

EXPORT CONTROL



E x p o r t C o n t r o l

Test Yourself

INTRODUCTION

Living by the Northrop Grumman values and Standards of Business Conduct is one of our most important responsibilities. We have set high ethical standards. Abiding by these standards and strictly observing all U.S. and foreign laws and regulations is not only a legal requirement, but also an ethical obligation for us at Northrop Grumman.

There are very specific laws and regulations that need to be followed when dealing with exports. These laws and regulations are administered by the State Department for defense articles and services, and by the Department of Commerce for dual use (i.e. military or civilian) items. The U.S. Customs and Border Protection agency enforces the export regulations of the various departments. The regulations are in place to protect U.S. national security and foreign policy objectives (State), and to protect U.S. economic interests (Commerce).

Exports are items or knowledge provided to foreign persons in the United States or abroad, and the delivery of information to U.S. persons while located in foreign countries.

Exportable items or knowledge may include, for example:

- products
- commodities
- hardware
- software
- subassemblies
- individual components
- test and repair equipment
- executable program code
- technical data and/or knowledge
- blueprints
- drawings
- operating instructions
- technical services
- proposals
- models and prototypes
- photographs and performance data
- computer data files

A foreign person is:

- Someone who is not a U.S. person (not a U.S. citizen or a permanent resident alien)
- A foreign corporation, business association, partnership, trust, society or any other foreign entity or group that is not incorporated or organized to do business in the United States
- International organizations
- Foreign governments and any agency or subdivision thereof (e.g. diplomatic mission)

U.S. subsidiaries of corporations located outside the United States may require special review because, in some instances, they may be considered foreign persons and/or may employ foreign persons.

WHEN AND HOW DO EXPORTS OCCUR?

- Sending or taking any controlled defense article or dual-use article outside the United States or providing it to a foreign person within the U.S.
- Disclosing (including orally or visually) or transferring technical data to a foreign person within the United States or abroad
- Performing a defense service on behalf of or for the benefit of a foreign person in the United States or abroad
- Escorting tours of company facilities for foreign persons
- Publication of technical data, presentations and/or technical papers at symposia, conferences or meetings, or during technical discussions and even casual conversations
- Transferring information over international communications systems, such as the Internet, facsimile, video conference, NetMeeting and telephone conversations

The party with whom you want to communicate or the country involved may not be eligible for an export license due to U.S. government prohibitions. If you have any questions about this or other export issues, please discuss it with your sector's legal counsel or your export compliance focal point. You can also contact Northrop Grumman's director of Export/Import Shared Services or the OpenLine.

ELEMENTS OF AN EXPORT LICENSE

Exports require government permission in the form of a license or written approval. Issued for a fixed period of time, the license must be specific and identify the items, services or data that will be exported. Export licenses or approvals may be needed:

- To provide technical data to foreign customers or suppliers
- To return a part to a foreign supplier for repair
- To return a part to a foreign customer after the part has been received, repaired or replaced
- To discuss technical data with a foreign customer or supplier
- To conduct design discussions with a foreign customer or supplier
- To deliver hardware to a foreign customer
- To provide proposal data to a potential foreign customer
- To temporarily import defense articles
- To export defense articles on a temporary basis
- To perform any defense services for a foreign customer or supplier

Some exports may be covered under an existing license and others will require a separate license. It is possible that you may need an export license covering a product before you begin to work on a contract. In any case, before you begin any of the activity listed above with a foreign party, be sure you have the license you need.

PENALTIES

Individuals violating federal law and applicable regulations on exports are subject to civil and criminal penalties that include fines, jail terms, suspension or denial of exporting privileges and debarment from government contracting. In addition, such a violation of company policy could result in discipline up to and including termination of employment.

LAWS AND REGULATIONS

Employees involved with exports or doing business overseas must be familiar with the laws and regulations governing these activities, namely: The Arms Export Control Act (AECA), as implemented by the International Traffic in Arms Regulations (ITAR); the Export Administration Act (EAA), as implemented by the Export Administration Regulations (EAR); The Foreign Corrupt Practices Act (FCPA); The Office of Foreign Assets Controls (OFAC); the Anti-Boycott Act; and the Customs Modernization Act (Mod Act).

ITAR, 22 CFR Parts 120-130 - These regulations administered by the State Department require that all exports and temporary imports of defense articles and services and technical data on the U.S. Munitions List be authorized by a U.S State Department approved license, an approved agreement or an ITAR exemption.

