



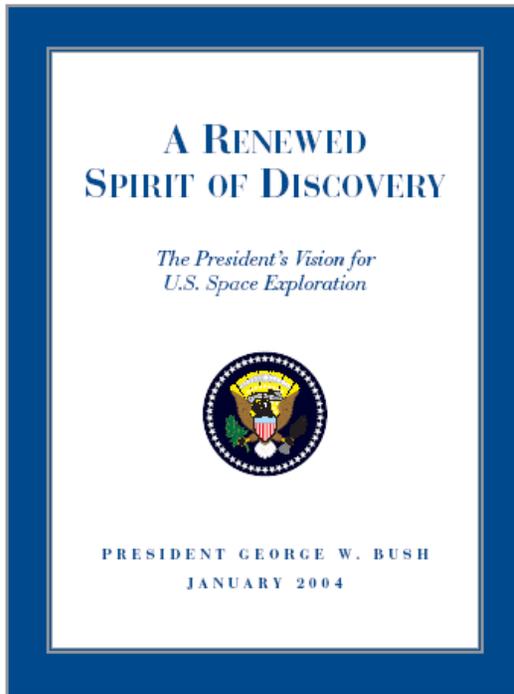
Export Control in The Vision for U.S. Space Exploration

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Why is this relevant to the Vision?

THE FUNDAMENTAL GOAL OF THE VISION FOR U.S. SPACE EXPLORATION IS TO ADVANCE U.S. SCIENTIFIC, SECURITY, AND ECONOMIC INTEREST THROUGH A ROBUST SPACE EXPLORATION PROGRAM



Implement a sustained and affordable human and robotic program to explore the solar system and beyond;

Extend human presence across the solar system, starting with a human return to the Moon by the year 2020, in preparation for human exploration of Mars and other destinations;

Develop the innovative technologies, knowledge, and infrastructures both to explore and to support decisions about the destinations for human exploration; and

Promote international and commercial participation in exploration to further U.S. scientific, security, and economic interests.



Agenda

- **The Big Picture: International Participation in NASA Programs**
- **The NASA Export Control Program**
- **The International Traffic in Arms Regulations**
- **The Export Administration Regulations**
- **NASA's Export Processing Template & Recent Developments**
- **NASA Imports**
- **Foreign Nationals at NASA**
- **Wrap-up & Where to Turn For More Information...**



International Participation in Vision for Space Exploration





International Collaboration in Space

- **International cooperation is an important part of proceeding with the Vision**
 - For 40 years, NASA has worked closely with its international partners
 - Since 1958, NASA has concluded over 4000 agreements with over 100 nations
 - 64 spacecraft in-orbit, 35 with international participation
- **In last 10 years**
 - 900 agreements with organizations from 68 countries
 - 10 partners account for 75% of the 900 agreements: Japan, Canada, France, Germany, Italy, UK, Russia, Australia, Brazil, ESA
- **Volume of agreements**
 - Close to 100 agreements are in work at any given time



Export Control Compliance: Part of the NASA Mission

- “It is NASA policy to ensure that exports and transfers of commodities, technical data, or software to foreign persons and foreign destinations are carried out in accordance with United States export control laws and regulations, and Administration and NASA policy.”
 - NPD 2190.1A, Section 1.a. (May 24, 2001)
- ““We want to maximize the benefits of our international efforts while ensuring that we comply with U.S. export control laws and regulations.’ This is the personal responsibility of each employee.”
 - NPR 2190.1, Section P.1. (April 10, 2003)

