

## **Export Controls**

### **Brief Description:**

The U.S. controls exports of sensitive equipment, software and technology as a means to promote national security interests and foreign policy objectives. Export controls are used to restrict the flow of sensitive technology to terrorists and state sponsors of terrorism, and also used to restrict exports to certain countries on which the U.S. imposes economic sanctions. The U.S. export control system restricts the export of defense items or munitions; so-called "dual-use" goods and technology, items that have both a civilian and military application; certain nuclear materials and technology; and items that would assist in the development of nuclear, chemical, and biological weapons or the missile technology used to deliver them.

In the current export control system there are two different primary control lists that are administered by two different departments. The U.S. Munitions List (USML) falls under the jurisdiction of the State Department which is responsible for regulating the export of defense articles/arms. While the Commerce List (CCL) is maintained by the Commerce Department and is responsible for regulating exports of commercial and dual-use items. These lists differ in structures, levels of specificity, and definitions. There are concerns with the mounting overlap between the two control lists, which fuels rising confusion and inefficiency throughout the current U.S. export control system and affects exporters.

Through the Export Administration Act (EAA), the Arms Export Control Act (AECA), the International Emergency Economic Powers Act (IEEPA), and other authority, Congress has delegated to the executive branch its express constitutional authority to regulate foreign commerce by controlling exports. Several other agencies, including the Department of Justice, Defense, Homeland Security, Treasury, and Energy each play a critical role in export control and nonproliferation activities both within the U.S. and internationally. At present, the EAA has expired and dual-use controls are maintained under IEEPA authorities.

### **Exports Controls Brief History:**

Export controls in the U.S. date back to before World War II, when restrictions on exports were imposed to ensure that adequate supplies were available to meet wartime needs. After the war, export controls were continued with the enactment of the Export Control Act of 1949 in response to the post-war shortage of many commodities and to the political situation between the U.S. and the Soviet Union. The Export Control Act of 1949 continued in effect for 20 years. It was replaced effective January 1970 by the Export Administration Act of 1969. In 1979, the Export Administration Act of 1979 replaced the 1969 Act. The 1979 Act was later amended by the Export Administration Amendments Act of 1981 and the Export Administration Amendments Act of 1985. Certain revisions to the 1979 Act were also included in the Omnibus Trade and Competitiveness Act of 1988.

### **Export Controls Timeline:**

- 1949: Enactment of the Export Control Act of 1949 (P.L. 81-11)
- 1951-1965: The Export Control Act of 1949 was renewed largely without amendment in 1951, 1953, 1956, 1958, 1960, 1962, and 1965

- 1969: The Export Administration Act of 1969 (P.L. 91-184) replaced the Export Control Act of 1949 in January 1970
- 1974: The Act was renewed
- 1977: The Act was renewed
- 1979: The Export Administration Act of 1979 (P.L. 96-72) was signed into law, which was comprehensively rewritten
- 1981: The Export Administration Amendments Act of 1981 included major amendments to the Export Administration Act of 1979
- 1985: The Export Administration Amendments Act of 1985 (P.L. 99-64) included major amendments to the Export Administration Act of 1979
- 1988: Major amendments to the Export Administration Act were included in the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418)
- 1990: The Export Administration Act of 1979 was allowed to expire without replacement on Sept. 30, 1990. Executive Order (EO) No.12730 Continuation of Export Control Regulations was issued.
- 1993: Passed H.R.750 (P.L. 103-10) extended the 1979 Act from March 27, 1993 to June 30,
- 1994: Passed H.R.4635 (P.L. 103-277) extended the 1979 Act again from July 5, 1994 to Aug. 20, 1994
- 1994: EO No. 12924 Continuation of Export Control Regulations issued on Aug. 19, 1994, continuing export controls for six years, was issued under the International Emergency Economic Powers Act (IEEPA) authority. This also established new procedures and deadlines for processing Commerce Department export license applications.
- 2000: Export Administration Act of 1979, Reauthorization (P.L. 106-508), extended the EAA of 1979 until August 20, 2001, temporarily removing the need to operate the export control system under IEEPA powers.
- 2001: EO 13222 of August 17, 2001- Continuation of Export Control Regulations

### **Export Controls Legislation:**

No export control-related legislation has yet been introduced in the 113th Congress. However, during the 112<sup>th</sup> Congress legislation was introduced two bills to reform the U.S. export control system and one to reauthorize or rewrite the Export Administration Act. The bills may be reintroduced in the 113<sup>th</sup> Congress in whole or in part. In addition, the Administration may put forward legislation to implement portions of the Export Control Reform (ECR) initiative.

### **112<sup>th</sup> Congress (2<sup>nd</sup> Session)**

- The National Defense Authorization Act (NDAA) of 2013 (P.L. 112-239, January 2, 2013). This bill passed with repeal of the 1999 NDAA, which transferred “satellites and related items” to the USML, thus allowing the President to transfer satellites and related items to the CCL with certain country restrictions and reporting requirements.
- The Export Administration Renewal Act of 2011 (H.R. 2122) was introduced by House Foreign Affairs Committee (HFAC) Chairwoman Ros-Lehtinen on June 03, 2011. This bill would have renewed the currently expired Export Administration Act through 2015, amended certain other provisions of the act, and amended the Arms Export Control Act to permit differential control over parts and components on the U.S. Munitions List.
- The Technology Security Act of 2011 (H.R. 2004) was introduced by HFAC Ranking Member Berman on May 26, 2011. This bill was a comprehensive rewrite of U.S. dual-use controls that

would have replaced the EAA with a new act that would have provided the President the authority to create—within certain guidelines—a new dual-use export control licensing system.

**Export Controls Resources:**

- [Commerce Control List Overview and the Country Chart](#)
- [BIS Product Guidance](#)
- [BIS FAQs](#)
- Recently published regulations  
<http://www.bis.doc.gov/index.php/regulations#ear>
- Export Administration downloadable files  
<http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>
- Commerce Control List (CCL)  
<http://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- BIS Search the EAR  
<http://www.bis.doc.gov/index.php/regulations/search-the-ear>
- BIS Federal Register Notices  
<http://www.bis.doc.gov/index.php/regulations/federal-register-notice>
- GPO's Export Administration Regulations (EAR): Code of Federal Regulations (CFR)  
<http://www.bis.doc.gov/urlmessages/eargpo.html>
- CCL on the e-CFR  
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=02b534f76f96c9c5f13a1d1be8edf8d4&ty=HTML&h=L&n=15y2.1.3.4.45&r=PART>
- Export Control Reform  
<http://www.bis.doc.gov/index.php/2012-03-30-17-54-11>
- Department of State Regs (ITAR)  
[http://www.pmdtc.state.gov/regulations\\_laws/itar.html](http://www.pmdtc.state.gov/regulations_laws/itar.html)
- U.S. Census Bureau Regs (FTR)  
<http://www.census.gov/foreign-trade/regulations/index.html>
- EAR Hardcopy Updates  
<http://bookstore.gpo.gov/ear>