



MTS SYSTEMS TRAINING



US Dept. of Commerce - Bureau of Industry and Security (BIS) Export Controls

BIS EAR Export Controls

- » The Export Administration Regulations (EAR) are administered by the Bureau of Industry of Security within the US Dept. of Commerce
- » The EAR can apply to both domestic and international work, products, & technology
- » MTS ITAR internal process controls are somewhat similar for EAR
- » The scope can include:
 - Specially designed products and test equipment for use by military and not regulated by ITAR
 - Commercial orders that have dual use or restricted end use/user
- » MTS Global Trade Compliance team is responsible for making a determination taking into account a number of factors related to opportunity:
 - Customer input
 - Customer's test specimen
 - Vendor input
 - Engineering input
 - Presence of new part numbers
 - Presence of engineering hours
 - Presence of a controlled item in BOM
 - End use/End user

MTS Legal

- » Any US Govt. or Federal contracts (Example FARS)
- » Any Defense contracts (Example DFARS)
- » Any customer contract requirements must be routed to MTS legal for guidance and not MTS Global Trade compliance
 - Examples include:
 - » Any documents and agreements requested by any parties to the agreement
 - » Project documents
 - » Technical contractual agreements
 - » IP/contract

Pre-Sale Process

- » If subject to EAR controls the following steps are taken:
 - Ensure all individuals involved on project are US Persons:
 - » MTS coworkers, business partners, non-US Person customers (in and outside of US)
 - » Verify with Global Trade Compliance
 - » Non-US Persons may need an export license to be involved
 - Do not share “technical data” that is licensable. Stick with a simple quote outlining basic descriptions and prices. You can share information that’s already in the public domain (e.g., product brochures).
 - Restrict your discussions (“technical assistance”) to information already in the public domain and not derived from your experience or knowledge of work on systems built for the military

Pre-Sale Process

- » Export license may be required for non-US Person involvement on transaction
 - A non-US Person can be located inside or outside the US (IE Engineer)
 - » Considered deemed export while in US
- » License applications are submitted by Global Trade Compliance personnel to the U.S. Department of Commerce
- » No fee to MTS to submit individual license applications
- » Expect 2 weeks to prepare the application and 6-8 weeks on average to obtain a response
- » Government response may be Return Without Action, License approval, or License denial
- » Licenses expire once the quantity (or value) shipped reaches that authorized by the license, or when the license reaches its expiration date (4 years)

Pre-sale Data Storage Requirements Through Shipment

- » Okay storing technical data on MTS network drives
 - Must be access controlled
- » Okay storing technical data on MTS desktop or laptop computers
 - Must be accessed controlled
- » Must have windows 10 if travelling outside United States

Post-sale through Shipment

- » Drawings and other technical data derived from EAR data received from the customer are themselves EAR and need protection
- » When creating technical data for projects:
 - A text block has been provided for each CAD package
 - Add text block near title block of drawing
- » EXPORT CONTROLLED. This document contains technical data controlled by the Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR) and is subject to export control laws of the U.S. Government. Transfer of this data by any means to a foreign person, whether in the U.S. or abroad, without an export license or other approval from the appropriate jurisdictional agency, is prohibited. Contact Global Trade Compliance for more information.
- » “EAR Technical Data Marking Guidelines” available from the Global Trade Compliance upon request

Post-sale through Shipment

- » When you create a new part number for a licensed EAR product or project, flag that item as Military checked controlled unless:
 - Part number is an off-the-shelf purchased part not controlled
 - Part number is created solely as a result of the way we run our projects
 - Part number is created for some reason unrelated to the current project, could be different length or size unrelated to enhanced performance
- » Do not mix commercial goods and licensed EAR or ITAR products on the same engineering drawing. Must be separated for tabulated drawings
- » Do not make a copy of a Military checked item, and call it commercial, just to avoid having to deal with the controls
- » Be careful when using an existing material master to create a new material master

Post-sale through Shipment

How does Engineering flag a specific part number as controlled?