Export control compliance is everyone’s job at NASA



Export Control Principles to Consider

- Both the International Traffic in Arms Regulations (**ITAR**) and Export Administration Regulations (**EAR**) apply to NASA international activities
- Controls exist on assistance, training, technology (technical data and software), and hardware . . . in some cases, even if all of the information is in the public domain
- International Traffic in Arms Regulations (ITAR) (22 CFR 120-130) – promulgated under the Arms Export Control Act of 1976, 22 U.S.C. §§ 2778 et seq.; control the export of goods and technical data on the United States Munitions List (USML). USML items are mainly “military” in nature
- Export Administration Regulations (EAR) (15 CFR 732-774) – promulgated under the Export Administration Act of 1979, 50 U.S.C. app. §§ 2401 et seq.; control the export of goods and technical data on the Commerce Control List (CCL), typically referred to as “dual-use” items
- 10 CFR 810 – Department of Energy regulations
- **Entities List, Specially Designated Nationals List, Debarred Parties List, Denied Persons List, etc.**



U.S. Nonproliferation & Export Control Policy

The United States will continue to oppose missile programs of proliferation concern, and will exercise particular restraint in missile-related cooperation. We will continue to retain a strong presumption of denial against exports to any country of complete space launch vehicles or major components.

The United States **will not support the development or acquisition of space-launch vehicles** in countries outside the MTCR.

For MTCR member countries, **we will not encourage new space launch vehicle programs, which raise questions on both nonproliferation and economic viability grounds.** The United States will, however, consider exports of MTCR-controlled items to MTCR member countries for peaceful space launch programs on a case-by-case basis . . .



Other Statutory Considerations

- **P.L. 106-178, P.L. 106-112 – Iran and Syria Non-Proliferation Act**
 - The Act restricts extraordinary payments to certain Russian entities in connection with human space flight activities including the International Space Station
- **P.L. 106-391 – NASA Authorization Act of 2000**
 - Section 126(b) requires NASA certification to Congress regarding activities with PRC entities involving spacecraft, spacecraft systems, launch systems, or scientific or technical information. Other laws also restrict activities with the PRC.





U.S. Space Transportation Policy

- **Strongly** encourages the use of U.S.-manufactured launch vehicles for U.S. Government payloads, and
- Subjects the use of foreign launch vehicles to significant governmental review & coordination requirements



A Little Up Front Warning

- **We're the first to acknowledge *this is not fun stuff***
- **This session is not going to make you an expert**
- **The subject is dry and dull (a nice way to say it!)**
- **However . . .**

**A number of our contractors got religion on their
“commercial” programs (e.g., Boeing, Lockheed, Loral, Raytheon)...**

And we've had a couple of “incidents” ourselves...

- **So, if you're involved in NASA's international sandbox you need to be aware of, and sensitive to, this subject**



Once again, *why do we concern ourselves with this subject?*

Because we put “technical data and software” in the public domain, we do a lot of international cooperation, we have a lot of foreign nationals that visit and many that are assigned to our installations, and we contract with foreign entities... just to name a few reasons



Export Control @ NASA

- **More on why this is a hot topic . . .**
 - **In the last few years we've had:**
 - **Boeing SeaLaunch Violations**
 - **Hughes/Loral China Allegations**
 - **Cox Committee**
 - **Department of Energy allegations**
 - **FY 99 Defense Authorization Act & ITAR/EAR Reg changes**
 - **Alleged Russian Assistance to Iran's Missile Program and Sanctioned Russian Entities; Iran Nonproliferation Act**
 - **A NASA ITAR violation**
 - **Alleged Lockheed Violations**
 - **Sanctions on McDonnell Douglas**
 - **Raytheon Sensitive Radio Technology to Pakistan Violation (\$25M civil fine)**



