



# PSI Export Training

Note: These training slides are still under revision.



Photo-Sonics, Inc.

May 2016



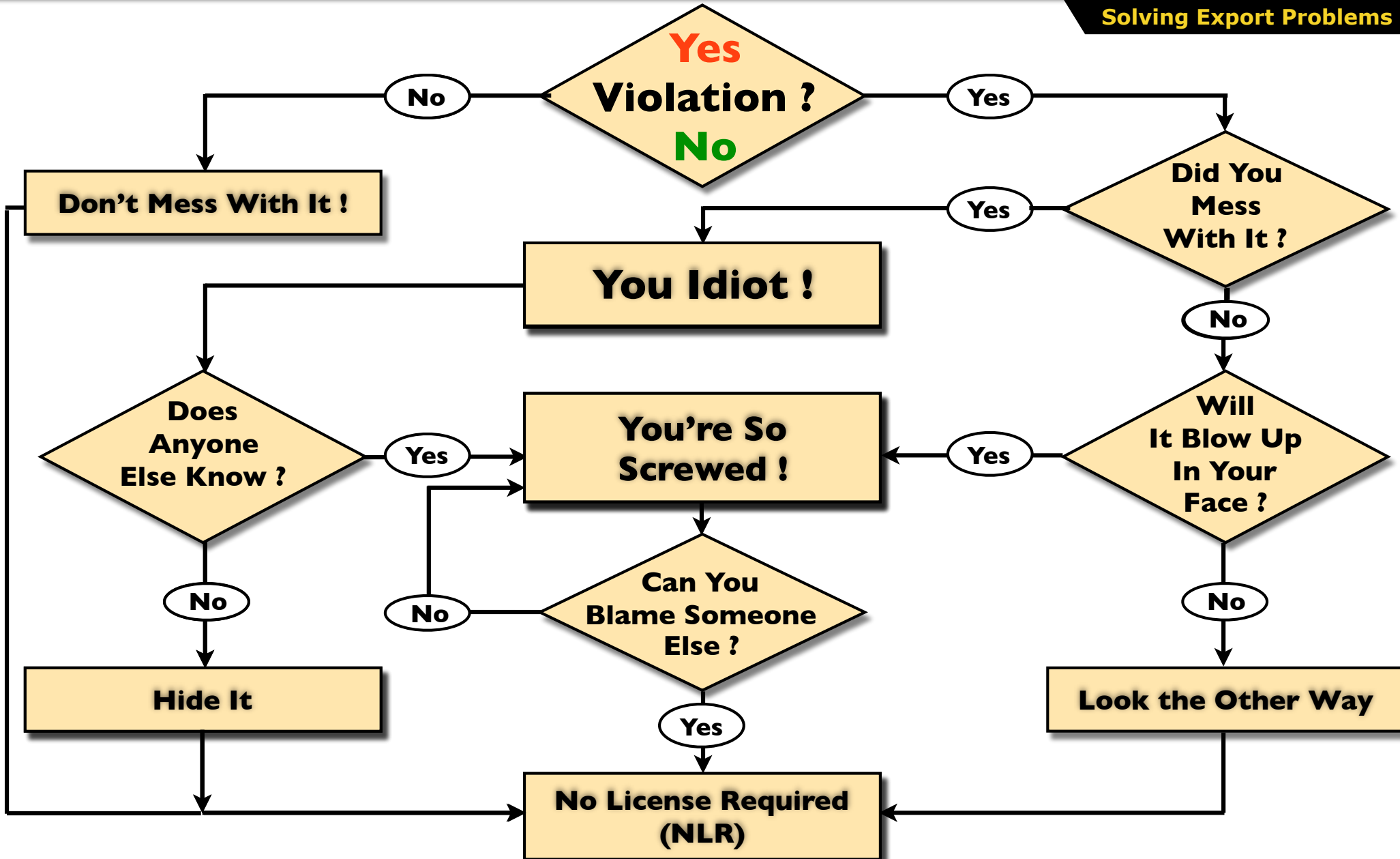
# Introduction: How NOT to do Export Compliance



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# How NOT to Approach Export Issues





- Foreign opinions about USML and CCL export USML and CCL classifications should be taken with a grain of salt.
  - Same skepticism should greet foreign views on USG export *procedures*.





## WARNING !

- **Do not assume** that all is well just because you “successfully” export from Point A to Point B, with no Customs seizure.
  - Especially in urgent exports situations, this is a very common source of violations.
  - **Transactional** approach, which virtually guarantees violations, is the opposite of **systematic** approach.



# Room With A View: DDTC Perspective



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# U.S. Export Controls on Defense Trade

## Overview:

Arms Export Controls Act  
International Traffic in Arms Regulations  
Basic Licensing Information

*Navigating U.S. Export Controls*  
U.S. Consulate, Toulouse and  
The Society for International Affairs  
Toulouse, France  
October 17, 2005

Daniel J. Buzby  
Deputy Director  
Office of Defense Trade Controls Compliance  
U.S. Department of State



# Post-Licensing Responsibility for non-U.S. companies

- Record-keeping – receipt and disposition
- Inventory tracking and control
  - internal use
  - incorporation into higher level assembly
  - re-sale to another party
- Control access by non-U.S. persons from a third country to U.S. defense articles, technical data or defense services (i.e., technology)



# U.S. Compliance & Enforcement Responsibility

- Broad authority exercised by the U.S. Government under the AECA for civil and criminal enforcement
- U.S. corporation assumes legal responsibilities over major elements of every defense trade transaction
- Individual and corporation may be held liable for criminal and civil offenses under the AECA and its enumerated statutes (e.g., Foreign Corrupt Practices Act)



# U.S. Compliance & Enforcement Responsibility

- Civil offenses under the AECA impose “strict liability” on individuals and corporations for:
  - exports or imports without a license
  - conspiracy to export or import without a license
  - a violation of license terms and conditions
  - aid, abet, counsel, induce, procure in an unauthorized transaction
  - misrepresentation or omission of facts.





# U.S. Compliance & Enforcement Responsibility

- non-U.S. individuals or corporations may be directly affected if subject to U.S. law
- non-U.S. individuals or corporations may be indirectly affected through various compliance and licensing measures:
  - eligibility to meet registration or license requirements
  - effect on current licenses
  - effect on foreign subsidiary of U.S. company or U.S. subsidiary of foreign company



# U.S. Compliance & Enforcement Responsibility

- Criminal enforcement cases:
- investigated by the Department of Homeland Security, Immigration & Customs Enforcement
- prosecuted by the Department of Justice, U.S. Attorney's Office.
- Civil enforcement cases conducted by the Office of Compliance, Directorate of Defense Trade Controls.
- Counter-intelligence cases investigated by the Federal Bureau of Investigation and prosecuted by the Department of Justice, U.S. Attorney's Office.



# Monetary Fines & Other Penalties Under the AECA

## Criminal charge:

- \$1 million for each violation
- up to 10 years imprisonment
- debarment from licensing.

## Civil charge:

- \$500,000 for each violation
- debarment from licensing
- extra-compliance measures.



# Recent Administrative Settlements

	\$ Amount	Year	# Charges
• DirecTV/HNS/Hughes	\$5,000,000	2005	56
• DirecTV (Hughes)	1,500,000	2005	--
• ITT	8,000,000	2004	95
• GM/General Dynamics	20,000,000	2004	248
• Agilent Technologies	225,000	2003	3
• EDO Corporation	2,500,000	2003	47
• Hughes/Boeing	32,000,000	2003	123
• Multigen-Paradigm	2,000,000	2003	24
• Raytheon Company	25,000,000	2003	26

State Department Virtual Reading Room -- <http://foia.state.gov/>



# Recommended Compliance Measures

A Compliance Plan addressing:

- company-wide commitment
- identification and empowerment of sufficient personnel responsible for defense trade controls
- knowledge of U.S. laws and regulations
- training and education



# Recommended Compliance Measures

## A Compliance Plan addressing:

- integration of the export controls function into the corporate business strategy for product development, marketing, financing, sale and post sale service
- development of internal policies and procedures that are standardized and automated
  - record-keeping
  - inventory control and access
  - customer eligibility and vetting





# Recommended Compliance Measures

A Compliance Plan addressing:

- facility and electronic (IT/Internet) security
- terms and conditions of the U.S. license approval
- procedures on use of license exemptions
- reporting requirements to the U.S.
- self-assessment or auditing and disclosure



# Civil & Criminal Penalties



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# Civil & Criminal Penalties (EAR)



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Department of Commerce / Bureau of Industry & Security (DoC/BIS)

## Export-Violation Penalties

### Export Administration Regulations

(U.S. Department of Commerce)

Fine

Imprisonment

#### Willful Violations

Company

Up to \$1 million or 5 times the value of the exports for *each* violation

Individual

Up to \$250,000 for *each* violation

Up to 10 years for *each* violation

#### Knowing Violations

Company

Up to \$50,000 or 5 times the value of the exports for *each* violation

Individual

Up to \$50,000 or 5 times the value of the exports for violation

Up to 5 years for *each* violation

Civil (Administrative) Sanctions: Up to \$12,000 for each violation. If the violations involve items controlled for national security reasons, the fine is ten times greater or up to \$120,000 for each violation.

Possible additional sanctions for each violation include the denial of export privileges, and/or the exclusion from practice, and/or seizure or forfeiture of goods.

# Civil & Criminal Penalties (ITAR)



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Department of State / Directorate of Defense Trade Controls (DoS/DDTC)

## Export-Violation Penalties

### International Traffic in Arms Regulations

(U.S. Department of State)

Fine

Imprisonment

#### Criminal Sanctions

Company

Up to \$1 million for *each* violation

N/A

Individual

Up to \$250,000 for *each* violation

Up to 10 years for *each* violation

#### Civil (Administrative) Sanctions

Company

Up to \$500,000 or 5 times the value of the exports for *each* violation

N/A

Individual

Up to \$500,000 or 5 times the value of the exports for violation

N/A

Possible additional sanctions for each violation include the denial of export privileges, and/or the seizure or forfeiture of goods.



## International Traffic in Arms Regulations

(U.S. Department of the Treasury)

**Fine**

**Imprisonment**

### Criminal Sanctions

**Company**

Up to \$1 million for *each* violation

N/A

**Individual**

Up to \$1 million for *each* violation

Up to 20 years for *each* violation

### Civil (Administrative) Sanctions

**Company**

Up to \$55,000 for *each* violation

N/A

**Individual**

Up to \$55,000 for *each* violation

N/A

Possible additional sanctions for each violation include the seizure or forfeiture of goods.



OFAC

Office of Foreign Assets Control



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“The Office of Foreign Assets Control (OFAC) of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under US jurisdiction. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve close cooperation with allied governments.”

- From an export control point of view, they are a useful source of reasonably up-to-date information about US trade sanctions, and US implementation of UN embargoes.
- Maintains a list of “bad guys” named the Specially Designated Nationals, or the SDN list.
- OFAC Licenses: This organization does issue export licenses for certain exports to embargoed countries.
- Because of the high visibility and elevated risk associated with OFAC-jurisdiction exports, we always work these transactions with specialized legal counsel.



[Consumer Policy](#)

[Economic Policy](#)

[Financial Markets, Financial Institutions, and Fiscal Service](#)

**Financial Sanctions**

[Specially Designated Nationals List \(SDN List\)](#)

[Search the SDN List](#)

[OFAC Recent Actions](#)

[Iran Sanctions](#)

[Syria Sanctions](#)

[Non-proliferation Sanctions](#)

[Counter Terrorism Sanctions](#)

[Counter Narcotics Trafficking Sanctions](#)

[Cuba Sanctions](#)

[Other OFAC Sanctions Programs and Country Information](#)

[Frequently Asked Questions](#)

## Resource Center

[Home](#) » [Resource Center](#) » [Financial Sanctions](#) » [OFAC Reporting and License Application Forms](#)

### OFAC Reporting and License Application Forms

#### Reporting Transactions and Blocked Property to OFAC

[Report a Blocked or Rejected Transaction to OFAC Electronically](#)

[Report of Blocked Transactions Form](#)   
Please fax completed form to: (202) 622-2426

[Report of Rejected Transactions Form](#)   
Please fax completed form to: (202) 622-2426

[Annual Report of Blocked Property Form \(TD F 90-22.50\)](#)

#### License Applications

[Application for the Release of Blocked Funds \(TD-F 90-22.54\)](#)

[Trade Sanctions Reform and Export Enhancement Act \(TSRA\) License Application \(For exports of agricultural commodities, medicine and medical devices to Iran and Sudan\)](#)

#### Cuba Program Forms

### OFAC QUICK LINKS

- [Specially Designated Nationals \(SDN\) and Blocked Persons List](#)
- [Search OFAC's SDN List](#)
- [OFAC News and Recent Actions](#)
- [Frequently Asked Questions on Sanctions](#)
- [Apply for an OFAC License or Report a Transaction to OFAC](#)
- [Contact OFAC](#)

### PRESS CENTER

#### Press Releases

01/28/2013

[Treasury Department Announces Auctions for Preferred Stock and Subordinated Debt Positions of Eleven Financial Institut...](#)

[View All Press Releases](#)

#### Featured Photo



Secretary Geithner presides over his final senior staff meeting...

[View All Photos](#)

#### Daily Press Guidance



Exporters & Re-exporters must clear all parties to a transaction

**State Debar (Statutory)**

<http://pmddtc.state.gov/licensing/debar.html>

**State Debar (Administrative)**

[http://pmddtc.state.gov/licensing/debar\\_admin.html](http://pmddtc.state.gov/licensing/debar_admin.html)

**State Bad Country List**

[http://pmddtc.state.gov/embargoed\\_countries/index.html](http://pmddtc.state.gov/embargoed_countries/index.html)

**BIS Unverified**

[http://www.bis.doc.gov/enforcement/unverifiedlist/unverified\\_parties.html](http://www.bis.doc.gov/enforcement/unverifiedlist/unverified_parties.html)

**BIS Denied Persons**

<http://www.bis.doc.gov/dpl/thedeniallist.asp>

**BIS Entity List**

<http://www.bis.doc.gov/entities/default.htm>

**System for Award Management (formerly Excluded Parties List)**

<https://www.sam.gov/portal/public/SAM/>

**U.S. Treasury - Consolidated List (includes terror organizations and others)**

<http://www.treas.gov/offices/enforcement/ofac/sdn/>



# Exports Control 101: Overview of the System



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# Main Export Regulations

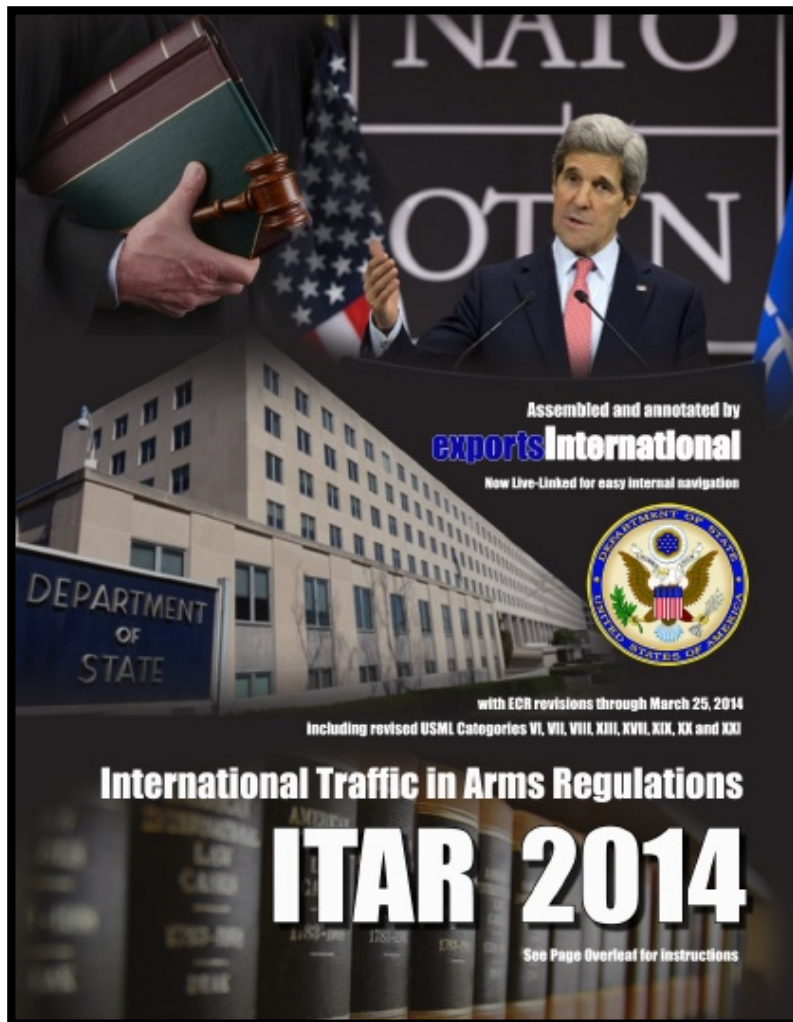
Both regulations extensively rewritten since Oct 15, 2013



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Export Regulations

## International Traffic in Arms Regulations (ITAR)



## Export Administration Regulations (EAR)





# Key Elements of Compliance

ITAR & EAR



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## Key Compliance Points

- “Export” can happen anywhere, by any employee
- Basic knowledge of export rules required by all
- Affects the whole transaction cycle, from new customer inquiry to shipping & receiving
  - Record-keeping (for 9 years)
  - Human Resources
  - Physical plant security procedures
  - Engineering Services
  - IT (unauthorized local access; VPN issues, etc.)
  - Travel with laptops and smartphones
  - Inter-divisional technical exchanges
  - How proposals are generated



## ITAR 120.17

- Sending or Taking a Defense Article out of the United States
- Disclosing “controlled” info, by any means, or transferring a Defense Article to a Foreign Person in 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.
- Tech data and defense services definitions are important in ITAR export rules

# U.S. Munitions List (USML)



## ITAR Overview

Code	Description	
<b>I</b>	<b>Firearms, Close Assault Weapons &amp; Combat Shotguns</b>	I(d) Combat Shotguns I(g) Breech etc. I(h) Parts I(i) Tech Data
<b>II</b>	<b>Guns and Armament</b> Includes howitzers, mortars, cannons, recoilless rifles, etc.	II(a) Over 50 cal. II(j) Tech Data II(k) Tech Data
<b>III</b>	<b>Ammunition/Ordnance</b>	III(d) Parts III(e) Tech Data
<b>IV</b>	<b>Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines</b>	- Various - IV(h) Parts IV(i) Tech Data
<b>V</b>	<b>Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents</b>	V(f) Parts V(g) Tech Data
<b>VI</b>	<b>Surface Vessels of War and Special Naval Equipment</b>	VI(f) Parts VI(g) Tech Data
<b>VII</b>	<b>Ground Vehicles</b>	VII(g) Parts VII(h) Tech Data
<b>VIII</b>	<b>Aircraft &amp; Associated Equip.</b>	VIII(h) Parts VIII(i) Tech Data
<b>IX</b>	<b>Military Training Equipment</b>	IX(d) Parts IX(e) Tech Data
<b>X</b>	<b>Protective Personnel Equip.</b>	X(d) Parts X(e) Tech Data
<b>XI</b>	<b>Military Electronics</b>	XI(c) Parts XI(d) Tech Data

Code	Description	
<b>XII</b>	<b>Fire Control, Range Finder, Optical and Guidance and Control Equipment</b>	XII(a) FCS etc. XII(c) NVG etc. XII(e) Parts XII(f) Tech Data
<b>XIII</b>	<b>Materials &amp; Miscellaneous Articles</b>	
<b>XIV</b>	<b>Toxicological Agents, Including Chemical Agents, Biological Agents, Associated Equip.</b>	- Various - XIV(m) Tech Data
<b>XV</b>	<b>Spacecraft Systems and Associated Equipment</b>	- Various - XV(e) Parts XV(f) Tech Data
<b>XVI</b>	<b>Nuclear Weapons, Design and Testing Related Items</b>	
<b>XVII</b>	<b>Classified Articles, Data &amp; Services Not Otherwise Enumerated</b>	
<b>XVIII</b>	<b>Directed Energy Weapons</b>	XVIII(e) Parts XVIII(f) Tech Data
<b>XIX</b>	<b>Gas Turbines &amp; Assoc.</b>	XIX(f) Parts XIX(g) Tech Data
<b>XX</b>	<b>Submersible Vessels &amp; Related Articles</b>	XX(c) Parts XX(d) Tech Data
<b>XXI</b>	<b>Articles, Data &amp; Services Not Otherwise Enumerated</b>	

(Note: Categories IV-XXI are now rewritten, under the ECR program.)

# U.S. Munitions Import List (USMIL)



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## ITAR Overview

Code	Description
<b>I</b>	<b>Firearms, Close Assault Weapons &amp; Combat Shotguns</b> <small>+ Parts <del>II(i) Tech Data</del></small>
<b>II</b>	<b>Guns and Armament</b> <small>Includes howitzers, mortars, cannons, recoilless rifles, etc.  <small>+ Parts <del>II(k) Tech Data</del></small></small>
<b>III</b>	<b>Ammunition/Ordnance</b> <small>+ Parts <del>III(e) Tech Data</del></small>
<b>IV</b>	<b>Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines</b> <small>- Various -  <small>+ Parts <del>IV(i) Tech Data</del></small></small>
<del><b>V</b></del>	<del><b>Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents</b></del>
<b>VI</b>	<b>Surface Vessels of War and Special Naval Equipment</b> <small>+ Parts <del>VI(g) Tech Data</del></small>
<b>VII</b>	<b>Ground Vehicles</b> <small>+ Parts <del>VII(h) Tech Data</del></small>
<del><b>VIII</b></del>	<del><b>Aircraft &amp; Associated Equip</b></del> <small><del>VIII(b) Parts VIII(i) Tech Data</del></small>
<del><b>IX</b></del>	<del><b>Military Training Equipment</b></del>
<del><b>X</b></del>	<del><b>Protective Personnel Equip</b></del>
<del><b>XI</b></del>	<del><b>Military Electronics</b></del>

Code	Description
<del><b>XII</b></del>	<del><b>Fire Control, Range Finder, Optical and Guidance and Control Equipment</b></del>
<del><b>XIII</b></del>	<del><b>Materials &amp; Miscellaneous Articles</b></del>
<b>XIV</b>	<b>Toxicological Agents, Including Chemical Agents, Biological Agents, Associated Equip</b> <small>- Various - <del>XIV(m) Tech Data</del></small>
<del><b>XV</b></del>	<del><b>Spacecraft Systems and Associated Equipment</b></del>
<b>XVI</b>	<b>Nuclear Weapons Related Articles</b>
<del><b>XVII</b></del>	<del><b>Classified Articles, Data &amp; Services Not Otherwise Enumerated</b></del>
<del><b>XVIII</b></del>	<del><b>Directed Energy Weapons</b></del>
<del><b>XIX</b></del>	<del><b>Gas Turbine Engines &amp; Assoc.</b></del>
<b>XX</b>	<b>Submersible Vessels &amp; Related Articles</b> <small>+ Parts <del>XX(d) Tech Data</del></small>
<b>XXI</b>	<b>Articles, Data &amp; Services Not Otherwise Enumerated</b>

Note: The USMIL is delineated in 27 CFR part 447, against an outdated USML that doesn't exactly comport with the baseline of the USML on this chart. In any event, part of the ECR is to generate a separate, independent USMIL. This is not yet accomplished, and remains on the ECR "to-do" list.



## ITAR 120.9

(a) ***Defense service*** means:

- (1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;
- (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see §120.10), whether in the United States or abroad; or
- (3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See also §124.1.)



## ITAR 120.10

- (a) **Technical data** means, for purposes of this subchapter:
- (1) Information, other than software as defined in §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
  - (2) Classified information relating to defense articles and defense services;
  - (3) Information covered by an invention secrecy order;
  - (4) Software as defined in §121.8(f) of this subchapter directly related to defense articles;
  - (5) This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain as defined in §120.11. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.



Something is not “controlled” tech data if:

- You would be comfortable sending a copy to your competitor (not counting competitive pricing info)
- You would include it in the contents of a typical trade show brochure
- You would be happy to post it on your Website
- You treat it as if it were a stack of cash money



# ITAR § 126.1 Country List

## Countries w/ State Department License Restrictions



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ITAR Overview

*Afghanistan: 126.1(g)*

*Belarus: 126.1(a)*

*Burma: 126.1(a)*

*Central African Republic: 126.1(u)*

*China: 126.1(a)*

*Congo, Democratic Republic of: 126.1(c)(2), (i)*

*Cote d'Ivoire (see Ivory Coast)*

*Cuba: 126.1(a), (d)*

*Cyprus: 126.1(r)*

*Eritrea: 126.1(a), (c)(3)*

*Fiji: 126.1(p)*

*Haiti: 126.1(j)*

*Iran: 126.1(a), (c)(5), (d)*

*Iraq: 126.1(c)(4), 126.1(f), 123.17(h)*

*Ivory Coast (Cote d'Ivoire): 126.1(c)(1), (q)*

*Lebanon: 126.1(c)(6), (t)*

*Liberia: 126.1(c)(7), (o)*

*Libya: 126.1(c)(8), (k)*

*North Korea: 126.1(a), (c)(9)*

*Somalia: 126.1(c)(10), (m)*

*Sri Lanka: 126.1(n)*

*Sudan \*\*: 126.1(a), (c)(11), (d), (v)*

*Syria: 126.1(a), (d)*

*Venezuela: 126.1(a)*

*Vietnam: 126.1(l)*

*Zimbabwe: 126.1(s)*

\*\* These restrictions apply to the "Republic of Sudan". Requests for approval from or destined for the Republic of the South Sudan will be considered on a case-by-case basis.

A full delineation of the restrictions would be complicated, as certain exports of certain types of defense articles may be approved on a case-by-case basis for certain of these countries. But this page is a good quick-reference rule of thumb.

- DSP-5 Unclassified Permanent Export
  - Hardware or tech data
    - Employees (non-US Persons)
    - Marketing license (hunting license)
    - Blanket licenses
  - Training exemption § 124.2(a)
    - Includes basic O&M training, manuals
    - Does not include intermediate & depot level
    - Going beyond this requires a TAA



- DSP-73 Temporary Export
- DSP-61 Temporary Import
- TAA Technical Assistance Agreement
  - Disclose tech data, defense services (work together)
  - Does not include Manufacturing Know-How
- MLA Manufacturing License Agreement



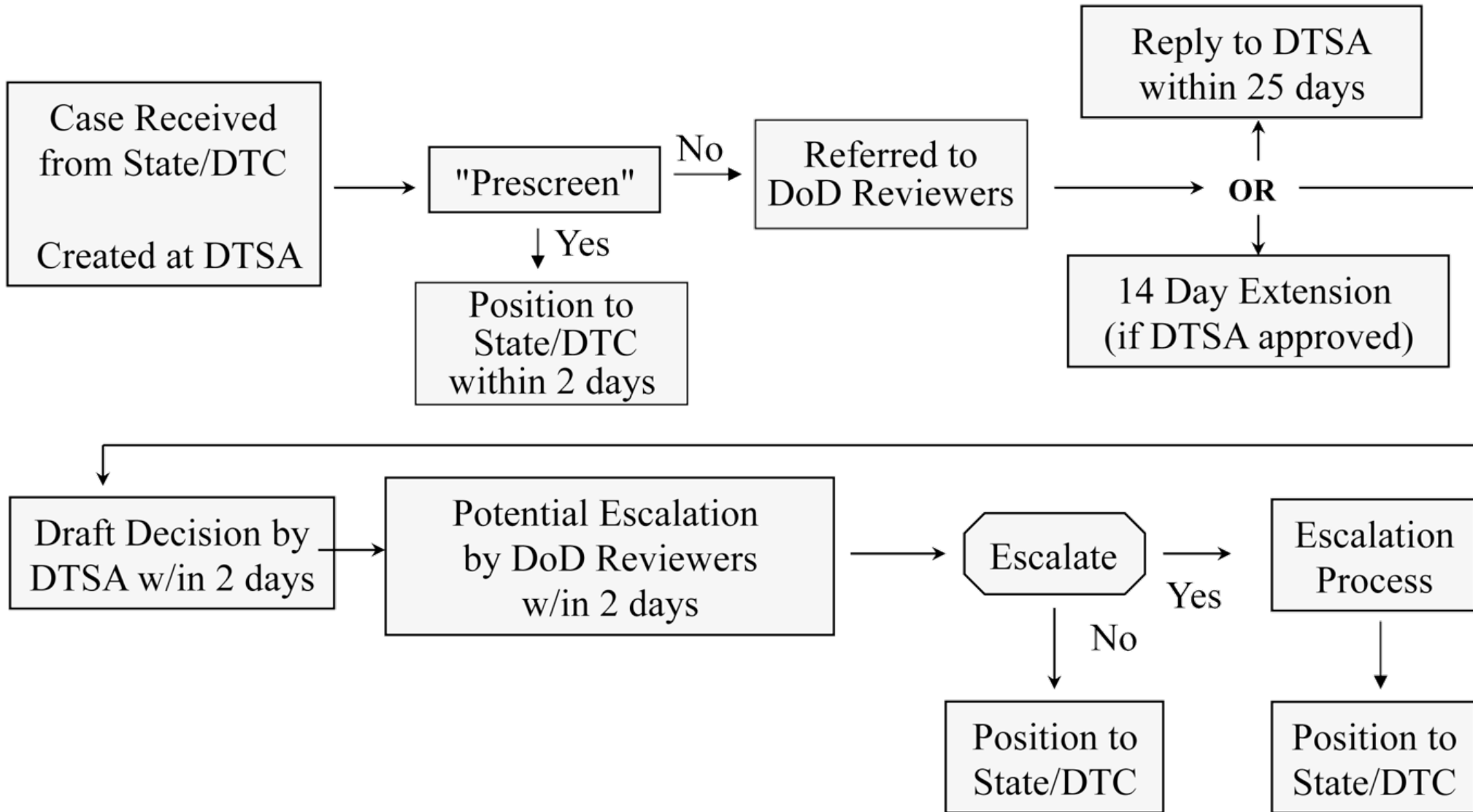
- Approved
- Approved with Provisos
- Denied
- Returned Without Action
- Rejected
- Never-Never Land (No response; no reason)

# DoD/DTSA Review ITAR License



## Flow chart re State license

### DTSA Review of Licenses



# TAA Guidelines only get longer



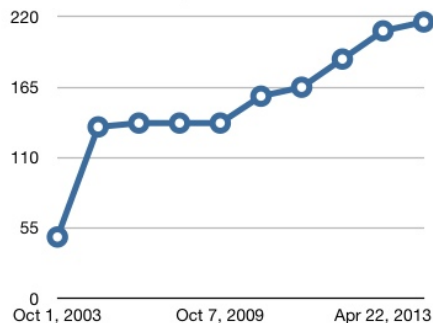
## ITAR Overview

### The ITAR TAA Guidelines Keep Growing

TAA Guidelines date	Type of Agreement (Submission Method)	Page Count	Format Published by DDTC	Note	Full Title
Oct 1, 2003	Paper	48	Word	[Note: no note or subtitle]	GUIDELINES FOR PREPARING AGREEMENTS
Jun 25, 2008	Paper	134	Word	[Note: no note or subtitle]	GUIDELINES FOR PREPARING AGREEMENTS
Feb 1, 2009	Paper	137	Word	REVISION 1 (Note: document itself was undated, but published in Feb 2009)	GUIDELINES FOR PREPARING AGREEMENTS
Mar 8, 2010	Paper	137	PDF	REVISION 1B (Interim Update)	Guidelines for Preparing Agreements [Unclear why "paper" rules still being published, since electronic is mandatory at least for new agreements; maybe this is for Amendments to paper Agreements]
Apr 3, 2009	Paper	137	Word	(REVISION 1A (Interim Update)	Guidelines for Preparing Agreements
Oct 7, 2009	Electronic	158	PDF	(Coordinating Draft-3)	Guidelines for Preparing Electronic Agreements
Apr 1, 2010	Electronic	165	PDF	(Revision 2.0)	Guidelines for Preparing Electronic Agreements
Aug 17, 2011	Electronic	187	PDF	Mainly DCN/TCN & gas-turbine issues (Revision 3.0)	Guidelines for Preparing Electronic Agreements
Apr 22, 2013	Electronic	209	PDF	[don't know yet; reviewing] (Revision 4.0)	Guidelines for Preparing Electronic Agreements
Oct 9, 2013	Electronic	216	PDF	Contains ECR-related § 20	Guidelines for Preparing Electronic Agreements
Jun 23, 2014	Electronic	218	PDF	Includes new NDAs	Guidelines for Preparing Electronic Agreements

(m)

TAA Guidelines Only Get Longer Over Time



Page Count Over Past 11 Years

(but not the EAR equivalent)

**By contrast, the Commerce Department's EAR instructions for a license equivalent to a TAA have held steady over the years at: 1<sup>1/2</sup> pages, shown here in their entirety.**

*See Supplement No. 2 to Part 748, Paragraph (o).*

- Scope - What is covered by EAR?
- Commerce Control List
- Classification of items is fundamental
  - Can be learned in 10 minutes
  - Takes a lifetime to master
- 3 Classification methods:
  - Self-classify
  - CCATS [Commodities Classification Automated Tracking System]
  - Ask the manufacturer





- 3 basic types:
  - Export License
  - ECCN Classification (a.k.a. CCATS)
  - Advisory Opinion
- All are done on the same form BIS-748P or electronic equivalent in SNAP-R system
- Temporary Imports, Exports and Reexports use exception TMP (EAR § 740.9)
- Commerce system more user-friendly, simpler and more open than D-Trade (kinda like low-doc loans)



