

# Export Control Regulations Guide

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## Introduction

This guide provides an overview of major export control regimes including the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), and EU Dual-Use Regulations. It is intended as a reference for businesses involved in international trade of metals, minerals, and related products.

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## 1. Export Administration Regulations (EAR)

### Overview

The EAR, administered by the Bureau of Industry and Security (BIS) within the U.S. Department of Commerce, regulates the export and reexport of most commercial items. This includes “dual-use” items that have both commercial and military or proliferation applications.

## Key Components

- **Commerce Control List (CCL):** Categorizes controlled items under ten categories (0-9)
- **Reasons for Control:** National Security (NS), Anti-Terrorism (AT), Chemical & Biological Weapons (CB), etc.
- **License Requirements:** Determined by item classification, destination, end-user, and end-use

## Mining and Metals Industry Considerations

Particular attention should be paid to Category 1 (Materials, Chemicals, Microorganisms, and Toxins) and Category 2 (Materials Processing) of the CCL, which may control certain specialty metals, advanced alloys, and processing equipment.

## 2. International Traffic in Arms Regulations (ITAR)

### Overview

ITAR, administered by the Directorate of Defense Trade Controls (DDTC) within the U.S. Department of State, controls the export and temporary import of defense articles and services.

### Key Components

- **U.S. Munitions List (USML):** 21 categories of defense articles and services
- **Registration Requirements:** Manufacturers, exporters, and brokers of defense articles
- **Technical Data Controls:** Includes information required for the design, development, production, etc.

## Mining and Metals Industry Considerations

While most raw minerals and metals are not ITAR-controlled, certain specialty alloys or materials specifically designed or modified for military applications may be controlled under the USML.

## 3. EU Dual-Use Regulations

### Overview

EU Regulation No. 428/2009 establishes a Community regime for the control of exports, transfer, brokering, and transit of dual-use items.

### Key Components

- **EU Dual-Use List:** Organized into 10 categories similar to the CCL
- **Authorization Types:** Union General Export Authorizations, National General Export Authorizations, etc.
- **Catch-all Controls:** Controls items not listed but intended for particular end-uses

## Mining and Metals Industry Considerations

Similar to the EAR, particular attention should be paid to Categories 1 and 2, which may control certain specialty metals, advanced alloys, and processing equipment.

## 4. Other Major Export Control Regimes

### Wassenaar Arrangement

A multilateral export control regime for conventional arms and dual-use goods and technologies.

### Nuclear Suppliers Group (NSG)

Controls exports of nuclear materials, equipment, and technology.

## **Australia Group**

Controls exports of materials, equipment, and technology that could be used in chemical and biological weapons programs.

## **Missile Technology Control Regime (MTCR)**

Controls exports of equipment and technology related to missile development.

# **5. Compliance Best Practices**

## **Export Compliance Program Elements**

- Management commitment
- Risk assessment
- Written policies and procedures
- Recordkeeping
- Training
- Audits
- Corrective actions
- Export compliance manual

## **Red Flags**

- Unusual customer characteristics or behaviors
- Unusual product requests or specifications
- Unusual shipping or payment arrangements
- Reluctance to provide end-use information

# **6. Restricted Party Screening**

## **Overview**

Screening against various denied party lists is a critical part of export compliance.

## **Key U.S. Lists**

- Denied Persons List (BIS)
- Entity List (BIS)
- Unverified List (BIS)
- Specially Designated Nationals List (OFAC)
- Debarred List (DDTC)

## **Key Non-U.S. Lists**

- EU Consolidated List
- UN Consolidated List
- UK Sanctions List

# **7. License Requirements and Exceptions**

## **Types of Licenses**

- Individual licenses
- General licenses
- License exceptions/exemptions

## **Common License Exceptions (EAR)**

- License Exception Strategic Trade Authorization (STA)
- License Exception Temporary Imports, Exports, and Reexports (TMP)
- License Exception Governments, International Organizations, and International Inspections (GOV)

# **8. Record Keeping Requirements**

## **EAR Requirements**

Records must be retained for 5 years from the latest of the export date, reexport date, or any known reexport, transshipment, or disposal.

## **ITAR Requirements**

Records must be retained for 5 years from the date of the transaction.

## **EU Requirements**

Records must be kept for at least 3 years from the end of the calendar year in which the export took place.

## **Disclaimer**

This guide is for informational purposes only and does not constitute legal advice. Regulations change frequently, and users should consult current official sources and qualified legal counsel for specific compliance requirements.

## **Contact Information**

For more information or assistance with export compliance matters, please contact:

**Trade Compliance Department** Email: [info@ore2b.com](mailto:info@ore2b.com)