*AS WE GO THROUGH THIS PRESENTATION, REMEMBER YOU ARE
IN THE NASA EXPORT CONTROL PICTURE SINCE ...*

**“YOU” ARE NASA’S
MOST LIKELY
EXPORTER**



Some Basic Principles



Here's an important principle: **Export Control Violations are Federal Crimes**

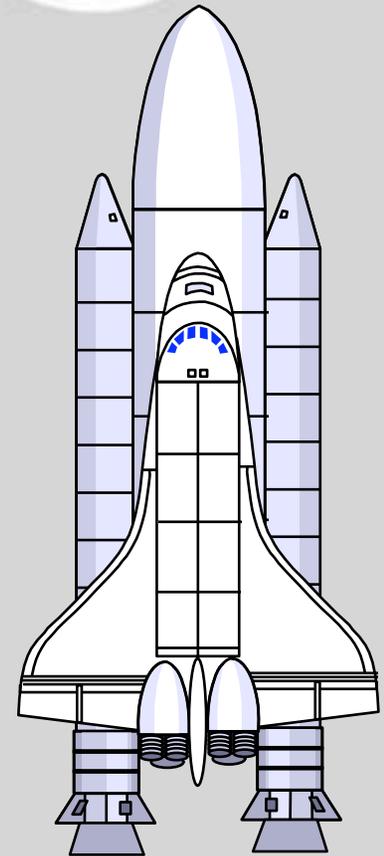
- **Protect Yourself: The Export Laws and Regulations Have Teeth and Can “Bite”**
 - **ITAR** Criminal and Civil Penalties
 - Fine of up to \$1 million per violation
 - Imprisonment - 10 years per violation
 - **EAR** Criminal and Civil Penalties
 - Fine of \$100K+
 - Imprisonment for up to 10 years
- **That's one reason why You need to be concerned about Your export practices**





Main Reasons Certain Exports are "Controlled" by U.S. Law

- **National Security (NS)**
- **Foreign Policy (FP)**
- **Proliferation (MT, NP, CB)**





Remember - An Export Is...

- **The transfer of anything to a “FOREIGN PERSON” or a foreign destination by any means, anywhere, anytime, or a transfer to a “U.S. PERSON” with knowledge that the item will be further transferred to a “FOREIGN PERSON”.**



Therefore, it's all of the following and more:

- **Placing information on the World-Wide-Web, making data available through ftp sites, etc.**
- **Placing information in the Public Domain**
- **Verbal discussions w/foreign nationals or presentations to groups that include foreign nationals**
- **Handcarrying items outside the U.S.**
- **Traditional “Shipments” of items thru Center transportation offices outside the U.S.**
- **Mailing, faxing, e-mailing items outside the U.S. or to foreign nationals within the U.S.**
- **etc., etc.**



Only Certain Exports Are Subject to Control

- **This Presentation is geared to Assist You in telling the difference; and**
- **Assisting You in determining which requires NASA to obtain prior approval from State or Commerce via a License**
- **However, we're not going to make you experts in the next few hours**