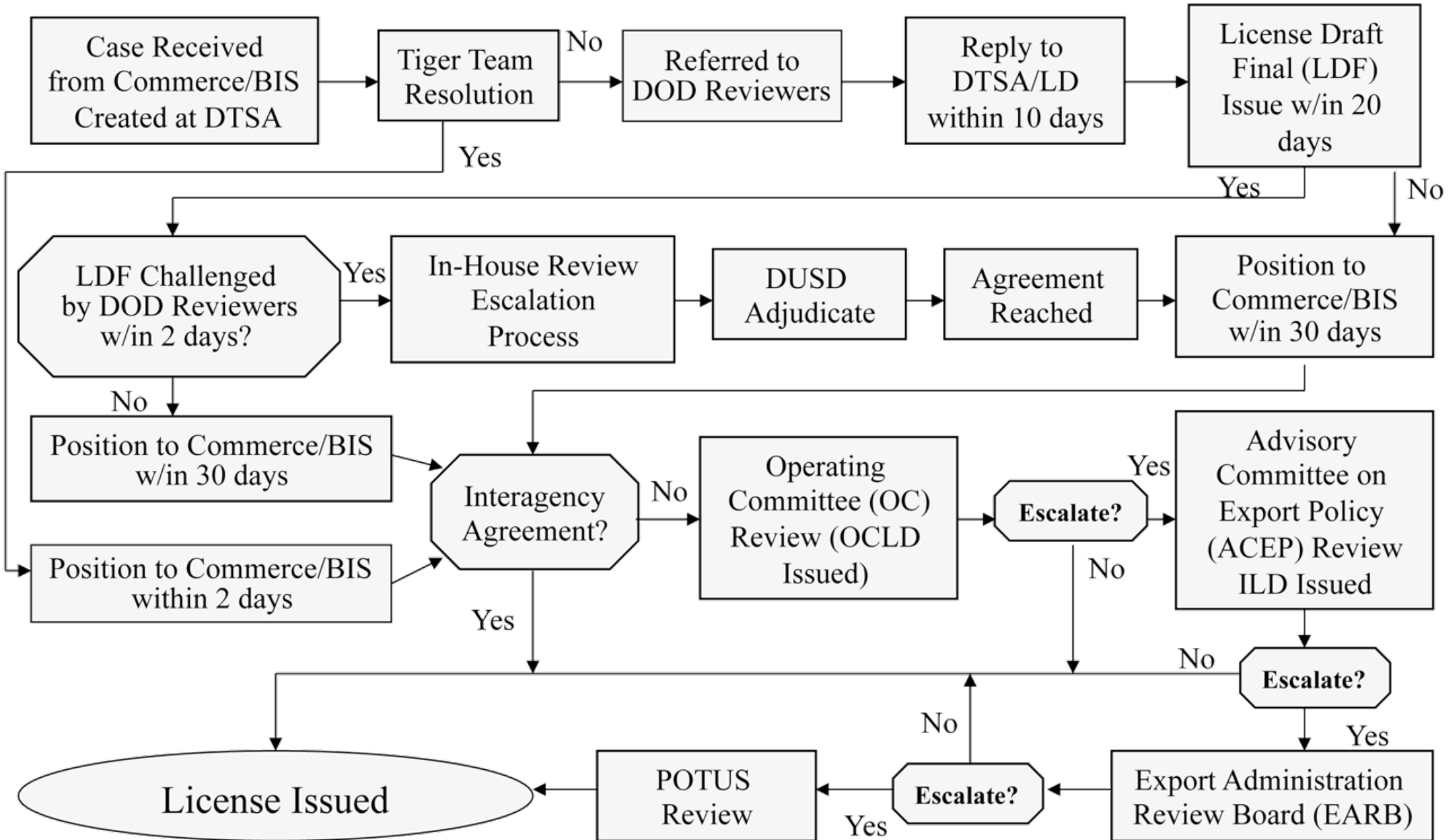
- Free online submission system, SNAP-R; no fee associated with license application
- Default four-year validity period; may request longer
- May export to and among end users listed on license
- No purchase order required
- No large agreements to draft or lengthy guidelines to follow

# DoD/DTSA Review DOC License

## Flow chart re Commerce license



### DTSA Review of Licenses



# 14 Red Flags



1	<b>The customer or purchasing agent is reluctant to offer information about the end-use(r) of the item.</b>
2	<b>The product's capabilities do not fit the buyer's line of business, such as an order for sophisticated computers for a small bakery.</b>
3	<b>The product ordered is incompatible with the technical level of the country to which it is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without electronics industry.</b>
4	<b>Customer has little business expertise.</b>
5	<b>The customer is willing to pay cash for a very expensive item when the sale offered financing.</b>
6	<b>The customer is unfamiliar with the product's performance characteristics but still wants the product.</b>
7	<b>Routine installation, training, or maintenance are declined by customer.</b>

8	<b>Delivery dates are vague, or deliveries are planned for out of the way destinations.</b>
9	<b>A freight forwarding firm is listed as the product's final destination.</b>
10	<b>The shipping route is abnormal for the product and destination.</b>
11	<b>Packaging is inconsistent with stated method of shipment or destination.</b>
12	<b>When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export, or reexport.</b>
13	<b>Customer wants "600 series" parts or components for end-items not in inventory of end-user country in question, or far in excess of what is reasonable the end-user's actual inventory end-item quantity.</b>
14	<b>Customer indicates or the context suggests that a "600 series" item may be reexported to an embargoed country (Group D:5). See Supplement No.1 to Part 740 of the EAR.</b>

# 10 General Prohibitions

1	<b>Exports and Reexports: Export and reexport of controlled items to listed countries.</b>
2	<b>Parts and Components Reexports: Reexport and export from abroad of foreign-made items incorporating more than a <i>de minimis</i> amount of controlled U.S. content.</b>
3	<b>Foreign produced Direct Product Reexports: Reexport and export from abroad of the foreign-produced direct product of U.S. technology and software.</b>
4	<b>Denial Orders: Engaging in actions prohibited by a denial order.</b>
5	<b>End-Use End- User: Export or reexport to prohibited end-user or end-users.</b>

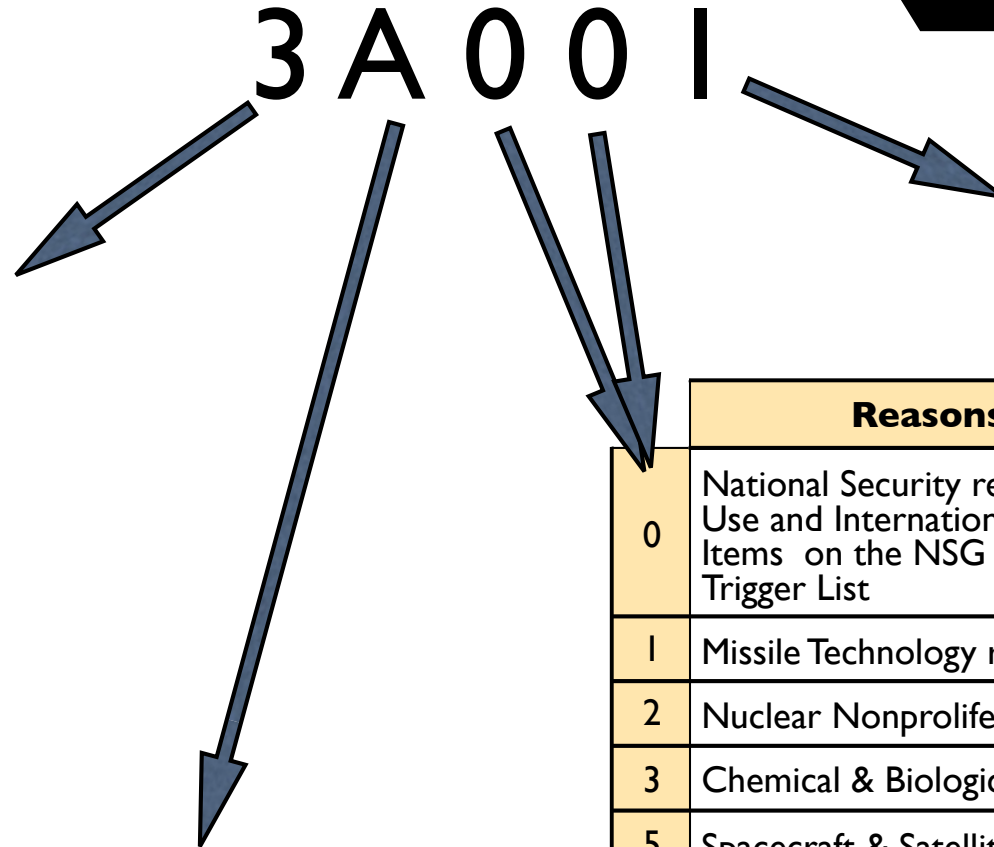
6	<b>Embargo: Export or reexport to embargoed destinations.</b>
7	<b>U.S. Person Proliferation Activity: Support of proliferation activities.</b>
8	<b>In-Transit: In-transit shipments and items to be unladen from vessels and aircraft.</b>
9	<b>Orders, Terms and Conditions: Violation of any orders, terms, or conditions.</b>
10	<b>Knowledge Violation to Occur: Proceeding with transactions with knowledge that a violation has occurred or is about to occur.</b>

# ECCN Composition

(Export Control Classification Number)

Commerce Dep't EAR

Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion



**Used for sequential number of ECCNs**

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
0	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

**Note: "3A00I comprises a set of electronic hardware, and is used as a typical ECCN to illustrate the alphanumeric structure of an ECCN"**



# Main Export Regulations

Both regulations extensively rewritten since Oct 15, 2013



Photo-Sonics, Inc.

How Many Categories?

## International Traffic in Arms Regulations (ITAR)



## Export Administration Regulations (EAR)



# Categories: USML vs CCL

How Many Categories?

U.S. Munitions List

## USML (ITAR)

21 Categories

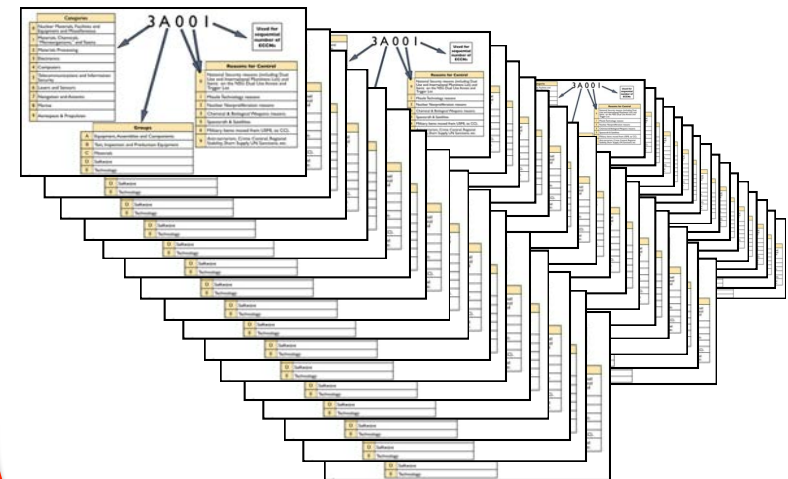
Code	Description	Code	Description
I	<b>Firearms, Close Assault Weapons &amp; Combat Shotguns</b>	XII	<b>Fire Control, Range Finder, Optical and Guidance and Control Equipment</b>
II	<b>Guns and Armament</b>	XIII	<b>Materials &amp; Miscellaneous Articles</b>
III	<b>Ammunition/Ordnance</b>	XIV	<b>Toxicological Agents, Including Chemical Agents, Biological Agents, Associated Equip.</b>
IV	<b>Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines</b>	XV	<b>Spacecraft Systems and Associated Equipment</b>
V	<b>Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents</b>	XVI	<b>Nuclear Weapons, Design and Testing Related Items</b>
VI	<b>Surface Vessels of War and Special Naval Equipment</b>	XVII	<b>Classified Articles, Data &amp; Services Not Otherwise Enumerated</b>
VII	<b>Ground Vehicles</b>	XVIII	<b>Directed Energy Weapons</b>
VIII	<b>Aircraft &amp; Associated Equip.</b>	XIX	<b>Gas Turbines &amp; Assoc.</b>
IX	<b>Military Training Equipment</b>	XX	<b>Submersible Vessels &amp; Related Articles</b>
X	<b>Protective Personnel Equip.</b>	XXI	<b>Articles, Data &amp; Services Not Otherwise Enumerated</b>
XI	<b>Military Electronics</b>		



Commerce Control List

## CCL (EAR)

>570 ECCNs



Fortunately for PSI, you need to know only a few ECCN categories

# Export License Review by USG

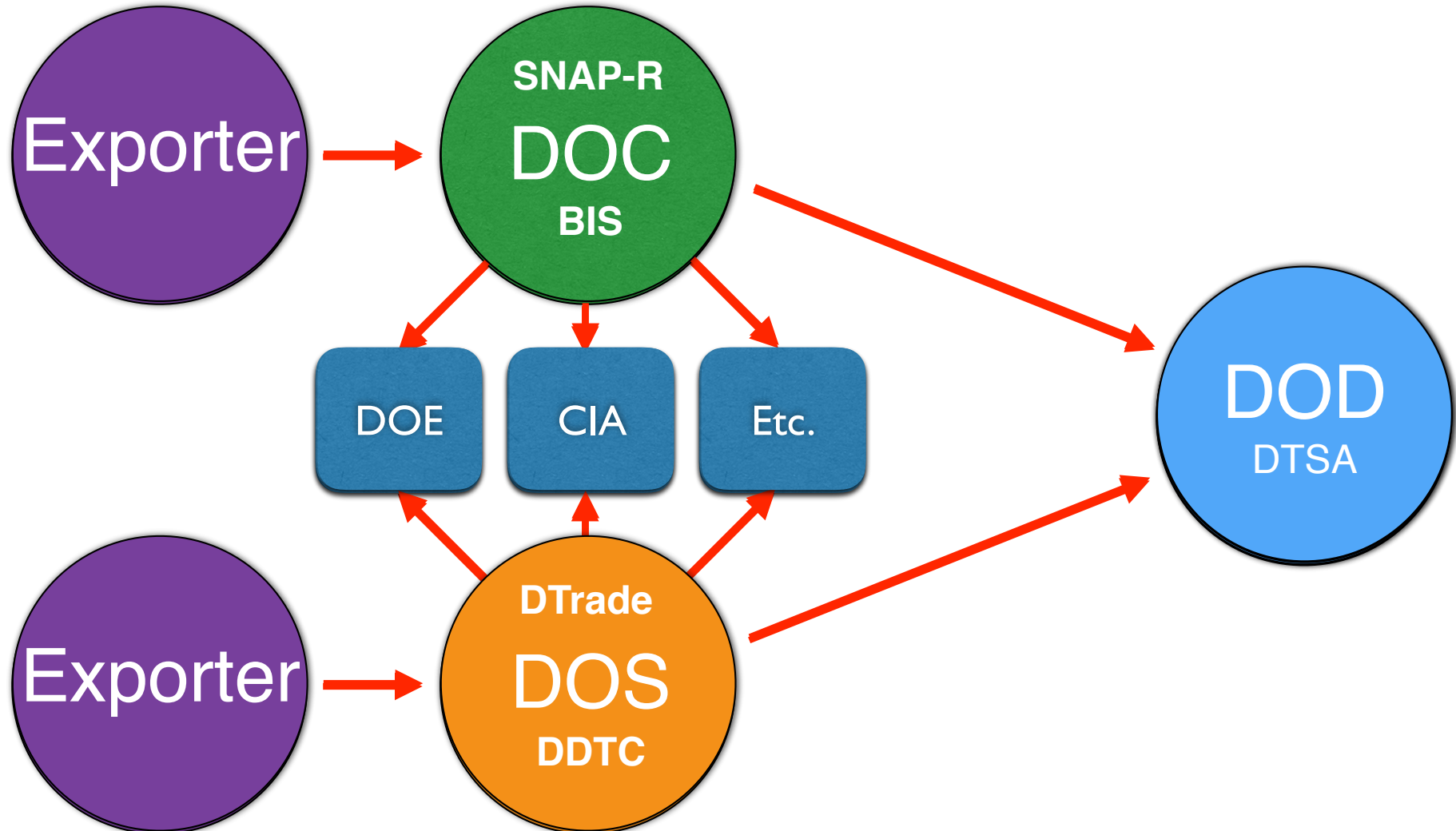
Simplified version assuming 600-series type items



Photo-Sonics, Inc.

PSI Employee Licensing

- **After you submit a DOC license, here is the staffing**



- **So staffing in SNAP-R vs. DTrade is very similar!**





# Export Control Reform (ECR) - The Rewritten ITAR & EAR -



Photo-Sonics, Inc.

May 2016

# Main Export Regulations

Both regulations extensively rewritten since Oct 15, 2013



Photo-Sonics, Inc.

Export Regulations

## International Traffic in Arms Regulations (ITAR)



## Export Administration Regulations (EAR)





- Begun at the start of the first Obama Administration
- Goal is to simplify the USG export regulations
  - Move most ITAR parts & components to EAR
  - Make the ITAR/USML a more “positive” list, like the EAR’s Commerce Control List
  - Standardize terminology as much as possible between the ITAR and EAR
  - Make the ITAR and EAR licensing systems more similar
- Eventually move to a single export licensing agency



# Terminology & Definitions

new ITAR vs new EAR

State Dept / ITAR	Commerce Dept / EAR
Defense Articles	“Dual Use”, Commercial Items
Technical Data & Defense Services	Technology
License Exemption	License Exception
Empowered Official	Does not exist as such
“see through” rule	de minimis content rule
Foreign Person	Not a defined term
Disclosures to Foreign Persons	Deemed Exports
Registration & Fees	None Required
Congressional Notification	None Required
<b>All exports need a license unless a specific exemption is available</b>	<b>ECCN, Country Chart &amp; Country Groups define licensing requirements</b>
<b>Remember: Definitions are regulatory; don't confuse with “Webster's” definitions</b>	

# Revised Export Categories

- Most are now published and final
- All revised USML categories have corresponding changes to CCL
- USML (ITAR) & CCL (EAR) Categories as of March 25, 2014:

USML	CCL		Description	Effective Date
I	0Y601		Firearms	TBD
II	0Y602		Artillery	TBD
III	0Y603		Ammunition	TBD
IV	9Y604	0Y604	Launch Vehicles/Missiles	Jul 1, 2014
V	1C608 - 1E608		Explosives/Propellants	Jul 1, 2014
VI	8Y609	8Y620	Vessels of War	Jan 6, 2014
VII	0Y606		Tanks/Military Vehicles	Jan 6, 2014
VIII	9Y610 7Y610 (Avionics)		Aircraft and Associated Equipment	Oct 15, 2013
IX	0Y614		Training Equipment	Jul 1, 2014
X	1Y613		Personal Protective Equipment	Jul 1, 2014

# Revised Export Categories



Photo-Sonics, Inc.

Rewritten USML & CCL

XI	3Y611	9Y620	Electronics (“Interim Final Rule”)	Dec 30, 2014	
XII	6Y615 - 7Y611		Fire Control/NV	Dec 31, 2016	
XIII	0Y617 -	6Y617 - 8Y617	Miscellaneous	Jan 6, 2014	
XIV	1Y607		Toxicological Agents	Dec 31, 2016	
XV	9Y515	3Y611 - 9Y604	Spacecraft/Satellites	Jul 1, 2014 (Radiation-hardened)	Nov 10, 2014 (All others)
XVI	0B618 - 0A607		Nuclear Weapons	Jul 1, 2014	
XVII			Classified Articles, Data, Services	Oct 15, 2013	
XVIII	6Y619		Directed Energy Weapons	Dec 31, 2016	
XIX	9Y619		Gas Turbine Engines	Oct 15, 2013	
XX	8Y620		Submersible Vessels	Jan 6, 2014	
XXI			Items Not Otherwise Enumerated	Oct 15, 2013	
ITAR §120.41	EAR Part 772.1		“Specially Designed” Definition	Oct 15, 2013	

Effective in current ITAR/EAR

Revisions not yet published

# DDTC License Processing Times



Photo-Sonics, Inc.

D-Trade 2 & DSP-5

**Processing numbers include all case types except Commodity Jurisdictions (CJs), Government Jurisdictions (GJs), and Electronic Rejections**

Month and Year	Mar 2015	April 2015	May 2015	Jun 2015	Jul 2015	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016
<b>Cases Received</b>	4,390	4,014	3,599	4,171	3,972	3,607	3,509	3,670	3,117	3,205	2,922	3,666	3,980
<b>Cases Closed</b>	4,336	4,354	3,513	4,102	4,020	3,777	3,570	3,861	3,185	3,411	2,579	3,584	3,958
<b>Cases Open at End of Month</b>	3,425	3,108	3,230	3,336	3,307	3,175	3,134	2,968	2,928	2,756	3,123	3,233	3,252
<b>Average Processing Time (Calendar Days)</b>	26	27	25	24	27	26	28	26	28	28	30	26	28

**Not much change since 2008**

Month and Year	Mar 2008	Apr 2008	May 2008	Jun 2008	Jul 2008	Aug 2008	Sep 2008	Oct 2008	Nov 2008	Dec 2008	Jan 2009	Feb 2009	Mar 2009
<b>Average Processing Time (Calendar Days)</b>	15	15	15	15	17	16	16	16	16	16	17	15	15

# Classification Flowchart

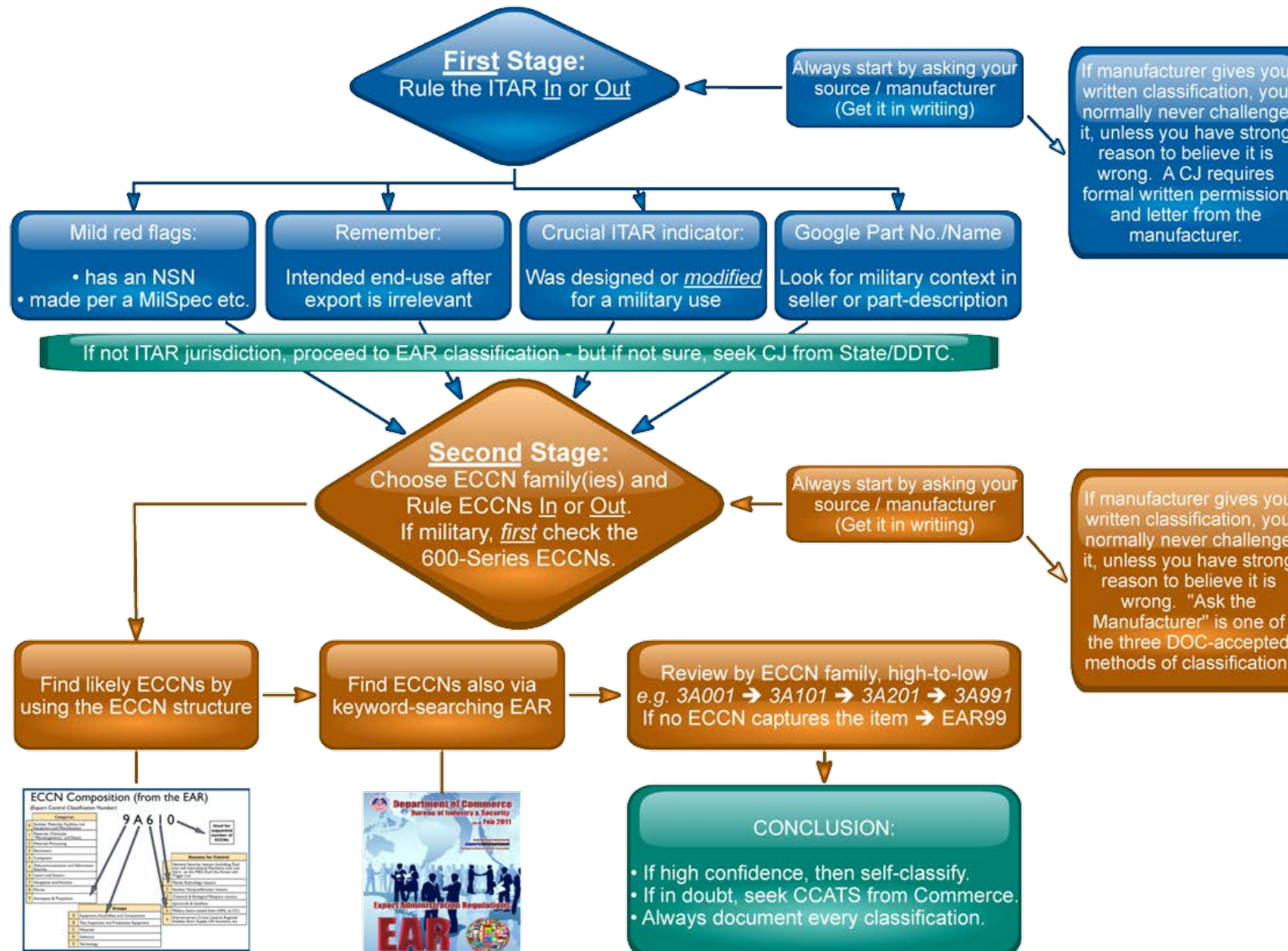
Procedure for Empowered Official to Follow



Photo-Sonics, Inc.

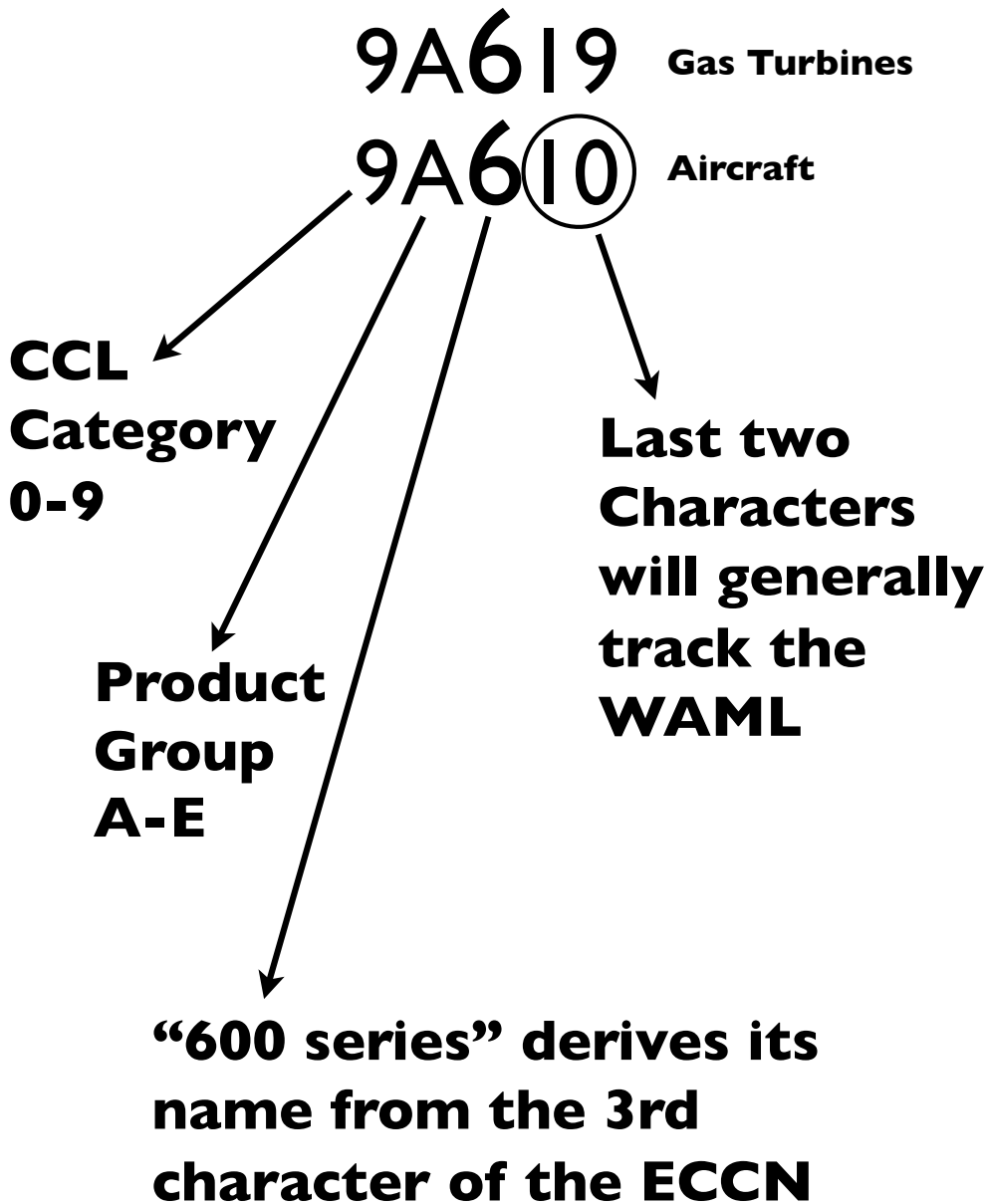
ECR Classification Basics

## Classification Flow Chart (Procedure to be followed by Empowered Official)





- U.S. Munitions List (“USML”) has major changes, but essence is the same
- SME designation still an \*
- MTCR designation is now an “(MT)” parenthetical at the end of applicable control text
  - ✦ §120.29 and §121.1(c)
- Temporary entries for categories not yet revised
- U.S. Munitions Import List (“USMIL”) is being updated and will be distinct from the USML, instead of a subset of it



Former USML items (and -018 items) listed in the “Items” paragraph

- .a - .w: specifically enumerated end items, parts, components, accessories, and attachments
  - ✦ Some items may be “specially designed”
- .y: specifically enumerated parts, components, accessories, and attachments that are “specially designed”
- .x: “specially designed” parts, components, accessories, and attachments that are not specifically enumerated



- (a) lists 13 specific aircraft types (e.g. bombers, fighters)
- (b) reserved (now in USML XIX)
- (c) reserved (now in TBD)
- (d) ship-based launching and recovery equipment
- (e) INS, IMUs, AHRS (until USML XII is revised)
- (f) developmental aircraft funded by DoD and specially designed parts/components
- (g) reserved (now in 9\*610)
- (h) parts, components, accessories and attachments for B-1B, B-2, F-15SE, F/A-18 E/F/G, F-22, F-35, F-117
- (i) technical data and defense services
- (j) - (w) reserved
- (x) “subject to the EAR”

- Note (under VIII.x) regarding the licensing jurisdiction of certain USML-controlled articles when incorporated into military aircraft classified in ECCN 9A610
- Replacement systems, parts, components accessories and attachments are subject to the controls of the ITAR
- Revisions to §121.3 to clarify the aircraft subject to ITAR control
  - ✦ Incorporation of “mission systems”
  - ✦ Aircraft manufactured prior to 1956 and unmodified since manufacture

- (a) turbofan and turbojet engines
- (b) turboshaft and turboprop engines
- (c) engines for UAVs, missiles and drones
- (d) GE38, AGT1500, CTS800, TF40B, T55, TF60, T700
- (e) digital engine control systems
- (f) parts, components, accessories, attachments and equipment
- (g) technical data and defense services
- (h) - (w) reserved
- (x) “subject to the EAR”

# ECCN 9A610

Military aircraft hardware



Photo-Sonics, Inc.

## Classification & SNAP-R

Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

9 A 6 1 0

Used for sequential number of ECCNs

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

# “600 series” Example: 9A610

Military aircraft hardware



Photo-Sonics, Inc.

Classification & SNAP-R

**9A610** Military aircraft and related commodities

## License Requirements

Reason for Control: **NS, RS, MT, AT, UN**

Control(s)

Country Chart

**NS** applies to entire entry except 9A610.u, .v, .w, and .y.

NS Column I

**RS** applies to entire entry except 9A610.y

RS Column I

**MT** applies to 9A610.u, .v, .w

MT Column I

**AT** applies to entire entry

AT Column I

**UN** applies to entire entry except 9A610.y

See §746.1(b) for UN controls

## License Exceptions

**LVS:** \$1500

**GBS:** N/A

**CIV:** N/A

**STA:** (1) Paragraph (c)(1) of License Exception STA (§740.20(c)(1) of the EAR) may not be used for any item in 9A610.a (i.e. “end item” military aircraft), unless determined by BIS to be eligible for License Exception STA in accordance with §740.20(g) (License Exception STA eligibility requests for “600 series” end items). (2) Paragraph (c)(2) of License Exception STA (§740.20(c)(2) of the EAR) may not be used for any item in 9A610.

# 9A610 (continued)

Military aircraft hardware



Photo-Sonics, Inc.

Classification & SNAP-R

- .a: military aircraft
- .b-.e: reserved
- .f: ground control equipment
- .g: aircrew life support/safety equipment
- .h: parachutes, paragliders, et.
- .i: controlled opening equipment or automatic piloting systems
- .j: ground effect machines
- .k-.s: reserved
- .t: military aircraft instrument flight trainers
- .u-.w: UAV-related
- .x: parts, components, accessories, attachments that are “specially designed”
- .y: specifically enumerated parts, components, accessories, attachments that are “specially designed”

# Country Charts re 9A610

## Military Aircraft Hardware

### Classification & SNAP-R

### Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

## 9A610 - License Requirements

*Reason for Control:* NS, RS, MT, AT, UN

### *Control(s) Country Chart*

NS applies to entire entry except 9A610.u, .v, .w, and .y.

RS applies to entire entry except 9A610.y

MT applies to 9A610.u, .v, .w

AT applies to entire entry

UN applies to entire entry except 9A610.y

NS Column 1

RS Column 1

MT Column 1

AT Column 1

See §746.1(b) for UN controls



# Country Charts re 9E610

Technology associated with military aircraft hardware



Photo-Sonics, Inc.

Classification & SNAP-R

## Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

### 9E610 - License Requirements

Reason for Control: NS, RS, MT, AT, UN

#### Control(s) Country Chart

NS applies to entire entry except 9E610.y

RS applies to entire entry except 9E610.y

MT applies to MT items in 9A610, 9B610 & 9D610

AT applies to entire entry

UN applies to entire entry except 9E610.y

NS Column 1

RS Column 1

MT Column 1

AT Column 1

See §746.1(b) for UN controls

# ECCN 9A619

Military gas turbine engines and related commodities



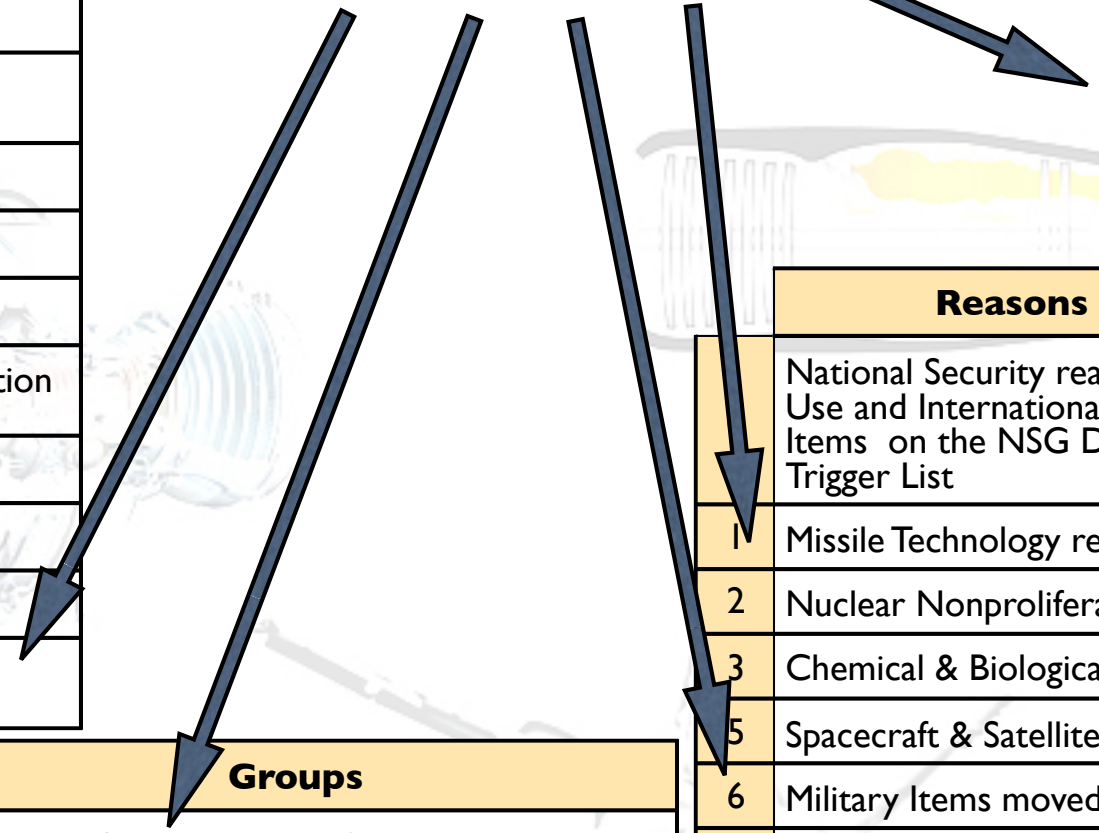
Photo-Sonics, Inc.

