Are you subject to the EAR?

Yes → Is your item Classified Under an ECCN on the CCL? (General Prohibitions 1, 2 & 3)

No → Exit the EAR

Is your item Classified Under an ECCN on the CCL? (General Prohibitions 1, 2 & 3)

Yes → ECCN

No → EAR99

Do General Prohibitions 4-10 Apply?

ECCN

No → Using the CCL & Country Chart, Is there an "X" in the Box?

Yes → Ship NLR

No → Is there a License Exception Available?

Yes → Ship under License Exception

No → Submit a License Application

EAR99

Do General Prohibitions 4-10 Apply?

Yes → Using the CCL & Country Chart, Is there an "X" in the Box?

Yes → Ship NLR

No → Submit a License Application

No → Is there a License Exception Available?

Yes → Ship under License Exception

No → Submit a License Application

Source: 15 C.F.R Part 732, Supp. 1
AM I SUBJECT TO THE EAR?

Begin Here

Am I a "U.S. Person"?

Yes → Am I involved in a activity related to the proliferation of chemical or biological weapons, nuclear explosive devices or missiles?

No →

Yes →

Is technology or software I am planning to export or reexport publicly available?

No →

Yes →

Is the item I am planning to export or reexport subject to exclusive jurisdiction of another USG Federal Department or Agency?

No →

Yes →

Does my export or reexport consist of prerecorded phonograph records, printed books, pamphlets & miscellaneous publications as described in the EAR?

No →

Yes →

Is my item in the U.S.?

No →

Yes →

Is my item of U.S.-origin?

No →

Yes →

Is my foreign-made item a computer?

No →

Yes →

Review EAR

No →

Yes →

Does my foreign made item incorporate controlled U.S.-origin items valued at >10% of the total value of the foreign-made item?

No →

Yes →

Does my foreign made item incorporate controlled U.S.-origin items valued at >25% of the total value of the foreign-made item?

No →

Yes →

Will I be reexporting a national security controlled foreign-produced direct product (of U.S. technology or software requiring written assurances, or produced by a plant located outside the U.S. that is a direct product of U.S.-origin technology or software) to Cuba, Libya, North Korea or a country listed in Country Group D:1?

No →

Yes →

Not Subject to the EAR

Source: 15 C.F.R Part 732, Supp. 2
ITAR DECISION TREE

Is the proposed export a "defense article," 22 CFR 120.6, "defense service," 22 CFR 120.9, or "technical data" 22 CFR 120.10, on the United States Munitions List item?

YES

Does the proposed export involve exclusively technical data in the "public domain" or approved for public release?*

NO

Export is controlled under the International Traffic in Arms Regulations (ITAR), 22 CFR Part 120 et seq.

YES

Is the export "EAR 99"?

NO

Is the export classified under the ECCN on the Department of Commerce Classification List (CCL)?

YES

Does exporter must have a current DTC registration, 22 CFR Part 122?

NO

Must register immediately

Is the export eligible for the "Canadian exemption," 22 CFR 126.5?

YES

No license required

NO

Is the export to Canada?

YES

NO

Is the proposed export to a country listed in 22 CFR 126.1?

YES

NO

Is the foreign recipient or end user a "debarred party," ie "prohibited party"?

NO

Does a tech data exemption of general applicability apply, 22 CFR 125.4?

YES

NO

Is the proposed export "Significant Military Equipment" ("SME"), 22 CFR 120.7?

YES

NO

Is the proposed export "major defense equipment", 22 CFR 120.8 under a contract of $14 million or more?

YES

NO

Does the export involve defense articles under a contract valued at $50 million or more?

YES

NO

• Appropriate license application (DSP-85, DSP-5 etc) required
• Congressional notification required, 22 CFR 124.11
• DTC Approval required for proposals and presentations (SME only)
• DSP-83 (non-transfer and use certificate) required (SME and classified articles or data)
• TAA or MLA may be required. See MLA/TAA Primer

Does the proposed export involve classified articles or classified technical data?**

YES

• DSP-83 required
• Appropriate license application (DSP-5, DSP-73, etc.) required
• TAA or MLA may be required. See MLA/TAA Primer
• DTC will probably require a TTCP

• Appropriate license application (DSP-5, DSP-73 etc) required
• TAA or MLA may be required.

NO

NO

• Appropriate license application (DSP-5, DSP-73 etc) required
• TAA or MLA may be required.

*No license required if the data is in furtherance of an approved MLA or TAA.
**Exporter must have DoD approval to handle classified information.
Guide to Decision Trees

Acronyms:

**BIS:** Bureau of Industry and Security (Commerce Department)

**CCL:** Commerce Control List (catalog of items and technology controlled by BIS) (15 C.F.R. Part 774)

**CFR:** Code of Federal Regulations (contain federal government regulations)

**DTC:** Office of Defense Trade Controls (State Department) (also referred to as “ODTC”)

**EAR:** Export Administration Regulations (BIS’s regulations) (15 C.F.R. Sections 730-774)

**EAR 99:** Commerce Department export classification for which export license not typically required.

**ECCN:** Export Control Classification Number (determine Commerce Department export licensing requirements)

**ITAR:** International Traffic in Arms Regulations (ODTC’s regulations), 22 C.F.R. Part 120 *et seq.*

**MLA:** Manufacturing License Agreement (type of ODTC export authorization)

**NLR:** No license required

**ODTC:** Office of Defense Trade Controls (State Department) (also referred to as “DTC”)

**OFAC:** Office of Foreign Assets Control (Treasury Department)

**SDN:** Specially Designated Nationals (OFAC designation for prohibited persons)

**SME:** Significant Military Equipment

**TAA:** Technical Assistance Agreement (type of ODTC export authorization)

**TTCP:** Technology Transfer Control Plan

**USML:** United States Munitions List (catalog of items and technologies controlled by ODTC) (22 C.F.R. Part 121)
General Prohibitions

The EAR groups restrictions on exports into ten categories, referred to as the “General Prohibitions.”

General Prohibitions 1-3: Linked to Commerce Control List Entries

General Prohibition 1: An “X” in the CCL/Country Chart matrix (15 C.F.R. Part 738 Supp. 1) (i.e., item or technology controlled for export/ re-export to a particular country based on a particular reason for control (e.g., Anti-Terrorism (“AT”))).

General Prohibition 2: More than de minimis U.S.-origin content.

General Prohibition 3: May apply if foreign-produced direct products of U.S.-origin software or technology are controlled for national security reasons.

General Prohibitions 4-10: Not Control-List Based

General Prohibition 4: Denial orders. Bars denied person from exporting or re-exporting items subject to the EAR and bars other parties from furnishing such items to denied parties.

General Prohibition 5: End Use/End User. Bars export and re-export of items subject to EAR (including EAR 99 items) to proliferation-related end use or end-user specified in 15 C.F.R. Part 744.

General Prohibition 6: Prohibits exports or re-exports to embargoed countries.

General Prohibition 7: Prohibits unlicensed involvement of U.S. persons in activities related to proliferation of weapons of mass destruction or of missile delivery systems.

General Prohibition 8: Prohibition against unladening or shipping certain items in transit.

General Prohibition 9: Prohibition against violating terms of license or license exception.

General Prohibition 10: Prohibition against proceeding with knowledge of a violation.