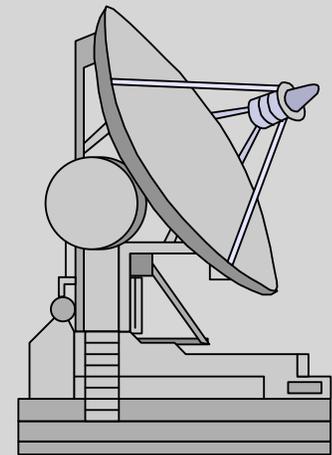
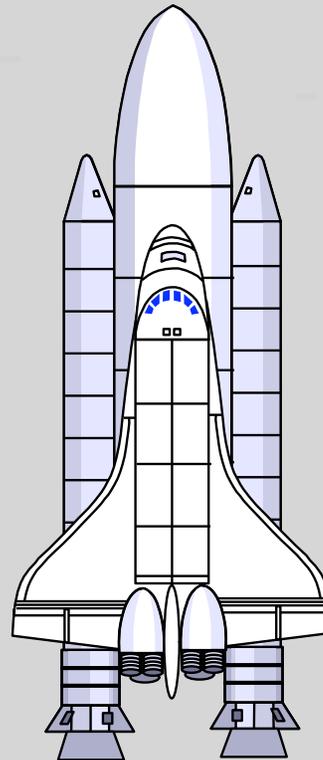
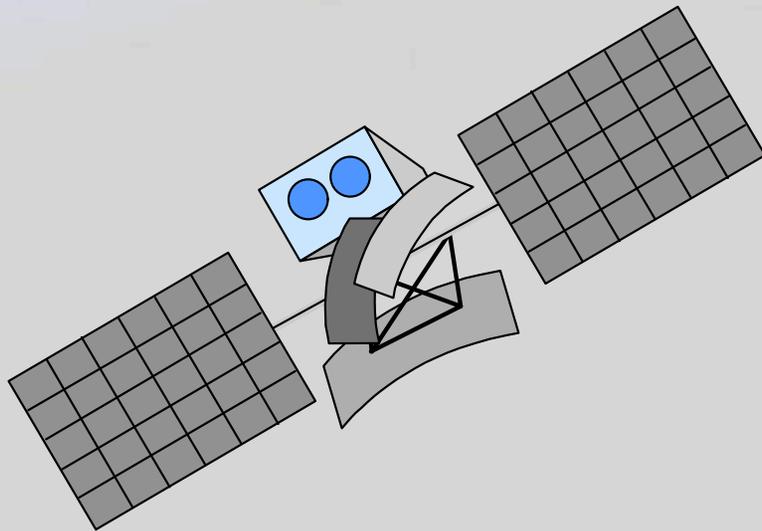
Public Domain v. Export Controlled Data

- **Data in the Public Domain is “uncontrolled” and “unlimited” dissemination***
- **Data subject to Export Control is restricted dissemination**
 - **May require a license**
 - **May be eligible for a license exception/exemption**
 - **May be EAR 99**



The NASA Export Control Program

- NASA Export Training Video - 13 minutes - Premiered March 2005





- **"The Administration shall provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof"**
- and appropriate



Why NASA Must be Concerned About Its Export Practices

- **Exporting is a “privilege”, *not* a “right”**
- **Export “privileges” can be revoked, precluding our ability to conduct international activities**
- **NASA holds significant expertise in space launch vehicle, satellites and other advanced/controlled technologies that others would love to have**
- **And don’t forget, export control violations can -- and do -- lead to criminal prosecution**



NASA Contractors and Export Control

- **The Department of State and, more recently, the Department of Commerce staff license applications to NASA for review**
- **NASA contractors, should be coordinating with NASA in advance of any license application that they intend to submit and which will further a NASA program**
 - **NASA might have useful input in framing the application and can advocate for its timely approval**
 - **Seeing applications after the fact can result in delays, and if not to our liking or not framed correctly, an RWA**
- **NFS Clause 1852.225-70 “Export Licenses” – required in all domestic contracts**
- **Contractors have responsibility to obtain any required licenses unless otherwise agreed with NASA**
- **NPR 2190.1 requires export plans and reporting for exports effected in support of NASA programs**



The NASA Export Control Program (ECP)

- **The NASA ECP is an “internal” NASA program**
- **Originally published as a handbook in November 1995; now an approved NPR 2190.1**
- **Centralized Export Policy & Compliance in Single Office at NASA Headquarters**
- **Export Administrators and Counsel named at each Field Center - resident “experts” on export laws/regulations**
- **Assigns Export Responsibilities and Standardizes Agency Procedures**



The NASA ECP: Key Concepts in NPR 2190.1

- **No exports of controlled items to any foreign entity under any NASA program unless the exporter is confident that such exports are in conformity with approved contracts or international agreements and U.S. export control laws and regulations**
- **NASA exports to foreign entities are only conducted in furtherance of NASA international agreements or contracts**
- **Recommends consultation with HEA, appropriate CEA, or counsel**
 - **Defines roles/responsibilities of Export Control Officials, Program/Project Managers, Transportation Officers, and all NASA employees & contractors, in general**
 - **Revised Export Processing Template (EPT) with Decision-Tree**
 - **TTCPs**
 - **Reporting Requirements for Use of License Exemptions**
 - **Training**
 - **Auditing**
 - **Violations & Compliance**