## Classification & SNAP-R

Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

9 A 6 1 9



Used for sequential number of ECCNs

Reasons for Control	
	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

# “600 series” Example: 9A619

Military gas turbine engines and related commodities



Photo-Sonics, Inc.

Classification & SNAP-R

**9A619** Military gas turbine engines and related commodities

## License Requirements

Reason for Control: **NS, RS, AT, UN**

Control(s)

Country Chart

**NS** applies to entire entry except 9A619.y

NS Column I

**RS** applies to entire entry except 9A619.y

RS Column I

**AT** applies to entire entry

AT Column I

**UN** applies to entire entry except 9A610.y

See §746.1(b) for UN controls

## License Exceptions

**LVS:** \$1500

**GBS:** N/A

**CIV:** N/A

**STA:** (1) Paragraph (c)(2) of License Exception STA (§740.20(c)(2) of the EAR) may not be used for any item in 9A619.

# 9A619 (continued)

Military gas turbine engines and related commodities



Photo-Sonics, Inc.

Classification & SNAP-R

- .a: military gas turbine engines
- .b: FADEC DEEC
- .c: hot section components
- .d: uncooled turbine blades, vanes, disks, and tip shrouds
- .e: combustor cowls, diffusers, domes, and shells
- .f: engine monitoring systems
- .g-w.: reserved
- .x: parts, components, accessories, attachments that are “specially designed”
- .y: specifically enumerated parts, components, accessories, attachments that are “specially designed”

# Country Charts re 9A619

Military gas turbine engines and related commodities



Photo-Sonics, Inc.

Classification & SNAP-R

## Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

3 See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
4 See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

### 9A619 - License Requirements

*Reason for Control: NS, RS, AT, UN*

### *Control(s) Country Chart*

NS applies to entire entry except 9A619.y.

RS applies to entire entry except 9A619.y

AT applies to entire entry

UN applies to entire entry except 9A619.y

**NS Column 1**

**RS Column 1**

**AT Column 1**

See §746.1(b) for UN controls

# ECCN 9A991

Commercial aircraft hardware



Photo-Sonics, Inc.

## Classification & SNAP-R

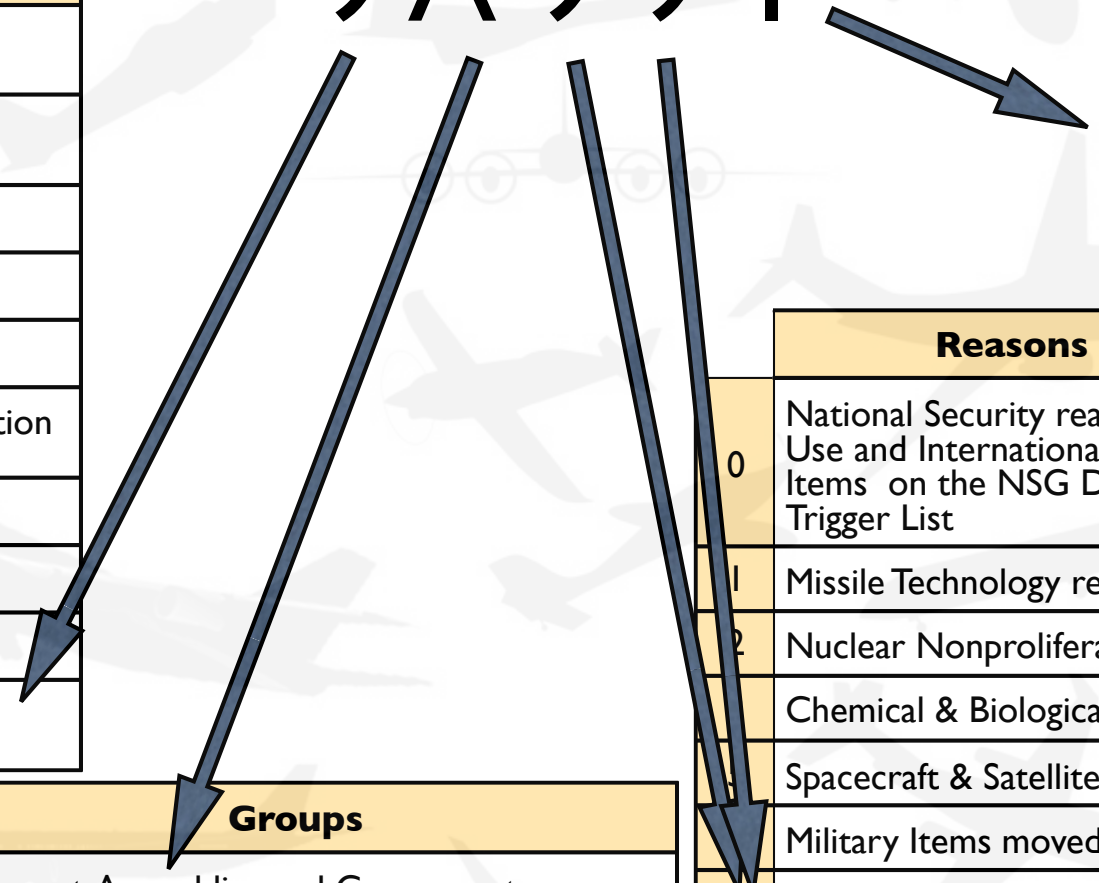
Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
0	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
	Chemical & Biological Weapons reasons
	Spacecraft & Satellites
	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

Used for sequential number of ECCNs

9 A 9 9 1





# ECCN 9A991

Commercial aircraft hardware



Photo-Sonics, Inc.

## Classification & SNAP-R

**9A991** “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

### License Requirements

Reason for Control: **AT, UN**

Control(s)	Country Chart
AT applies to entire entry	AT Column I
UN applies to 9A991.a	Iraq, North Korea and Rwanda

### License Exceptions

LVS: N/A  
GBS: N/A  
CIV: N/A

a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:

a.1 Cargo aircraft bearing “C” designations and numbered C-45 through C-118 inclusive, C-121 through C-125 inclusive, and C-131, using reciprocating engines only.

a.2 Trainer aircraft bearing “T” designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

a.3 Utility aircraft bearing “U” designations and using reciprocating engines only.

a.4 All liaison aircraft bearing an “L” designatn.

a.5 All observation aircraft bearing “O” designations and using reciprocating engines.

b. Civil aircraft;

c. Aero gas turbine engines, and specially designed parts therefore.

d. Aircraft parts and components, n.e.s.

e. Pressurized aircraft breathing equipment n.e.s.; and specially designed parts therefore, n.e.s.



# Country Charts re 9A991

## Commercial aircraft hardware

### Classification & SNAP-R

### Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

ECCN 9A991 controls commercial aircraft, engines, and associated parts & components

### 9A991 - License Requirements

**Reason for Control: AT, UN**

### **Control(s) Country Chart**

**AT** applies to entire entry

**UN** applies to e9A991.a

### **AT Column I**

See §746.1(b) for UN controls

### License Exceptions

**LVS:** N/A

**GBS:** N/A

**CIV:** N/A

# Country Charts re 9E99I

Technology related to commercial aircraft hardware

**Classification & SNAP-R**

## Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

ECCN 9E99I controls tech data re commercial aircraft development or use

### 9E99I - License Requirements

*Reason for Control: AT*

*Control(s) Country Chart*

AT applies to entire entry

AT Column I

### License Exceptions

**CIV:** N/A

**TSR:** N/A

# ECCN 6A108

Radar Systems and tracking systems not controlled by 6A008

## Classification & SNAP-R

# 6 A 1 0 8

**Used for sequential number of ECCNs**

Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
0	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

# ECCN 6A108

Radar Systems and tracking systems not controlled by 6A008



Photo-Sonics, Inc.

## Classification & SNAP-R

**6A108** Radar systems and tracking systems, other than those controlled by 6A008, as follows (see List of Items Controlled).

### License Requirements

Reason for Control: **MT, AT**

Control(s)	Country Chart
MT applies to entire entry	MT Column I
AT applies to entire entry	AT Column I

### License Exceptions

- LVS: N/A
- GBS: N/A
- CIV: N/A

a. Radar and laser radar systems designed or modified for use in “missiles”;

Note: 6A108.a includes the following:

- a. *Terrain contour mapping equipment;*
- b. *Imaging sensor equipment;*

- c. *Scene mapping and correlation (both digital and analog) equipment;*
- d. *Doppler navigation radar equipment.*
- b. Precision tracking systems, usable for rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km, as follows:
  - b.1. Tracking systems which use a code translator installed on the rocket or unmanned aerial vehicle in conjunction with either surface or airborne references or navigation satellite systems to provide real-time measurements of in-flight position and velocity;
  - b.2. Range instrumentation radars including associated optical/infrared trackers with all of the following capabilities:
    - b.2.a. Angular resolution better than 1.5 milliradians;
    - b.2.b. Range of 30 km or greater with a range resolution better than 10 m rms;
    - b.2.c. Velocity resolution better than 3 m/s.

# Country Charts re 6A108

Radar Systems and tracking systems not controlled by 6A008



Photo-Sonics, Inc.

## Classification & SNAP-R

### Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

## 6A108 - License Requirements

**Reason for Control: MT, AT**

### Control(s) Country Chart

**MT** applies to entire entry

**AT** applies to entire entry

**MT Column 1**

**AT Column 1**

## License Exceptions

**LVS:** N/A

**GBS:** N/A

**CIV:** N/A

# ECCN 6E101

"Technology" associated with radar systems and tracking systems



Photo-Sonics, Inc.

## Classification & SNAP-R

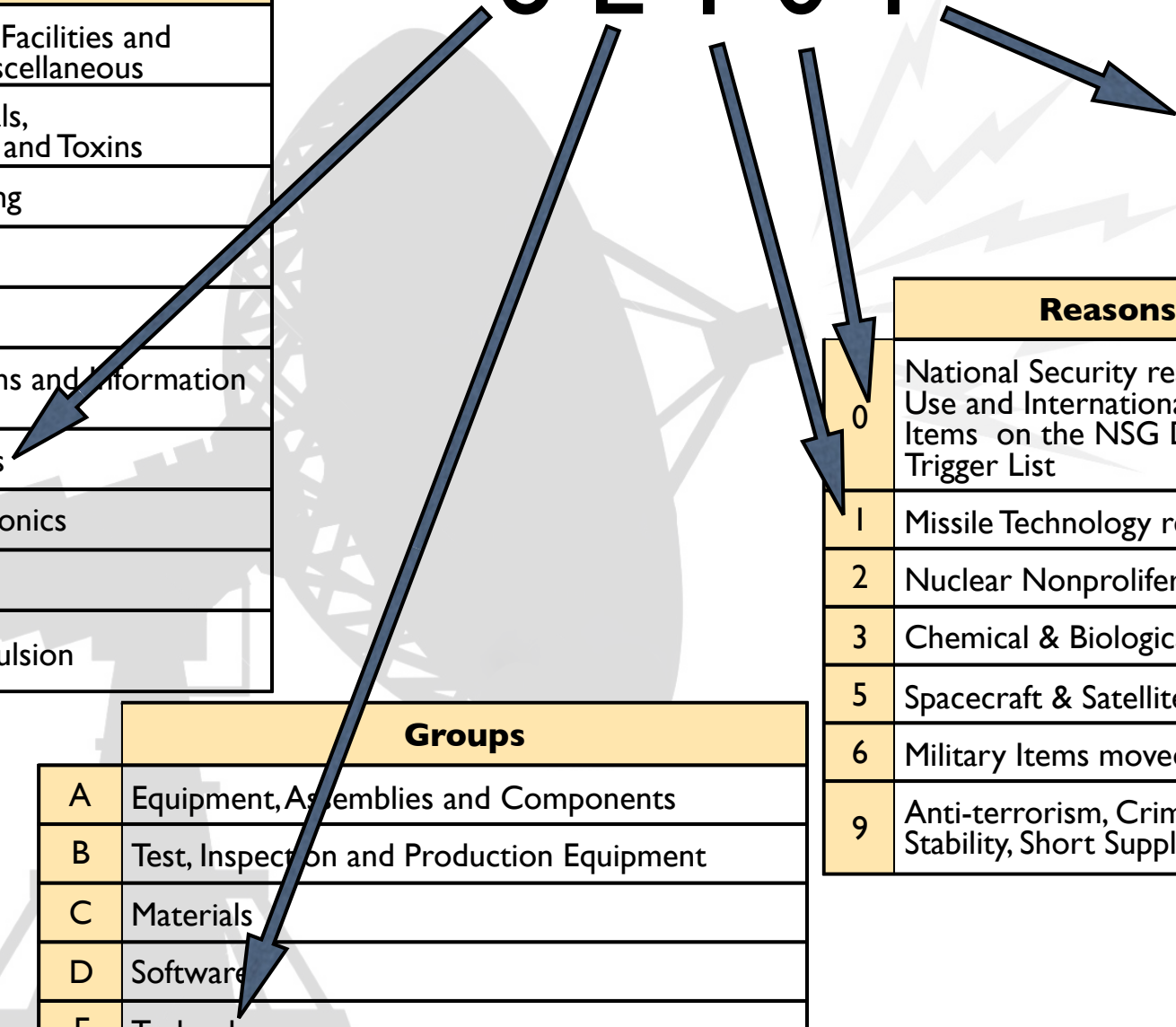
Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
0	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

**Used for sequential number of ECCNs**

6 E 1 0 1





# ECCN 6E101

"Technology" associated with radar systems and tracking systems



Photo-Sonics, Inc.

## Classification & SNAP-R

**6E101** "Technology" according to the General Technology Note for the "use" of equipment or "software" controlled by 6A002, 6A007.b and .c, 6A008, 6A102, 6A107, **6A108**, 6B108, 6D102 or 6D103.

### License Requirements

Reason for Control: **MT, AT**

Control(s)	Country Chart
MT applies to entire entry	MT Column I
AT applies to entire entry	AT Column I

### List Based License Exceptions

CIV: N/A  
TSR: N/A

### List of Items Controlled

*Related Controls:* N/A

*Related Definitions:* 1) This entry only controls "technology" for equipment controlled by 6A008 when it is designed

for airborne applications and is usable in "missiles". 2.) This entry only controls "technology" for items in 6A002.a.1 and a.3 that are "specially designed" or modified to protect "missiles" against nuclear effects (e.g., Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for "missiles." 3.) This entry only controls "technology" for items in 6A007.b and .c when the accuracies in 6A007.b.1 and b.2 are met or exceeded.

### *Items:*

The list of items controlled is contained in the CCN heading.

# Country Charts re 6E101

"Technology" associated with radar systems and tracking systems



Photo-Sonics, Inc.

## Commerce Country Chart Reasons for Control

**Classification & SNAP-R**

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.  
<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

### 6A108 - License Requirements

**Reason for Control: MT, AT**

### Control(s) Country Chart

**MT** applies to entire entry

**AT** applies to entire entry

**MT Column 1**

**AT Column 1**

### License Exceptions

**CIV:** N/A

**TSR:** N/A

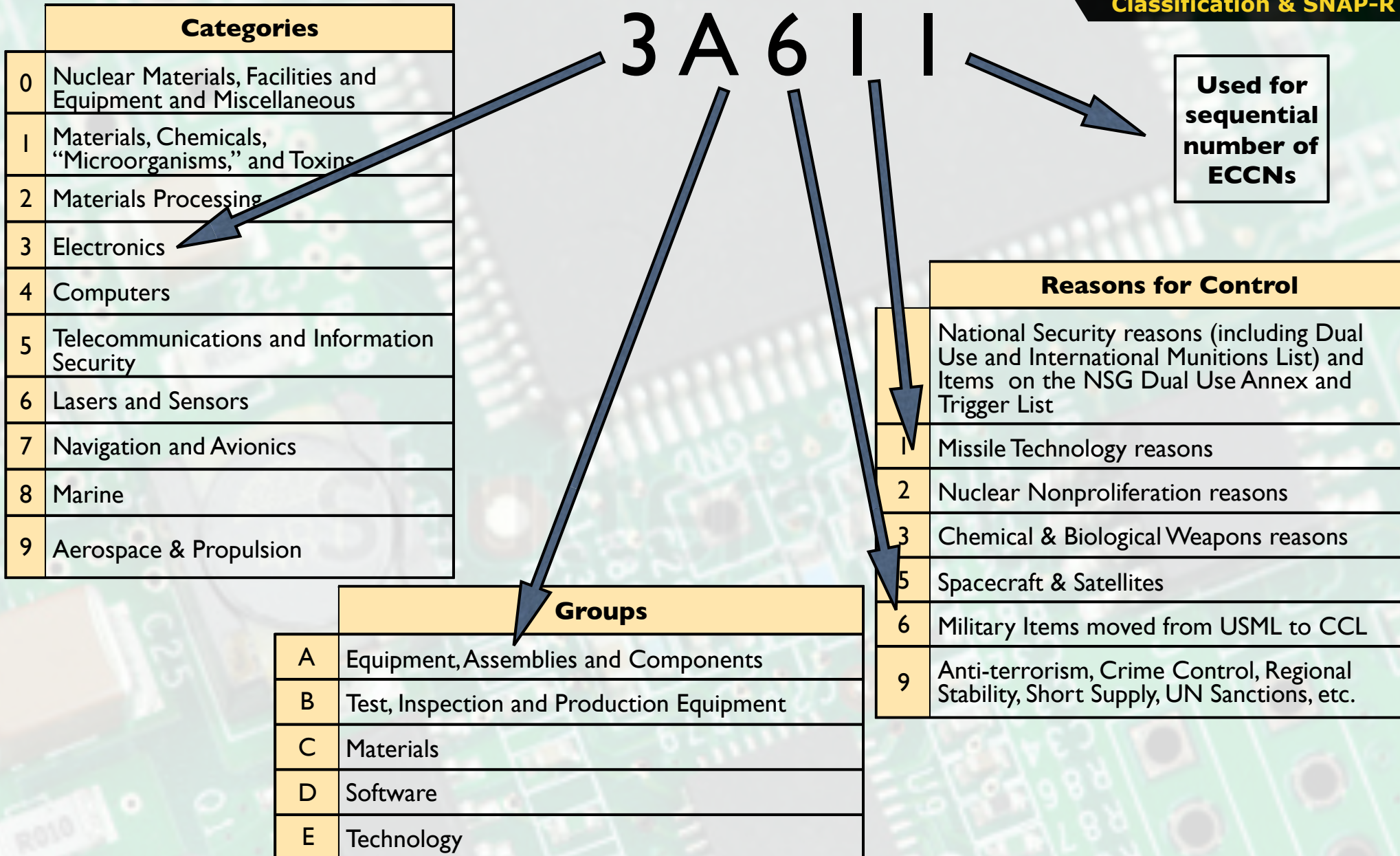
# ECCN 3A611

Military electronics and related items



Photo-Sonics, Inc.

## Classification & SNAP-R





# ECCN 3A611

Military electronics and related items



Photo-Sonics, Inc.

Classification & SNAP-R

**3A611** Military electronics

## License Requirements

Reason for Control: **NS, RS, AT, UN**

Control(s)

Country Chart

**NS** applies to entire entry except 3A611.y

NS Column I

**RS** applies to entire entry except 3A611.y

RS Column I

**AT** applies to entire entry

AT Column I

**UN** applies to entire entry except 3A611.y

See §746.1(b) for UN controls

## License Exceptions

**LVS:** \$1500 for 3A611.a, .d thru .h, and .x; N/A for ECCN 3A611.c

**GBS:** N/A

**CIV:** N/A

**STA:** Paragraph (c)(2) of License Exception STA (§740.20(c)(2) of the EAR) may not be used for any item in 3A611.

# ECCN 3A611 (continued)

Military electronics and related items



Photo-Sonics, Inc.

Classification & SNAP-R

- .a: Electronic "equipment," "end items" and "systems" not on USML or 600-series "specially designed" for a military application
- .b: thru .d [Reserved]
- .e: High frequency surface wave radar, except marine traffic ctrl
- .f: Application-specific integrated circuits ("ASICs") and programmable logic devices ("PLD") programmed for 600-series
- .g: Printed circuit boards & populated circuit card assemblies "specially designed" for 600-series
- .h: Multichip modules "specially designed" for 600-series
- .i-.w [Reserved]
- .x: parts, components, accessories, attachments that are "specially designed" for USML Cat. XI or for other 3A611 items
- .y: specifically enumerated parts, components, accessories, attachments that are "specially designed"



# Country Charts re 3A611

Military electronics and related items



Photo-Sonics, Inc.

Classification & SNAP-R

## Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.

<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

## 3A611 - License Requirements

Reason for Control: NS, RS, AT, UN

### Control(s) Country Chart

NS applies to entire entry except 3A611.y.

RS applies to entire entry except 3A611.y

AT applies to entire entry

UN applies to entire entry except 3A611.y

NS Column 1

RS Column 1

AT Column 1

See §746.1(b) for UN controls



# ECCN 9A515

Spacecraft & related items; rad-hard electronic circuits; pressure suits



Photo-Sonics, Inc.

## Classification & SNAP-R

Revised USML					Revised CCL						
Cat XV			Other		New ECCN 9x515				Existing ECCNs		
Military Satellites	Military Ground Equip	Parts critical for military functions	Services for USML and CCL satellites (IV and XV)	GPS Rcvrs (XV now, future XII)	Worldwide license, except Canada. 25% de minimis, except 0% for China and other D:5 countries. STA eligible for A:5; except for certain software and technology				Review microelectronic circuit ECCNs, 7A004, 7A104, and ECCNs using "space qualified" prior to using the catch-all control in 9A515.x		
					Sats and Ground equip not in USML	Rad Hard ICs	Parts not on USML or other CCL	New sat related item or tech	Spec electronics	Spec optical sensors	Spec radar systems

# ECCN 9A515



Spacecraft & related items; rad-hard electronic circuits; pressure suits

## Classification & SNAP-R

Categories	
0	Nuclear Materials, Facilities and Equipment and Miscellaneous
1	Materials, Chemicals, "Microorganisms," and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Telecommunications and Information Security
6	Lasers and Sensors
7	Navigation and Avionics
8	Marine
9	Aerospace & Propulsion

9 A 5 1 5

Used for sequential number of ECCNs

Groups	
A	Equipment, Assemblies and Components
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

Reasons for Control	
5	National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1	Missile Technology reasons
2	Nuclear Nonproliferation reasons
3	Chemical & Biological Weapons reasons
5	Spacecraft & Satellites
6	Military Items moved from USML to CCL
9	Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

# “500 series” Example: 9A515



Photo-Sonics, Inc.

Spacecraft & related items; rad-hard electronic circuits; pressure suits

**9A515** Spacecraft and related commodities

**Classification & SNAP-R**

## License Requirements

Reason for Control: **NS, RS, MT, AT**

Control(s)	Country Chart
<b>NS</b> applies to entire entry except .e and .y.	NS Column 1
<b>RS</b> applies to entire entry except .e and .y.	RS Column 1
<b>RS</b> applies to 9A515.e	RS Column 2
<b>MT</b> applies to 9A515.d when “usable in” “missiles” for protecting “missiles” against nuclear effects (e.g. Electro-magnetic Pulse (EMP), X-rays, combined blast and thermal effects.	MT Column 1
<b>AT</b> applies to entire entry	AT Column 1

## License Exceptions

**LVS:** \$1500

**GBS:** N/A

**CIV:** N/A

**STA:** (1) Paragraph (c)(1) of License Exception STA (§740.20(c)(1) of the EAR) may not be used for “spacecraft” in 9A515.a (e.g refueling), unless determined by BIS to be eligible for License Exception STA in accordance with §740.20(g) (License Exception STA eligibility requests for certain “500 series” and “600 series” end items). (2) Paragraph (c)(2) of License Exception STA (§740.20(c)(2) of the EAR) may not be used for any item in 9A515.

# 9A515 (continued)

Spacecraft & related items; rad-hard electronic circuits; pressure suits



Photo-Sonics, Inc.

Classification & SNAP-R

- .a: “Spacecraft” including satellites and space vehicles ... not enumerated in USML Category XV or described in 9A004.
- .b- GCS & training sims “specially designed” for “spacecraft” control
- .c: [RESERVED]
- .d: Microelectronic circuits “specially designed” for defense articles, “600 series” items, or items controlled by 9A515, and that are rated or certified as meeting or exceeding all the following:
  - .d.1: A total dose of  $5 \times 10^5$  Rads (Si) ( $5 \times 10^3$  Gy (Si));
  - .d.2: A dose rate upset threshold of  $5 \times 10^8$  Rads (Si)/sec ( $5 \times 10^6$  Gy (Si)/sec);
  - .d.3. A neutron dose of  $1 \times 10^{14}$  n/cm<sup>2</sup> (1 MeV equivalent);
  - .d.4: An uncorrected single event upset sensitivity of  $1 \times 10^{-10}$  errors/bit/day or less, for the CREME-MC geosynchronous orbit, Solar Minimum Environment for heavy ion flux; and
  - .d.5: An uncorrected single event upset sensitivity of  $1 \times 10^{-3}$  errors/part or less for a fluence of  $1 \times 10^7$  protons/cm<sup>2</sup> for proton energy greater than 50 MeV.

# 9A515 (continued)

Spacecraft & related items; rad-hard electronic circuits; pressure suits



Photo-Sonics, Inc.

Classification & SNAP-R

- .e: Microelectronic circuits “specially designed” for USML Cat. XV defense articles, or for items controlled by 9A515, and that are rated or certified as meeting or exceeding all the following:
  - .e.1: A total dose  $\geq 1 \times 10^5$  Rads (Si) ( $1 \times 10^3$  Gy(Si)) and  $< 5 \times 10^5$  Rads (Si) ( $5 \times 10^3$  Gy(Si)); and
  - .e.2: A single event effect (SEE) (i.e., single event latchup (SEL), single event burnout (SEB), or single event gate rupture (SEGR)) immunity to a linear energy transfer (LET)  $\geq 80$  MeV-cm<sup>2</sup>/mg.;
- **Note 1 to 9A515.d and .e:** Application specific integrated circuits (ASICs), integrated circuits developed and produced for a specific application or function, specifically designed or modified for defense articles and not in normal commercial use are controlled by Category XI(c) of the USML regardless of characteristics.
- Note 2 to 9A515.d and .e: See 3A001.a for controls on radiation-hardened microelectronic circuits “subject to the EAR” that are not controlled by 9A515.d or 9A515.e.
- .f: Pressure suits (i.e., space suits) capable of operating at altitudes 55,000 feet above sea level.
- .g through .w: [RESERVED]
- .y: specifically classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A515.y.



# 9A515 (continued)

Spacecraft & related items; rad-hard electronic circuits; pressure suits



Photo-Sonics, Inc.

Classification & SNAP-R

- .x: “Parts,” “components,” “accessories” and “attachments” that are “specially designed” for defense articles controlled by USML Category XV or items controlled by 9A515, and that are NOT:
  - .x.1: Enumerated or controlled in the USML or elsewhere within ECCN 9A515;
  - .x.2: Microelectronic circuits;
  - .x.3: Described in 7A004 or 7A104; or
  - .x.4: Described in an ECCN containing “space-qualified” as a control criterion (i.e., 3A001.b.1, 3A001.e.4, 3A002.a.3, 3A002.g.1, 3A991.o, 3A992.b.3, 6A002.a.1, 6A002.b.2, 6A002.d.1, 6A004.c and .d, 6A008.j.1, or 6A998.b).
- **Note to 9A515.x:** “Parts,” “components,” “accessories,” and “attachments” specified in USML subcategory XV(e) or enumerated in other USML categories are subject to the controls of that paragraph or category.
- .y Items that would otherwise be within the scope of ECCN 9A515.x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A515.y



# Country Charts re 9A515

Spacecraft & related items; rad-hard electronic circuits; pressure suits



Photo-Sonics, Inc.

Classification & SNAP-R

## Commerce Country Chart Reasons for Control

	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Canada	X										X					
Germany <sup>3</sup>	X					X		X	X							
Norway <sup>3</sup>	X					X		X	X							
Brazil	X	X				X	X	X	X	X	X	X		X		X
Japan <sup>3</sup>	X					X		X	X							
China	X	X	X	X		X	X	X	X	X		X		X		
Israel	X	X	X	X	X	X	X	X	X	X		X		X		

<sup>3</sup> See § 742.6(a)(3) for special provisions that apply to "military commodities" that are subject to ECCN 0A919.

<sup>4</sup> See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

### 9A610 - License Requirements

*Reason for Control:* NS, RS, MT, AT, UN

#### *Control(s) Country Chart*

NS applies to entire entry except 9A610.u, .v, .w, and .y.

RS applies to entire entry except 9A610.y

MT applies to 9A610.u, .v, .w

AT applies to entire entry

UN applies to entire entry except 9A610.y

NS Column 1

RS Column 1

MT Column 1

AT Column 1

See §746.1(b) for UN controls



# EAR License Exceptions



Photo-Sonics, Inc.

May 2016

**PART 740****LICENSE EXCEPTIONS**

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# License Exceptions (Cont.)



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- Restrictions include: No “E:2 Countries or Sudan”

### Country \*\*Group E<sup>1</sup>

Country	[E:1] Terrorist Supporting Countries <sup>2</sup>	[E:2] Unilateral Embargo
Cuba	X	X
Iran	X	
Korea, North	X	
Sudan	X	
Syria	X	



## Using TMP may ease “sanitized laptop” rules for PSI

**(i) *Tools of trade.*** Usual and reasonable kinds and quantities of tools of trade (commodities, software, and technology) for use in a lawful enterprise or undertaking of the exporter. For the export or reexport of commodities or software, the transaction must meet the requirements of paragraph (a)(2)(i)(A) or paragraph (a)(2)(i)(B) of this section. For the export or reexport by U.S. persons of technology authorized under this paragraph, the transaction must meet the requirements of paragraph (a)(2)(i)(A) of this section.



## Eligible tools of trade:

Eligible tools of trade may include, but are not limited to, equipment and software as is necessary to commission or service items, provided that the equipment or software is **appropriate for this purpose** and that all items to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been **lawfully exported** or reexported.



## Specialized shipping containers included under TMP

(v) *Containers.* Containers for which another License Exception is not available and that are necessary for export of commodities. However, this License Exception does not authorize the export of the container's contents, which, if not exempt from licensing, must be separately authorized for export under either a License Exception or a license.



## 600-series items can only use 6 EAR license exceptions:

- **LVS - ‘Low Value Shipment’**  $\leq$  \$1500 for 9A610.x or 9A619.x
- **TMP - Temporary** including “tools of the trade”
- **RPL - Repair/Replacement** - equivalent to ITAR 123.4(a)(1)
- **TSU - ‘Technology and Software Unrestricted’** - like Basic O&M
- **GOV - Certain government end-uses**
- **STA - ‘Strategic Trade Authorization’**



# Recordkeeping

per the

Export Administration Regulations

&

International Traffic in Arms Regulations



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- Many “controlled” tech data exports, whether under a license or exemption, effectively bypass this system, so you must keep a detailed log.
- No AES entry for tech data exports - AES is only for hardware.
- 9 years: the rule of thumb for keeping export records
- A tickler system must be established for export records: certain license provisos; renewal dates of DTC registration & digital certificates, and so on. Other required notifications are event-based, such as material changes to the data in the DS-2032 or various prior notifications, are also needed in the system.

# For how long?

- Basic Rule: 5 years after any export, or the expiration of related license
- Statute of limitations is 5 years
- Commerce license is 4 years (used to be 2 years until the ECR)
- State DSP-form license is 4 years
- TAA / MLA / WDA is 10 years
- Therefore, except for TAAs, good rule of thumb is 9 years
- With TAAs, the rule of thumb is 15 years
- ITAR § 122 applies - §122.4 for “material changes” to DS-2032
  - Most material changes must be reported within 5 days



- EAR § 740.1(f) Recordkeeping
  - Records of transactions involving exports **under any of the License Exceptions** must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.
- EAR § 762.1(a)(2) says to include these transactions:  
*"Exports of commodities, software, or technology from the United States and any known reexports, transshipment, or diversions of items exported from the United States"*  
*[Very broad, not limited to ECCNs, but includes **EAR99**]*

# In fact, all transactions must be properly Documented

- EAR § 762.2(a) Records required to be retained:

- (1) "Export Control Documents"
- (2) Memoranda
- (3) Notes
- (4) Correspondence
- (5) Contracts
- (6) Invitations to bid
- (7) Books of account
- (8) Financial records
- (9) Restrictive trade / anti-boycott
- (10) BIS actions like RWA, Denial, CCATS
- (11) Records like those made or obtained by others subject to the EAR per 762.1(b)

Right now we are focusing on recordkeeping for License Exceptions, but PSI may want to review to make sure their recordkeeping is complete and up-to-date.

# But not all records are required for recordkeeping

## The EAR **does not require** keeping these records:

(1) Export information page;	(19) Commission payment back-up;
(2) Special export file list;	(20) Commissions payable worksheet;
(3) Vessel log from freight forwarder;	(21) Commissions payable control;
(4) Inspection certificate;	(22) Check request forms;
(5) Warranty certificate;	(23) Accounts receivable correction form;
(6) Guarantee certificate;	(24) Check request register;
(7) Packing material certificate;	(25) Commission payment printout;
(8) Goods quality certificate;	(26) Engineering fees invoice;
(9) Notification to customer of advance meeting;	(27) Foreign tax receipt;
(10) Letter of indemnity;	(28) Individual customer credit status;
(11) Financial release form;	(29) Request for export customers code forms;
(12) Financial hold form;	(30) Acknowledgement for receipt of funds;
(13) Export parts shipping problem form;	(31) Escalation development form;
(14) Draft number log;	(32) Summary quote;
(15) Expense invoice mailing log;	(33) Purchase order review form;
(16) Financial status report;	(34) Proposal extensions;
(17) Bank release of guarantees;	(35) Financial proposal to export customers; and
(18) Cash sheet;	(36) Sales summaries.



- ITAR § 123.26 - Recordkeeping for exemptions

Any person engaging in any export, reexport, transfer, or retransfer of a defense article or defense service pursuant to an exemption must maintain records of each such export, reexport, transfer, or retransfer. The records shall, to the extent applicable to the transaction and consistent with the requirements of §123.22 of this subchapter, include the following information: A description of the defense article, including technical data, or defense service; the name and address of the end-user and other available contact information (e.g., telephone number and electronic mail address); the name of the natural person responsible for the transaction; the stated end-use of the defense article or defense service; the date of the transaction; the Electronic Export Information (EEI) Internal Transaction Number (ITN); and the method of transmission. The person using or acting in reliance upon the exemption shall also comply with any additional recordkeeping requirements enumerated in the text of the regulations concerning such exemption (e.g., requirements specific to the Defense Trade Cooperation Treaties in §126.16 and §126.17 of this subchapter).