Compliance Information

WEEE *:

Certified Body *:

ITAR *:

RoHS_2 *:

ESD *:

CTQ *:

REQUEST NEW MATERIAL

Material Information (All fields in this section are required)

Material Number:

Compliance Information

WEEE *:

Certified Body *:

ITAR *:

RoHS_2 *:

Post-sale through Shipment

Once drawing is released by engineering, how does MTS flag a specific part number as controlled?

Currently done by Connie Norman and team

Display Material 57-193-001 (Sales: General/Plant Data, HALB-Semifin)

Descriptions Units of measure Org. Levels

Comm./imp. code no. 8412.21.0015 Cylinder - Linear Acting, Tie-Rod Type Un

Export/import group

CAS number (pharm.)

PRODCOM no.

Control code

Origin

Country of origin US USA Region of origin

Preference

Preference status Not maintained

Vendor decl. status Not maintained

Legal control

ExemptionCertificate Exemption cert. no. 00000000

Iss.date of ex.cert.

Military goods

Common Agricultural Policy

CAP product list no.

CAP prod. group

Post-sale through Shipment

- » By checking the “Military Goods” checkbox within a material master record, the engineering drawing associated with that material is directed to a secured storage location
- » Access to the secured storage location is controlled by Global Trade Compliance
- » To gain access, e-mail:
 - Name, country of birth, country of citizenship, proof of citizenship and SAP User ID to GlobalTrade@mts.com
- » Once access is provided, you will be able to access all controlled drawings via DOD, but not Finder
- » Okay storing technical data on MTS network drives
- » Okay storing technical data on MTS desktop or laptop computers

SUMMARY

ITAR or EAR technical information **MUST** be protected

What needs to be protected?

- “ITAR controlled”, “EAR controlled”, “Export controlled”, “ITAR restricted”, “EAR restricted”, “this document contains technical data”, “controlled by the Export Administration Regulations (EAR)”, “controlled by the International Traffic in Arms Regulations (ITAR)”, “transfer of this data by any means to a foreign person, whether in the U.S. or abroad, without an export license or other approval from the appropriate jurisdictional agency, is prohibited.”

What should I do?

- Retain hard-copy information in a locked desk drawer, locked file cabinet, etc.
- Retain electronic information in approved information system only – Document on Demand (DoD) is current approved information system.
- Don’t talk about information for anyone to hear.
- Don’t leave hard-copy information out and on-display for anyone to see.
- Don’t exchange electronic information without encryption for anyone to access.
- Don’t retain electronic information in un-approved information systems for anyone to access - on your personal PC, on a jump drive, on your personal U-drive, on your team network drive, in POND, in SFDC, in SAP, in FINDR, etc.

Refer to IT-017 policy and procedure for complete detailed instructions on how to identify, classify, and manage “export-controlled” information.

SUMMARY

ITAR or EAR technical information MUST be protected

Who can access ITAR or EAR technical information?

- U.S. persons
 - A person who is a U.S. Citizen.
 - A person who is lawfully admitted for permanent residence in the U.S.
 - A person who is a protected person under the Immigration and Naturalization Act.
 - a Political Refugee
 - a Political Asylum holder

Who can't access ITAR or EAR technical information WITHOUT AN EXPORT LICENSE?

- Non-U.S. persons (also know as Foreign Nationals)
 - A person who is NOT a U.S. Citizen.
 - A person who is NOT lawfully admitted for permanent residence in the U.S.
 - A person who is NOT a protected person under the Immigration and Naturalization Act.
 - NOT a Political Refugee
 - NOT a Political Asylum holder

Summary

- » Protect electronic data and hard copies
- » Restrict involvement to US Persons unless authorization is received
- » Keep Global Trade Compliance informed
- » If you have questions or concerns on topics we have not covered, please ask us!