Export Control @ NASA Headquarters

- **Office of External Relations <http://www.hq.nasa.gov/office/oer>**
 - International Agreements
 - Coordination on Contracts w/Foreign Entities
 - Export Control Program
 - Foreign Access to NASA Installations
 - NASA Foreign Travel Approval/Coordination
 - Interagency Liaison
- **Office of General Counsel**
 - NASA Export Counsel & International Agreements
- **Office of Chief Information Officer**
 - NASA STI Program
 - NASA IT Security Policy (including the Internet)
- **Office of Security and Program Protection**
 - NASA Security Policies
 - Foreign Access to NASA Installations
- **Exploration Systems Mission Directorate**
 - External Release of NASA Software
 - Foreign Access to NASA Technology Transfer Materials
- **Office of Infrastructure, Management, and Headquarters Operations**
 - NASA Transportation Policies



The NASA ECP

- **NASA Project Managers have “export control” responsibilities under NPR 2190.1**
 - NPR 7120.5C, Program & Project Management Processes & Requirements, requires NASA HQ Program/Project Managers to include "export control compliance planning and export control milestones" in Program/Project plans with foreign involvement to ensure that export control matters are considered and resolved in advance of prospective shipping dates
 - Include appropriate safeguards for commodities, technologies, and software exported pursuant to international agreements or contracts; controlled technical data & commodities should be marked or identified in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement
 - Provide necessary information to HEA for determination re: need for validated export licenses
 - Provide for exports, based on international agreements
 - Meet all deadlines for submission of export licenses
 - Include a Technology Transfer Control Plan (TTCP), where appropriate, for programs with international involvement
 - Support export control training for program/project personnel working with foreign nationals
 - Maintain oversight of NASA-directed contractor export activities, including concurrence on the use of NASA-authorized Exemptions, use of NASA-obtained Licenses, and requiring that copies of all export records (SEDs, GBLs, waybills, invoices) be submitted to NASA



How Does The NASA ECP Affect Me?

- **Understand the Scope of the International Cooperation, and NASA's Responsibilities**
- **Be Aware and Think before you "export"**
- **Don't be intimidated by the rules - help is available, ask for it**



NASA's International Agreements

- **NASA's International Agreements - the basis for NASA foreign cooperative (or reimbursable) activity**
 - **define the responsibilities of the parties, scope of the work to be performed, & the terms and conditions under which the cooperation will be effected**
- **All NASA International Agreements contain a clause on transfers of controlled goods & data**
- **NASA's International Agreements do **NOT** trump export control laws & regulations**



NASA International Agreements

- Exchange of Goods and Data Clause – Cooperative Agreements
- The Parties are obligated to transfer only those technical data (including software) and goods necessary to fulfill their respective responsibilities under this Agreement, in accordance with the following provisions:
 - 1. All activities of the Parties will be carried out in accordance with their national laws and regulations pertaining to export control and the control of classified information.
 - 2. The transfer of technical data for the purpose of discharging the Parties' responsibilities with regard to interface, integration, and safety shall normally be made without restriction, except as provided in paragraph 1 above.



NASA International Agreements (continued)

- 3. All transfers of goods and proprietary or export-controlled technical data are subject to the following provisions. In the event a Party or its related entity (e.g., contractor, subcontractor, grantee, cooperating entity) finds it necessary to transfer goods or to transfer proprietary or export-controlled technical data, for which protection is to be maintained, such goods shall be specifically identified and such proprietary or export-controlled technical data shall be marked. The identification for goods and the marking on proprietary or export- controlled technical data will indicate that the goods and proprietary or export-controlled technical data shall be used by the receiving Party or related entities only for the purposes of fulfilling the receiving Party`s or related entity`s responsibilities under this Agreement, and that the identified goods and marked proprietary technical data or marked export-controlled technical data shall not be disclosed or retransferred to any other entity without the prior written permission of the furnishing Party or its related entity. The receiving Party or related entity shall abide by the terms of the notice and protect any such identified goods and marked proprietary technical data or marked export-controlled technical data from unauthorized use and disclosure. The Parties to this Agreement will cause their related entities to be bound by the provisions of this Article related to use, disclosure, and retransfer of goods and marked technical data through contractual mechanisms or equivalent measures