- EAR Part 772 - Definitions - “Export Control Document”

“A license; application for license; any and all documents submitted in accordance with the requirements of the EAR in support of, or in relation to, a license application; application for International Import Certificate; Delivery Verification Certificate or similar evidence of delivery; Electronic Export Information (EEI) on the Automated Export System (AES) presented in connection with shipments to any country; a Dock Receipt or bill of lading issued by any carrier in connection with any export subject to the EAR and any and all documents prepared and submitted by exporters and agents pursuant to the export clearance requirements of Part 758 of the EAR; a U.S. exporter's report of request received for information, certification, or other action indicating a restrictive trade practice or boycott imposed by a foreign country against a country friendly to the United States, submitted to the U.S. Department of Commerce in accordance with the provisions of Part 760 of the EAR; Customs Form 7512, Transportation Entry and Manifest of Goods, Subject to Customs Inspection and Permit, when used for Transportation and Exportation (T.& E.) or Immediate Exportation (I.E.); and any other document issued by a U.S. Government agency as evidence of the existence of a license for the purpose of loading onto an exporting carrier or otherwise facilitating or effecting an export from the United States or any reexport of any item requiring a license.”



- Part 740.1 (f): “Records of transactions involving exports under any of the License Exceptions must be maintained in accordance with the recordkeeping requirements of Part 762 of the EAR.”
- Part 762: This should be read separately, in detail, but includes these:
  - (i) Export control documents as defined in Part 772.
  - (ii) Memoranda
  - (iii) Notes
  - (iv) Correspondence
  - (v) Contracts
  - (vi) Restrictive trade practice or boycott documents and reports
  - (vii) Invitations to bid
  - (viii) Books of account
  - (ix) Financial records
  - (x) How long? 5 years after license exp.





- Special recordkeeping for ECCNs [2A983](#), [2A984](#), [2D983](#) and [2D984](#), and “600 Series” ECCNs.
  - (i) A description of the item replaced, repaired or serviced;
  - (ii) The type of repair or service;
  - (iii) Certification of the destruction or return of item replaced;
  - (iv) Location of the item replaced, repaired or serviced;
  - (v) The name and address of those who received the items for replacement, repair, or service;
  - (vi) Quantity of items shipped; and
  - (vii) Country of ultimate destination.



# License Exception STA



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## Limitations on use of STA that are specific to 600-series:

- Cannot be used if an ECCN identifies it as ineligible for STA
- Can be used to export, reexport or transfer to “A5” countries, if the ultimate end-user is the armed forces, or similar agency
- May may not be used to export, reexport, or transfer (in-country) end items described in ECCN 9A610.a until after BIS has approved their export under STA under the procedures set out in § 740.20(g)
- 600-series items controlled for “MT” cannot use STA, per § 740.2(a) (13). This applies to 9A610.u, .v, and .w.



- 1. You must secure a signed copy of the Prior Consignee Statement from all parties before you can export any goods at all under STA. It is a violation under the EAR to not have all these signed Prior Consignee Statements in place before any exports.**
- 2. If any party is added, then you must get new Prior Consignee Statement first, before exporting.**
- 3. All signers of that Prior Consignee Statement are subject to USG compliance visits re STA.**
- 4. Not very many exporters are using STA even if they are eligible -- I understand that some U.S. OEMs are staying away from using STA, for example -- because of these complexities and added risks. I believe in the first year of STA only 6 exports occurred under it.**
- 5. Avoiding the use of STA is understandable especially since it is so easy to use the "blanket license" approach (where that fits).**
- 6. Support documentation requirements are also easiest when using BIS blanket license.**



Under the ECR rules, Commerce licenses are often easier than either State licenses or License Exception STA

**Regarding Hardware**

	<b>DOS DSP-5</b>	<b>Commerce BIS</b>	<b>License Exception STA</b>
<b>Before applying for license (or using an exception)</b>	<ul style="list-style-type: none"> <li>• P.O. (or LOI)</li> <li>• End-Use Statement</li> <li>• End-User Statement</li> </ul>	Nothing	Formal “Prior Consignee Statement” from all Parties
<b>If “In Furtherance Of” a TAA or MLA</b>	Letter of Explanation signed by the TAA-holder	N/A	N/A

**\* Note:** In all cases, an exporter must have the basic end-use/end-user information **before exporting**. This is true even of EAR99 items, since there are still prohibited end-uses, end-users, and destinations.

# Country Group A5

The “Most Favored Nations” list for License Exception STA



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EAR License Exception STA

There are 36 nations authorized for STA

- Argentina
- Australia
- Austria \*
- Belgium
- Bulgaria
- Canada
- Croatia
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland \*
- Italy
- Japan
- South Korea \*
- Latvia
- Lithuania
- Luxembourg
- Netherlands
- New Zealand \*
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden \*
- Switzerland \*
- Turkey
- United Kingdom

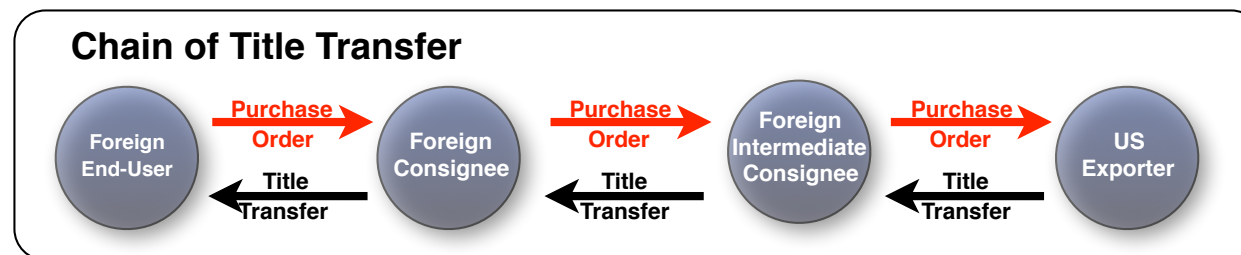
\* Cooperating Country





- Exporter/reexporter/transferor must furnish the ECCN(s) to consignees
- Exporter/reexporter/transferor must sign a formal Prior Consignee Statement (“PCS”), and secure same from all entities in the chain of title before the export can begin.

For example:



- Each PCS contains nontransfer assurances similar to BIS-711 or DSP-83. Also agrees to permit a U.S. Government end-use check with respect to confirm compliance.

# “STA” restrictions using STA for PSI’s 600-series ECCNs



## EAR License Exception STA

**Note: The restrictions are not significant, but the Empowered Official should read the actual "Special Conditions for STA" paragraph in each of the actual ECCNs listed in the table, below.**

	Item Description	ECCN	STA Special Conditions for SNA
1	“Parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a commodity subject to control in this ECCN or a defense article in USML Category VIII and not elsewhere specified on the USML or in ECCN 9A610.y.	9A610.x	9A610.a end-items require a 740.20(g) eligibility from BIS
2	Software specially designed for slip rings that may be classified as 9A610.x, equipment associated with military aircraft.	9D610	STA cannot be used for 9D610.b, okay for the rest
3	Technology required for any phase of development of slip rings that may be classified as 9A610.x, commodities related to military aircraft.	9E610	STA cannot be used for 9E610.b; okay for the rest
4	Parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a commodity controlled by this ECCN 9A619 (other than ECCN 9A619.c) or for a defense article enumerated in USML Category XIX and not specified elsewhere on the USML or in ECCN 9A619.y.	9A619.x	N/A
5	Software specially designed for slip rings that may be classified as 9A619.x, certain items associated with military gas turbine engines.	9D619	STA cannot be used for 9D619.b; okay for the rest
6	Technology required for any phase of development of slip rings that may be classified as 9a619.x, certain items related to military gas turbine engines.	9E619	STA cannot be used for 9E619.b or .c; okay for the rest



# Combining STA with GOV

If no PCS from end-user Government

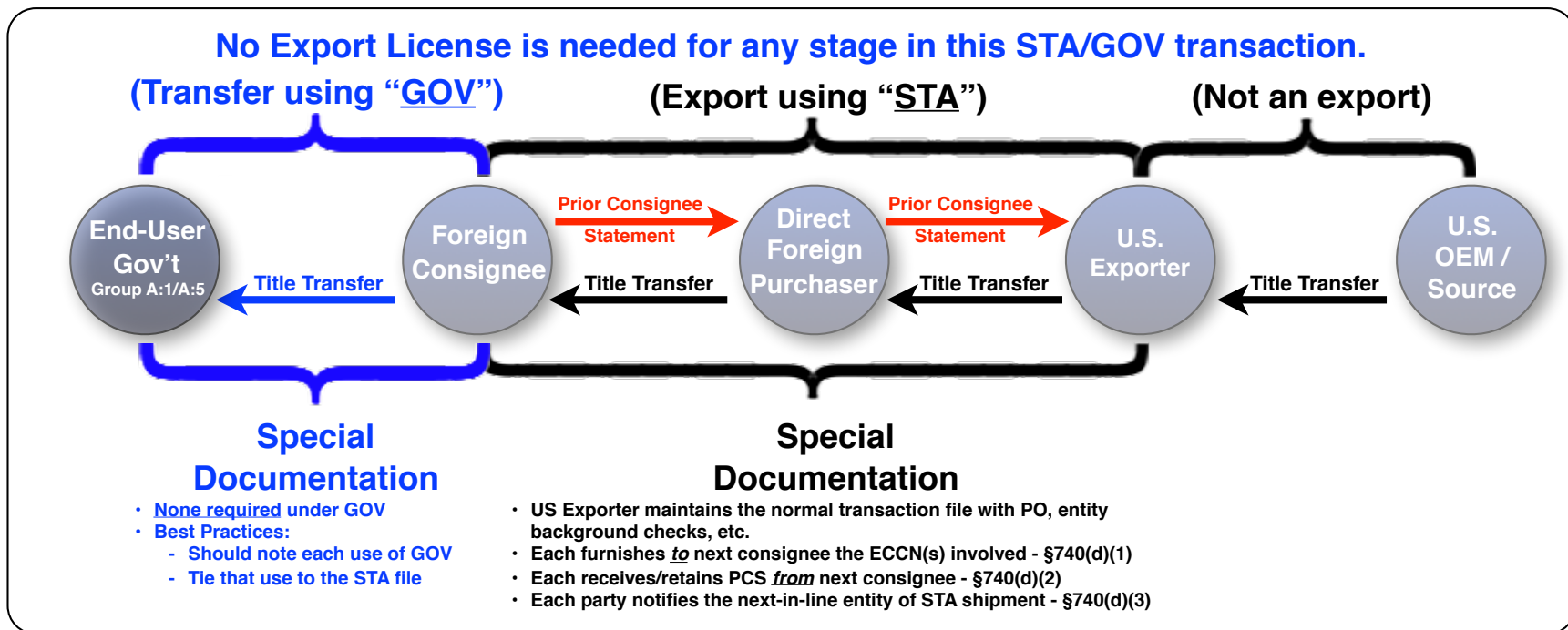


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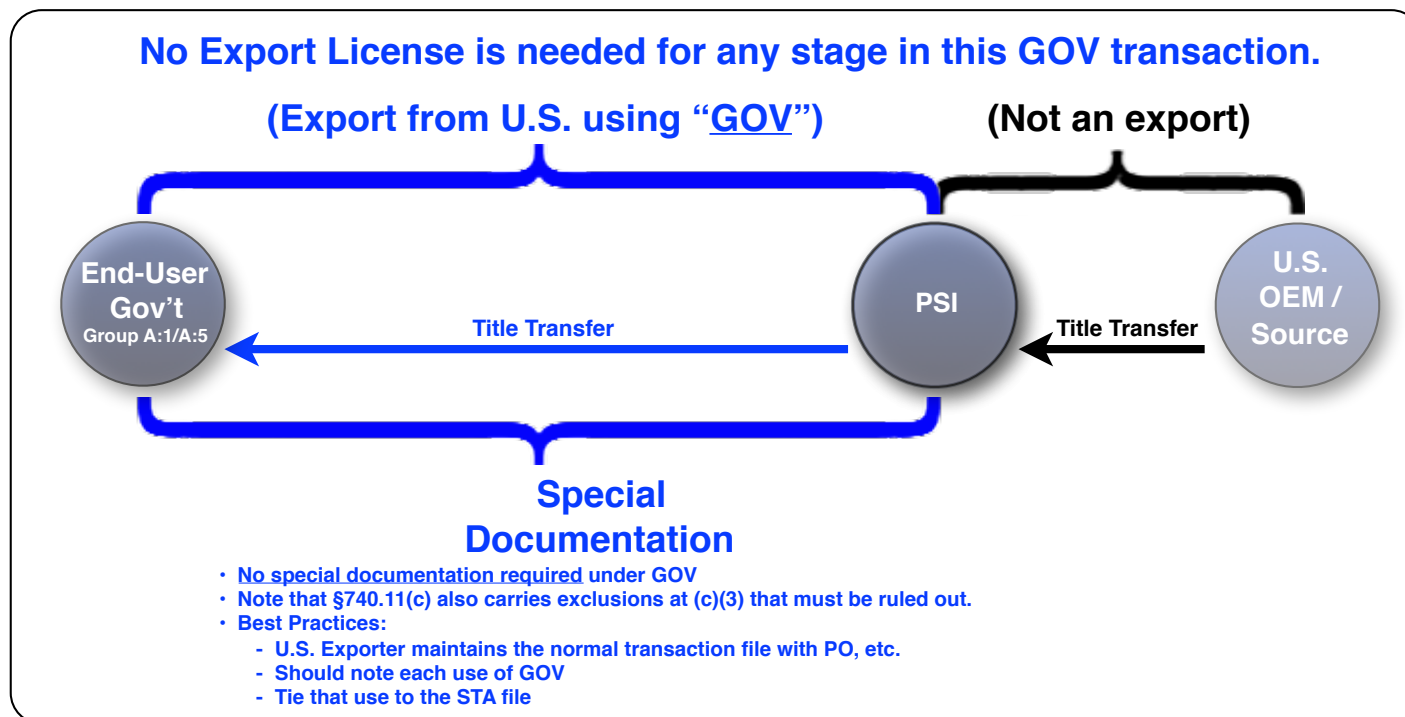
# Combining STA and GOV

Does not require a PCS from end-user government



# Using GOV without STA

No intermediaries if using §740.11(c)(i); just to “Agencies of cooperating governments”





# Must document use of STA-GOV



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## STA & GOV for 600-Series

Technical Meetings	Date of Transfer (Tech Meeting)	PCS Number(s) - PCS Date(s)					Comments
		US OEM	US Exporter	Foreign Consignee FC-1	Foreign Consignee FC-2	___ MoD	
Technical review, operations & maintenance training to support the AntiGravity UAV System in the inventory of the ___ MoD	Oct-03-2015	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC2 before participating in tech meeting/training ----- FC-1 PCS signed 04-27-2015	Must have either a signed PCS from at least ___ MoD before participating in tech meeting/training - or else transfer to MoD using GOV ----- FC-2 PCS-001 signed 04-26-2015	<u>PCS is N/A.</u>  Transfer to ___ MoD used license exception GOV, not STA.	Export from U.S. and all transfers except to the ___ MoD used license exception STA. The transfer of tech data at this meeting to ___ MoD used license exception GOV.
Technical review, operations & maintenance training to support the T56 engine in the inventory of the ___ MoD	Oct-15-2015	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC2 before participating in tech meeting/training ----- FC-1 PCS 04-27-2015	Must have either a signed PCS from at least ___ MoD before participating in tech meeting/training - or else transfer to MoD using GOV ----- FC-2 PCS-002 signed 04-26-2015	<u>PCS is N/A.</u>  Transfer to ___ MoD used license exception GOV, not STA	Export from U.S. and all transfers except to the ___ MoD used license exception STA. The transfer of tech data at this meeting to ___ MoD used license exception GOV.
Technical review, operations & maintenance training to support the ___ system on board the F-16 aircraft in the inventory of the ___ MoD	Nov-02-2015	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC1 before participating in tech meeting/training	Must have signed PCS from at least FC2 before participating in tech meeting/training ----- FC-1 PCS 04-27-2015	Must have either a signed PCS from at least ___ MoD before participating in tech meeting/training - or else transfer to MoD using GOV ----- FC-2 PCS-003 signed 04-26-2015	<u>PCS is N/A.</u>  Transfer to ___ MoD used license exception GOV, not STA	Export from U.S. and all transfers except to the ___ MoD used license exception STA. The transfer of tech data at this meeting to ___ MoD used license exception GOV.





# DTrade 2 vs SNAP-R Document Uploading



Photo-Sonics, Inc.

May 2016



**License Type:** DSP5  
**Transaction ID:** AG-M29618 TAA-KAP-Maintenance  
**Status:** Signed  
**Country Code:** AE, SZ  
**Country Name:** UNITED ARAB EMIRATES, SWITZERLAND

**Date Prepared:** 17-May-13  
**License Officer:** System  
**Status Date:** 28-Oct-13  
**Staffed:** Y

### Electronic Case with Final Decision

The electronic version of this case with a final decision is no longer available for download. Please submit an email to [dtradehelpdesk@state.gov](mailto:dtradehelpdesk@state.gov), and request that your case be put back on the server for retrieval. In the email, include your company name, point of contact name, point of contact phone number, and case number.

### Complete License Status Information

Case Status	LO Name	Status Date	Comments
-------------	---------	-------------	----------

### Staffing Status

Agency Info	Version #	Date Staffed	Date of Response
NEA/PPR		05/17/2013	06/05/2013
EUR/RPM		05/17/2013	06/06/2013
DOD		05/17/2013	

### Additional Documentation

File Name	Category	Comments	Date
AddDoc179276_First annual TAA status report to DDTC dated 10-27-2014 rev2.pdf	Notice of Not Yet Executed		27-Oct-14

You may click on the button below to upload any additional documentation for this case.

# DTrade Document Uploads



## Uploading Documents

Additional Documentation	
Comments on the document:	
Attachment Category:	Notice of Not Yet Executed
Browse for your document to upload:	<ul style="list-style-type: none"><li>22 CFR § 126.13 Certification Letter</li><li>22 CFR § 127.11 Exception to Policy Letter</li><li>Basic Ordering Agreement</li><li>Contract</li><li>PM/DDTC 126.8 Prior Approval</li><li>DSP-83</li><li>Firearms and Ammunitions Import Permit</li><li>Firearms and Ammunitions Letter of Explanation</li><li>Letter of Intent</li><li>Other Amplifying Data</li><li>Part 130 Report</li><li>Precedent Approvals</li><li><b>Precedent (identical/similar) Cases</b></li><li>Product Brochures</li><li>Purchase Order</li><li>Supplementary Explanation of Transaction</li><li>Technical Data to Support Hardware License</li><li>Technical Drawings, Schematics or Blue Prints</li><li>Transmittal Letter</li><li>Agreement</li><li>Amendment to Agreement</li><li>Supporting Material</li><li>Executed Agreement</li><li>Executed Amendment</li><li>Annual Sales Report</li><li>Notice to Termination</li><li>Notice of Not Yet Executed</li><li>Notice of Initial Export</li></ul>


# DTrade Document Uploads



## Uploading Documents

Work Item List

https://snapr.bis.doc.gov/snapr/exp/WIList



# SNAP- R

Bureau of Industry and Security  
U.S. Department of Commerce

SNAP-R HOME  
CREATE WORK ITEM  
LIST WORK ITEMS  
SEARCH WORK ITEMS  
SEARCH DOCUMENTS  
VIEW MESSAGES  
MANAGE USER PROFILE  
HELP  
SCL HELP  
LOGOUT

STELA

SNAP-R SELF MANAGEMENT

### Work Item List

You may sort the list by clicking on the column headers. ?

234 Work Item(s)    Displaying 1 through 10

Reference Number	ACN	Case Number	Type	Creation Date	SNAP-R Status
<a href="#">MLS1503</a>	Z1443796		Export License Application	04/06/2015	<a href="#">ACCEPTED</a>
<a href="#">ALB0050</a>	Z1444336		Re-Export License Application	03/30/2015	<a href="#">ACCEPTED</a>
<a href="#">ALB0049</a>	Z1444339		Re-Export License Application	03/30/2015	<a href="#">ACCEPTED</a>
<a href="#">ALB0048</a>	Z1444338		Re-Export License Application	03/30/2015	<a href="#">ACCEPTED</a>
<a href="#">ALB0047</a>	Z1444337		Re-Export License Application	03/30/2015	<a href="#">ACCEPTED</a>
<a href="#">MLS1502</a>	Z1439238	D1011735	Export License Application	03/02/2015	<a href="#">ACCEPTED</a>
<a href="#">FLC1501</a>	Z1438188	D1010855	Export License Application	02/19/2015	<a href="#">ACCEPTED</a>
<a href="#">LIB1503</a>	Z1438561		Export License Application	02/19/2015	<a href="#">ACCEPTED</a>
<a href="#">LIB1502</a>	Z1438959		Export License Application	02/18/2015	<a href="#">ACCEPTED</a>
<a href="#">DMA1503</a>	Z1437030	D1009852	Export License Application	02/11/2015	<a href="#">ACCEPTED</a>

Prev 1 2 3 4 5 6 7 8 9 10 Next

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## SNAP- R

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- SCL HELP
- LOGOUT

Export License Application  
Reference Number: LIB1503

Status: ACCEPTED

BIS-748P

[Print-Friendly View](#)

### View Export License Application

To grant or delete rights to others to view, edit, or submit this Work Item: [Manage User Rights](#) [?]

[View Requests](#) [?] from BIS

[View Acknowledgements and Validations](#) [?] from BIS

### Contact Information\*

Reference Number*(AAA9999)	LIB1503
1. Contact Person (First, Last)*	LISA HOWARD
2. Telephone Number* (999-999-9999)	301-262-6470
3. Fax Number (999-999-9999)	240-232-3130
Email	lhoward@exportsinternational.net
4. Creation Date	02/19/2015
5. Type Of Application	Export License Application
Submission Date	02/24/2015

### Document Checklist

6. Documents submitted with application [?]	7. Documents on file with applicant [?]
<input checked="" type="checkbox"/> Export Items (BIS-748P-A) [?]	<input type="checkbox"/> BIS-711





## SNAP- R

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- SNAP-R HOME
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- VIEW MESSAGES
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Export License Application

Work Item Reference Number [LIB1503](#)

Status: ACCEPTED

### Acknowledgements and Validations

Title	Creation Date	Type
<a href="#">YOUR EXPORT LICENSE APPLICATION WITH REFERENCE NUMBER LIB1503 HAS BEEN ACCEPTED</a>	02/24/2015	Acknowledgement

[Work Item LIB1503](#)

STELA

SNAP-R SELF MANAGEMENT





# SNAP- R

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- LOGOUT
- STELA
- SNAP-R SELF MANAGEMENT

Export License Application

Work Item Reference Number [LIB1503](#)

Status: ACCEPTED

### Requests from BIS

Title	Creation Date	Status
<a href="#">Receiver module and HAVEQUICK</a>	04/02/2015	RESPONDED
<a href="#">Follow-up: AN/ARC-164 versions</a>	03/20/2015	PENDING
<a href="#">Follow-up: commodity classification</a>	03/18/2015	RESPONDED
<a href="#">Commodity clarification</a>	03/17/2015	RESPONDED

[Work Item LIB1503](#)

# DTrade Document Uploads



## Uploading Documents



# SNAP- R

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U.S. Department of Commerce

- SNAP-R HOME
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- LIST WORK ITEMS
- SEARCH WORK ITEMS
- SEARCH DOCUMENTS
- VIEW MESSAGES
- MANAGE USER PROFILE
- HELP
- SCL HELP
- LOGOUT
- STELA
- SNAP-R SELF MANAGEMENT

Export License Application

Work Item Reference Number [LIB1503](#)

Status: RESPONDED

### Request

#### Request Details [▾](#)

Subject	Receiver module and HAVEQUICK
Requested by	<a href="#">BIS</a>
Date of Request	04/02/2015
Responded By	ELIZABETH HOWARD
Date Responded	04/02/2015
Status	RESPONDED
Reference Number	<a href="#">LIB1503</a>

Request:

Hello,

Can you confirm that the listed receiver module does not implement active or passive ECCN (.g., HAVEQUICK)?

Thank you!

Michael Tu  
[Michael.Tu@bis.doc.gov](mailto:Michael.Tu@bis.doc.gov)  
(202) 482-6462

Response:

The main receiver (part # 918845-801) does not implement active or passive ECCM (HAVEQUICK).

Thank you.

Documents Allowed:



#### Documents Attached

No document attached

[Work Item LIB1503](#) [Work Item LIB1503 Request List](#)



# US Export Rules VS Other Countries



Photo-Sonics, Inc.

May 2016



- **Not true** that US export rules are much stricter than others; commonality among nations is due to treaty-level instruments.
- Many countries align their export regimes with some or all of the “Multilateral Agreements”:
  - The **Wassenaar Arrangement** (about 40 countries)
  - Missile Technology Control Regime (**MTCR**) (about 40 countries)
  - Nuclear Suppliers Group (NSG) (about 40 countries)
  - The Australia Group (AG) (about 40 countries)
  - Chemical Weapons Convention (188 countries)
  - **If no ECCN** effects “capture” of the item, then: **EAR99**
- The Israeli export regime has a Munitions List quite similar to the US and EU (Export Control Order of 2008, signed by Defense Minister E. Barak)
- Our **USML** and **CCL** closely mirror EU, UK, Israel and elsewhere, due in large measure to the Wassenaar lists.





Very similar or identical

- 1st 6 digits shared by all participating nations

<b>Commodities with <u>Identical</u> Numbers</b>	<b>HTSUS</b>	<b>Schedule B</b>	<b>TARIC (for EU)</b>	<b>Japan (9-digit system)</b>
Duplicating machines	8472.10.0000	8472.10.0000	8472.10.0000	8472.10.000
Erasures	4016.92.0000	4016.92.0000	4016.92.0000	4016.92.000
Inner tubes for bicycles	4013.20.0000	4013.20.0000	4013.20.0000	4013.20.000

<b>Commodities with <u>Different</u> Numbers</b>	<b>HTSUS</b>	<b>Schedule B</b>	<b>TARIC (for EU)</b>	<b>Japan</b>
Parts of aircraft gas turbines, other than those of turbo-jets or turbo-propellers	8411.99.9090	8411.99.7010 (if civil) 8411.99.7050 (if non-civil)	8411.99.0090	8411.99.021
Pencil sharpeners	8472.90.4000	8472.90.9002	8472.10.9070	8472.90.000
Gaskets, washers and other seals, for use in civil aircraft	4016.93.5010 (if O-rings) 4016.93.5020 (if oil seals) 4016.93.5050 (if other)	4016.93.0000 (for use anywhere)	4016.93.0010	4016.93.000 (for use anywhere)
Retreaded or used pneumatic tires, of rubber, of a kind used on aircraft, military	4012.13.0050	4012.13.0000 (on any aircraft)	4012.13.0090	4012.13.000 (on any aircraft)

# USML vs. EU ML



## ITAR/EAR vs International

USML Category	EU ML Code	USML (U.S. Munitions List)	EU ML (E.U. Munitions List)
I	ML1	Firearms up to .50 cal.	Firearms up to 20 mm or .50 cal
II	ML2	Firearms > .50 cal.	Firearms > 20 mm or .50 cal
III	ML3	Ammunition for Cat. 1 & II	Ammunition for Cat. 1 & II
IV	ML4	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines	Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories
V	ML8	Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents	'Energetic materials', and related substances
VI	ML9	Vessels of War and Special Naval Equipment.	Vessels of war, special naval equipment and accessories
VII	ML6	Tanks and Military Vehicles	Ground vehicles and components
VIII	ML10	Aircraft and Associated Equipment	'Aircraft', 'lighter-than-air vehicles', unmanned airborne vehicles, aero-engines and 'aircraft' equipment, related equipment and components
IX	ML14	Military Training Equipment and Training	'Specialised equipment for military training' or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon
X	ML13	Protective Personnel Equipment and Shelters	<u>Armoured</u> or protective equipment, constructions and components
XI	ML11	Military Electronics	Electronic equipment, not specified elsewhere on the EU Common Military List

USML Category	EU ML Code	USML (U.S. Munitions List)	EU ML (E.U. Munitions List)
XII	ML5	Fire Control, Range Finder, Optical and Guidance and Control Equipment	Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment
XIV	ML7	Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment	Chemical or biological toxic agents, 'riot control agents', radioactive materials, related equipment, components and materials,
XV	ML19	Spacecraft Systems and Associated Equipment	'Space qualified' Products designed, manufactured and tested to meet the special electrical, mechanical or environmental requirements for use in the launch and deployment of satellites
XVIII	ML19	Directed Energy Weapons	Directed energy weapon systems (DEW)
XX	ML9	Submersible Vessels, Oceanographic and Associated Equipment	Vessels of war, special naval equipment and accessories
XXI	ML17	Miscellaneous Articles	Miscellaneous
-	ML21	-	Software
-	ML22	-	Technology
Re <u>ML22</u>		<p>'<u>Technical data</u>' may take forms such as blueprints, plans, diagrams, models, formulae, <u>tables</u>, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.</p> <p>'<u>Technical assistance</u>' may take forms such as instruction, skills, training, <u>working knowledge</u>, consulting services. 'Technical assistance' may involve transfer of 'technical data'.</p>	
Re <u>ML21 &amp; ML22</u>		<p>'<u>Use</u>' - Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.</p>	



# CCL vs. EU Dual-Use List

ITAR/EAR vs International

	EAR CCL	EU Dual-Use
Sensitive Electronics	3A00I	3A00I
Electronic Components not controlled by 3A00I	3A20I	3A20I
Aero Gas Turbine Engines	9A00I	9A00I
Aircraft Parts	9A99I	Missing ?

- US policies may change in the future due to regional geopolitical changes.
- US restrictions to certain countries, are not an “all or nothing”.
- Regional Considerations, for example:
  - Pakistan and India – Regional stability considerations
  - Taiwan and Mainland China – Regional balance
- EU countries may have other export considerations that do not coincide with US foreign policy and regional stability views.



- Though other countries' Munitions Lists are similar to the US, such export requests are mostly evaluated on a "Case-by-Case" basis, and outcomes are difficult to predict in advance.
- Clearly, every country would evaluate such a request on a case-by-case basis. "The Devil is in the details".
- Many countries have export regimes that are very similar to the US: EU Common Military List, BAFA (Germany), BIS (UK), with Munitions Lists that are almost identical.
- The "Bad Guys" list is also very similar between countries with some minor differences.



# Classification: Order of Review



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- Need to be familiar with the USML
- In PSI's case, especially the updated USML categories of VIII, XI and the upcoming XII
- This will generally guide you to the correct category in the USML, but read carefully
- Should match particular characteristics with specific USML subparagraph entry



- Significant Military Equipment (“SME”) is still denoted with an asterisk in the USML paragraph
- Missile Technology Control Regime (“MTCR”) will be indicated by the parenthetical “(MT)” at the end of a U.S. Munitions List paragraph



# Then do “Specially Designed”



- Walk through the rules
- Remember “Capture” then “Release”
- (I) if your commodity or software is controlled for reasons other than having a specially designed control parameter on the U.S. Munitions List, no further review of the definition of specially designed is required.



- (2) if your commodity or software is not enumerated on the U.S. Munitions List, it may be controlled because of a specially designed control parameter. If so, begin any analysis with § 120.41(a) and proceed through each subsequent paragraph. If a commodity or software would not be controlled as a result of the application of the standards in § 120.41(a), then it is not necessary to work through § 120.41(b).



- (3) if a commodity or software is controlled as a result of § 120.41(a), then it is necessary to continue the analysis and to work through each of the elements of § 120.41(b).



- (4) commodities or software described in any § 120.41 (b) subparagraph are not specially designed commodities or software controlled on the U.S. Munitions List, but may be subject to the jurisdiction of another U.S. Government regulatory agency (see § 120.5 of this subchapter).
- (5) if item is classified (per national security rules), the item must be licensed.

- For PSI, this will be 9A610 and 9A619
- If item is “.x”, then controlled for NS
- If item is “.y”, then NLR except for terrorist supporting countries
- But if, e.g., a tire also fits on a commercial aircraft, then even 9A610.y does not capture, so would be either 9A991 or EAR99
- But China still out of luck per 744.21, the “China Rule” calling out “incorporated into a military item”



# Classifying Products & Does It Need a License?



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- ITAR or EAR?
  - If ITAR, it's one of 21 categories on the USML
  - If EAR, must determine ECCN from the CCL
- When you have the ECCN
  - Reasons for Control
  - Country Chart
  - Are there exceptions?
- Then **NLR** or apply for a **DOC license**

- Is it on the US Munitions List (USML)? – defense item, State jurisdiction - Classification by USML category
- Is it on the Commerce Control List (CCL)? – dual use item, Commerce jurisdiction – classification by export control classification number (ECCN)
- Is it clearly commercial but you can't find it in the CCL? – Commerce jurisdiction (EAR99)
- You believe it is a dual use item under Commerce but you are not sure what the ECCN is? Ask Commerce to either validate your self classification or to provide you with a Commodity Classification
- Not sure who has jurisdiction? Ask State for a Commodity Jurisdiction determination

The current ECR-era trend is towards obtaining confirmation of self-classifications



- Something counts as tech data under the EAR or the ITAR articles if:
  - You would not want to post on your Website because the disclosure could lead to reverse-engineering, or
  - You would not put the info in trade show brochures
- Product classification is most often *self*-classification.
- Often makes sense nowadays to follow up with a CCATS (Commerce) or a CJ (State), especially if you plan to export to trickier destinations.



- Defense article means any item or technical data designated in §121.1 of this subchapter. The policy described in §120.3 is applicable to designations of additional items. This term includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items designated in §121.1 of this subchapter. It does not include basic marketing information on function or purpose or general system descriptions.



- (1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;
- (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see §120.10), whether in the United States, or
- (3) Military training of foreign units and forces...



- (1) Information, other than software as defined in §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
- (2) Classified information relating to defense articles and defense services;
- (3) Information [in] an invention secrecy order;





- (4) Software as defined in §121.8(f) of this subchapter directly related to defense articles;
- Note: This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain as defined in §120.11. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.



- USML Cat.VIII(i) - Technical data (see §120.10 of this subchapter) and defense services (see §120.9 of this subchapter) directly related to the defense articles described in paragraphs (a) through (h) of this category and classified technical data directly related to items controlled in ECCNs 9A610, 9B610, 9C610, and 9D610 and defense services using classified technical data. (See §125.4 of this subchapter for exemptions.) (MT for technical data and defense services related to articles designated as such.)

# What is “Dual-Use”?



- §730.3 The convenient term “dual use” is sometimes used to **distinguish the types of items covered by the EAR** from those that are covered by the regulations of certain other U.S. government departments and agencies with export licensing responsibilities. In general, the term dual use **serves to distinguish EAR-controlled items** that can be used both in military and other strategic uses and in civil applications from those that are weapons and military related use or design and subject to the controls of the ITAR.
- Note, however, that although the short-hand term dual use may be employed to refer to the entire scope of the EAR, the EAR also apply to some items that have solely civil uses.