EAR, 15 CFR Parts 730-774 - These regulations administered by the Department of Commerce control the export of dual-use items or items on the Commerce Control List (CCL).

FCPA - This act prohibits any payments, offers of money or any other items of value to an official of a foreign government or a foreign politician or political party for the purpose of improperly influencing the official's actions or decisions in helping the company get or keep business. It also prohibits making false or misleading entries in company records. (See companion "Test Yourself" brochure on FCPA.)

OFAC - This agency controls the sanctions and embargoes authorized by the U.S. that prohibit exports to, or the conduct of business, with certain countries and/or governments.

ANTI-BOYCOTT ACT – The Commerce Department and Treasury Department have certain regulations prohibiting companies and their employees from providing certain types of information to foreign customers and agreeing to certain contractual provisions, such as supporting embargoes not approved by the U.S. The regulations require mandatory reporting of certain boycott requests, even if no sale results. It is vital that employees conducting business with foreign governments and companies understand and comply fully with these regulations.

Note: The Law department must be contacted every time a boycott-related request is received.

U.S. CUSTOMS Regulations, 19 CFR, Chapter 1, Parts 1-199 – These regulations are administered by the Department of Treasury, U.S. Customs Service, and detail the import process, including the procedure for the valuation and classification of merchandise.

ALCOHOL, TOBACCO, FIREARMS and EXPLOSIVES ("ATF") Regulations, 27 CFR Parts 47, 178, and 179 – These regulations detail the import license process for the permanent import of defense articles contained on the U.S. Import Munitions List.

TEST YOURSELF

Your company has recently purchased a subsidiary located, and incorporated to do business, in Italy. You want to include a subsidiary employee who is an Italian national in weekly conference calls during which technical data and solutions to problems or approaches will be discussed and exchanged.

- | | Yes | No |
|---|--------------------------|--------------------------|
| 1. Will an export occur? (Remember, you both work for the same company.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Has an export occurred if the technical data and defense services are going to be provided to a U.S. person who works for the Italian subsidiary?
You have been invited to make a presentation at a U.S. military base in Germany on the repair of a defensive radar. Your presentation slides will include technical data, but you have been told that the audience is made of U.S. persons only. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you arrive at the U.S. base in Germany with the technical presentation in your briefcase, has an export occurred?
You have purchased a defense article from a supplier in France. You permanently imported the defense article for use on one of your U.S. programs, but during quality inspection the defense article failed and must be returned to France. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do you require an export license to send the failed defense article back to France? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. If your U.S. government customer directs you to send the article back to France, do you need an export license?
You have an approved license to export a defense article to the Egyptian Ministry of Defense. After you received the approved license for the export of the defense article, the customer requested that you provide them with an enhanced version of the defense article. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Can you export the enhanced defense article under your current license?
You are buying a product from a company in Singapore to support one of your military products. The Singapore company produces a standard product that is used in commercial and defense products. In order to satisfy your customer requirements, you need to provide technical data (a source control drawing) to the Singapore company explaining how to modify their standard product to meet your requirement. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Since the product to be procured from the Singapore company is a standard, off-the-shelf product with many applications, have you violated export control regulations by supplying the technical data?
You have been invited, as an employee of Northrop Grumman, to present a paper containing technical data at an industry-side conference. The paper will be published in the conference proceedings and posted on the conference Web site. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. The conference organizers tell you that no foreign persons, only Canadians, are going to attend the conference. Are you violating export control regulations by turning in your paper to support the conference? | <input type="checkbox"/> | <input type="checkbox"/> |

CORRECT ANSWERS

1. Yes, an export will occur. You will provide technical data and defense services to a foreign person. Even though you and the Italian subsidiary work for the same company, an Italian national is still deemed to be a foreign person.
2. Yes, the U.S. person that works for the Italian subsidiary is considered a foreign person since he/she represents the Italian subsidiary.
3. Yes, technical data has been exported to a foreign country, Germany.
4. Yes, this is a defense article and requires a license for export.
5. Yes, an export license or ITAR exemption is still required.
6. No, export licenses specify the product that will be exported.
7. Yes, you provided technical data that explains how to modify a product to meet a military requirement. You have also provided a defense service. A Technical Assistance Agreement is required.
8. Yes. Canadians are foreign persons. In addition, your paper will be placed in the public domain, accessible by any person, when it is posted on the Internet or distributed in hard copy format.