NASA International Agreements (continued)

- 4. All goods exchanged in the performance of this Agreement shall be used by the receiving Party or related entity exclusively for the purposes of the Agreement. Upon completion of the activities under the Agreement, the receiving Party or related entity shall return or, at the request of the furnishing Party or its related entity, otherwise dispose of all goods and marked proprietary technical data or marked export-controlled technical data provided under this Agreement, as directed by the furnishing Party or related entity.



How Does This Affect Me?

- **STI PUBLICATION/DISSEMINATION**
 - All STI is to be reviewed for possible export dissemination restrictions
 - Accomplished via NPR 2200.2B and NASA Form 1676 or Center equivalent Form
- **EXTERNAL SOFTWARE RELEASES**
 - Export Control Review is an inherent part of the software release process – NPR 2210.1A, External Release of NASA Software
- **NASA Security of Information Policy – NPR 2810.1A**
 - Export Control Review part of decision process for placing technical data on websites



HOW DO I KNOW IF AN ITEM IS SUBJECT TO CONTROL?

- **Nobody said it was easy!**
 - **determine whether it's publicly available**
 - **determine jurisdiction - ITAR or EAR**
 - **check with the source of the product (mfr)**
 - **seek assistance from your CEA/CEC**
 - **And if you are really hard up, ask Headquarters for help**
- **Practical Test for Placing it in the Public Domain**
 - **Is it appropriate that our worst enemies have access to the technical information?**



*The International Traffic in Arms Regulations
(ITAR)**

22 CFR 120-130

***Updated via Federal Register Notices**

<http://www.pmdtc.org/>



International Traffic in Arms Regulations (ITAR)

- **Regulations which control the export of goods and technical data on the United States Munitions List (USML) and certain items on the Missile Technology Control Regime (MTCR) Annex.**
- **USML items are mainly “military” in nature, with a limited number of “dual-use” items.**



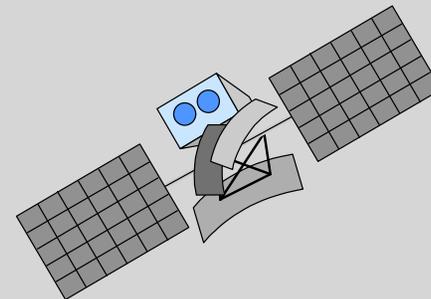
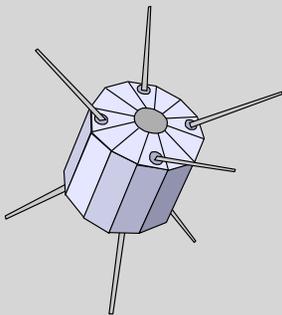
The United States Munitions List (USML) - 22 CFR 121

- I - Firearms
- II - Artillery Projectors
- III - Ammunition
- ****IV - Launch Vehicles, etc...***
- ****V - Explosives, Propellants, Incendiary Agents and Their Constituents***
- VI - Vessels of War and Special Naval Equipment
- VII - Tanks and Military Vehicles
- VIII - Aircraft and Associated Equipment
- IX - Military Training Equipment
- X - Protective Personnel Equipment
- XI - Military Electronics
- ****XII - Fire Control, Range Finder, Optical and Guidance and Control Equipment***
- ****XIII - Auxiliary Military Equipment***
- XIV - Toxicological Agents and Equipment and Radiological Equipment
- ****XV - Spacecraft Systems and Associated Equipment***
- XVI - Nuclear Weapons Design and Related Equipment
- XVII - Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- XVIII - Directed Energy Weapons
- XIX - Reserved
- XX - Submersible Vessels, Oceanographic and Associated Equipment
- XXI - Miscellaneous Articles



