

## ***Frequently Asked Questions***

### **1. What are Export Control Regulations?**

Export Control Regulations are federal laws that restrict the flow of certain articles, services, and technical information related to such articles and services outside the United States. The two most important are 22 CFR Parts 120-130 otherwise known as the International Traffic in Arms Regulations (ITAR) and 15 CFR Parts 700-799 also known as the Export Administration Regulations (EAR), but there are others to be aware of as well.

### **2. What does ITAR controlled mean?**

ITAR stands for the International Traffic in Arms Regulations (ITAR) and it is the government requirements for the control of defense data and hardware leaving the USA. The US Munitions List (Part 121 of the ITAR) governs what articles must have a defense export license.

### **3. What does Export mean?**

“Export” means an actual shipment or transmission of items, services, or technical data subject to either the EAR or the ITAR out of the United States, or release of technology, software, or technical data subject to either EAR or ITAR to a foreign national in the United States. Technology, software, or technical data is “released” for export through 1) visual inspection by foreign nationals of U.S. origin equipment and facilities, 2) oral exchanges of information in the United States or abroad, or 3) the application to situations abroad of personal knowledge or technical experience acquired in the United States.

### **4. Is export support from Excelerate expensive?**

Excelerate export support is less expensive than you think, and if you want to be successful in the international marketplace, especially in the defense industry, then our support definitely value-added. We will help you evaluate the options - for free - and discuss a plan based on your individual product base, capabilities, structure, and situation. Let us discuss with you your specific situation, answer your specific questions, or help with sightseeing ideas for a given area - we have been just about everywhere. Seriously, we can keep your company safe working internationally under the strict defense and high tech industry export regulations, especially if you are a cleared facility, as well as in country where cultures, business practices, and expectations are very different from our own.

### **5. Can I be a cleared facility and do international defense exports?**

Absolutely yes – just follow the rules and get the approvals. As a consultant, we work with your company, and make the company Facility Security Officer (FSO) comfortable with the process as well. FSO’s jobs are to protect the company and the nation so they have the right and responsibility to be concerned about foreign national defense exports and visitors. We can help with the entire process.

### **6. How long does a defense license or agreement take to process?**

This is the winner for the most asked question and the standard reply is that you should plan on a license taking between one and two months, depending on the complexity of the project. You can see the actual U.S.

processing averages for Defense Trade Controls at the following website:

<http://www.pmddtc.state.gov/processtime.htm>

### **7. What is the difference between a defense export license and an agreement?**

A defense export license basically cover items like hardware, software, and data and consist of a few different types – permanent export, temporary export, temporary import, etc. Agreements cover assistance to a foreign

nation on a given defense subject and fall into two categories – Technical Assistance Agreement (TAA) and Manufacturing License Agreements (MLA). Give us a call if there are still questions on this subject.

#### **8. Which countries are the most difficult to obtain an export license?**

This is a common but difficult question to answer since it all depends on what you are exporting, who the end user is and what the end use will be. Just give us a call and we can help answer that question. Of course the embargoed countries listed on the government website are an obvious no.

#### **9. Is defense export licensing difficult to do?**

By itself no, but it is truly experienced based with a significant learning curve. Also there are many positive benefits to breaking your international business out separately if you operate a cleared facility. We advise companies, that if they plan to do a high volume of defense exporting it may be advantageous to have someone within their organization learn the ins/outs of defense exporting. If not, then let us do it for you. We have many levels of involvement that can occur, from submitting the export license and assisting with the entire process to simply writing the license/agreements for your DDTC registration. Remember though that we are technically based which makes a huge difference in communicating the export technology for approval and working any issues that may occur along the way.

#### **10. Does Defense Trade Controls worry about the import of defense articles?**

Not really – this is controlled by U.S. Justice Department, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE), so if they approve the article for import you have satisfied all importing requirements. Defense Trade Controls gets involved when you want to export that article back to the original provider or to somewhere else.

#### **11. I am not sure if an export license from Directorate Defense Trade Controls is needed – what do I do?**

A Commodity Jurisdiction Request (CJR) can be submitted to determine if an item is controlled by the ITAR or the EAR. Basically, articles that are defense related or will be used for defense purposes are “ITAR controlled” and will require a license. It is always easier and safer to get the license for a defense export rather than suffer the penalties – which can be severe.

#### **12. What is the purpose of the Export Administration Regulations (EAR)?**

The primary focus of the EAR is to control the export of dual use technologies (i.e., items that are used, or could potentially be used for military as well as non-military purposes.)

#### **13. When does an item subject to the export control jurisdiction of the Commerce Department require an export license?**

An item may be licensable if it has been assigned a specific Export Commodity Control Number (ECCN) by the Commerce Department and is dependent upon an item's technical characteristics, destination country, end-user, and the intended end-use.

#### **14. What is the difference between EAR99 and NLR?**

EAR99 is a classification for an item. It indicates that a particular item is subject to the Export Administration Regulations (EAR), but not listed with a specific Export Control Classification Number (ECCN) on the Commerce Control List (CCL). While the classification describes the item, the authorization for shipment of that item may change, depending on the transaction. NLR is the designator of a transaction that stands for the "No License Required" authorization. NLR may be used for either EAR99 items, or items on the CCL that do not require a license for the destination in question, provided no General Prohibitions apply.