

Analyzing the Burden:

- What is being exported?
- To where is it being exported?
- What compliance procedures are in place?



What is Being Exported?

- ITAR applies to items on the United States Munitions List (USML)
 - This applies to spacecraft systems:
Satellites, Ground Stations, Components
 - The State Department relies on exporters to classify their own items
 - If you are unsure whether an item is on the USML then use the Commodity Jurisdiction Process



What is Being Exported?

- Some items are excluded
 - Exclusions apply to an item no matter where its going
 - Items in the Public Domain
 - Information included in patents
 - A person with knowledge going abroad
 - General information that can be found in text books
 - Launch vehicle or payload by virtue of launch
 - Remotely sensed data
 - Certain types of satellite components



What is Being Exported?

- Exemptions – only apply to certain destinations
- Are very limited when it comes to Spacecraft Systems
 - They don't apply to Significant Military Equipment (SME)
 - They don't apply to big ticket items that require Congressional certification



What is Being Exported?

- Exclusions
 - Defense hardware in furtherance of a “manufacturing licensing agreement, Technical Assistance Agreement, or a distribution agreement”
 - Spare parts
 - Temporary imports and exports, but this doesn’t apply to components that will be launched by another country



What is Being Exported?

- Technical Data Exemptions
 - The DDTC can grant an exception when there is an arrangement with the DoD, DoE, or NASA will “normally only be granted” if it implements an international agreement and multiple exports are contemplated. The agency and the DDTC must consult and decide the it “best serves the interest of the United States.”



To Where is it Going?

- Canadian Exemption
 - Only to the Canadian Government and a select group of Canadian persons
 - Must gain non-transfer and use assurances before exporting
 - Only certain space technologies are allowed under this exemption
 - Commercial communications satellites
 - Select components



To Where is it Going?

- UK and Australian Waivers
 - Are bilateral treaties
 - Have been signed
 - Will be limited when implemented and most likely in a way similar to the Canadian exemption
 - Expedited processing is already available §126.15



To Where is it Going?

- NATO and major non-NATO Allies
 - There are big benefits for dealing with these countries
 - The amount needed for Congressional certification doubles for these countries
 - Exports from \$50,000,000 to \$100,000,000
 - Special Regime for Components of Commercial Satellites
 - Can get “expeditious Consideration
 - Must go to and approved country and an approved satellite program
 - Big ticket items are not included
 - These countries are excluded from the Special Export controls that pertain to Spacecraft Systems



To Where is it Going?

- NATO and major non-NATO Allies
 - Special Comprehensive Export Authorizations
 - Major Project Authorization
 - Major Program Authorization
 - Global Project Authorization
 - Technical Data Supporting acquisition, teaming arrangement, merger, joint venture authorization



What compliance procedures are in place?

- In house Training
 - Identify items that will create ITAR issues
 - Create a manual and procedure for staff to deal with ITAR issues when they arrive
- Compliance Officer
 - Well versed in ITAR and all the numerous mechanisms for lightening the load
 - Especially the special regime for spacecraft systems
- Make sure that importers understand
 - Clearly explain to importers what ITAR requires and what will be needed from them
- Remember that if ITAR doesn't apply most likely Department of Commerce controls will apply.



What compliance procedures are in place?

Compliance with export regulations is an exacting and demanding discipline, without which an exporter faces shipping delays, customer dissatisfaction, and expensive enforcement actions. Properly applied, however, a sound export compliance program is a competitive asset and once mastered, supports positive business planning all around.”

John R. Liebman & Kevin J. Lombardo, *A Guide to Export Controls For the Non-Specialist*, 28 Loy. Int'l & Comp. L. Rev. 497