USML Cat XV

- Spacecraft and Associated Equipment
 - All spacecraft (except International Space Station)
 - Certain GPS Receivers
 - Certain Rad Hard Microprocessors
 - Uniquely Designed, Modified, Configured Systems, Pieces and Parts for Above
 - Technical Data for Above





The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions**
 - **Defense Article**
 - **Technical Data (includes Software)**
 - **Public Domain**



The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions**
 - **“Defense Article”** - any item on the **USML**, including **“technical data”**.
 - Note: **Contrary to popular opinion, Defense Articles are not exclusively “military” items; (e.g., with the exception of the Space Station, all *spacecraft* are “Defense Articles”; the Space Shuttle is a “Defense Article”, etc.)**



The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions (cont'd)**
 - **Technical Data -**
 - **information** which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of “**defense articles**”
 - **classified** information related to “**defense articles**”
 - **information** covered by an invention secrecy order
 - **software** directly related to “**defense articles**”



The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions (cont'd)**
 - **Technical Data (cont'd) –**
 - **does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the “public domain”.**
 - **does not include basic marketing information on function or purpose or general system descriptions of “Defense Articles”.**



The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions (cont'd)**

- **Public Domain** - information which is **published and which is generally accessible or available to the public:**

- through sales at newsstands and bookstores;
 - through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;
 - through second class mailing privileges granted by the U.S. government;
 - **at libraries open to the public or from which the public can obtain documents;**
 - through patents available at any patent office;
 - through unlimited distribution at a conference, meeting, seminar, trade show or exhibition,, generally accessible to the public, in the United States;
 - **through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency;**



The International Traffic in Arms Regulations (ITAR)

- **Important ITAR Definitions (cont'd)**
 - **Public Domain (cont'd)**
 - through **fundamental research** in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community
 - **Fundamental research** is defined to mean basic and applied research in science and engineering **where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. government access and dissemination controls.**
 - **University research** will *not* be considered “**fundamental research**” if:
 - the University or its researchers **accept other restrictions on publication of scientific and technical information resulting from the project or activity**, or
 - the research is funded by the U.S. government and **specific access and dissemination controls protecting information resulting from the research are applicable.**



The International Traffic in Arms Regulations (ITAR)

- **“Temporary” v. “Permanent” exports of “defense articles”**
 - Under the **ITAR** a **temporary export** is less than four (4) years with no transfer of title.
 - A **permanent export** is four years or over, or anytime there is a transfer of title.
- **“Temporary” imports***
 - Temporary import is up to four (4) years
- **Examples of Permanent v. Temporary Exports**
 - The export of an **ITAR** controlled NASA satellite or satellite component outside the U.S. solely for launch on a foreign launch vehicle is a **“Permanent Export”**
 - The transfer of control of an **ITAR** controlled NASA satellite on-orbit to a **“foreign person”** is an export and can be either **“Permanent”** or **“Temporary”**.



The International Traffic in Arms Regulations (ITAR)

- **Licenses v. Exemptions**

- When required, NASA seeks and obtains **ITAR** export licenses prior to effecting an export
- As a government agency, NASA enjoys certain license exemptions not available to industry
- These exemptions do not apply in all circumstances and **never** when dealing with “**foreign persons**” of **proscribed** countries (22 CFR 126.1)

- **Export Licenses**

- Export licenses are issued by the Dept of State for the export of “**defense articles**”. Most frequently used **ITAR** license type by NASA:
 - DSP-5 - Permanent Export License (for Unclassified Defense Articles)
- When required, **NASA licenses are obtained per our internal Export Control Program (ECP)**, contact local export officials for procedures

