

Code of Federal Regulations (CFR) - The United States Code of Federal Regulations is the codification of the general and permanent rules and regulations published in the Federal Register by the executive departments and agencies of the Federal Government.

Commerce Control List (CCL) - A list of items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. The CCL is found in Supplement 1 to part 774 of the EAR.

Commerce Control List (CCL) Category - The CCL is divided into ten categories: (0) Nuclear Materials, Facilities and Equipment, and Miscellaneous; (1) Materials, Chemicals, "Microorganisms," and Toxins; (2) Materials Processing; (3) Electronics Design, Development and Production; (4) Computers; (5) Telecommunications; (6) Sensors; (7) Navigation and Avionics; (8) Marine; (9) Propulsion Systems, Space Vehicles, and Related Equipment.

Commerce Control List (CCL) Group - The CCL is divided into 10 categories. Each category is subdivided into five groups, designated by the letters A through E: (A) Equipment, assemblies, and components; (B) Test, inspection and production equipment; (C) Materials; (D) Software; and (E) Technology.

Controlled country - A list of countries designated controlled for national security purposes found in Country Group D:1, including: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, the People's Republic of China, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Laos, Latvia, Lithuania, Moldova, Mongolia, Romania, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. Cuba and North Korea are controlled countries, but they are listed in Country Group E:2 (unilateral embargoes) rather than Country Group D:1.

Defense Article - (ITAR 120.6) means any item designated in the USML. Examples include specified chemical agents, cameras designated for military purposes, specified lasers, and GPS equipment as noted above. It also means any technical data recorded or stored in any physical form, models, mock-ups, or other items that reveal technical data directly relating to the particular item or "defense article" listed in the USML.

Defense Service - (ITAR 120.9) means the furnishing of assistance (including training) anywhere (inside the United States or abroad) to foreign nationals in connection with the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles, and the furnishing of any controlled "technical data" (see definition below) to foreign nationals anywhere.

Denied Persons List - A list, referenced in Supplement No. 2 to part 764 of the EAR, of specific persons that have been denied export privileges, in whole or in part. The full text of each order denying export privileges is published in the *Federal Register*.

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).

Empowered Official - a U.S. person who:

1. is directly employed by the applicant or a subsidiary in a position having authority for policy or management within the applicant organization; and
2. Is legally empowered in writing by the applicant to sign license applications or other requests for approval on behalf of the applicant; and
3. Understands the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability and administrative penalties for violating the Arms Export Control Act and the International Traffic in Arms Regulations; and
4. Has the independent authority to:
 - Enquire into any aspect of a proposed export or temporary import by the applicant, and
 - Verify the legality of the transaction and the accuracy of the information to be submitted; and
 - Refuse to sign any license application or other request for approval without prejudice or other adverse recourse. (22 C.F.R. § 120.25)

End-use - A detailed description of how the ultimate consignee intends to use the commodities being exported.

End-user - The person abroad that receives and ultimately uses the exported or reexported items. The end-user is not a forwarding agent or intermediary, but may be the purchaser or ultimate consignee.

Export- in export control regulations, there are several meanings which include any of the following: 1) actual shipment of any covered goods or items; 2) the electronic or digital transmission of any covered goods, items or related goods or items; 3) any release or disclosure, including verbal disclosures or visual inspections, or any technology, software or technical data to any foreign national; or 4) actual use or application of covered technology on behalf of or for the benefit of any foreign entity or person anywhere.

Export Administration Regulations (EAR) - The Export Administration Regulations (EAR), Title 15, sections 730-774 of the Code of Federal Regulations (CFR), means the regulations promulgated and implemented by the Department of Commerce that regulate the export of goods and related

technology identified on the Commodity Control List (CCL), Title 15 CFR 774, Supp. 1. Goods and technology on the CCL are *not* inherently military in nature; they are primarily and inherently commercial or potentially commercial in nature.

Export control - The set of laws, policies, and regulations that govern the export of sensitive items for a country or company.

Export Control Classification Number (ECCN) - Identifies items on the Commerce Control List that are subject to the export licensing authority of the Bureau of Industry and Security.

Exporter - The person who has authority of a principal party in interest to determine and control the sending of items out of the country.

Export license - The approval documentation issued by an export agency authority authorizing the recipient to proceed with the export, reexport, or other regulated activity as specified on the application.

