) Airway bill.
- (12) Nontransfer and use certificate.
- (13) Any other document used in the regulation or control of a defense article, defense service, or brokering activity regulated by this subchapter.
- (14) Any other shipping document that has information related to the export of the defense article or defense service.

Penalties for violations

- Any person who willfully:
- (a) Violates any provision of §38 or §39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779) or any rule or regulation issued under either §38 or §39 of the Act, or any undertaking specifically required by part 124 of this subchapter; or
- (b) In a registration, license application, or report required by §38 or §39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779) or by any rule or regulation issued under either section, makes any untrue statement of a material fact or omits a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be subject to a fine or imprisonment, or both, as prescribed by 22 U.S.C. 2778(c).
-shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than 20 years, or both (22 U.S.C. 2778(c))

Quotes from part 127

(b) It is unlawful:

(1) To violate any of the terms or conditions of a license or approval granted pursuant to this subchapter, any exemption contained in this subchapter, or any rule or regulation contained in this subchapter;

127.2 Misrepresentation and omission of facts.

(a) It is unlawful to use or attempt to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting, transferring, reexporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service.

(d) A person with knowledge that another person is then ineligible pursuant to §§ 120.1(c) or 126.7 of this subchapter may not, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization from, the Directorate of Defense Trade Controls:
(1) Apply for, obtain, or use any export control document as defined in § 127.2(b) of this subchapter for such ineligible person; or

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July 17, 2018 – **Export Compliance and Small Business** – [CLICK HERE](#) for additional information – presented by Emily A. Constantine – Attorney – Husch Blackwell LLP

July 25, 2018 – **Overview of the Federal Acquisition Regulations (FAR)** – [CLICK HERE](#) for additional information – presented by Carol Murphy, Wisconsin Procurement Institute (WPI)

<https://www.wispro.org/faqs/what-is-wpis-webinar-schedule/>



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Benjamin Blanc

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PRESENTED BY

Wisconsin Procurement Institute (WPI)

www.wispro.org

Marc Violante | Director, Federal Market Strategies

Wisconsin Procurement Institute

marcv@wispro.org 920-456-9990

Benjamin Blanc | Government Contract Specialist

Wisconsin Procurement Institute

benjaminb@wispro.org 414-270-3600

10437 Innovation Drive, Suite 320

Milwaukee, WI 53226

PRESENTED BY

Wisconsin Procurement Institute (WPI)

www.wispro.org

Marc Violante | Director, Federal Market Strategies

Wisconsin Procurement Institute

marcv@wispro.org 920-456-9990

Benjamin Blanc | Government Contract Specialist

Wisconsin Procurement Institute

benjaminb@wispro.org 414-270-3600

10437 Innovation Drive, Suite 320

Milwaukee, WI 53226