- So forget “dual-use” concept. Too confusing. An item’s jurisdiction is either EAR or ITAR
- If PSI designs or modifies a “commercial” part/component for a military use or purpose, that item is ITAR
- If you do not design or modify a “commercial” part in that manner, but qualify the part for your military customer, that item remains commercial
- ITAR § 120.3: The intended use of the article or service after its export (i.e., for a military or civilian purpose), by itself, is not a factor in determining whether the article or service is subject to the controls of [the ITAR].

- No matter what else you may think -- even if you are ultimately correct -- an “ITAR” designation by your customer, work order, or drawing placard means you must consider that item to be under ITAR jurisdiction.
- You are normally not entitled to second-guess your customer. This is because overcoming an ITAR classification is done with a formal CJ, or Commodity Jurisdiction application to State Dep’t.
  - State Department’s rules for CJs requires them to be submitted by the manufacturer, or else by a third party if the manufacturer writes an approval letter for the third party to do so.

- This is much more complex than ITAR classifications
- Search through the CCL's "families" of ECCNs
  - Use keyword "string" searches to create a short-list
  - If no ECCN effects "capture" of the item, then: EAR99
- If ambiguous between ITAR/USML and EAR/CCL: do CJ
- If ambiguous between two ECCNs, do CCATS
- Note: neither a CJ nor a CCATS will pronounce on a class of good. Normally specific to a make/model number.



# Subject to the EAR?



[Chart source: the EAR]

Classification

Not

S  
u  
b  
j  
e  
c  
t  
  
t  
o  
  
E  
A  
R

**Am I involved in an activity related to the proliferation of chem/bio weapons, nuclear explosive devices or "missiles," technical assistance regarding encryption, or activities prohibited by any order issued under the EAR?**  
See Section 734.5(a), (b), and (c)

Yes

No

**Is the item I am planning to export or reexport subject to the exclusive jurisdiction of another US Government and Federal Department or Agency?**  
See Section 734.3(b)(3)

Yes

No

**Is the technology or software I plan to export publicly available (excluding encryption items)?**  
See Section 734.3(b)(3)

Yes

No

**Am I involved in an activity described in 734.5, e.g. related to the proliferation of chem/bio weapons, nuclear explosive devices or "missiles," technical assistance with respect to encryption, or activities prohibited by any order issued under the EAR?**  
See Section 734.5(a), (b), and (c)

Yes

S  
u  
b  
j  
e  
c  
t  
  
t  
o  
  
E  
A  
R

# Subject to the EAR?

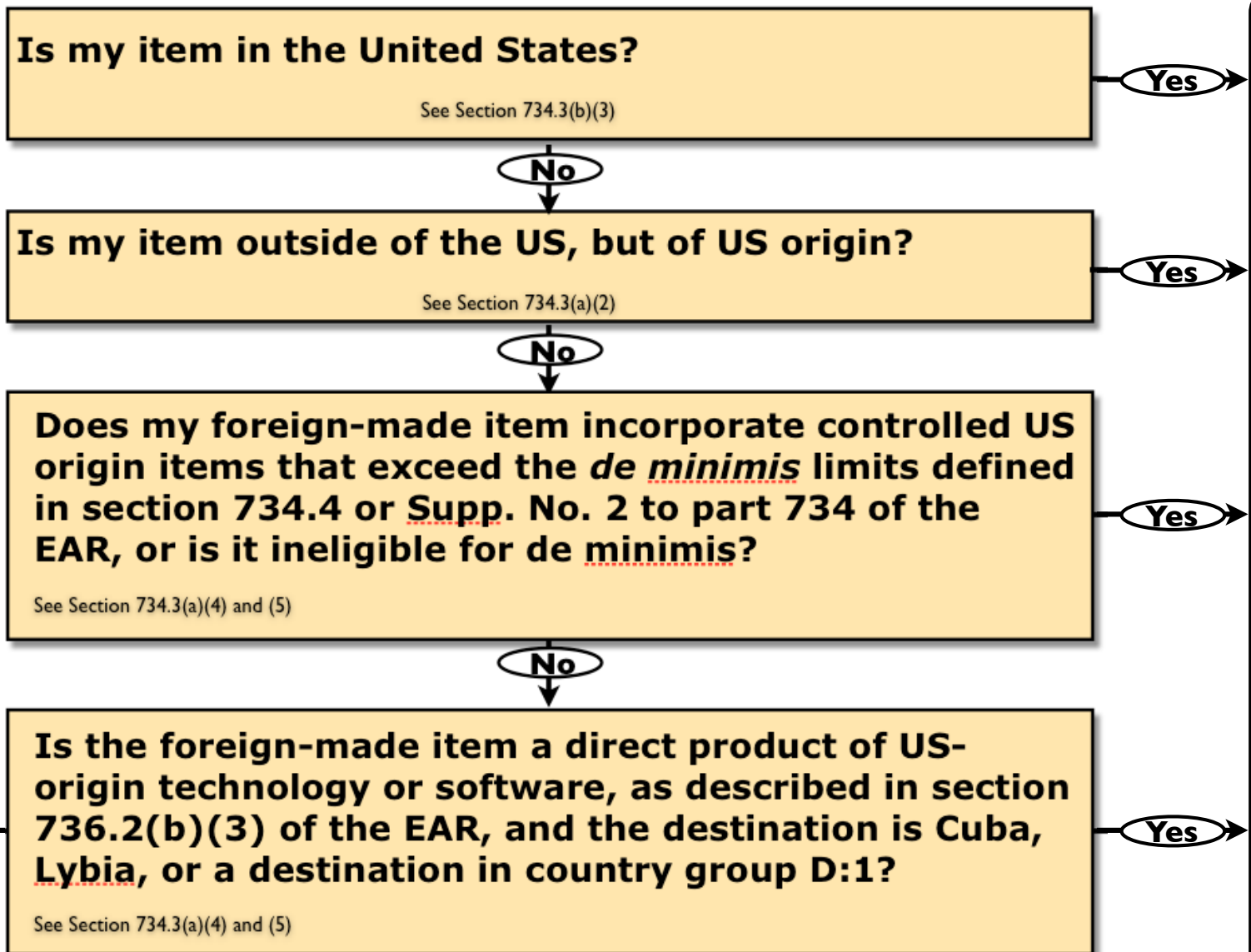


[Chart source: the EAR]

Classification

Not

S  
u  
b  
j  
e  
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t  
t  
o  
  
E  
A  
R

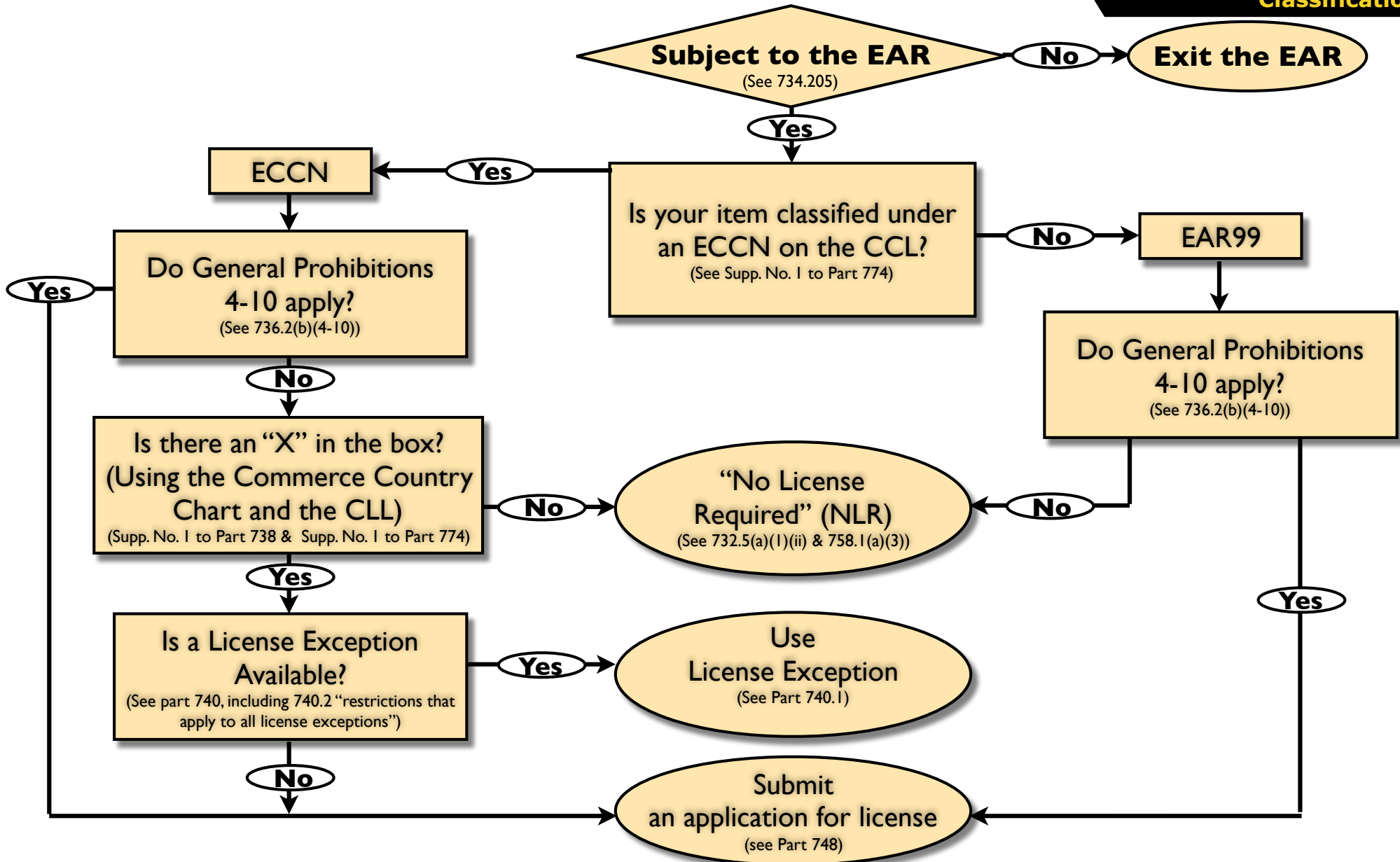


S  
u  
b  
j  
e  
c  
t  
t  
o  
  
E  
A  
R

# Commerce Dept. Export Control Decision Tree



## Classification



# Classification Summary Flowchart

Procedure for Empowered Official to Follow



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Classification

## Classification Flow Chart

(Procedure to be followed by Empowered Official)







**“Specially Designed”**  
**- Walking through “Catch & Release” -**



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**May 2016**



- ECR moving majority of parts from ITAR to EAR
- Definition in ITAR §120.41 and EAR §772.1
  - ✦ Mirrors definitions with minor differences
- Has a “catch” and “release” construction, found in the Definition’s Paragraphs (a) and (b), respectively.
- Only applicable to revised USML categories
- In PSI's case, that means applies to most all of its business, since USML Cat.VIII was the first to be revised.





These “Notes” need to be kept in mind as we work through “Specially Designed”:

- Note 1: The term “enumerated” refers to any article on the U.S. Munitions List or the Commerce Control List and not in a “catch all” paragraph.
- Note 2: The term “commodity” refers to any article, material, or supply, except technology/technical data or software.

More “Notes” appear in the definition, so truly understanding how “Specially Designed” works requires iterations and practice.



- This is the “catch” paragraph of the definition
- *“(1) as a result of development, has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant U.S. Munitions List paragraph.” or*
- *(2) is a part (see § 120.45 (d) of this subchapter), component (see § 120.45 (b) of this subchapter), accessory (see § 120.45 (c) of this subchapter), attachment (see § 120.45 (c) of this subchapter), or software for use in or with a defense article.*
- As you can see, this captures most everything on the USML, so without a “release” mechanism, there would be no ECR, and no transfer of control from the USML to the CCL



- Now we start to see the “release” paragraphs of the “Specially Designed” definition, in a number of exclusions from the “capture”.
- Only one exclusion is needed to effect “release”.
- Notes regarding the definition of a “catch-all”
  - ✦ Note to Paragraph (b) in the ITAR definition
  - ✦ Note 2 in the EAR definition



- Is subject to the EAR pursuant to a commodity jurisdiction determination (ITAR)



- is, regardless of form or fit, a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder



- Has the same function, performance capabilities, and the same or “equivalent” form and fit as a commodity or software used in or with a commodity that:
  - (i) is or was in production (i.e., not in development); and
  - (ii) is not enumerated on the U.S. Munitions List





- Note 1: Definitions of “production”
- Note 2: Definition of “development”
- Note 3: When an item is “production” reverts to “development”
- Note 4: Clarification of “equivalent”



This (b)(4) has enormous potential for reducing your ITAR overhead, if you can consider this in early stages of product RDT&E.

- was or is being developed with knowledge that it would be for use in or with both defense articles enumerated on the U.S. Munitions List and also commodities not on the U.S. Munitions List.
- Cannot be done retroactively with an ITAR item
- Must be documented contemporaneously
- Must be “real” intent, not just an empty assertion



- was or is being developed as a general purpose commodity or software, i.e., with no knowledge for use in or with a particular commodity (e.g., a F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool)



- Identifies the documentary requirements for applying the exclusions in paragraphs (b)(4) and (b)(5)
- Provides definition of “knowledge” consistent with the EAR



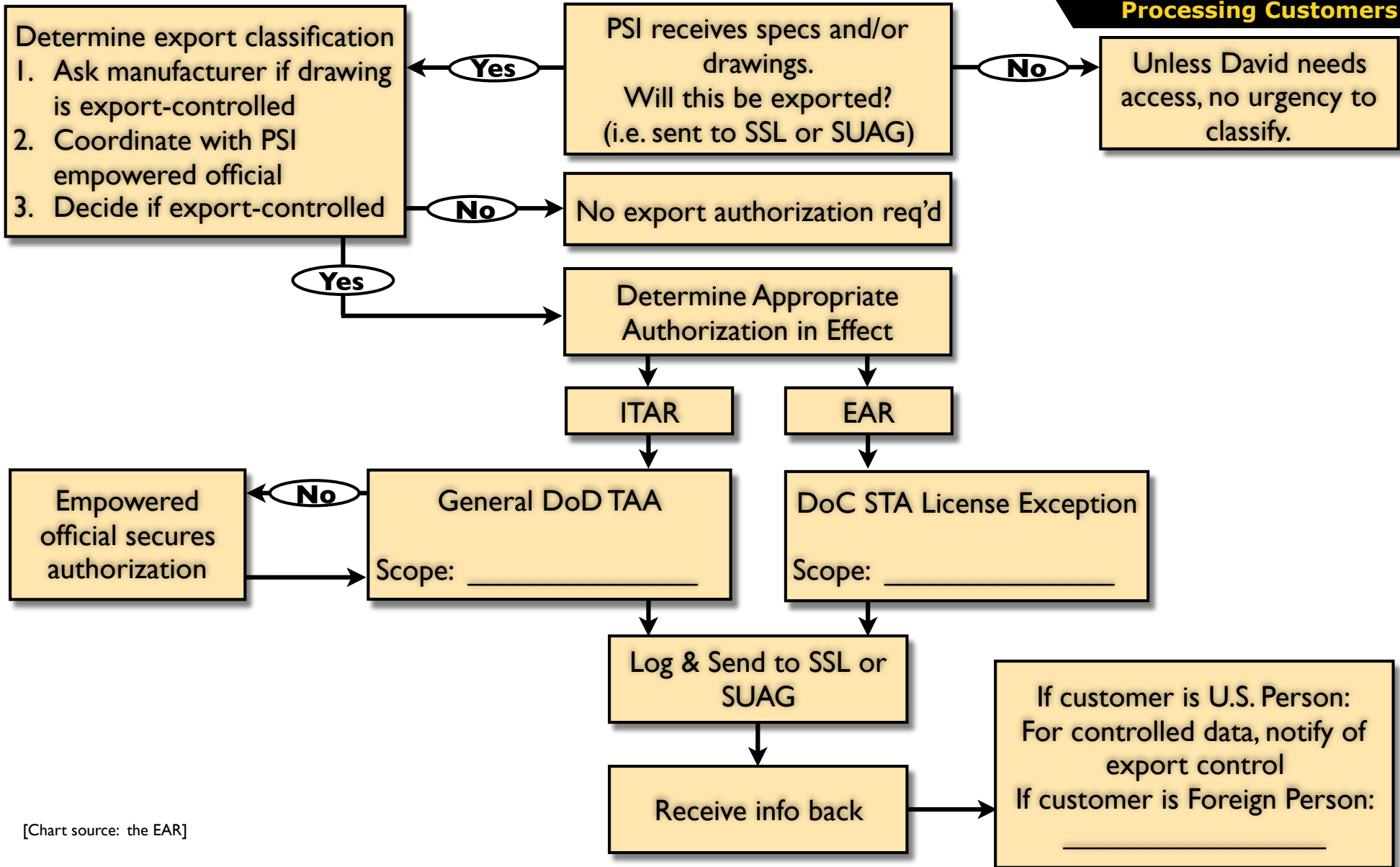
# Processing Customer Opportunities



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# RFQ Stage

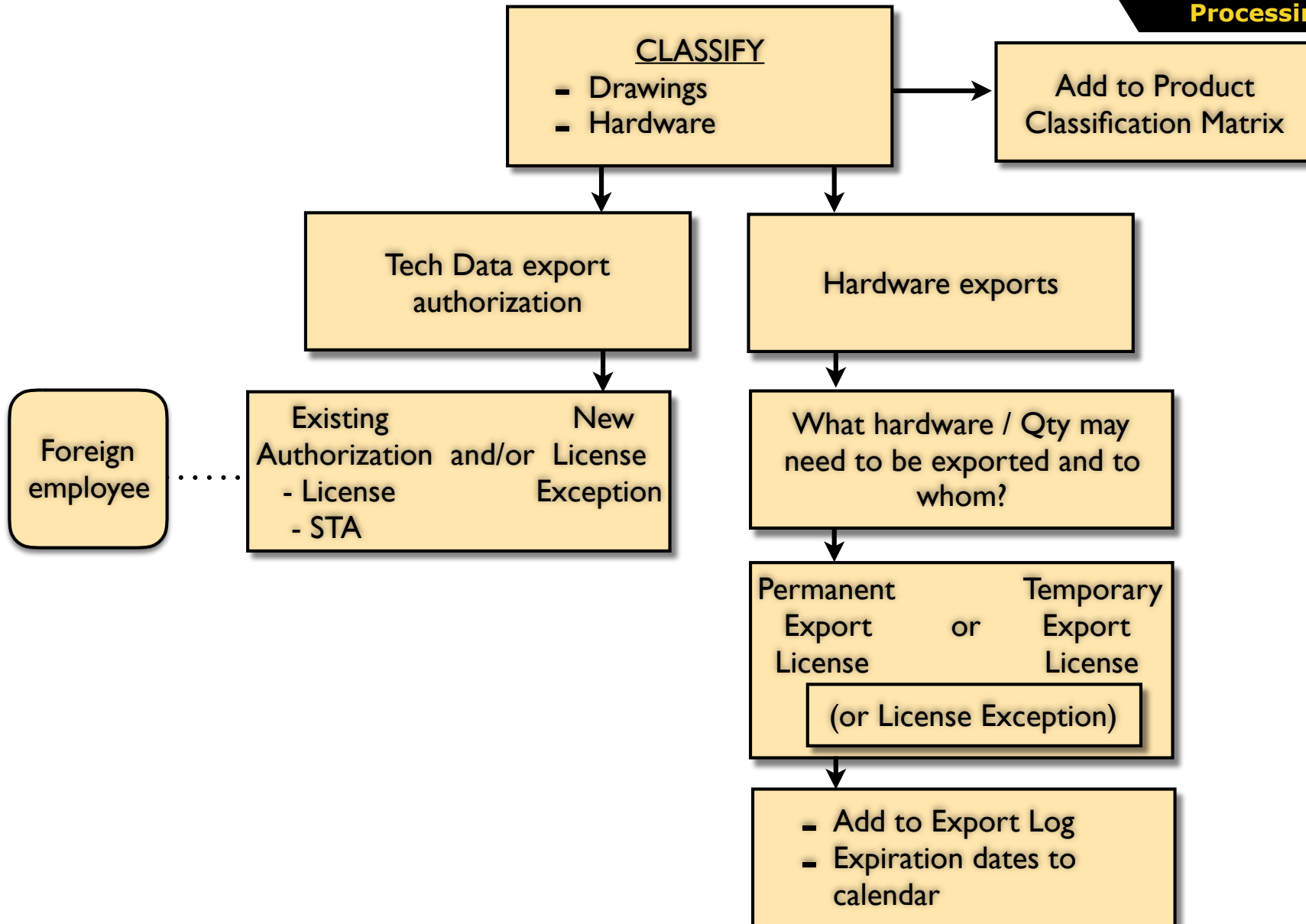


[Chart source: the EAR]



# Contract Awarded Contract Management Stage

## Processing Customers





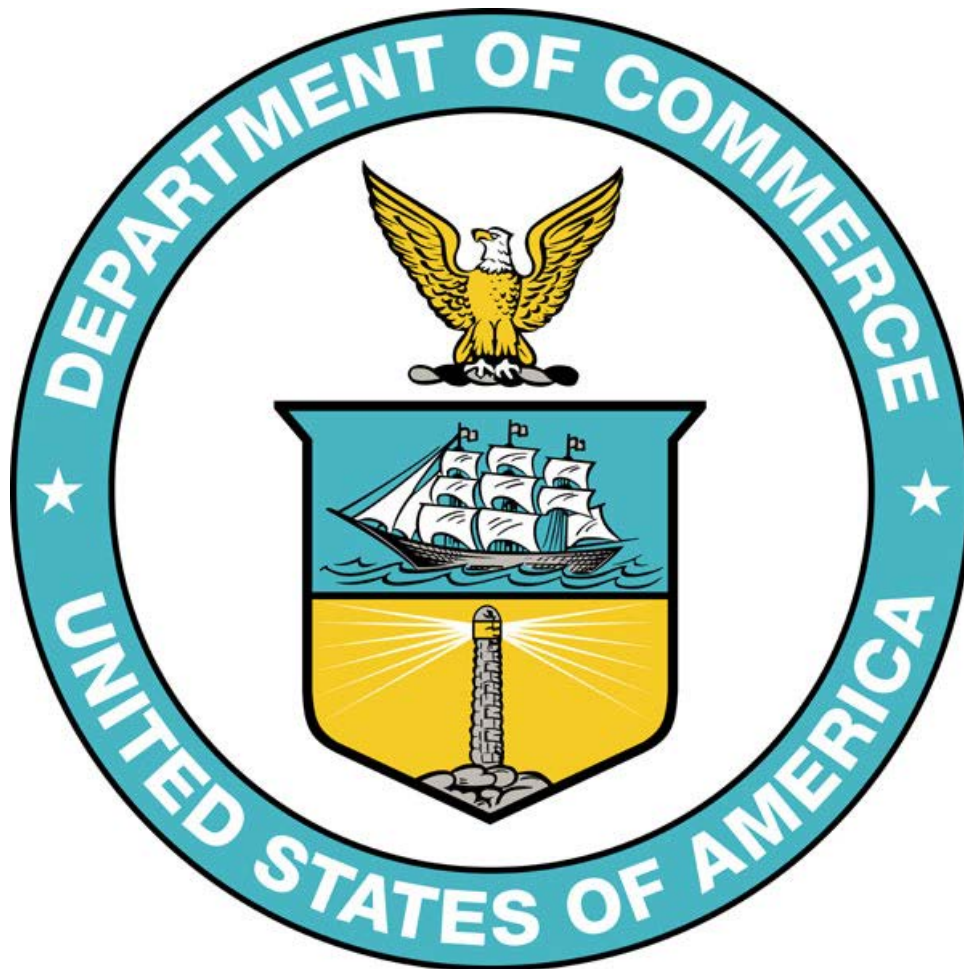
# Commerce Dept Licensing: Classify & Apply SNAP-R



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# Let's do a SNAP-R license



# SNAP-R Login Screen



Photo-Sonics, Inc.

Filing Licenses & CCATS



## SNAP-R

Bureau of Industry and Security  
U.S. Department of Commerce

- SNAP-R HOME
- CREATE WORK ITEM
- LIST WORK ITEMS
- SEARCH WORK ITEMS
- SEARCH DOCUMENTS
- VIEW MESSAGES
- MANAGE USER PROFILE
- HELP
- LOGOUT

### Welcome to SNAP-R

Welcome, HUGH SCHMITTLE.

To submit a new export related application, click on **Create Work Item** on the left hand navigation bar. Click on [?](#) or **Help** on the navigation bar for help information. [What is a Work Item?](#)

The **Remove** button will remove the selected messages from the message board. Messages are still accessible within their associated Work Items.

0 New Message(s) No more results on this page

<u>Subject</u>	<u>Date</u> ▼
You have no new messages.	

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## SNAP-R

Bureau of Industry and Security  
U.S. Department of Commerce

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- LIST WORK ITEMS
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- SEARCH DOCUMENTS
- VIEW MESSAGES
- MANAGE USER PROFILE
- HELP
- LOGOUT


### Create Work Item

#### New Work Item

Please select a Work Item type from the dropdown box, then click Create. 

Type 

Export License Application 

Reference Number 

FLS1204 (Format: AAA9999)

#### Reuse Existing Work Item

Please click **Search to Reuse** to find a Work Item to copy. 

# License Application Form



## Filing Licenses & CCATS

**SNAP- R** Department of Industry and Security U.S. Department of Commerce

Export License Application Reference Number: FLS1204 Status: DRAFT BIS-749P

**Edit Export License Application**

Please click Save Draft to save your unpublished work. Required fields are marked with an asterisk (\*). The numbers \*\*next to the fields are only for reference to the proper section of this form and do not need to be completed to complete the application. To delete this Work Item, click [Delete Work Item](#).

To grant or delete rights to others to view, edit, or submit this Work Item, [Access User Details](#).

**Contact Information\***

Reference Number(SNAP-APP) [1] FLS1204

1. Contact Person (First, Last) [2] HUGH SCHMITTLE

3. Telephone Number (000-000-0000) [3] 301-335-5881

3. Fax Number (000-000-0000) [3] 240-232-3130

Email [4] hugh@exportsinternational.net

4. Creation Date [5] 02/04/2017

5. Type of Application Export License Application

[Save Draft](#)

**Document Checklist**

4. Documents submitted with application [6]

7. Documents on file with applicant [7]

Export License (BIS-749P-A) [8]  BIS-711

End User (BIS-749P-B) [9]  Letter of Assurance

BIS-711  Import/End-User Certificate

Import/End-User Certificate  Nuclear Certification

Technical Specification  Other

Letter of Explanation

Foreign Availability

Other

[Save Draft](#)

**License Information**

8. Special Purpose [10]

9. Revalidation ACN [11]

10. Replacement License Number [12]

13. Import Certificate Country [13] Please Select

Import Certificate Number

[Save Draft](#)

**Applicant Information\***

\* Required field

14. CFI Applicant ID#

Applicant\*

Address Line 1\*

Address Line 2

City\*

State/Province\* (Required for US address)

Postal Code\*

Country\* Please Select

EN

[Save Draft](#)

**Other Party Information [3]**

\* Required field (only if entering an Other Party). Otherwise leave blank.

15. Other Party ID EN0070

Other Party\* EXPORTS INTERNATIONAL, LLC

Address Line 1\* 2018 HYDRE LANE, STE 101

Address Line 2

City\* BOWIE

State/Province\* (Required for US address) Maryland

Postal Code\* 20704

Country\* UNITED STATES

Telephone or Fax\*

[Save Draft](#)

**Purchaser Information [3]**

\* Required field (only if entering a Purchaser). Otherwise leave blank.

16. Purchaser\*

Address Line 1\*

Address Line 2

City\*

Postal Code

Country\* Please Select

Telephone or Fax\*

[Save Draft](#)

**Intermediate Consignee Information [3]**

\* Required field (only if entering an Intermediate Consignee). Otherwise leave blank.

17. Intermediate Consignee\*

Address Line 1\*

Address Line 2

City\*

Postal Code

Country\* Please Select

Telephone or Fax\*

[Save Draft](#)

**Ultimate Consignee Information\* [3]**

\* Required field

18. Ultimate Consignee\*

Address Line 1\*

Address Line 2

City\*

Postal Code

Country\* Please Select

Telephone or Fax

[Save Draft](#)

**End User Information [3]**

Enter information for a new End User

\* Required field (only if entering an End User). Otherwise leave blank.

19. End User\*

Address Line 1\*

Address Line 2

City\*

Postal Code

Country\* Please Select

Telephone or Fax

[Add End User](#)

**Specific End User [3]**

20. Specific End User\*

[Save Draft](#)

**Export Item Information [3]**

Enter information for a new Export Item

21. a. ECCN\* Please Select

b. APPD-0000000

c. Product/Model Number

d. CCATS Number

e. Quantity\*

f. Units

g. Unit Price

h. Total Price\*

i. Manufacturer

j. Technical Description\*

**Total Application Dollar Value**

23. Total Application Dollar Value \$2.00

**Additional Information [3]**

24. Additional Information

[Save Draft](#)

**Documents attached to application**

To upload a new supporting document or view or delete attached supporting documents: [View and Manage Supporting Documents](#)

Title	Author	Type
There are no documents attached.		

Please remember to Save Draft before leaving this form to avoid losing work

[Save Draft](#) [Check For Errors](#) [Preview Work Item to Submit](#)

- Note: Same form is used for
1. License Applications
  2. Re-export License Applications
  3. Agricultural License Exception Notice
  4. ECCN Determinations (CCATS)



# CCATS for TMZ



Photo-Sonics, Inc.

## Filing Licenses & CCATS

View Work Item 9/8/10 4:52 AM



# SNAP- R

Commodity Classification Request

Reference Number: **ALB0002**

Status: **SUBMITTED**

BIS-748P

### View Commodity Classification Request

#### Contact Information\*

Reference Number\*(AAA9999) **ALB0002**

1. Contact Person (First, Last)\* HUGH SCHMITTLE

2. Telephone Number\* (999-999-9999) 541-222-0129

3. Fax Number (999-999-9999) 240-232-3130

Email hugh@exportsinternational.net

4. Creation Date 09/07/2010

5. **Type Of Application** **Commodity Classification Request**

Submission Date 09/08/2010

#### License Information

9. Special Purpose  Check here if you are submitting information about encryption required by 740.17 or 742.15 of the EAR

#### Applicant Information\*

14. Applicant ID\* A593661

Applicant\* Albemarle Corporation

Address Line 1\* 451 Florida Street

Address Line 2

City\* Baton Rouge

State/Province\* LA

Postal Code\* 70801

Country\* US

EIN 54-1692118

#### Other Party Information

15. CIN (Applicant ID) E392589

Other Party\* EXPORTS INTERNATIONAL USA, LLC

Address Line 1\* 845 PINE FOREST DRIVE

Address Line 2

City\* EUGENE

State/Province\* OR

<https://snapr.bis.doc.gov:443/snapr/exp/WorkItem/216170?action=display&print=true>

Page 1 of 2

View Work Item 9/8/10 4:52 AM

Postal Code\* 97405

Country\* US

Telephone or Fax\* 541-222-0129

#### Export Items\*

##### 22. Export Item #1

(a) ECCN	(b) APP	(c) Product/Model Number	(d) CCATS Number	(i) Manufacturer
3C003		TriMethylGallium (TMG)		Albemarle Corporation

##### (j) Technical Description

TMG (CAS no. 1445-79-0) is a metalorganic source of gallium used in production of gallium-containing compound semiconductors. This product is greater than 5 nines purity, thus ideal for the organometallic chemical vapour deposition (MOCVD) process.

#### Additional Information

TMG seems a strong fit for 3C003.a, being that it's an organo-metallic compound of gallium, and its purity exceeds 99.9999%. Moreover, we found no other relevant ECCN elsewhere in the CCL, including especially categories 0 through 3. Thus TMG is either 3C003.a, or EAR99, but more likely the former.

TMG is a clear, colorless, pyrophoric liquid (capable of catching fire on exposure to air or moisture). This product is critically important in the production of high-brightness light-emitting diodes (HBLEDs), and Albemarle plans aggressive marketing of its TMG, with target customers in diverse geographic regions.

##### 24. Additional Information

The compound semiconductors made from TMG are mainly used to make high-efficiency, photovoltaic solar cells and optoelectronic devices. Such devices include HBLEDs used for general lighting and as back lighting for LCD displays and televisions, laser diodes, and other specialty, microelectronic devices.

Given the seriousness of EAR export violations, even inadvertent ones, request BIS concurrence in our determination of 3C003.a for the requested item.

#### Signer Information\*

25. Signer Name H.SCHMITTLE

Signer Title President

Signer Email hugh@exportsinternational.net

#### Documents attached to application

Title	Author	Type
There are no documents attached.		

<https://snapr.bis.doc.gov:443/snapr/exp/WorkItem/216170?action=display&print=true>

Page 2 of 2

# License for TMZ to Taiwan



Photo-Sonics, Inc.

## Filing Licenses & CCATS

View Work Item 9/8/10 4:32 AM

### SNAP- R



Export License Application  
Reference Number: **ALB0003** Status: **SUBMITTED** BIS-748F

#### View Export License Application

##### Contact Information\*

Reference Number\*(AAA9999) **ALB0003**  
 1. Contact Person (First, Last)\* HUGH SCHMITTLE  
 2. Telephone Number\* (999-999-9999) 541-222-0129  
 3. Fax Number (999-999-9999) 240-232-3130  
 Email hugh@exportsinternational.net  
 4. Creation Date 09/08/2010  
 5. **Type Of Application** **Export License Application**  
 Submission Date 09/08/2010

##### Document Checklist

- |   |  |
|---|--|
| 6. Documents submitted with application                       | 7. Documents on file with applicant                  |
| <input checked="" type="checkbox"/> Export Items (BIS-748P-A) | <input type="checkbox"/> BIS-711                     |
| <input type="checkbox"/> End Users (BIS-748P-B)               | <input type="checkbox"/> Letter of Assurance         |
| <input checked="" type="checkbox"/> BIS-711                   | <input type="checkbox"/> Import/End-User Certificate |
| <input type="checkbox"/> Import/End-User Certificate          | <input type="checkbox"/> Nuclear Certification       |
| <input type="checkbox"/> Technical Specification              | <input type="checkbox"/> Other                       |
| <input type="checkbox"/> Letter of Explanation                |  |
| <input type="checkbox"/> Foreign Availability                 |  |
| <input type="checkbox"/> Other                                |  |

##### License Information

9. Special Purpose  
 10. Resubmission ACN  
 11. Replacement License Number  
 13. Import Certificate Country  
 Import Certificate Number

##### Applicant Information\*

14. Applicant ID\* A593661  
 Applicant\* Albemarle Corporation

<https://snapr.bis.doc.gov:443/snapr/exp/WorkItem/216236?action=display&print=true>

Page 1 of 3

View Work Item 9/8/10 4:32 AM

Address Line 1\* 451 Florida Street  
 Address Line 2  
 City\* Baton Rouge  
 State/Province\* LA  
 Postal Code\* 70801  
 Country\* US  
 EIN 54-1692118

##### Other Party Information

15. CIN (Applicant ID) E392589  
 Other Party\* EXPORTS INTERNATIONAL USA, LLC  
 Address Line 1\* 845 PINE FOREST DRIVE  
 Address Line 2  
 City\* EUGENE  
 State/Province\* OR  
 Postal Code\* 97405  
 Country\* US  
 Telephone or Fax\* 541-222-0129

##### Purchaser Information

16. Purchaser\* Likuan Opto Tech Inc.  
 Address Line 1\* 13F,I-9, No. 250, Liancheng Road  
 Address Line 2  
 City\* Junghe City, Taipei  
 Postal Code 235  
 Country\* TW  
 Telephone or Fax 886282271339

##### Intermediate Consignee Information

No Intermediate Consignee entered.