Foreign National- any person who is not a citizen or Permanent Resident Alien of the U.S. Under the EAR, the term applies to "persons lawfully admitted for permanent residence in the United States and does not apply to persons who are protected individuals (i.e. has been admitted as a refugee or granted asylum). (See Immigration and Naturalization Act (8 U.S.C. 1324b (a) (3)).

"Foreign national" is not an ITAR term per se, but the ITAR does define the term "foreign person" as any natural person who is not a lawful permanent resident or who is not a "protected individual", and may also include any corporation, business association, partnership society, trust or any other entity, organization or group that is incorporated to do business in the United States. This also includes any governmental entity.

Forwarding agent - This is the person in the country of origin who is authorized by a principle party in interest to perform the services required to facilitate the export of the items from the country of origin. This may include air couriers or carriers. In routed export transactions, the forwarding agent and the exporter may be the same for compliance purposes under the EAR.

Fundamental Research - (EAR and ITAR) means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the United States where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for proprietary reasons or national security reasons (EAR) or pursuant to specific U.S. government access and dissemination controls (ITAR).

Fundamental Research Exclusions - The EAR provides that university research normally will be considered as fundamental research unless the university or its researchers accept sponsor restrictions on publication of scientific and technical information resulting from the project or activity. The EAR specifically permits limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information provided to the researcher by the sponsor or to insure that publication will not compromise patent rights of the sponsor. The citation for the official definition of fundamental research under the EAR is 15 CFR § 734.8.

The ITAR states that university research will not be deemed to qualify as fundamental research if: (1) the university or its researchers accept any restrictions on publication of scientific and technical information resulting from the project or activity; or (2) the research is federally funded and specific access and dissemination controls protecting information resulting from the research have been accepted by the university or the researcher. The ITAR citation is 22 CFR § 120.11(8).

International Trafficking in Arms Regulations (ITAR) – The International Traffic in Arms Regulations (ITAR), 22 CFR §§ 120-130, means the regulations promulgated and implemented by the Department of State that control the export of articles, services, and related technical data that are inherently military in nature, as determined by the State Department. These “defense articles,” “defense services,” and related “technical data” are listed on the Munitions List (USML), 22 CFR § 121. Even some articles and technologies that are not readily identifiable as inherently military in nature—for example, research satellites—are included on the USML.

Munitions List - articles, services and related technical data designated as defense articles and defense services pursuant to the Arms Export Control Act.

Public Domain - (ITAR; 22 CFR § 120.11) means information that is published and that is generally accessible or available to the public: (1) through sales at newsstands and bookstores; (2) through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information; (3) through second class mailing privileges granted by the U.S. government; (4) at libraries open to the public or from which the public can obtain documents; (5) through patents available at any patent office; (6) through unlimited distribution at a conference, meeting, seminar, trade show, or exhibition, generally accessible to the public, in the United States; (7) through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency; and (8) through fundamental research in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community.

Purchaser - The person abroad who has entered into a transaction to purchase an item for delivery to the ultimate consignee. In most cases, the purchaser is not a bank, forwarding agent, or intermediary. The purchaser and ultimate consignee may be the same entity.

Reexport - "Reexport" means an actual shipment or transmission of items subject to export regulations from one foreign country to another foreign country. For the purposes of the U.S. EAR, the export or reexport of items subject to the EAR that will transit through a country or countries to a new country, or are intended for reexport to the new country, are deemed to be exports to the new country.

Specially Designated National (SDN) - Any person who is determined by the U.S. Secretary of the Treasury to be a specially designated national for any reason under regulations issued by the Office of Foreign Assets Control.

Technical assistance - Technical assistance may take forms such as instruction, skills training, working knowledge, consulting services, and may also involve the transfer of technical data.

Technical data - means information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of controlled articles. This includes information in the form of blueprints, drawings, plans, instructions, diagrams, photographs, etc. May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories. The ITAR definition does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain (ITAR 120.10(5)).

Technology - Any specific information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, manuals, software, or in intangible form, such as training or technical services) that is required for the development, production, or use of a good, but not the good itself.

Ultimate consignee - The principal party in interest located abroad who receives the exported or reexported items. The ultimate consignee is not a forwarding agent or other intermediary, but may be the end-user.

U.S. person - an individual who is a citizen of the United States or a foreign national with a visa status of Legal Permanent Resident (LPR). An LPR is also known as a Permanent Resident Alien (PRA).

