US Exports and Export Control Training

Export Administration Regulations
(EAR)

MTS SYSTEMS CORPORATION

be certain.

Training Agenda

After completing this training, you should have an understanding of the following topics:

☑ **An overview of US Exports and Export Controls**

☑ **US Export Laws**

  – Export Administration Regulations (EAR)

» **MTS Trade Policy & Procedures**

☑ – Your Obligations

An overview of US Exports and Export Controls

MTS

What is an export?

The definition of export in the US is not always straight forward…

Generally, an export is the movement or transfer of:	**To a non-US person, entity or destination either inside[1] of or outside of the US in any form, including:**

- – Physical goods (commodities)
- – Software
- – Technology, or technical data

- – Physical exports (shipping, mail, etc.)
- – E-mails, servers and databases
- – Telephone conversations
- – Meetings or presentations

non-US

[1]An export to a foreign national located in the United States (such as a foreign national employee of a US company) is a "deemed export," so called because the transfer is "deemed" to be an export to the person's home country.

What are export controls?

» Regulation of cross-border movements of [*product*]:

  – Physical goods (commodities)

  – Software

  – Technology, or technical data

» Export controls are determined by the type of product (or technology) being exported:

  – Who it is going to [*people*]

  – Where it is going [*place*]

  – What it will ultimately be used for [*purpose*]

Export Controls

- **Product**
- **People**
- **Place**
- **Purpose**

MTS

Why are export controls important in the US?

The US, like many countries, has **laws which control the export of certain products and technologies** for strategic reasons

Without an appreciation of US export controls, our employees (both in the US and elsewhere) **risk violations** (intentional or unintentional)

Violations can result in both **criminal and administrative penalties**

US Export Laws

US Export Laws

The US has <u>two</u> key export laws that guide US export control regulations:

EAR	ITAR
Export Administration Regulations control commodities	**International Traffic in Arms Regulations**

EAR covers commercial available products and services; driven by the product type and use

ITAR focuses primarily on military and defense related products and services

Generally less restrictive export requirements

Restrictive and defined export requirements (license or agreement required in most cases)

Export Administration Regulations (EAR)

Export Administration Regulations (EAR)

Scope

The EAR **<u>includes</u>** products that are within the "legal jurisdiction" of the United States:
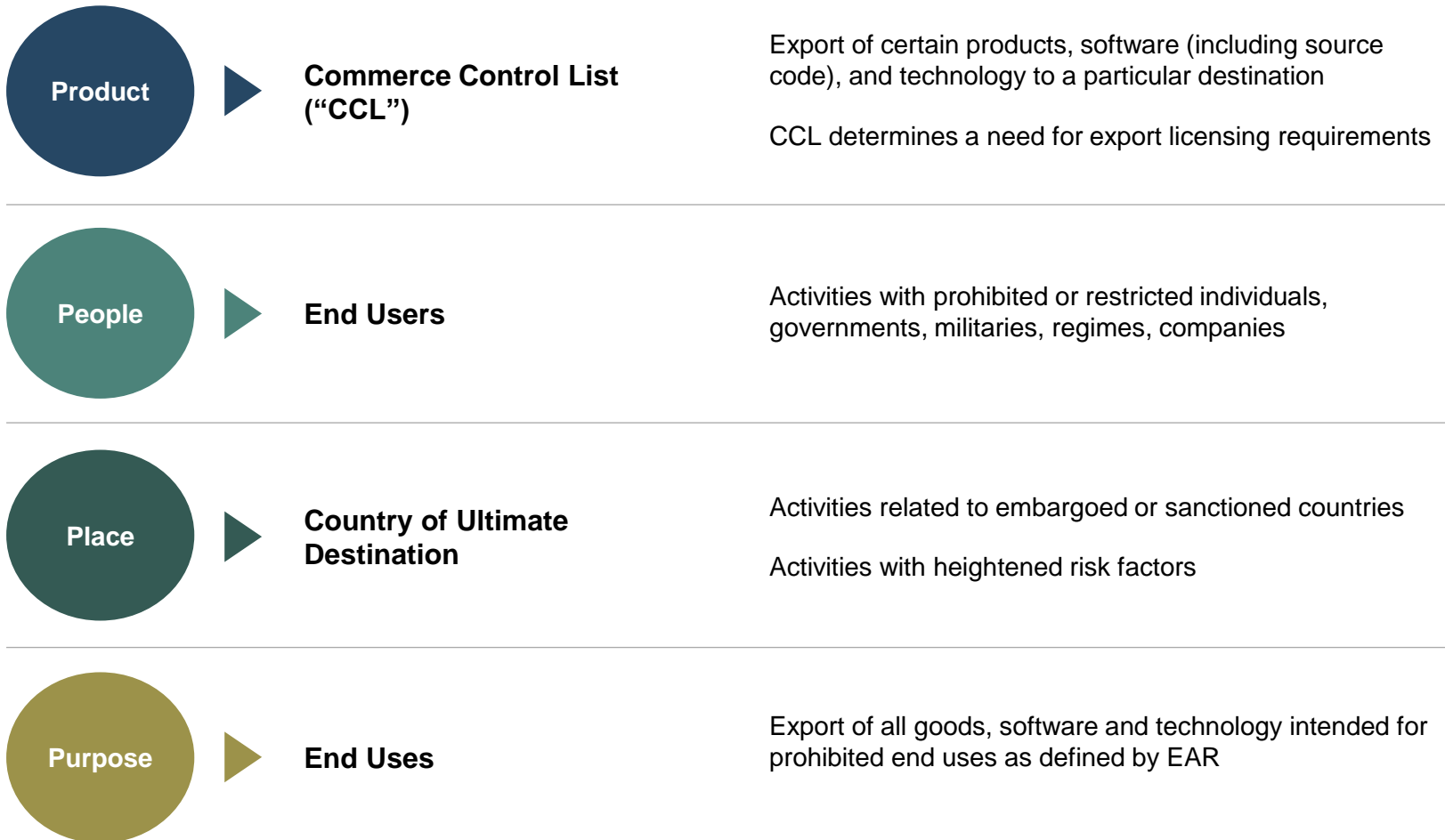
- All products, software and technology located physically <u>within the US</u>