##### Ultimate Consignee Information\*

18. Ultimate Consignee\* Tekcore Co. Ltd.  
 Address Line 1\* No.18 Tzu-Chung 3rd Road  
 Address Line 2 Nan-Kung Industrial Zone  
 City\* Nantou  
 Postal Code 540  
 Country\* TW  
 Telephone or Fax 886-49-22616

##### End User Information

No End Users entered.

##### Specific End Use

<https://snapr.bis.doc.gov:443/snapr/exp/WorkItem/216236?action=display&print=true>

View Work Item 9/8/10 4:32 AM

21. Specific End Use Precursor for High Brightness LED and compound semiconductor production.

##### Export Item Information\*

22. Export Item #4	(a) ECCN	(b) APP	(c) Product/Model Number	(d) CCATS Number
3C003			TriMethylGallium (TMG)	
(e) Quantity	(f) Units	(g) Unit Price	(h) Total Price	(i) Manufacturer
2400	kg	\$2,500.00	\$6,000,000.00	Albemarle Corporation

(j) Technical Description  
 TMG (CAS no. 1445-79-0) is a metalorganic source of gallium used in production of gallium-containing compound semiconductors. This product is greater than 5 nines purity, thus ideal for the organometallic chemical vapour deposition (MOCVD) process.

##### Total Application Dollar Value

23. Total Application Dollar Value \$6,000,000.00

##### Additional Information

This product is used by Tekcore Co. Ltd. as a precursor in the production of high-brightness LEDs.

##### 24. Additional Information

Likuan is Albemarle's agent in Taiwan.  
 Tekcore is one of the leading LED wafer and chip production companies in Taiwan. Its end-items are distributed extensively in Europe and elsewhere.

##### Signer Information\*

25. Signer Name H.SCHMITTLE  
 Signer Title President  
 Signer Email hugh@exportsinternational.net

##### Documents attached to application

Title	Author	Type
BIS-711 for Tekcore-Likuan sale of TMG	Albemarle Corporation	BIS-711

<https://snapr.bis.doc.gov:443/snapr/exp/WorkItem/216236?action=display&print=true>

Page 3 of 3

# CCATS for Amplifiers - Apply



Photo-Sonics, Inc.

## Filing Licenses & CCATS



# SNAP - R

Commodity Classification Request

Reference Number: QUS0815

BIS-748P

Status: DRAFT

### View Commodity Classification Request

#### Contact Information\*

Reference Number\*(AAA9999) QUS0815  
 1. Contact Person (First, Last)\* HUGH SCHMI  
 2. Telephone Number\* (999-999-9999) 301-335-5881  
 3. Fax Number (999-999-9999) 240-232-3130  
 Email hugh@exportsi  
 4. Creation Date 08/15/2007  
 5. Type Of Application Commodity Cla

#### License Information

9. Special Purpose

#### Applicant Information\*

14. Applicant ID\* E390978  
 Applicant\* EXPORTS INT  
 Address Line 1\* 2216 HYDE LA  
 Address Line 2  
 City\* BOWIE  
 State/Province\* MD  
 Postal Code\* 20716  
 Country\* US  
 EIN

#### Export Items\*

22. Export Item #1	(b) CTP	(c) Model Number	(d) CCATS Number	(i) Manufacturer
(a) ECCN 3A001		QPP-35053534-BZ		Quinstar Technology, Inc.
(j) Technical Description Pulsed Power Amplifier. Freq Range, 32-38 GHz; Gain, 37 dB typ; Gain Flatness, +/- 1.5 dB typ; PldB, 36.0 dBm(typ) 35 dB(Min); Output Power Flatness, +/- 0.5 dB; VSWR, 2:1 (Max); Rise/Fall Time, 20/30ns; Modulated Pulse, 100ns to CW				

Export Item #2	(b) CTP	(c) Model Number	(d) CCATS Number	(i) Manufacturer
(a) ECCN 3A001		QPJ-06183330-A0		Quinstar Technology, Inc.
(j) Technical Description Power Amplifier. Freq Range, 6-18 GHz; PldB, 30.0 dBm; Gain, 33.0 dB; Gain Flatness, +/-3.3 dB; DC/Current, 12V @ 3.1A max; Input VSWR, 2:1 typical; type circuit, MMIC.				

#### Additional Information

24. Additional Information

These are MMIC circuits. Given the frequency ranges and the power ratings of 33.0 - 36.0 dBm, these items seem like good candidates for 3A001.b.2.

Given the seriousness of EAR export violations, even inadvertent ones, request BIS concurrence in our conclusion of 3A001.b.2 for the requested items.

Photos in the attached product sheets are exemplars, since most Quinstar sales involve some degree of customization.

#### Documents attached to application

Title	Author	Type
Power Amplifier QPP-35053534 product sheet	Quinstar Technology	Tech. Specs.
Power Amplifier QPJ-06183330-A0 product sheet	Quinstar Technology	Tech. Specs.

# CCATS as approved G057924



Photo-Sonics, Inc.

Filing Licenses & CCATS

COMMODITY CLASSIFICATION

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

CASE NUMBER: Z715796

EXPORTS INTERNATIONAL, LLC  
ATTN: HUGH SCHMITTLE  
2216 HYDE LANE, STE 101  
BOWIE, MD 20716

AUGUST 23, 2007  
CCATS #: G057924

THE FOLLOWING INFORMATION IS IN RESPONSE TO YOUR INQUIRY OF AUGUST 15, 2007  
REQUESTING LICENSE INFORMATION FOR:

COMMODITY	ECCN	LVS	IVL REQUIRED FOR COUNTRY GROUPS	LVS DOLLAR LIMIT
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ITEM #1:

1) PULSED POWER AMPLIFIER: FREQ RANGE, 32-38 GHZ; GAIN, 37 DB TYP; GAIN FLATNESS, +/- 1.5 DB TYP; PLDB, 36.0 DBM(TYP) 35 DB(MIN); OUTPUT POWER FLATNESS, +/- 0.5 DB; VSWR, 2:1 (MAX); RISE/FALL TIME, 20/30NS; MODULATED PULSE, 100NS TO CW QPP-35053534-BZ			<b>3A001.b.2.e</b>	\$3,000
---	--	--	--------------------	---------

ITEM #2:

2) POWER AMPLIFIER: FREQ RANGE, 6-18 GHZ; PLDB, 30.0 DBM; GAIN, 33.0 DB; GAIN FLATNESS, +/-3.3 DB; DC/CURRENT, 12V @ 3.1A MAX; INPUT VSWR, 2:1 TYPICAL; TYPE CIRCUIT, MMIC. QPJ-06183330-A0			<b>3A001.b.2.c</b>	\$3,000
---	--	--	--------------------	---------

COMMENTS FROM LICENSING OFFICER(S):

Approved:  
3A002.b.2.e  
and  
3A002.b.c



# Checking Status on SNAP-R



## SNAP-R

- SNAP-R HOME
- CREATE WORK ITEM
- LIST WORK ITEMS
- SEARCH WORK ITEMS
- SEARCH DOCUMENTS
- VIEW MESSAGES
- MANAGE USER PROFILE
- HELP
- LOGOUT

**NEWLY RELEASED!**  
STELA

Work Item List					
You may sort the list by clicking on the column headers. ?					
				123 Work Item(s)	Displaying 1 through 10
Reference Number	ACN	Case Number	Type	Creation Date	SNAP-R Status
<a href="#">ALB0003</a>	Z600021		Export License Application	09/08/2010	ACCEPTED
<a href="#">ALB0002</a>	Z401177		Commodity Classification Request	09/07/2010	ACCEPTED
<a href="#">ALB0001</a>	Z600011		Export License Application	08/05/2010	ACCEPTED
[Redacted content]					

Prev 1 2 3 Next

[Search Again](#)

# Checking Status on SNAP-R



## STELA

System for Tracking Export License Applications

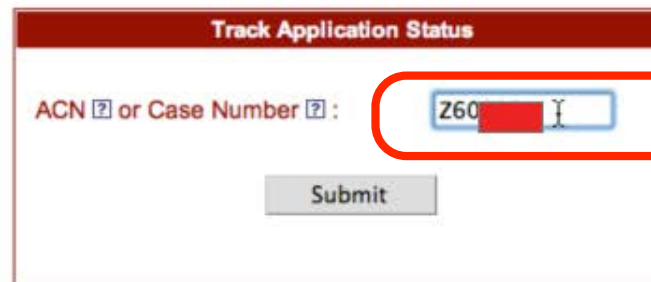
Bureau of Industry and Security  
U.S. Department of Commerce

WARNING WARNING WARNING WARNING WARNING WARNING WARNING WARNING

USE OF THIS SYSTEM IS RESTRICTED AND MONITORED !!!

You are accessing a U.S. Government information system, which includes: 1) this computer, 2) this computer network, 3) all computers connected to this network, and 4) all devices and storage media attached to this network or to a computer on this network. You understand and consent to the following: you may access this information system for authorized use only; you have no reasonable expectation of privacy regarding any communication of data transiting or stored on this information system; at any time and for any lawful Government purpose, the Government may monitor, intercept, and search and seize any communication or data transiting or stored on this information system; and any communications or data transiting or stored on this information system may be disclosed or used for any lawful Government purpose.

WARNING WARNING WARNING WARNING WARNING WARNING WARNING WARNING



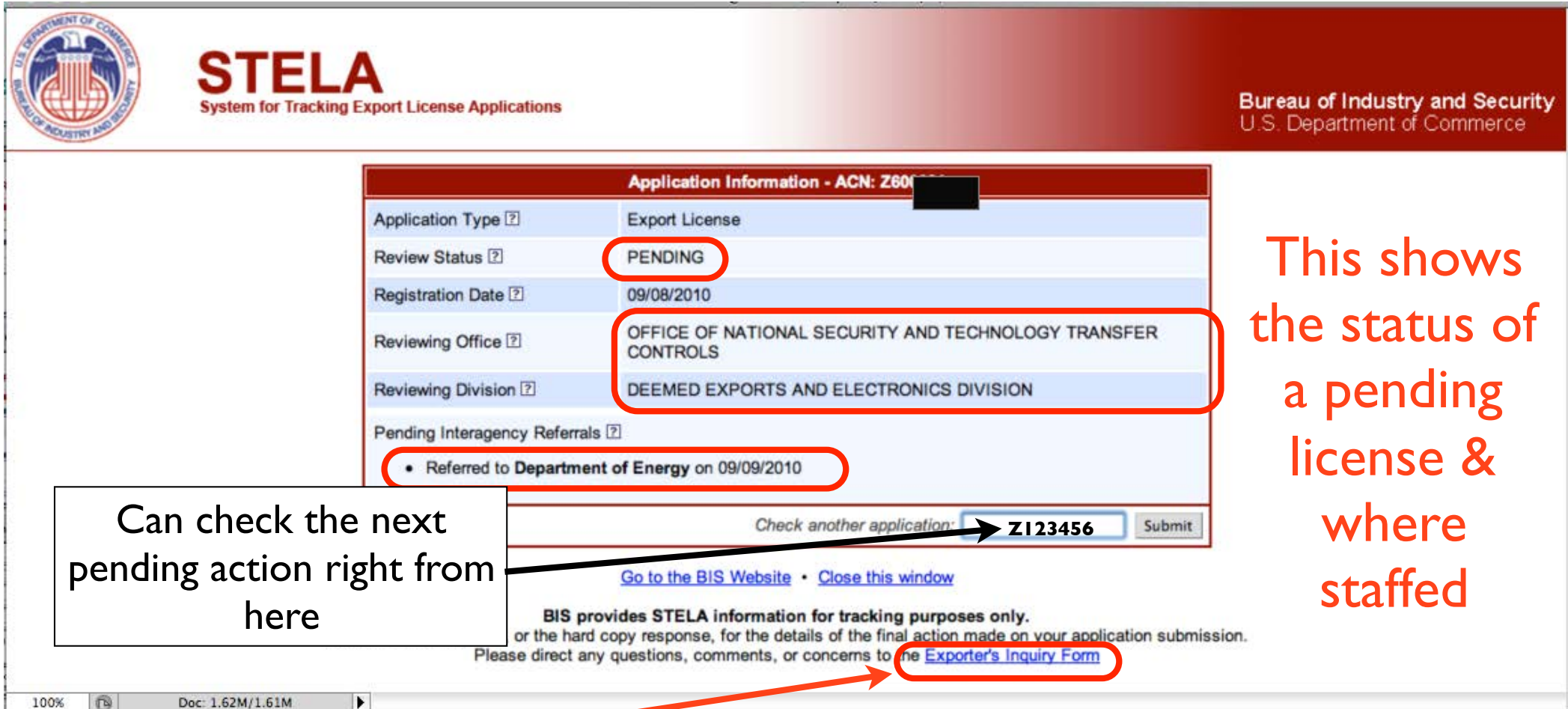
Plug in your case number and "Submit"

BIS provides STELA information for tracking purposes only.

Please refer to SNAP-R, or the hard copy response, for the details of the final action made on your application submission. Please direct any questions, comments, or concerns to the [Exporter's Inquiry Form](#)



# Checking Status on SNAP-R



**STELA**  
System for Tracking Export License Applications

Bureau of Industry and Security  
U.S. Department of Commerce

Application Information - ACN: Z600[redacted]

Application Type [?]	Export License
Review Status [?]	PENDING
Registration Date [?]	09/08/2010
Reviewing Office [?]	OFFICE OF NATIONAL SECURITY AND TECHNOLOGY TRANSFER CONTROLS
Reviewing Division [?]	DEEMED EXPORTS AND ELECTRONICS DIVISION

Pending Interagency Referrals [?]

- Referred to Department of Energy on 09/09/2010

Check another application:

[Go to the BIS Website](#) • [Close this window](#)

BIS provides STELA information for tracking purposes only.  
or the hard copy response, for the details of the final action made on your application submission.  
Please direct any questions, comments, or concerns to the [Exporter's Inquiry Form](#)

100% Doc: 1.62M/1.61M

This shows the status of a pending license & where staffed

Can check the next pending action right from here

Can write or call a human help desk at (202) 482-4811

# Checking Status on SNAP-R



Photo-Sonics, Inc.

Filing Licenses & CCATS



## STELA

System for Tracking Export License Applications

Bureau of Industry and Security  
U.S. Department of Commerce

Application Information - ACN: Z4 <b>Z123456</b>	
Application Type [?]	Commodity Classification
Review Status [?]	PENDING
Registration Date [?]	09/08/2010
Reviewing Office [?]	OFFICE OF NATIONAL SECURITY AND TECHNOLOGY TRANSFER CONTROLS
Reviewing Division [?]	DEEMED EXPORTS AND ELECTRONICS DIVISION

Check another application:

[Go to the BIS Website](#) • [Close this window](#)

**BIS provides STELA information for tracking purposes only.**

Please refer to SNAP-R, or the hard copy response, for the details of the final action made on your application submission.  
Please direct any questions, comments, or concerns to the [Exporter's Inquiry Form](#)

Z“123456”  
is the  
CCATS  
we just typed



# Blanket Licenses (EAR):

A “normal” BIS-748 with hair on its chest



Photo-Sonics, Inc.

May 2016



- The standard license (BIS-748 form) is inherently more flexible than the State/DDTC DSP-5.
- So the EAR equivalent to ITAR blanket is built in to EAR rules.
  - EAR support document rules do not require a P.O.
  - ITAR blanket works from an LOI on foreign letterhead
  - But EAR can just work from the exporter’s desires
- The more sensitive the ECCN, and the “trickier” the country, the more complete the support documentation becomes.
- EAR support doc rules are more complex, but more flexible



# U.S. Munitions Import List “USMIL”



Photo-Sonics, Inc.

May 2016



- Temporary import of defense item – State jurisdiction
- Permanent Import of defense item – Treasury jurisdiction (BATF)
- Import of dual-use item from eligible country – not controlled
- Import of dual use from embargoed country – OFAC jurisdiction



# Export/Import Jurisdiction



Photo-Sonics, Inc.

**A License/Permit needed?**

## Regarding Hardware

	State	Commerce Dept	BATF
<b>USML goods import (permanent)</b>	N/A	N/A	Only if USMIL (See USMIL line, below)
<b>USML goods export (permanent/temporary)</b>	DSP-5/DSP-73 (First register w/ DS-2032)	N/A	N/A
<b>USML goods import (temporary to repair/replace)</b>	NLR - Use exemption at ITAR 123.4(a)(1)	N/A	N/A
<b>USML goods import (temporary for tradeshow or transit through USA)</b>	DSP-6I *	N/A	N/A (BATF firearms/ammo regs apply while in US)
<b>USMIL goods import (permanent)</b>	N/A	N/A	Form 6 Pt I (First register w/ ATF-4587)
<b>CCL goods export (permanent or temporary)</b>	N/A	BIS-748 License, NLR, or exception as appropriate	N/A
<b>CCL goods import (permanent or temporary)</b>	N/A	NLR or exception	N/A
<b>EAR99 goods (import or export, temp/perm)</b>	N/A	N/A	N/A

\* Normally buying a defense article abroad, importing to the US, and selling to customer overseas, is not a DSP-6I, but rather is treated as (i) a permanent import followed by (ii) permanent export.

# U.S. Munitions Import List (USMIL)



Photo-Sonics, Inc.

## ITAR Overview

Code	Description
<b>I</b>	<b>Firearms, Close Assault Weapons &amp; Combat Shotguns</b> <small>+ Parts I(i) Tech Data</small>
<b>II</b>	<b>Guns and Armament</b> <small>Includes howitzers, mortars, cannons, recoilless rifles, etc. + Parts II(k) Tech Data</small>
<b>III</b>	<b>Ammunition/Ordnance</b> <small>+ Parts III(e) Tech Data</small>
<b>IV</b>	<b>Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines</b> <small>- Various - + Parts IV(i) Tech Data</small>
<del><b>V</b></del>	<del><b>Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents</b></del>
<b>VI</b>	<b>Surface Vessels of War and Special Naval Equipment</b> <small>+ Parts VI(g) Tech Data</small>
<b>VII</b>	<b>Ground Vehicles</b> <small>+ Parts VII(h) Tech Data</small>
<del><b>VIII</b></del>	<del><b>Aircraft &amp; Associated Equip</b></del> <small>VIII(b) Parts VIII(i) Tech Data</small>
<del><b>IX</b></del>	<del><b>Military Training Equipment</b></del>
<del><b>X</b></del>	<del><b>Protective Personnel Equip</b></del>
<del><b>XI</b></del>	<del><b>Military Electronics</b></del>

Code	Description
<del><b>XII</b></del>	<del><b>Fire Control, Range Finder, Optical and Guidance and Control Equipment</b></del>
<del><b>XIII</b></del>	<del><b>Materials &amp; Miscellaneous Equip.</b></del>
<b>XIV</b>	<b>Toxicological Agents, Including Chemical Agents, Biological Agents, Associated Equip</b> <small>- Various - XIV(m) Tech Data</small>
<del><b>XV</b></del>	<del><b>Spacecraft Systems and Associated Equipment</b></del>
<b>XVI</b>	<b>Nuclear Weapons Related Articles</b>
<del><b>XVII</b></del>	<del><b>Classified Articles, Data &amp; Services Not Otherwise Enumerated</b></del>
<del><b>XVIII</b></del>	<del><b>Directed Energy Weapons</b></del>
<del><b>XIX</b></del>	<del><b>Gas Turbine Engines &amp; Assoc.</b></del>
<b>XX</b>	<b>Submersible Vessels &amp; Related Articles</b> <small>+ Parts XX(d) Tech Data</small>
<b>XXI</b>	<b>Articles, Data &amp; Services Not Otherwise Enumerated</b>

**State Universities** are exempt from 27 CFR Part 478 (certain firearms rules), but not exempt from USMIL import permit rules.

§ 447.2(c) Articles on the U.S. Munitions Import List imported for the United States or any State or political subdivision thereof are exempt from the import controls of 27 CFR Part 478 but are not exempt from control under Section 38, Arms Export Control Act of 1976, unless imported by the United States or any agency thereof. All such importations not imported by the United States or any agency thereof shall be subject to the import permit procedures of subpart E of this part.



## § 447.61 Unlawful importation.

Any person who willfully:

- (a) Imports articles on the U.S. Munitions Import List without a permit;
- (b) Engages in the business of importing articles on the U.S. Munitions Import List without registering under this part; or
- (c) Otherwise violates any provisions of this part;

Shall upon conviction be **fined not more than \$1,000,000** or **imprisoned not more than 10 years**, or **both**.



# Schedule B & HTS Issues



Photo-Sonics, Inc.

May 2016

# What is HTS and Schedule B ?



- The Harmonized Commodity Description and Coding System, or the HTS, is an international system (136 nations) of classifying and tracking the flow of international goods.
- HTS is a 6-digit system, but nations can add up to 4 digits
- HTSUS (or HTSA) is for Inbound goods - U.S. International Trade Commission (USITC).
- Schedule B is for Outbound goods - Census Bureau
- HTS international, HTSUS and Schedule numbers can differ
- Exporters can choose to use HTSUS instead of Schedule B
- There is much confusion about all this



# Same or Different - Hmmm ?



- Commodities with different numbers

<b>Commodities with <u>Identical</u> Numbers</b>	<b>HTSUS</b>	<b>Schedule B</b>	<b>TARIC (for EU)</b>	<b>Japan (9-digit system)</b>
Duplicating machines	8472.10.0000	8472.10.0000	8472.10.0000	8472.10.000
Erasures	4016.92.0000	4016.92.0000	4016.92.0000	4016.92.000
Inner tubes for bicycles	4013.20.0000	4013.20.0000	4013.20.0000	4013.20.000

<b>Commodities with <u>Different</u> Numbers</b>	<b>HTSUS</b>	<b>Schedule B</b>	<b>TARIC (for EU)</b>	<b>Japan</b>
Parts of aircraft gas turbines, other than those of turbo-jets or turbo-propellers	8411.99.9090	8411.99.7010 (if civil) 8411.99.7050 (if non-civil)	8411.99.0090	8411.99.021
Pencil sharpeners	8472.90.4000	8472.90.9002	8472.10.9070	8472.90.000
Gaskets, washers and other seals, for use in civil aircraft	4016.93.5010 (if O-rings) 4016.93.5020 (if oil seals) 4016.93.5050 (if other)	4016.93.0000 (for use anywhere)	4016.93.0010	4016.93.000 (for use anywhere)
<u>Retreaded</u> or used pneumatic tires, of rubber, of a kind used on aircraft, military	4012.13.0050	4012.13.0000 (on any aircraft)	4012.13.0090	4012.13.000 (on any aircraft)



- For Temporary Imports, forget all the look-up rules
- There are exceptions for both [Inbound](#) and [Outbound](#)
- For [Inbound](#), use HTSUS code [9801.00.1012](#)
  - Customer returning goods ideally should mark “U.S. goods returned” or similar, and cite ITAR § 123.4(a)(1)
- For [Outbound](#), use Schedule B number [9801.10.0000](#)
  - PSI shipping documents, waybill, invoice or whatever should have a phrase like “U.S. goods repaired under warranty.”
  - AES entry outbound should check ITAR exemption § 123.4(a)(1)



# Carnets, TIBs and Licenses (oh my!)



Photo-Sonics, Inc.

May 2016

# What is a Carnet?

- A carnet is an internationally-recognized “bond” covering goods
- Think of it as a “visa” for stuff (versus a human)
- Simplifies the Customs formalities of temporary export/import
- Entering the U.S., as an example:
  - One could use a TIB or a carnet; both can eliminate duties
  - TIB - post bond with CBP for twice the estimated duties; and must file CF346I (Entry/Immediate Delivery) or CF750I (Entry Summary)
  - Carnet - pay for the carnet, good for 1 year unlimited entries or exits for 87 participating countries, no Customs paperwork
- Entering the U.S., good for 3 categories of good: Commercial samples, professional equipment and advertising material
  - Other countries can be more flexible; check with carnet issuer

# What is a Carnet?

- A carnet takes the place of the following export licenses:
  - Absolutely none, anywhere in the world
  - Still requires the same license or exemption/exception
- Can convert to a permanent export/import
  - pay 100% liquidated damages
  - also convert license or exemption/exception to permanent
- To begin process, contact United States Council for International Business in New York at (212) 354-4480 or [www.uscib.org](http://www.uscib.org)
- Relatedly: NAFTA - as with Carnets - carries no export-control authorization. Absolutely none. It only deals with reduced tariffs, duties, truck safety, etc.



- Carnet is private system run by members of the International Bureau of Chambers of Commerce, but recognized by 87 gov'ts

Algeria  
Andorra  
Australia  
Austria  
Balearic Isles  
Belgium  
Botswana  
Bulgaria  
Canada  
Canary Islands  
Ceuta  
China  
Corsica  
Croatia  
Cyprus  
Czechoslovakia  
Denmark  
Estonia  
European Union  
Finland  
France  
French Guiana  
French polynesia- including Tahiti  
Germany  
Gibraltar  
Greece  
Guadeloupe  
Bailiwick of Guernsey

Hong Kong  
Hungary  
Iceland  
India  
Ireland  
Isle of Man  
Israel  
Italy  
Ivory Coast  
Japan  
Jersey  
Korea (Rep. Of)  
Lebanon  
Lesotho  
Liechtenstein  
Luxembourg  
Macedonia  
Macao  
Malaysia  
Malta  
Martinique  
Mauritius  
Mayotte  
Melilla  
Miguelon  
Monaco  
Morocco  
Namibia  
Netherlands  
New Caledonia  
New Zealand  
Norway  
Poland  
Portugal  
Puerto Rico  
Reunion Island  
Romania

St. Barthelemy  
St. Martin, French part  
St. Pierre  
Senegal  
Singapore  
Slovakia  
Slovenia  
South Africa  
Spain  
Sri Lanka  
Swaziland  
Sweden  
Switzerland  
Tahiti  
Tasmania  
Taiwan  
Thailand  
Tunisia  
Turkey  
United Kingdom  
United States  
Wallis & Futuna Islands





# State Dept Licensing: D-Trade 2



Photo-Sonics, Inc.

May 2016

# DDTC License Processing Times



Photo-Sonics, Inc.

D-Trade 2 & DSP-5

**Processing numbers include all case types except Commodity Jurisdictions (CJs), Government Jurisdictions (GJs), and Electronic Rejections**

Month and Year	Mar 2014	April 2014	May 2014	Jun 2014	Jul 2014	Aug 2014	Sep 2014	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015
<b>Cases Received</b>	5,304	5,570	5,502	5,327	5,227	5,071	4,789	4,787	3,931	4,306	3,495	3,858	4,390
<b>Cases Closed</b>	5,145	5,443	5,566	5,316	5,325	5,126	4,873	4,978	3,965	4,366	3,609	3,609	4,336
<b>Cases Open at End of Month</b>	3,421	3,571	3,532	3,597	3,529	3,511	3,454	3,294	3,193	3,155	3,065	3,337	3,425
<b>Average Processing Time (Calendar Days)</b>	22	20	20	20	21	23	21	24	22	22	29	25	26

**Not much change since 2008**

Month and Year	Mar 2008	Apr 2008	May 2008	Jun 2008	Jul 2008	Aug 2008	Sep 2008	Oct 2008	Nov 2008	Dec 2008	Jan 2009	Feb 2009	Mar 2009
<b>Average Processing Time (Calendar Days)</b>	15	15	15	15	17	16	16	16	16	16	17	15	15

# D-Trade 2 Login and Filing

How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

D-Trade 2 Overview

Best to start from this page:

<https://dtas-online.pmdtcc.state.gov/?CFID=2132&CFTOKEN=47948597>

Then mouse-over "DTrade" and slide down to select "DTrade Login"

The screenshot shows the website for the Directorate of Defense Trade Controls (DDTC) DTAS-ONLINE. The navigation menu includes "DTrade", "Ellie", "MARY", and "Contact". The "DTrade" dropdown menu is open, showing options: "Getting Started", "Guidelines & Instructions", "FAQs", "Forms", "Batch Schemas", and "DTrade Login". Below the menu, there are three columns describing the systems: DTrade, Ellie, and MARY. The DTrade column describes it as a fully electronic system for submitting defense export applications. The Ellie column describes it as a legacy partial-electronic system for amending and viewing license status. The MARY column describes it as a web-based status retrieval system. At the bottom, there are links for "Check Ellie Status" and "Submit DSP 119".

DTrade	Ellie	MARY
<p>DTrade is a fully electronic system that enables registered Industry users the ability to submit defense export applications and amendments through this web interface in a secure environment.</p> <p>Go to the <a href="#">DTrade Information Page</a></p>	<p>Ellie is DDTC's legacy partial-electronic system. You must be a member of Ellie in order to participate and use the system for amending and viewing the status of the license applications.</p> <p><a href="#">Check Ellie Status</a></p> <p><a href="#">Submit DSP 119</a></p>	<p>MARY is DDTC's web based status retrieval system. This system currently only contains status of documents submitted through DTrade.</p> <p>Go to <a href="#">MARY</a></p>



# D-Trade 2 Login and Filing

How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

## D-Trade 2 Overview

### D-Trade 2

All electronic filings since May 16, 2009 must use this new system. So far:  
DSP-5, DSP-61, DSP-73  
DSP-6, DSP-62, DSP-74

### D-Trade 1 (now kaput)

Legacy case log and any pending apps filed under the old system. Now gone.

### Agreements via D-Trade 2

Now optional; will soon be mandatory. Use for TAA, MLA, Amendments, etc.

The screenshot shows the DTrade Information Center website. At the top, there is a navigation bar with the U.S. Department of State logo and the text "U.S. DEPARTMENT OF STATE Directorate of Defense Trade Controls". Below this is a "Web Notice" section with a red border, stating that starting May 16, 2009, DTrade 2 must be used for all new license submissions. To the left of the main content is a blue sidebar menu with links such as "Home", "About DDTC", "Getting Started", "Registration", "D-Trade", "Licensing", "Compliance", "Commodity Jurisdiction", "Response Team", "Regulations and Laws", "Country Policies and Embargoes", "Treaties", "FAQs", "Outreach", "Metrics", "Reports", "Federal Register Notices", "Links to Other Web Sites", "DTAG", and "Miscellany". The main content area includes a "Web Notice" section, a "Reminder" section about form expiration dates, and a "D-Trade Updates" section with three numbered items. On the right side, there are sections for "DTrade2 Log-In", "DTrade Announcements", "Guidelines", "Digital Certificates", "DTrade Form Viewer", and "DTrade2 v2.0 - Production Forms".

# As you login, you may see this

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

D-Trade 2 Overview

Unauthorized request - Windows Internet Explorer

https://dt2.pmddtc.state.gov/dtrade/CertificateLogin

File Edit View Favorites Tools Help

Google Search

Unauthorized request

**We are unable to process your request due to one of the following reasons:**

- You did not respond in a timely manner which caused a request timeout.
- Your login attempt was invalid due to an incorrect user id/password combination.
- You are currently logged out of the system.
- You entered an incorrect password for your digital certificate.

Login

If you see this, just ignore it.

Click "Login" and continue.

# Now you're entering D-Trade

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

### D-Trade 2 Overview

The screenshot shows a Windows Internet Explorer browser window with the address bar displaying `https://dt2.pmddtc.state.gov/dtrade/CertificateLogin`. The page content includes a warning message:

**WARNING! THIS SYSTEM IS FOR AUTHORIZED USE ONLY!**

This computer system is the property of, and is operated by and for the use of, the United States Government. Unauthorized access to or use of this secure Government site is a violation of Federal statutes. Violations of these statutes are punishable by civil and criminal penalties. Users have no expectation of privacy and the Government may monitor any activity on the system and retrieve any information stored within the system. By accessing and using this system, users are consenting to such monitoring and information retrieval for law enforcement and other purposes. Users expressly consent to such monitoring and are advised that if such monitoring reveals possible evidence of criminal activity or civil violations, systems security personnel may provide the evidence of such monitoring to law enforcement or appropriate regulatory officials.

At the bottom of the page, a button labeled "Continue" is circled in red. A red line connects this button to a red-bordered box containing the text "Click 'Continue'" in black font.



# Welcome to D-Trade2

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

### D-Trade 2 Overview

On the left is your menu.

In the middle you will find announcements from your friendly, neighborhood DDTC.

“Track Status” is used frequently.

“View Users” is to manage digital certificates.

# Welcome to D-Trade2

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

### D-Trade 2 Overview

The screenshot shows a Windows Internet Explorer browser window displaying the DTrade2 website. The address bar shows the URL <https://dt2.pmdtcc.state.gov/dtrade/WorkMain>. The page header includes the U.S. Department of State logo and navigation links such as Home, Contact Us, FOIA, Privacy Notice, and Archive. A sidebar on the left contains sections for Filing, User Management, and Links. The 'User Management' section has 'View Users' highlighted with a red circle. A red box with a white border and a red arrow points to the 'View Users' link, containing the text 'Now click on "View Users"'. The main content area displays a welcome message and a 'Web Notice' dated May 15, 2009, regarding the transition to DTrade 2.

**U.S. DEPARTMENT of STATE**

Home | Contact Us | Email this Page | FOIA | Privacy Notice | Archive

About the State Dept. | Press and Public Affairs | Travel and Living Abroad | Countries and Regions | International Issues | History, Education and Culture | Business Center | Other Services | Employment

Return to DTC Home

Hugh J Schmittle

**Filing**

- Download DSP-5 Form
- Download DSP-6 Form
- Download DSP-61 Form
- Download DSP-62 Form
- Download DSP-73 Form
- Download DSP-74 Form
- Track Status
- Download Status Data

**User Management**

- View Users**

**Links**

- Forms Viewer Download
- Digital Certificate Issuer
- Industry Users Manual
- Managing Digital Certificates FAQs
- US Department of State

## Welcome to the DDTC Electronic Filing System

This is the DDTC Electronic Filing System web site. Use the menus on the left to navigate to the accessible functions. Use the "Links" menu to navigate to related web sites.

**IMPORTANT NOTICES: (Posted - May 15, 2009)**

**Web Notice: (5.15.09)** Beginning on May 16, 2009, the DTrade 2 application must be used to submit all new license submissions. Do not submit new applications via DTrade 1. Any new submissions to DTrade1 will be Returned Without Action (RWA), directing the applicant to submit via the DTrade2 application. DTrade 1 will be available to track status and to attach amplifying data to pre-existing cases as required. DDTC will continue to process any cases submitted to the Directorate via the DTrade1 application prior to May 16, 2009 until the review of the case is complete.

