

Basics of U.S. Export Controls

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U.S. law restricts certain exports, particularly of high technology products. Exports include not only the physical shipment of products out of the U.S. but also other forms of distribution, such as distribution by email or delivery to a foreign national who is physically in the United States. In fact, a company can be deemed to have made an export by providing access to controlled technology to a foreign national who is an employee of the company and works on the company's own premises. Technology is "released" for export when it is available to a foreign national for visual inspection (such as technical specifications, plans, blueprints, etc.), when technology is exchanged orally, or when technology is made available by practice or application under the guidance of persons with knowledge of the technology. In general, most visa holders are considered to be foreign nationals, unless they are granted permanent residency (i.e., a Green Card) or citizenship.

Most products can be exported without restriction, but export licenses are required for certain products and technologies and exports are restricted to certain countries and certain parties. Most export control responsibility is exercised by the U.S. Department of Commerce and the U.S. State Department. The Departments of Energy and Treasury also have certain jurisdiction. The majority of restricted exports are included in two publicly available lists, the U.S. Munitions List (USML), which is administered by the State Department, and the Commerce Control List (CCL), which is administered by the Commerce Department. The USML is primarily focused on defense articles, services and related technologies (e.g., weapons and other products and services which are used for defense). The CCL is primarily focused on so called "dual use" items, which have commercial uses but also have possible military applications. Categories subject to control include nuclear materials, facilities, equipment and research; chemicals and toxins; materials processing (e.g., making plastics and metals); electronics development; computer development and programs; telecommunications; information security (encryption); sensors and lasers; navigation and avionics; and propulsion systems and space vehicles.

Restrictions are imposed on exports to certain countries such as Cuba, Iran and North Korea. A list of restricted countries is maintained by the Office of Foreign Assets Control (OFAC) of the Treasury Department. Restrictions are also imposed on exports to certain individuals, companies and organizations, including: the Specially Designated Nationals List maintained by the OFAC; the Denied Persons List maintained by the Commerce Department's Bureau of Export Administration (BXA); the Entities List maintained by the BXA; and the Debarred Parties List maintained by the State Department. Additional information is available on the OFAC website at www.treas.gov/ofac.

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