- US products, software, technology <u>wherever located</u>

- US items incorporated into products made <u>outside the US</u>

- US technology used to manufacture certain items <u>outside the US</u>

- US software or technology used to produce certain commodities by any plant <u>outside the US</u>

The EAR **<u>does not include</u>**:

- Non-US products containing less than a de minimis amount of US content

Interpretation of scope is very specific within the EAR - - contact Global Trade with questions

Export Administration Regulations (EAR)

Export Controls

Product ▶	**Commerce Control List ("CCL")**	Export of certain products, software (including source code), and technology to a particular destination CCL determines a need for export licensing requirements
People ▶	**End Users**	Activities with prohibited or restricted individuals, governments, militaries, regimes, companies
Place ▶	**Country of Ultimate Destination**	Activities related to embargoed or sanctioned countries Activities with heightened risk factors
Purpose ▶	**End Uses**	Export of all goods, software and technology intended for prohibited end uses as defined by EAR

Export Administration Regulations (EAR)

Violations

> **Violations of the EAR may be subject to both criminal and administrative (civil) penalties**

Criminal penalties for willful and egregious violations can reach up to 20 years imprisonment for individuals and $1M per violation

Administrative penalties can be issued for up to $120,000 per violation

> **Violations may also be subject to the denial of export privileges, which would prohibit a person or company exporting from the US (or receive exports FROM the US) for a minimum period of three years**

Furthermore, it is unlawful for other businesses and individuals to participate in any way in an export transaction subject to the EAR with a denied person.

Your Obligation

Your Obligation

In your everyday work at MTS, you have an obligation to:

» Know your customer

» Know your product

» Know your delivery

For more information, access the 'Global Trad Compliance Policy' (ORC-008), which includes policy related guidelines and procedures:

> **ORC-008** Global Trade Compliance Policy

Know your customers

MTS must verify the legitimacy of its customer so that it does not transact with prohibited companies or individuals under export control and/or sanctions rules.

What you need to do:

- Identify and document the legal names and addresses of all parties involved in the sale/shipment.

- Understand each party's role in the transaction.

- Verify who the customer is, including what they do and are known for, where they operate and which customers / business partners they are affiliated with.

- Ensure that the customer is a legitimate business in the jurisdiction(s) it operates.

- Do not proceed with unverified persons/entities.

Examples

1. **Review company's website**

2. **Review marketing materials**

3. **Discuss product requirements**

4. **Discuss usage for self or others**

5. **Visit Customer**

Know your products

MTS must understand how our products _**will likely be**_ used by our customers and how our products _**can**_ be used to minimize the chance of unlawful misuse contrary to export control rules.

What you need to do:

☑ Understand what we are selling, including:

- Customizations (i.e., non-standard configurations)
- Usage in rugged environments (extreme temperatures, radiation exposure, etc.),

☑ Verify how the product will be used including any intended transfer or re-export.

☑ Is the requested product common/appropriate for the customer based on business, facility/location, etc.

☑ If customer declines typical accessories/options, training and/or in-person FAT, ask why and document the customer's rationale.

☑ Determine how the product could be used.

Examples

1. **Review company's website**

2. **Review marketing materials**

3. **Discuss product requirements**

4. **Discuss usage for self or others**

5. **Visit Customer**

Know your delivery

MTS must minimize opportunities for our products to be diverted from lawful end uses, users and destinations to unauthorized ones contrary to export control and/or sanctions rules.

What you need to do:

Verify that preferred incoterms are utilized

Communicate to the Global Trade team any customer requests to change parties to the transaction (e.g., end user, consignee, etc.) and/or end destinations (e.g., delivery address).

Verify the appropriate parties are identified

Verify the address information is appropriate

Examples

1. **Review company's website**

2. **Review marketing materials**

3. **Discuss product requirements**

4. **Discuss usage for self or others**

5. **Visit Customer**

Do the Right Thing!

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.

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

Do the Right Thing!

Contact the Global Trade team or the Office of Risk and Compliance (Globaltrade@mts.com)

- » if you have questions

- » for further advice

- » for consultation

Contact the Office of Risk and Compliance (MTS_Risk_&_Compliance@mts.com) or the other reporting channels available as listed in the MTS Global Code of Ethical Business Conduct

- » if you know of a violation

- » if you suspect a violation

- » if you would like to report a concern

MTS will investigate and take action on each matter as appropriate.

- » MTS prohibits retaliation of any kind against employees who report in good faith potential or actual ethics or compliance violations.

- » Our employees' commitment to compliance with our legal obligations and ethical standards is valued, respected and essential.

You are critical to MTS' Global Trade business and are MTS' first line of PROTECTION AND DEFENSE!