[Please click here for details.](#)

- (UPDATED - January 10, 2009) DSP Batch Submitters - please [click here](#) and download the Batch XML Schema files for the test and production servers.

# Managing User Roles

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

D-Trade 2 Overview

The screenshot shows the DTrade Electronic ITAR Licensing System interface. The page title is "View Users" and it displays "Displaying Records: 1 of 2". A red circle highlights the "Manage User Roles" button. Below the table, a red box highlights the "John Doe" user entry in the "Company Users" table. The interface includes a navigation menu with options like "Home", "Contact Us", "Email this Page", "FOIA", "Privacy Notice", and "Archive". The page also features a "U.S. DEPARTMENT of STATE" banner and a sidebar with various links and forms.

- Super-User should check the name of a certificate
- Then click on “Manage User Roles” button



# Managing User Roles

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

D-Trade 2 Overview

That brings you to this screen

- The Super-User / Empowered Official controls all digital certificates and “access roles” from this interface
- Assign roles by clicking on a role, and then push the left or right direction buttons

The screenshot shows a web browser window with the URL <https://dt2.pmdt.c.state.gov/dtrade/WorkMain>. The page header includes the U.S. Department of State logo and navigation links. The main content area is titled "Reassign User Roles" and displays the following information:

User Name: Hugh J Schmitle  
User ID: 193449880211030559799275747003434697266

Current Roles: Industry Status Retriever  
Remaining Roles: Industry Submitter, Industry Signature Authority

Navigation buttons: Continue, Cancel Reassign

Left sidebar menu items:

- John Doe
- Filing
  - Download DSP-5 Form
  - Download DSP-6 Form
  - Download DSP-61 Form
  - Download DSP-62 Form
  - Download DSP-73 Form
  - Download DSP-74 Form
  - Track Status
  - Download Status Data
- User Management
  - View Users
- Links
  - Forms Viewer Download
  - Digital Certificate Issuer
  - Industry Users Manual
  - Managing Digital Certificates FAQs
  - US Department of State

# Track Status in good ol' days

How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

## D-Trade 2 Overview

Return to DTC Home

Hugh Schmittle

Filing

- Track Status
- Download Status Data
- Online Filter Download
- Digital Certificate Issuer
- Industry Users Manual
- Managing Digital Certificates
- FAQs
- US Department of State

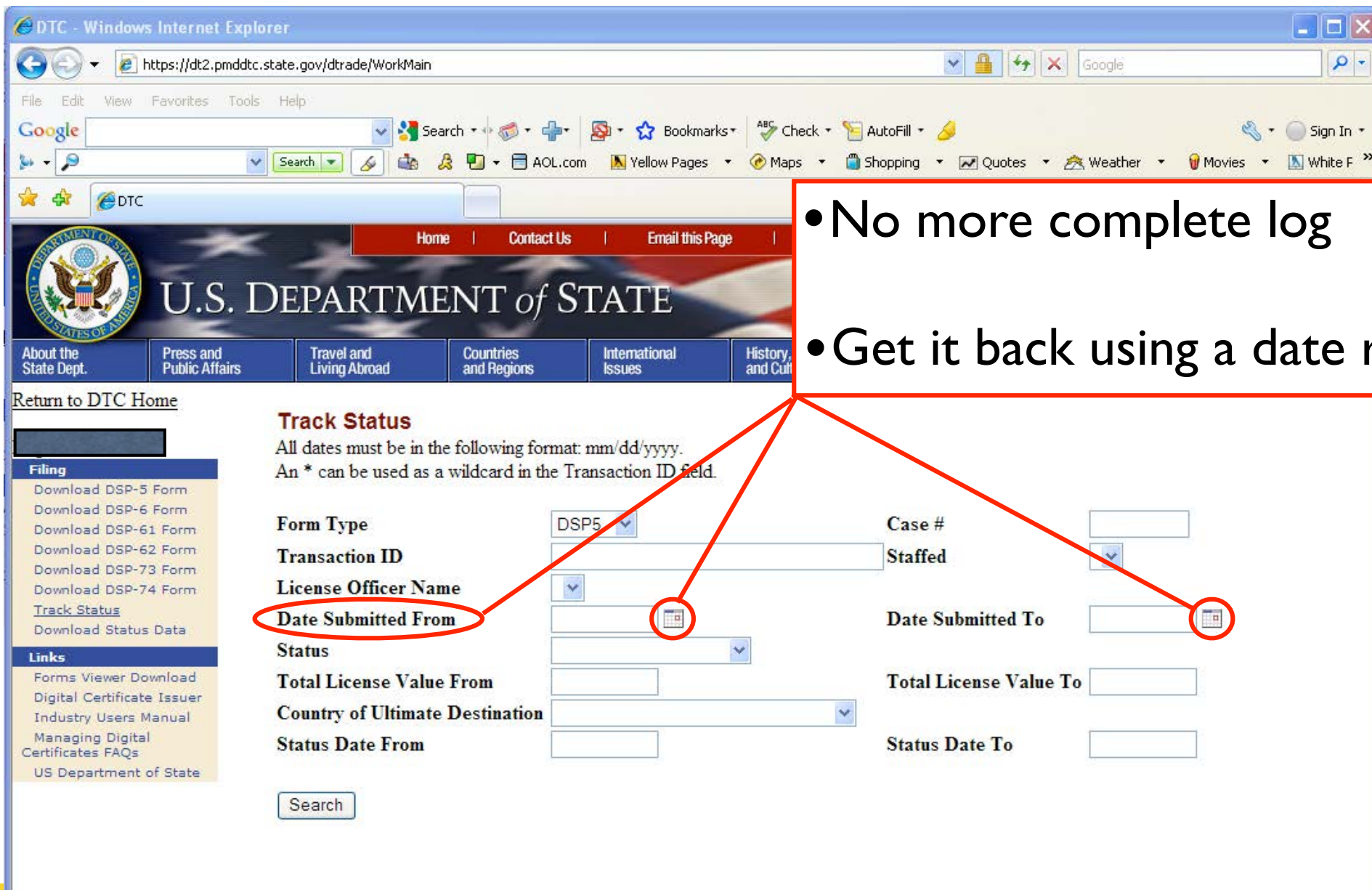
**Track Status**  
Displaying Records: 1-20 of 97  
1 2 3 4 5

Type	Case #	Trans. ID	Staff	License Officer	Status	Status Date	Date Prepared	License Value	Country
DSP5	05015	ND	Y	BoydME	Final: Approved	11-May-09	24-Apr-09	680170	
DSP5	05015	ND	Y	McPhersonEA	Final: Appr. w/Prov.	17-Apr-09	14-Apr-09	6679700	
DSP5	05015	ND	N	BoundsAD	Final: Appr. w/Prov.	10-Apr-09	07-Apr-09	1144020	
DSP5	05015	KB-9	N	MisbinKS	Final: Appr. w/Prov.	30-Mar-09	25-Mar-09	1000000	
DSP5	05015	ND	N	McPhersonEA	Final: Approved	26-Mar-09	19-Mar-09	1115	
DSP5	05014	KB-9	N	McPhersonEA	Final: Appr. w/Prov.	05-Mar-09	20-Feb-09	1000000	
DSP5	05014	ND	N	BeckDG	Final: Appr. w/Prov.	02-Mar-09	24-Feb-09	12000500	
DSP5	05014	ND	Y	BeckDG	Final: Approved	27-Feb-09	23-Feb-09	26050	
DSP5	05014	ND	Y	McdonaldAR	Final: Approved	18-Feb-09	13-Jan-09	117758	
DSP5	05014	ND	Y	BoydME	Final: Approved	17-Feb-09	22-Jan-09	3919373	
DSP5	05014	ND	N	BoydME	Final: Approved	10-Feb-09	22-Jan-09	39013	
DSP5	05014	ND	Y	SmoakGA	Final: Appr. w/Prov.	03-Feb-09	08-Jan-09	1354790	
DSP5	05014	ND	N	BeckDG	Final: Approved	23-Jan-09	22-Jan-09	75405	
DSP5	05013	ND	Y	SmoakGA	Final: Approved	21-Jan-09	07-Jan-09	5456	
DSP5	05014	ND	N	TaggeNC	Final: Approved	15-Jan-09	13-Jan-09	1190	
DSP5	05013	ND	N	McdonaldAR	Final: Approved	09-Jan-09	26-Dec-08	1375887	
DSP5	05013	ND	N	BoundsAD	Final: Approved	08-Jan-09	01-Jan-09	1207663	
DSP5	05013	ND	N	BoundsAD	Final: Approved	08-Jan-09	01-Jan-09	358570	
DSP5	05013	ND	Y	McdonaldAR	Final: Approved	08-Jan-09	28-Dec-08	1967166	
DSP5	05013	ND	N	TaggeNC	Final: Approved	07-Jan-09	23-Dec-08	919185	

Done

dtrade.pmdtcr.state.gov Now: Mostly Sunny, 81 °F Mon: 88 °F Tue: 87 °F

# Track Status under D-Trade 2



**Track Status**  
All dates must be in the following format: mm/dd/yyyy.  
An \* can be used as a wildcard in the Transaction ID field.

**Form Type** DSP5 **Case #**

**Transaction ID**  **Staffed**

**License Officer Name**

**Date Submitted From**

**Status**  **Date Submitted To**

**Total License Value From**  **Total License Value To**

**Country of Ultimate Destination**  **Status Date To**

**Status Date From**

- No more complete log
- Get it back using a date range



# Track Status under D-Trade 2

How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

D-Trade 2 Overview

Return to DTC Home

Hugh Schmittle

**Filing**

- Download DSP-5 Form
- Download DSP-6 Form
- Download DSP-61 Form
- Download DSP-62 Form
- Download DSP-73 Form
- Download DSP-74 Form
- Track Status
- Download Status Data

**Links**

- Forms Viewer Download
- Digital Certificate Issuer
- Industry Users Manual
- Managing Digital Certificates FAQs
- US Department of State

**Search Results**

Displaying Records: 1-2 of 2

Type	Case #	Trans. ID	Staff	License Officer	Status	Status Date	Date Prepared	License Value	Country
DSP5	05017	AP-072009	N	Angela J Gordon	Signed	13-Aug-09	14-Jul-09	0	IS
DSP5	05015	AP-072009	N	WalkerWL	Signed	20-Jul-09	14-Jul-09	100000	IS

Return

- Your log will look like this
- For more details, click on case

# Track Status under D-Trade 2

## How to Use the DTrade Electronic ITAR Licensing System



Photo-Sonics, Inc.

### D-Trade 2 Overview

**Application Detail**  
Case Number: 05017  
License Type: DSP5  
Transaction ID: [redacted]-AP-072009  
Status: Signed  
Country Code: IS  
Country Name: ISRAEL  
Date Prepared: 14-Jul-09  
License Officer: Angela J Gordon  
Status Date: 13-Aug-09  
Staffed: N

**Electronic Case with Final Decision**  
The electronic version of this case with a final decision is no longer available for download. Please submit an email to [dtradehelpdesk@state.gov](mailto:dtradehelpdesk@state.gov), and request that your case be put back on the server for retrieval. In the email, include your company name, point of contact name, point of contact phone number, and case number.

**Complete License Status Information**

Case Status	LO Name	Status Date	Comments
-------------	---------	-------------	----------

**Staffing Status**

Agency Info	Version #	Date Staffed	Date of Response
-------------	-----------	--------------	------------------

**Additional Documentation**

File Name	Category	Comments	Date
-----------	----------	----------	------

- And you'll see additional detail



# DSP-5

## How to Prepare It



Photo-Sonics, Inc.

May 2016

# Common Deal Structure

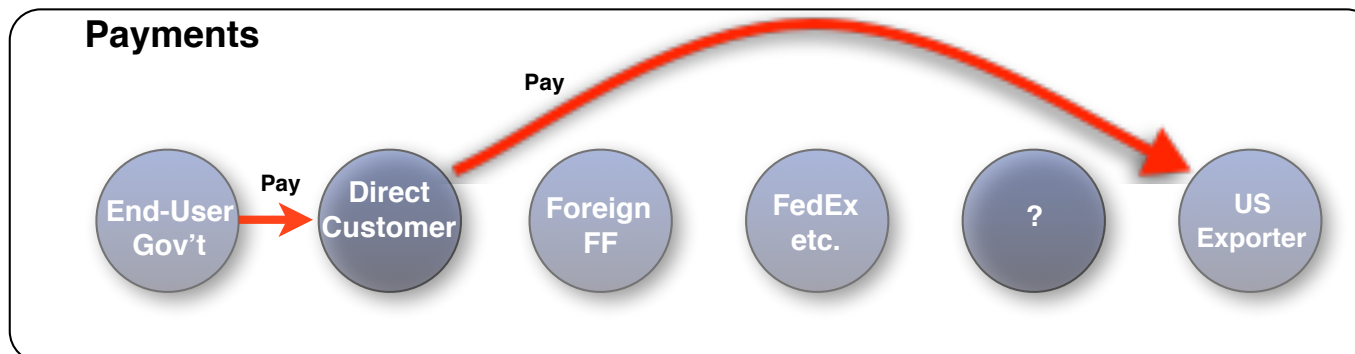
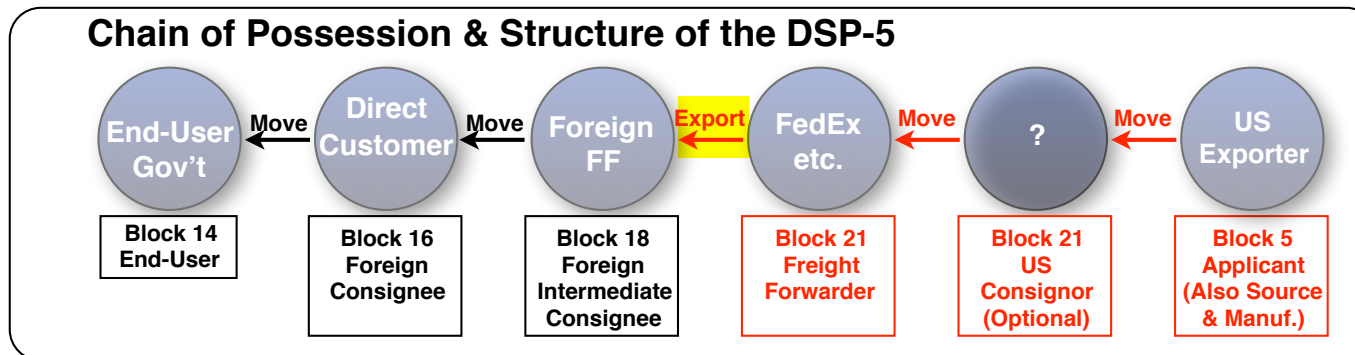
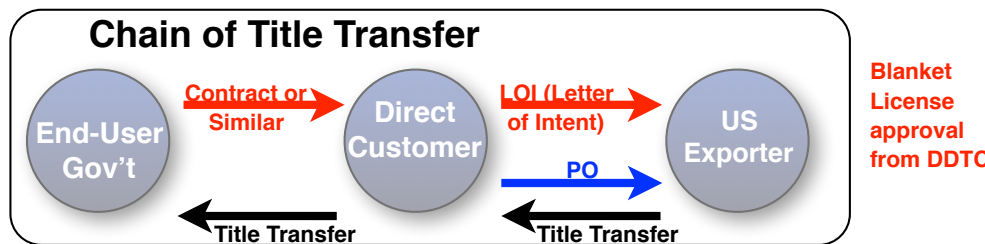
How to work the electronic DSP-5 form



Photo-Sonics, Inc.

**\*\* Transaction Flowchart**

- A **Blanket License**: Direct Customer sends an LOI to US export for \$\$\_\_million in spare parts
- A **Standard License**: Direct Customer sends a PO for the specific parts of P/N



# Required support documents

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

- Purchase Order (or the equivalent) should be on letterhead of purchaser & signed
- End-User Statement
  - Note: these statements can be separate docs, or written on the P.O. - “These parts are for the chassis of the AN/APG-65 Multi-Mode Radar installed in the F/A-18 in the inventory of the Australian MOD.”
- DSP-83 form if the goods are Significant Military Equipment



# Good P.O. characteristics

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

- The purchase order must be addressed and directed to the registered U.S. party selling the defense articles and submitting the export license application.
- The purchase documentation must be from the foreign party purchasing the defense articles, i.e. not from its U.S. subsidiary
- It should specifically explain the role of the party submitting the license application.
- The identities and roles of the parties to the transaction should be reflected in the support documentation.
- If denominated in foreign currency, must contain or be annotated with the applicable exchange rate.



# How to fill out & file a DSP-5

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

A screenshot of the DSP-5 submission form. The form is titled "APPLICATION LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA" and is issued by the U.S. DEPARTMENT OF STATE, DIRECTORATE OF DEFENSE TRADE CONTROLS. The form includes a "Transaction Number" field with the value "UNIQUE-1234" circled in red. Below this, there is a section for "Required Documents" with "DSP-5" selected and circled in red. An "Open Document" button is also circled in red. The form also includes a "PAPERWORK REDUCTION ACT STATEMENT" and a "Classified information" section with a checkbox for "Classified information is being sent under separate cover".

- Choose a transaction number, which must remain unique
- DSP-5 is a “Required Document”. Click on it.
- Then click on the Open Document grey button

# Choose your attachments

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

- Notice “DSP-5” slid from “Required Documents” to “Included Documents”
- Click on each “Optional Document” you attach (one at a time)
- Click on the “Open Document” grey button, and the form will let you search for each and embed the file
- Then click on the next “Optional Document” - etc.

A screenshot of a web browser window titled "Submission" showing the DSP-5 form. The form is from the U.S. Department of State, Directorate of Defense Trade Controls, and is titled "APPLICATION LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA". The form includes a transaction number field (UNIQUE-1234) and a section for "Required Documents" and "Included Documents". The "Required Documents" section is circled in red. The "Included Documents" section shows "DSP-5" has been moved from the required list to the included list. Below the "Required Documents" list, there is a list of "Optional Documents" including items like "22 CFR 5 126.13 Certification Letter" and "22 CFR 5 127.11 Exception to Policy Letter". The "Open Document" button is also circled in red. A red arrow points from the "Open Document" button to the "Included Documents" section. The form also includes a "PAPERWORK REDUCTION ACT STATEMENT" and a "Submit" button.

# Now they're all embedded

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

## DSP-5 for Hardware Export

- Now all the “Required” and “Optional” documents are found under the “Included Documents” section of the DSP-5.

- Next you must fill out the various blocks inside the form itself.

- Click on “DSP-5”, then click on “Open Document”

A screenshot of a web browser displaying the DSP-5 form. The browser window title is "Submission". The form header includes "Electronic Form Version Number: 4.0" and "OMB APPROVAL NO. 1405-0003 EXPIRATION DATE: 09-30-2011 \*ESTIMATED BURDEN: 1 HOUR". A "PAPERWORK REDUCTION ACT STATEMENT" is present. The form title is "U.S. DEPARTMENT OF STATE DIRECTORATE OF DEFENSE TRADE CONTROLS APPLICATION/LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA". A "Transaction Number" field contains "UNIQUE-1234". A note states: "Please note that an Asterisk (\*) next to a field in the documents designates a mandatory field. No classified information can be included in this application. Classified information must be sent separately to PM/DDTC in accordance with Defense Security Service guidelines." There is a checkbox for "Classified information is being sent under separate cover". A instruction reads: "To select and open a document, highlight a form and select the 'Open Document' button. The document that you selected will open." The form is divided into "Required Documents" and "Optional Documents" sections. The "Included Documents" section is highlighted with a red box and contains a list: "DSP-5", "DSP-83", "Letter of Intent", "Other Amplifying Data", "Product Brochures", "Purchase Order", and "Supplementary Explanation of Transaction". The "DSP-5" item is circled in red. Below this list is an "Open Document" button, also circled in red. The "Optional Documents" section lists various document types like "22 CFR § 126.13 Certification Letter", "Contract", "Firearms and Ammunitions Import Permit", etc.

# DSP-5 Page 1 - Highlights

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

The screenshot shows the DSP-5 form with several red circles highlighting key areas:

- Block 4:** "Probable Port of Exit from U.S." is highlighted with a red circle, showing "New York, NY".
- Block 8:** "This application has related license numbers:" is highlighted with a red circle, with the "Edit Related License Numbers" button also circled.
- Block 10:** The commodity table is highlighted with a red circle. It contains one line item with a quantity of 1, unit type "Lots", and a value of 20,000,000.

Line Item #	*9. Quantity	*10. Commodity	*11. USML Category Number	*12. \$ Value
1	1	Spare parts and components for the 256 engine for [redacted] and [redacted] aircraft in the inventory of the [redacted]	VIII h A3000 ENGINE SPARE	20,000,000

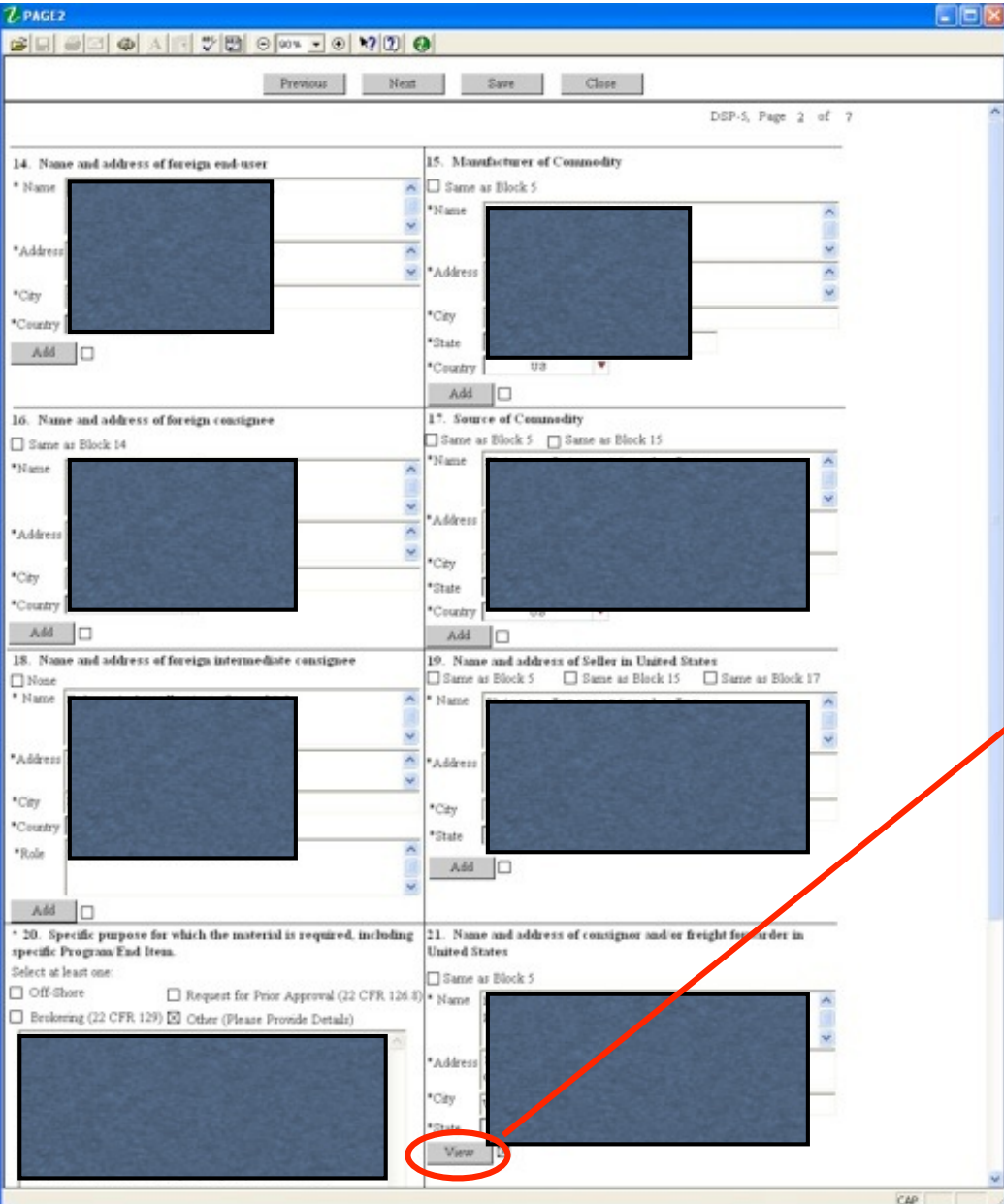
- Block 4 “Probable Port of Exit from U.S.” Best guess at the time; but later one can use any properly staffed port.

- Cite only the most relevant precedents; don’t overwork the case officer.

- The “Blanket License” format is in jeopardy; recent restrictions.

# DSP-5 Page 2 - Highlights

How to work the electronic DSP-5 form



14. Name and address of foreign end user

\* Name  
\* Address  
\* City  
\* Country  
Add

15. Manufacturer of Commodity

Same as Block 5

\* Name  
\* Address  
\* City  
\* State  
\* Country (US)  
Add

16. Name and address of foreign consignee

Same as Block 14

\* Name  
\* Address  
\* City  
\* Country  
Add

17. Source of Commodity

Same as Block 5  Same as Block 15

\* Name  
\* Address  
\* City  
\* State  
\* Country  
Add

18. Name and address of foreign intermediate consignee

None

\* Name  
\* Address  
\* City  
\* Country  
\* Role  
Add

19. Name and address of Seller in United States

Same as Block 5  Same as Block 15  Same as Block 17

\* Name  
\* Address  
\* City  
\* State  
Add

20. Specific purpose for which the material is required, including specific Program End Item.

Select at least one:

Off-Shore  Request for Prior Approval (22 CFR 126.6)  
 Brokering (22 CFR 129)  Other (Please Provide Details)

21. Name and address of consignor and/or freight forwarder in United States

Same as Block 5

\* Name  
\* Address  
\* City  
\* State  
View

- This blanket license is worth \$20 million, but it is a very simple structure.

- Notice there is no “View” until Block 21 -- that is, no continuation sheet listing additional parties. Again, a very simple story.



# DSP-5 Page 3 - Highlights

How to work the electronic DSP-5 form



- The act of electronically signing fills in Block 22 automatically.
- Check this button.
- Check one of these two: the 2nd one if Block 13 was \$500K or more.
- Click this block to apply your digital signature, which must be current and located on your computer.
- Click the “Save” button at top of page, then click “Close”.



# The DSP-5 is ready to submit

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export

- That returns you to this introductory page.
- Click the “Submit” button, and follow the prompts.
- Make sure you receive a confirmation of submission, and a case number beginning with “0504” or “0505”
- You can log onto your D-Trade account, and you will then see this new case #.

A screenshot of a web browser displaying the DSP-5 submission form. The browser window title is "Submission". The form is titled "U.S. DEPARTMENT OF STATE, DIRECTORATE OF DEFENSE TRADE CONTROLS, APPLICATION/LICENSE FOR PERMANENT EXPORT OF UNCLASSIFIED DEFENSE ARTICLES AND RELATED UNCLASSIFIED TECHNICAL DATA". A red circle highlights the "Submit" button in the top navigation bar. Below the header, there is a "Transaction Number" field with the value "UNIQUE-1234". A section titled "Required Documents" lists various documents, and a section titled "Included Documents" lists documents that have been submitted. The "Submit" button is circled in red, and a red arrow points from it to the second bullet point in the list on the right.

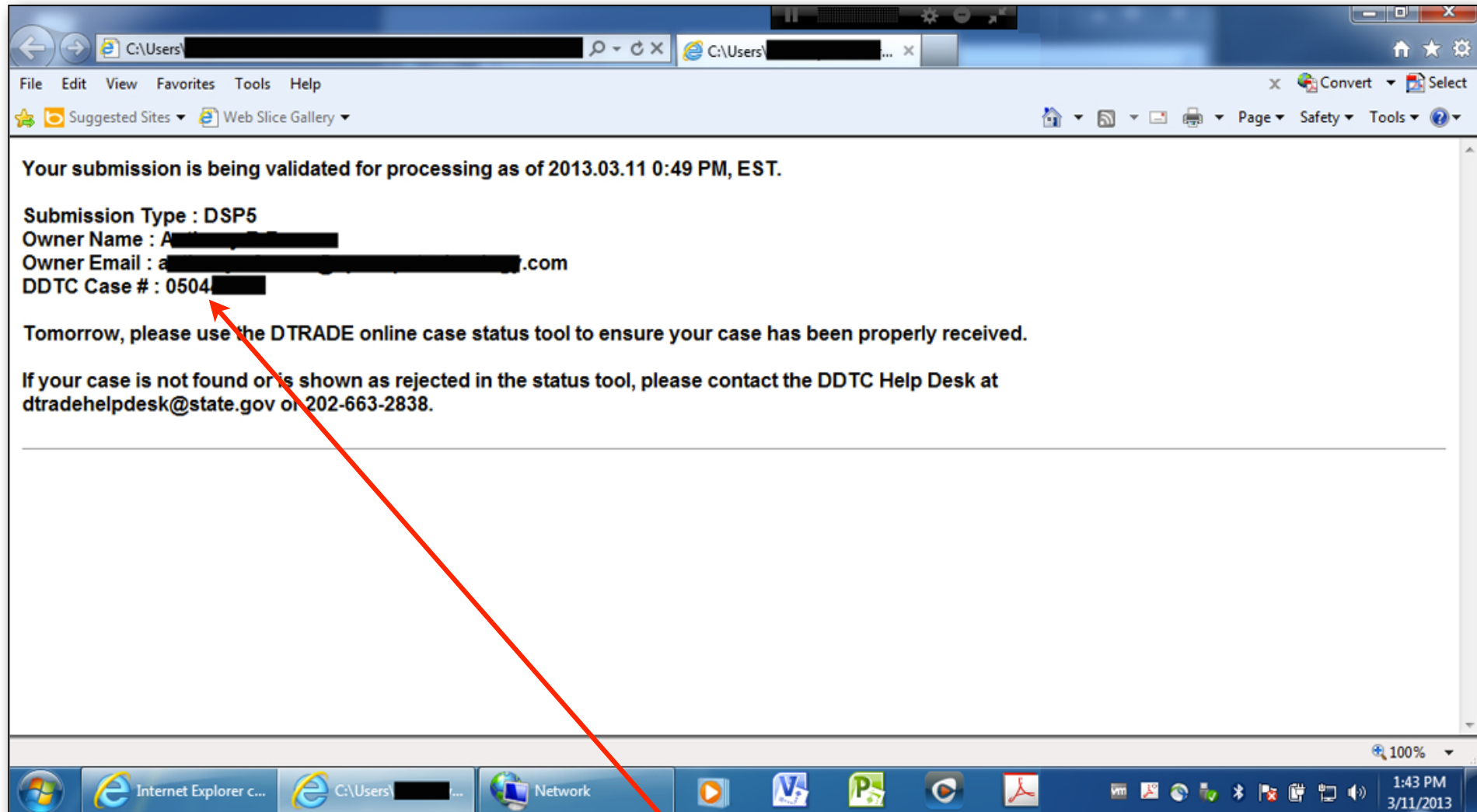
# Confirmation it's submitted

How to work the electronic DSP-5 form



Photo-Sonics, Inc.

DSP-5 for Hardware Export



- Keep this for your records
- Case # becomes your license #



# DSP-5

## How to Amend It



Photo-Sonics, Inc.

May 2016

# How to Amend a DSP-5

Amending a DSP-5



Photo-Sonics, Inc.

DSP-6 Amends a DSP-5

You use a form DSP-6. However, very little can be amended.

- Addition of U.S. freight forwarder or U.S. consignor;
- Change due to an obvious typographical error;
- Change in source of commodity; and
- Change of foreign intermediate consignee if that party is only transporting the equipment and will not process (e.g., integrate, modify) the equipment.
- No amending \$\$ value, but you can exceed this by up to 10% per ITAR § 123.23

# How to fill out & file a DSP-6

## Amending a DSP-5



Electronic Form Version Number: 4.0

OMB APPROVAL NO. 1405-0092  
EXPIRATION DATE: 09/30/2011  
\*ESTIMATED BURDEN: 30 minutes

\* PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (A/ISS/DIR) Washington, D.C. 20520.

### U.S. DEPARTMENT OF STATE APPLICATION FOR AMENDMENT TO A DSP-5 LICENSE

\*Transaction Number:

Please note that an Asterisk (\*) next to a field or block in a document designates a mandatory field or block.

No classified information can be included in this application. Classified information must be sent separately to PM/DDTC in accordance with the Defense Security Service guidelines.

Classified information is being sent under separate cover

To open a document, click on a document to highlight it and select the "Open Document" button. The document that you selected will open.

#### Required Documents

#### Included Documents

DSP-6
Copy of DoS License with PM/DDTC Provide(s)

#### Optional Documents

22 CFR § 126.13 Certification Letter  
22 CFR § 127.11 Exception to Policy Letter  
DTCC Acknowledgment Letter  
Other Amplifying Data  
Other DSP-6 Authorizations  
Purchase order submitted with original license

- Create a unique ID#
- Create the DSP-6 form
- Include a copy of the DSP-5 being amended

# DSP-6 Page 1 - Highlights

## Amending a DSP-5



DSP-6 Amends a DSP-5

DSP-6, Page 1 of 5

STATE: _____ Signature: _____ <small>The License identified in Block 4 below is amended as requested on the date indicated at the right of this form.</small>	Amendment Control No. _____ The Indicate of License is Amended Effective on: _____	
UNITED STATES OF AMERICA DEPARTMENT OF STATE APPLICATION FOR AMENDMENT TO A DSP-5 LICENSE		
*1. Date Prepared: 05/05/2008	*2. PM/DDTC Applicant/Registrant Code: M12345	
3. Applicant Name, Address, ZIP Code and Telephone Number <input type="checkbox"/> Subsidiary *Name: Happy Duck Trading, Inc. *Attention: Joe Schmo *Address: 123 Main Street *City: Anytown *State: OR *ZIP Code: 97405 *Telephone #: (123) 456-7890 Ext. _____		*4. Amendment to License No: 050012345 I certify that the stated license has an unexpired balance and has not expired. *5. Amendment in accordance with (select one) <input checked="" type="checkbox"/> 22 CFR § 125.25 <input type="checkbox"/> 22 CFR § 122.4 6. Compliance Case Number a. Provide Compliance Case Number: _____ b. Provide date of DTCC Acknowledgment Letter (mm/dd/yyyy): _____
7. Name and Telephone Number of applicant contact(s) familiar with the application and proposed amendments if U.S. Government needs additional information. Item # 1: *Name: Joe Schmo *Telephone #: (123) 456-7890 Ext. _____ Add: _____		
*8. Summary of Amendment(s) to DSP-5: Modify Block 21, U.S. Consignor and/or U.S. Freight Forwarder		
9. Change Original PM/DDTC Applicant/Registrant Code (DSP-5 license, Block 2) a. State specific reason for the change: _____ b. PM/DDTC Applicant/Registrant Code as stated on DSP-5 license: _____ c. New PM/DDTC Applicant/Registrant Code: _____		
10. Change Original Applicant/Subsidiary (DSP-5 license, Block 5) Item # 1: a. Type of modification (select one): _____ b. State specific reason for the change: _____ c. Applicant/Subsidiary as stated on original DSP-5 license: _____ d. Modified Applicant/Subsidiary: _____		
Name: _____ Attention: _____ Address: _____ City: _____ State: _____ ZIP Code: _____		Name: _____ Attention: _____ Address: _____ City: _____ State: _____ ZIP Code: _____

• Block 8 - Select which items you will be amending



# DSP-6 Page 4 - Highlights

## Amending a DSP-5

DSP-6, Page 4 of 6

**18. Change Name, Address, City, State and/or ZIP Code of Original U.S. Seller (DSP-5 license, Block 19)**  
*Item # 1:*

a. Type of modification (select at least one)  Change in name of original U.S. seller  
 Change in address, city, state and/or ZIP code of original U.S. seller

b. State specific reason for the change

c. U.S. Seller as stated on original DSP-5 license

d. Modified U.S. Seller

Name: [ ] Name: [ ]  
Address: [ ] Address: [ ]  
City: [ ] City: [ ]  
State: [ ] ZIP Code: [ ] State: [ ] ZIP Code: [ ]

**19. Change in Foreign Intermediate Consignee (DSP-5 license, Block 18)**  
*Item # 1:*

a. Type of modification (select one)

b. State specific reason for the change

c. Foreign Intermediate Consignee as stated on original DSP-5

d. New Foreign Intermediate Consignee

Name: [ ] Name: [ ]  
Address: [ ] Address: [ ]  
City: [ ] City: [ ]  
Country: [ ] Country: [ ]

**20. Change in U.S. Consignor and/or U.S. Freight Forwarder (DSP-5 license, Block 21)**  
*Item # 1:*

\*a. Type of modification (select one)  
Add new U.S. consignor/freight forwarder

\*b. State specific reason for the change  
Need additional logistical flexibility.

c. U.S. Consignor and/or U.S. Freight Forwarder as stated on original DSP-5 license

d. New/Modified U.S. Consignor or U.S. Freight Forwarder

Name: [ ] \*Name: Ram Straight Through, LLC  
Address: [ ] \*Address: 120 Freight Forwarders Lane  
City: [ ] \*City: New York  
State: [ ] ZIP Code: [ ] \*State: NY \*ZIP Code: 12345

- Block 20 - Add the freight forwarder / Customs broker

# DSP-6 Page 5 - Highlights

## Amending a DSP-5

DSP-6, Page 5 of 6

21. Additional Details of Transaction

No  Yes

\*USML Category VIII

22. Applicant's Statement

22 CFR § 126.13 Certification (Select one)

a. I am authorized by the applicant to certify that the applicant and all of the parties to the transaction can meet in full the conditions of 22 CFR § 126.13 as listed above.

b. I am authorized by the applicant to certify to 22 CFR § 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR § 126.13 as listed above. A request for an exception to policy, as described in Section 127.11 of the ITAR, is attached.

c. I am authorized by the applicant to certify to 22 CFR § 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR § 126.13 as listed above. However that party has met the conditions imposed by the Directorate of Defense Trade Controls in order to resume standard submission of applications, not requiring an exception to policy as described in Section 127.11 of the ITAR.

d. I am not authorized by the applicant to certify the conditions of 22 CFR § 126.13 as listed above. The applicant and all of the parties to the transaction can meet in full the conditions of 22 CFR § 126.13 as listed above. Please see the attached letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR § 126.13.

e. I am not authorized by the applicant to certify the conditions of 22 CFR § 126.13 as listed above. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR § 126.13 as listed above. A request for an exception to policy, as described in Section 127.11 of the ITAR, and a letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR § 126.13 are attached.

f. I am not authorized by the applicant to certify the conditions of 22 CFR § 126.13 as listed above. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR § 126.13 as listed above. However that party has met the conditions imposed by the Directorate of Defense Trade Controls in order to resume standard submission of applications, not requiring an exception to policy as described in Section 127.11 of the ITAR. Please see the attached letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR § 126.13.

Signature

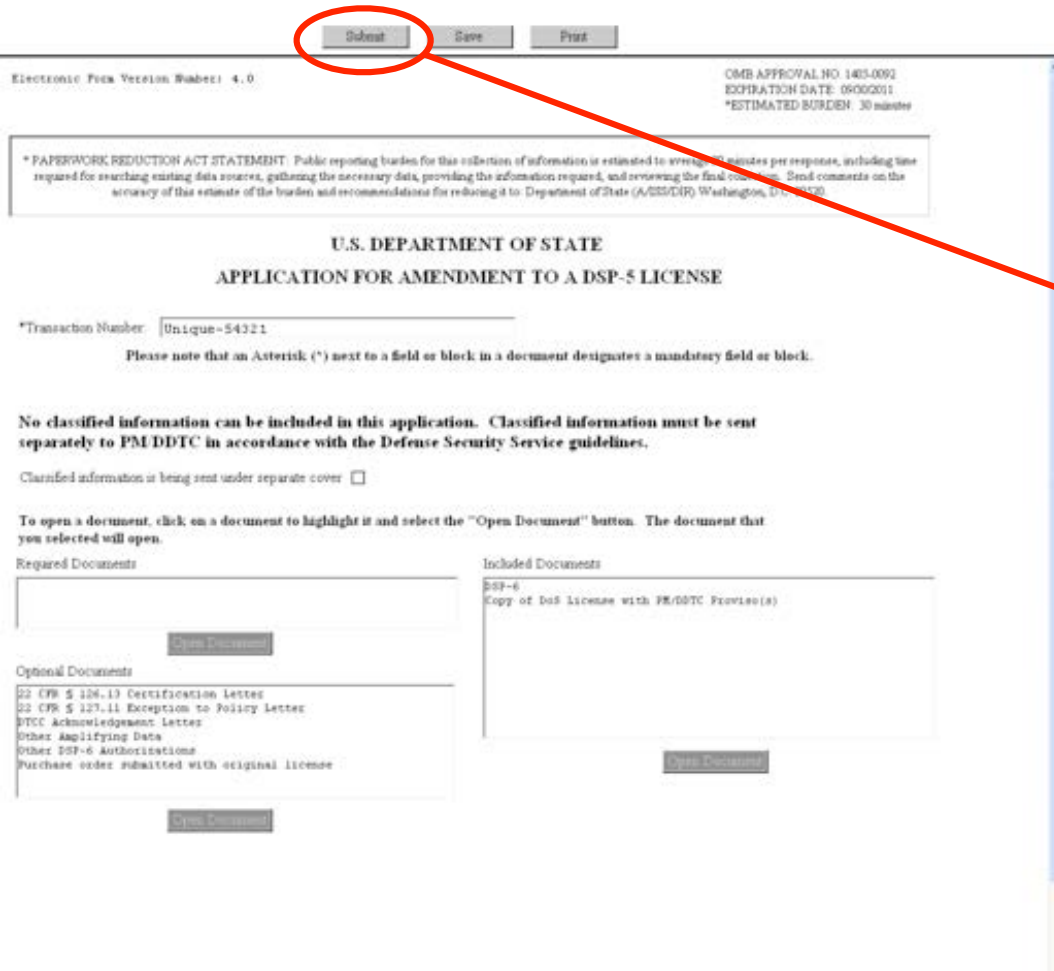
23. Response to be sent to: (Enter name, address and phone number):  
[Block is inactive on electronic form]

Name  
Attention  
Address  
City  
State  
Telephone#

- Click / select the appropriate boxes, then ....
- Apply your digital signature

# DSP-6 Page 6 - Highlights

## Amending a DSP-5



Electronic Form Version Number: 4.0

CMB APPROVAL NO: 1403-0092  
EXPIRATION DATE: 06062011  
\*ESTIMATED BURDEN: 30 minutes

\* PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (A/ESS/DR) Washington, DC 20520

U.S. DEPARTMENT OF STATE  
APPLICATION FOR AMENDMENT TO A DSP-5 LICENSE

\*Transaction Number: [Unique-54321]

Please note that an Asterisk (\*) next to a field or block in a document designates a mandatory field or block.

No classified information can be included in this application. Classified information must be sent separately to PM/DDTC in accordance with the Defense Security Service guidelines.

Classified information is being sent under separate cover

To open a document, click on a document to highlight it and select the "Open Document" button. The document that you selected will open.

Required Documents

Included Documents

DSP-6  
Copy of DoS license with PR/DDTC Provision(s)

Optional Documents

22 CFR § 126.13 Certification Letter  
22 CFR § 127.11 Exception to Policy Letter  
DTCC Acknowledgment Letter  
Other Amplifying Data  
Other DSP-6 Authorizations  
Purchase order submitted with original license

- “Close” returns you to this introductory page.
- Click the “Submit” button, just as with the DSP-5, and follow the prompts.
- Make sure you receive a confirmation of submission.
- You can log onto your D-Trade account, and you will then see this new case #.



# How to Implement a DSP-5:

Needed actions – Correct sequence



Photo-Sonics, Inc.

May 2016

# I. Lodge DSP-5 with Customs

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- Lodging a license means simply depositing the original license with Customs, i.e. handing it to them. Note: Lodging an ITAR license is being phased out.
- You can do this yourself. At Customs, find the smiling person behind the counter, make sure you're in the right place, tell him you have a State Department DSP-5 export license you need to lodge, and he'll take it from there.
- You can also mail or FedEx the license to Customs.
- You can contract with a freight-forwarder to lodge it. Just make sure it's one of the ones in Block 21, or else it's a violation. (Same with each shipment you make under the license.)







# 2. Then make your AES Entry

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- Do the AES only after the license is lodged, or its a violation.
- AES required for all licensable items (regardless of value)
  - Therefore AES required for all ITAR exports
- AES is required if value is  $> \$2500$  per commodity code, if sent:
  - From U.S. to foreign countries,
  - Between the U.S. and Puerto Rico,
  - From Puerto Rico to foreign countries,
  - From Puerto Rico to U.S. Virgin Islands, and
  - From the U.S. to the U.S. Virgin Islands.
- Remember AES (and its EEI) replaces the SED, which is kaput.

# More on the AES system

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- AES “receipt” is the ITN (Internal Transaction Number), which always begins with “X”, like X20070620581949.
- The ITN has meaning: The X is followed by the four-digit year, two-digit month, two-digit day and six-digit random identifier generated by AES.
- Timing is important, or it’s a violation. Make AES entry (or insure your freight-forwarder does this):
  - at least 8 hours before schedule departure of aircraft or truck;
  - at least 24 hours before scheduled embarkation of a vessel or by rail

# 3. Present goods to Customs

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- Now you can finally present your goods to clear Customs.
  - Take a copy of your DSP-5 license
  - And have the ITN number that is proof that you filed this shipment via AES.
- If you fail in these, it's a violation, and you can have your shipment seized by Customs. I've seen it happen.
- Since you are exporting only defense articles, you will need proof of AES filing each and every time. (Commercial goods only need AES if over \$2500 per Schedule B number.)
- Best to at least start with a freight-forwarder / Customs broker, until you know the ropes, etc.

# 4. Track Value + Records

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- Have a fail-safe system to track values
- All ITAR licenses must be returned to State/DDTC at term.
  - Customs will return your lodged DSP-5s to State
  - You (or your freight-forwarder) must retain DSP-5 for tech data, DSP-73 for temporary export, DSP-6I for temporary import, etc.
  - You must decrement licenses if Customs does not.
  - You are responsible for returning these to State at term within 60 days of their expiry.

# More about Recordkeeping

Implementing a DSP-5



Photo-Sonics, Inc.

Processing a DSP-5

- Many “controlled” tech data exports, whether under a license or exemption, effectively bypass this system, so you must keep a detailed log.
- No AES entry for tech data exports
- 9 years: the rule of thumb for keeping export records
- A tickler system must be established for export records: certain license provisos; renewal dates of DTC registration & digital certificates, and so on. Other required notifications are event-based, such as material changes to the data in the DS-2032 or various prior notifications, are also needed in the system.



- Summary of the minimum records required:
  - Export License or Other Approval
  - Documents Re the Approval Request
  - Invoice
  - Packing Slip
  - Bill of Lading
  - Airway Bill
  - Purchase Order
  - DSP-83
  - Delivery Verification
  - Foreign Import Certificate
  - Technical Data Exemption
  - Other Exemptions and Exceptions
- Compliance starts & ends with proper records



# AES Filing - DDTC Matrix

## Implementing a DSP-5

### AES - DDTC Licensable Shipment Reporting Requirement Matrix

DOS/DDTC License Type	Reported AES License Code	Reported Data Elements								
		Export License Number	DDTC ITAR Exemption Number	DDTC Registration Number	DDTC SME Indicator	DDTC Eligible Party Certification Indicator	DDTC USML Category Code	DDTC Unit of Measure Code	DDTC Quantity	DDTC License Line Number (Future)
<b>Agreement</b> TAA - MLA - WDA	SAG	N	R	R	R	N	R	R	R	I
<b>ITAR § 126.5</b> Canadian Exemption	SCA	N	R	R	R	R	R	R	R	I
<b>ITAR Exemption</b>	S00	N	R	R	R	R	R	R	R	I
<b>DSP-05</b> Permanent export of unclassified defense articles and services	S05	R	N	R	R	N	R	R	R	I
<b>DSP-61</b> Temporary import of unclassified articles	S61	R	N	R	R	N	R	R	R	I
<b>DSP-73</b> Temporary export of unclassified articles	S73	R	N	R	R	N	R	R	R	I
<b>DSP-85</b> Temporary or permanent import or export of classified articles	S85	R	N	R	R	N	R	R	R	I
<b>DSP-94</b> Foreign Military Sales	S94	R	N	R	R	N	R	R	R	I

**Key:** **R** = Reporting Mandatory (filing rejected if data not present); **N** = Reporting Not Allowed (filing rejected if data present); **I** = Ignored



# Agreements

## TAA / MLA / WDA

When do you need them?



Photo-Sonics, Inc.

May 2016

# What are Agreements?



- These are “mega-export licenses” that **authorize the export of controlled technical data**, including source code, and/or the license production abroad of defense articles. Can also set up overseas warehousing operations.
- Agreements are not form-licenses, like DSP-5s for example, but **form-licenses typically are approved in furtherance of agreements**.
- **Agreements look like contracts**, with “WHEREAS...” and “NOW THEREFORE...” type language.

# TAA Guidelines Keep Growing



Agreements: TAA/MLA/WDA

TAA Guidelines date	Type of Agreement (Submission Method)	Page Count	Format Published by DDTC	Note	Full Title
Oct 1, 2003	Paper	48	Word	[Note: no note or subtitle]	GUIDELINES FOR PREPARING AGREEMENTS
Jun 25, 2008	Paper	134	Word	[Note: no note or subtitle]	GUIDELINES FOR PREPARING AGREEMENTS
Feb 1, 2009	Paper	137	Word	REVISION 1 (Note: document itself was undated, but published in Feb 2009)	GUIDELINES FOR PREPARING AGREEMENTS
Mar 8, 2010	Paper	137	PDF	REVISION 1B (Interim Update)	Guidelines for Preparing Agreements [Unclear why "paper" rules still being published, since electronic is mandatory at least for new agreements; maybe this is for Amendments to paper Agreements]
Apr 3, 2009	Paper	137	Word	(REVISION 1A (Interim Update)	Guidelines for Preparing Agreements
Oct 7, 2009	Electronic	158	PDF	(Coordinating Draft-3)	Guidelines for Preparing Electronic Agreements
Apr 1, 2010	Electronic	165	PDF	(Revision 2.0)	Guidelines for Preparing Electronic Agreements
Aug 17, 2011	Electronic	187	PDF	Mainly DCN/TCN & gas-turbine issues (Revision 3.0)	Guidelines for Preparing Electronic Agreements
Apr 22, 2013	Electronic	209	PDF	[don't know yet; reviewing] (Revision 4.0)	Guidelines for Preparing Electronic Agreements
Oct 9, 2013	Electronic	216	PDF	Contains ECR-related § 20	

(but not the EAR equivalent)

**By contrast, the Commerce Department's EAR instructions for a license equivalent to a TAA have held steady over the years at: 1<sup>1/2</sup> pages, shown here in their entirety.**

*See Supplement No. 2 to Part 748, Paragraph (o).*

(much simpler than ITAR rules)

TAA Guidelines Only Get Longer Over Time



Page Count Over Past 10 Years



- The agreement itself, the TAA, MLA or WDA
- The transmittal letter, or TL, a stylized cover letter, where one tells the back-story, provides additional assurances and details not in the agreement.
  - The TL includes a value table, with dollar limits on proposed exports of hardware, tech data, software and the performance of defense services
- Support documentation, including as needed: product info, SOW, DSP-83, end-use/r statement
  - Often it's best to put most of this in the TL, to keep the agreement clean. The TL is normally sent only to DDTTC, not the other parties to the agreement.

# Types of Agreements?



- TAA - Technical Assistance Agreement
  - When **technical data** are transferred to, or **defense services** are performed on behalf of, a foreign entity.
- WDA - Warehouse and Distribution Agreement
  - to establish a **warehouse or distribution point abroad** for defense articles to be exported from the U.S. for subsequent distribution in an approved sales territory.
- MLA - Manufacturing License Agreement
  - When granting manufacturing rights to a foreign entity and manufacturing know-how is also conveyed. Also required to permit overseas **depot-level maintenance** by foreign entities.



# Levels of DoD Maintenance

Agreements: TAA/MLA/WDA



## Organizational

“O-Level” or “Level I”

No License Required - per ITAR § 124.2

## Intermediate

“Level II - Level III - Level IV”

Agreement (TAA, MLA or WDA) required to export these capabilities

## Depot

Level IV”

The “basic O&M exemption” at §§ 124.2(a) and 125.4(b)(5) specifically says: “This does not include training in intermediate and depot level maintenance.” So training for Levels II and above requires an Agreement. The maintenance manuals for Levels II and above require a DSP-5 or Agreement. But NATO, Australia, Japan & Sweden enjoy a broad exception to the limits of the O&M exemption, at § 124.2(c).

Increasing **volume** of maintenance

More frequent tasks that require less facilitization/skills

Less frequent tasks that require more facilitization/skills

Increasing **complexity** of maintenance

# Submit via “Vehicle DSP-5”



Photo-Sonics, Inc.

Agreements: TAA/MLA/WDA

- D-Trade has no way to submit a TAA, so they “hijacked” the DSP-5 form
  - The “Vehicle DSP-5” is completely remapped, so actual labels on the form are virtually meaningless.
  - Must use a separately provided key to fill in the DSP-5
- In this way, one fills in the form, and “stuffs the turkey” with the TAA/MLA/WDA, its TL and all support documentation
- Track the progress of the agreement using the DSP-5 number
- The approved agreement comes via the DSP-5
- The approval letter - and its provisos do, too
- You must keep track of two case numbers :-)

- DN/TCNs must be accounted for -- sometimes personally named -- in a TAA or MLA application for approval to transfer “controlled information and/or hardware
- “Dual-National” is national of Licensee + another country(ies)
- “Third-Country National” is *not* a national of Licensee’s country
  - For DDTC “nationality” equates to “passport”
  - Original place-of-birth also considered, especially if from a § 126.1 country
- DN/TCN procedures come in three main flavors: Options 1, 2 & 3
  - If a § 126.1 country is involved, then individual employee is named in the TAA/MLA application and voluminous personal information must be included
- TCN employees of US firms use a “DSP-5” license process
- DDTC has 3 different NDA forms, depending on situation
- “Contract employees” are usually treated as normal employees

# DN/TCN Approvals - Option 2



## DN/TCN approvals by DDTC per TAA “Option 2” procedures \*\*

Foreign Licensee Employee Type (also applies to sublicensees)	DDTC Decision Factors	Disclosure(s) in TAA application	Comments
DN/TCN whose nationality and/or birth nation is non-§126.1 <i>per Agreement Guidelines 3.5.2.a</i>	<ul style="list-style-type: none"> <li>• Current/primary nationality</li> </ul>	<ul style="list-style-type: none"> <li>• Current nationality(ies) only</li> </ul>	<ul style="list-style-type: none"> <li>• Routine §124.8(5) Option 2 procedure</li> <li>• Add <b>(by nationality only)</b> to Block 18 of DSP-5</li> </ul>
TCN whose nationality and/or birth nation is §126.1(a) <i>per Agreement Guidelines 3.5.2.d(1)</i>	<ul style="list-style-type: none"> <li>• Primary nationality and birth nation.</li> <li>• Generally disapproved</li> </ul>	Individual name and supporting docs package	<ul style="list-style-type: none"> <li>• Requires special §124.8(5) TCN statement in TAA</li> <li>• Add <b>(by name)</b> to Block 18 of DSP-5</li> </ul>
DN whose nationality and/or birth nation is §126.1(a) <i>per Agreement Guidelines 3.5.2.d(2)</i>	<ul style="list-style-type: none"> <li>• Primary nationality and birth nation.</li> <li>• May be approved if primary nationality is a non-126.1 country</li> </ul>	Individual name and supporting docs package	<ul style="list-style-type: none"> <li>• Requires special §124.8(5) DN statement in TAA</li> <li>• Add <b>(by name)</b> to Block 18 of DSP-5</li> </ul>
TCN whose nationality and/or birth nation is <i>non</i> -§126.1(a) <i>per Agreement Guidelines 3.5.2.d(3)</i>	<ul style="list-style-type: none"> <li>• Current nationality</li> </ul>	Current nationality only	<ul style="list-style-type: none"> <li>• Requires special §124.8(5) TCN statement in TAA</li> <li>• Add <b>(by nationality only)</b> to Block 18 of DSP-5</li> </ul>
DN whose nationality and/or birth nation is <i>non</i> -§126.1(a) <i>per Agreement Guidelines 3.5.2.d(4)</i>	<ul style="list-style-type: none"> <li>• Primary nationality and birth nation.</li> <li>• May be approved if primary nationality is a non-126.1 country</li> </ul>	Individual name and supporting docs package	<ul style="list-style-type: none"> <li>• Requires special §124.8(5) DN statement in TAA</li> <li>• Add <b>(by name)</b> to Block 18 of DSP-5</li> </ul>

# The DN/TCN Rules re NDA



Photo-Sonics, Inc.

\*\* "U.S.exporters are required to determine the nationality(ies) of all individuals that might have access to defense articles or defense services and to disclose that information in their requests for export authorizations." -- DDTc Agreement Guidelines 4/22/2016

DN/TCN Employees

## DN/TCN Employees and the special-format Nondisclosure Agreement

	Employee must sign NDA?	Disposition of NDA (Retention is for $\geq 5$ years after expiration of the Agreement as amended)	Approval initiated how?
<b>Option 1</b> <i>no classified</i>	Yes	<b>Licensee retains the NDA (and "surveillance" info)</b> Guidelines 3.5.1.d N.B.1: Employees with a national security clearance need not sign an NDA N.B.2: For others, Licensee must conduct same employee "surveillance" as for Option 3	via the Agreement
<b>Option 2</b> per 124.8(5)	Yes	<b>Licensee sends the NDA to U.S. Agreement-holder</b> Guidelines 3.5.2.a(4) N.B.: Classified info is okay, with certain special verbiage in the Agreement	via the Agreement
<b>Option 2</b> per 124.16	No (if unclassified)	<b>N/A [Applies only to NATO/EU+4 employees]</b> Guidelines 3.5.2.b N.B.1: 124.16 only applies if the Licensee is domiciled in NATO/EU+4 country N.B.2: If data/hardware is classified, procedure reverts to 124.8(5) with an NDA	via the Agreement
<b>Option 3</b> DDTC says to use only as a "last resort"	Yes	<b>Licensee sends the NDA to DDTC</b> Guidelines 3.5.3 is vague In a General Correspondence to DDTC, Licensee includes individual's full name, nationality, date/place of birth, passport, resume, detailed job description, justification for why this employee is needed + report of "substantive contact" with §126.1 countries	via a GC from Licensee to DDTC
<b>126.1 DN</b> uses Option 2	Yes	<b>DN with § 126.1 origin are possible if "primary nationality" is non-126.1</b> Individual DN/TCN must be identified by name & country(ies) <i>in the Agreement</i> , and include the same background investigation documentation info as for Option 3 Guidelines 3.5.2.d(2)	via the Agreement
<b>126.1 TCN</b> uses Option 2	Yes	<b>Presumption of denial for TCN from § 126.1 countries</b> Guidelines 3.5.2.d(1) Individual DN/TCN must be identified by name & country(ies) <i>in the Agreement</i> , and include the same background investigation documentation info as for Option 3	via the Agreement
<b>Sub-Licensees</b>	No	<b>Sublicensee sends the NDA via Licensee to TAA-holder</b> Guidelines 3.2(b)(4) Sublicensees (not their individual DN/TCN employees) must sign a special NDA that includes all the tech data nontransfer restrictions that are also in the TAA/MLA - before any "covered" disclosures	via the Agreement
<b>Misc.</b>		<b>There are special DN/TCN exemptions for Canada, Australia &amp; Holland</b>	
<b>Employed by US firm</b>	Yes	<b>Employer retains the NDA</b> Employee Licensing Guidelines • Not for "US Person" employees • Another unique NDA format • No TCN from 126.1	via Employee DSP-5



## From the perspective of US license applicants

- Under a TAA, etc., see Agreement Guidelines § 3.9
- If not under an Agreement, just center column applies
- These rules were just recently clarified

**In short: “contract employees” are treated as “employees”**

### Licensing Scenarios for Contract Employees under TAA/MLA

	Employee DSP-5 Required?	Amend TAA/MLA?
Via a Foreign Staffing Firm	No	Yes (All parties must sign)
Via a US-Person Staffing Firm	Yes (Either you, or the US Staffing Firm if DDTC-registered)	No
You Directly Hire a Foreign Contract Employee	Yes	No





- The TAA<sub>etc.</sub> approves the export of data only; cite § 125.4(b)(2) exemption on package when you send data; keep records.
- Hardware exported under this approval still needs DSP-5 etc.
- The form-license follows a different format that is either:
  - “In Furtherance Of” the agreement, or
  - “In Support Of” the agreement
- It is still possible to export defense articles like those covered by the agreement, as a “stand-alone” DSP-5 etc.
  - Rules are a bit tricky. If done wrong, could create violation
  - The point is not to seem to be “getting around” value limits



# The “*In-Furtherance-Of*” DSP-5

Exporting Hardware under TAA / MLA using

**In-Furtherance-Of | In-Support-Of | Stand-Alone  
Exemptions at §123.16(b)(1) and §123.4(a)(1)**



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- If there is an agreement in place whose scope possibly overlaps with that of a DSP-5 hardware license, be careful.
  - Your function as a potential exporter or other roles may be unavailable or have constraints.
  - All the “page 2” roles may be affected by agreements
  - These restrictions may not make common-sense.
- Three basic types of DSP-5 in this case:
  - DSP-5 *in furtherance of* an agreement
  - DSP-5 *is support of* an agreement
  - DSP-5 that *stands alone*, independent of the agreement

# Here are the “Page 2 roles”

DSP-5, Page 2 of 4

<p><b>14. Name and address of foreign end-user</b></p> <p><input type="checkbox"/> Same as Block 5</p> <p>*Name <input type="text"/></p> <p>*City <input type="text"/></p> <p>*Country <input type="text"/></p> <p>Add <input type="checkbox"/></p>	<p><b>15. Manufacturer of Commodity</b></p> <p><input type="checkbox"/> Same as Block 5</p> <p>*Name <input type="text"/></p> <p>*A <input type="text"/></p> <p>*City <input type="text"/></p> <p>State <input type="text"/> ZIP Code <input type="text"/></p> <p>*Country <input type="text"/></p> <p>Add <input type="checkbox"/></p>
<p><b>16. Name and address of foreign consignee</b></p> <p><input type="checkbox"/> Same as Block 14</p> <p>*Name <input type="text"/></p> <p>*City <input type="text"/></p> <p>*Country <input type="text"/></p> <p>Add <input type="checkbox"/></p>	<p><b>17. Source of Commodity</b></p> <p><input type="checkbox"/> Same as Block 5 <input type="checkbox"/> Same as Block 15</p> <p>*Name <input type="text"/></p> <p>*A <input type="text"/></p> <p>*City <input type="text"/></p> <p>State <input type="text"/> ZIP Code <input type="text"/></p> <p>*Country <input type="text"/></p> <p>Add <input type="checkbox"/></p>
<p><b>18. Name and address of foreign intermediate consignee</b></p> <p><input type="checkbox"/> None</p> <p>*Name <input type="text"/></p> <p>*Country <input type="text"/></p> <p>*Role <input type="text"/></p> <p><b>Here under “ROLE” one discloses brokering or other related parties.</b></p> <p>Add <input type="checkbox"/></p>	<p><b>19. Name and address of Seller in United States</b></p> <p><input type="checkbox"/> Same as Block 5 <input type="checkbox"/> Same as Block 15 <input type="checkbox"/> Same as Block 17</p> <p>*Name <input type="text"/></p> <p>*A <input type="text"/></p> <p>*City <input type="text"/></p> <p>*State <input type="text"/> *ZIP Code <input type="text"/></p> <p>Add <input type="checkbox"/></p>
<p><b>20. Specific purpose for which the material is required, including specific Program/End Item.</b></p> <p>Select at least one:</p> <p><input type="checkbox"/> Off-Shore <input type="checkbox"/> Request for Prior Approval (22 CFR 126.8)</p> <p><input type="checkbox"/> Brokering (22 CFR 129) <input type="checkbox"/> Other (Please Provide Details)</p>	<p><b>21. Name and address of consignor and/or freight forwarder in United States</b></p> <p><input type="checkbox"/> Same as Block 5</p> <p>*Name <input type="text"/></p> <p>*A <input type="text"/></p> <p>*C <input type="text"/></p> <p>*State <input type="text"/> *ZIP Code <input type="text"/></p> <p>Add <input type="checkbox"/></p>

- All these roles are impacted by proximity to an MLA/TAA/WDA.
- If you are not the holder of the agreement, it’s especially tricky.
- Not understanding these rules can lead to violations.
- We’ll go over a number of permutations.



- The most common type hardware export under Agreements
- Requirements include:
  - Hardware **must** be listed in the Agreement.
  - **Must** be submitted by Agreement-holder or U.S. signatory.
  - End-user **must** be a foreign signatory or end-user.
  - 1st foreign consignee receiving goods **must** be a foreign signatory or end-user on the Agreement
  - Block 20 of the DSP-5 **must** include the words "In Furtherance of TA ●●●-11" on the very first line.



- Required support documentation includes:
  - Purchase Order, LOI, Contract etc. from the foreign party to “the agreement applicant or U.S. Signatory ... who is requesting the license”.
  - That document **must** identify the relevant agreement.
  - DSP-83 specific to the DSP-5 if hardware is SME.
  - Letter of Explanation from the Holder of the Agreement, signed by an empowered official. It’s very formal, structured.
- Remember that cumulative hardware shipments **must** remain below the thresholds in the valuation table of the TAA TL.



- Not commonly used, slim guidance — requirements include:
  - **Must** “indirectly relate” to the Agreement, but:
    - Hardware “need not” be in the scope of the Agreement
    - Value will not be decremented from Agreement value
    - Source (Block I7) and Manufacturer (Block I5) “should not” be a U.S. signatory
- ITAR is silent. Entire guidance for “In Support Of” type DSP-5 is contained in just one single paragraph of the TAA Guidelines:

Hardware exported in support of an agreement – The export by any U.S. party of defense articles which indirectly relates to the agreement. The “in support” statement acts, in part, to frame the purpose/end-use of the articles being exported so the license adjudicators better understand the overall effort. This type of export does not need to be reflected in the scope of the agreement and the value of the export will not be counted against the value of hardware exports authorized under the agreement. In most circumstances, an “in support” license should not list the agreement holder or other U.S. signatories of the agreement as the source or manufacture of the defense article being exported.



# Reporting Export Violations

## “VD” and other unpleasant acronyms



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# What is a voluntary disclosure?



- State says “VD”; Commerce says “VSD”
- Confess your own sins first. If you’re not first, “voluntary” becomes “directed”. And you lose protections.
- If VD constructed carefully, penalty usually limited to a reprimand. “Go forth and sin thou no more.”
- Must anticipate and “neutralize” a demand letter.
- Thus each VD or VSD must be thought of strategically.



- **Brokering**, when it involves ITAR § 126.1 countries.

ITAR § 129.7(d) says: “Any person who knows or has reason to know of brokering activities involving such countries or persons **must immediately inform** the Directorate of Defense Trade Controls.”

**NOTE:** The “Brokering Activities” definition is no clearer than it was before. For many reasons we generally recommend against officially becoming a “Broker”.

# ITAR § 126.1 Country List

## Countries w/ State Department License Restrictions



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### Export Violations

*Afghanistan: 126.1(g)*  
*Belarus: 126.1(a)*  
*Burma: 126.1(a)*  
*Central African Republic: 126.1(u)*  
*China: 126.1(a)*  
*Congo, Democratic Republic of: 126.1(c)(2), (i)*  
*Cote d'Ivoire (see Ivory Coast)*  
*Cuba: 126.1(a), (d)*  
*Cyprus: 126.1(r)*  
*Eritrea: 126.1(a), (c)(3)*  
*Fiji: 126.1(p)*  
*Haiti: 126.1(j)*  
*Iran: 126.1(a), (c)(5), (d)*  
*Iraq: 126.1(c)(4), 126.1(f), 123.17(h)*

*Ivory Coast (Cote d'Ivoire): 126.1(c)(1), (q)*  
*Lebanon: 126.1(c)(6), (t)*  
*Liberia: 126.1(c)(7), (o)*  
*Libya: 126.1(c)(8), (k)*  
*North Korea: 126.1(a), (c)(9)*  
*Somalia: 126.1(c)(10), (m)*  
*Sri Lanka: 126.1(n)*  
*Sudan \*\*: 126.1(a), (c)(11), (d), (v)*  
*Syria: 126.1(a), (d)*  
*Venezuela: 126.1(a)*  
*Vietnam: 126.1(l)*  
*Zimbabwe: 126.1(s)*

\*\* These restrictions apply to the "Republic of Sudan". Requests for approval from or destined for the Republic of the South Sudan will be considered on a case-by-case basis.

A full delineation of the restrictions would be complicated, as certain exports of certain types of defense articles may be approved on a case-by-case basis for certain of these countries. But this page is a good quick-reference rule of thumb.



- Any sale or transfer involving § 126.1 countries.

ITAR § 126.1(e)(2) says: “ *Duty to notify. Any person who knows or has reason to know of a proposed, final, or actual sale, export, transfer, reexport, or retransfer of articles, services, or data as described in paragraph (e)(1) of this section **must immediately inform** the Directorate of Defense Trade Controls. Such notifications should be submitted to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls.* ”





- Any sale or transfer involving § 126.1 countries.

EAR § 760.5(a)(1) says: “ A United States person who receives a request to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person **must report** such request to the Department of Commerce in accordance with the requirements of this section. Such a request may be either written or oral....”