- **License Exemptions**

- The **ITAR** contains numerous **exemptions*** to licensing requirements, but not to the fact that an item is subject to control

- *Use of **exemptions** is pursuant to the specific provisions of the **ITAR**, the **NASA ECP** and the **NASA/Foreign Partner International Agreement**



The ITAR in Civil Space

☐ **Commonly-used ITAR License Exemptions**

- 123.4(a) & (b) – Temporary imports
- 123.16(b) – Exports of parts, components, models
- 125.4(b)(1) – Technical data exports directed by DOD
- 125.4(b)(3) – Technical data exports directed by USG agency
- 125.4(b)(5) – Technical data exports for lawfully exported articles
- 125.4(b)(7) – Technical data returned to sender
- 125.4(b)(10) – Technical data disclosed to university employees
- 125.4(b)(11) – Technical data authorized by DTC written exemption
- 125.4(b)(13) – Publicly available data about defense articles
- 125.5(c) – Plant visits
- 126.4(a) – Exports by or for USG agency
- 126.4(c) – Imports/Exports for use by USG agency abroad
- 126.5 – Canadian Exemptions



The ITAR in Civil Space

- **ITAR Defense Service Exemptions**
 - **Except for the new University exemption, a DOD bid proposal exemption, and the Canadian exemption, don't bother looking for "defense service" exemptions**
 - **And be mindful that a Technical Assistance Agreement is required even if assistance on a defense article involves 100% public domain information**
 - **NASA is working to change this for NASA programs – *we'll discuss that in a few slides***



The International Traffic in Arms Regulations (ITAR)

- **Proscribed Countries - 22 CFR 126.1**
 - If a country appears on the “proscribed country” list, it is (generally) U.S. policy to deny licenses, or other approvals, associated with exports and imports of defense articles and defense services, destined for or originating in that country
 - **ITAR** License Exemptions are trumped if a “**foreign person**” from any of these countries is involved; i.e., a license must be applied for.



ITAR Proscribed Countries - 22 CFR 126.1

- **AFGHANISTAN (case by case)**
- **BELARUS**
- **BURMA**
- **CHINA (PRC)**
- **CONGO (case by case)**
- **CUBA**
- ***CYPRUS**
- ***ERITREA**
- ***FIJI**
- **HAITI**
- ***INDONESIA (case by case)**
- **IRAN**
- ***IVORY COAST**
- **IRAQ (case by case)**
- ***LEBANON**
- **LIBERIA**
- **LIBYA (case by case)**
- **NORTH KOREA**
- ***PALESTINIAN AUTHORITY**
- **RWANDA (case by case)**
- **SIERRA LEONE**
- **SOMALIA**
- **SUDAN**
- **SYRIA**
- ***THAILAND**
- **VENEZUELA**
- **VIETNAM**
- ***YEMEN**
- ***ZIMBABWE**

* Department of State has published restrictive guidance regarding these countries/entities, Jun 2007 ITAR Handbook notes, 22CFR §126.1.



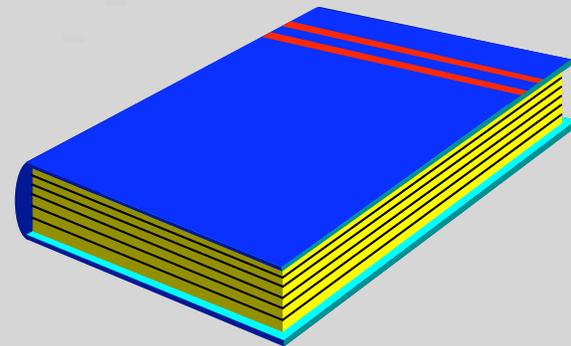
The International Traffic in Arms Regulations (ITAR)

- **Rule of Thumb - NASA seeks and obtains ITAR export licenses for . . .**
 - **the permanent transfer of hardware on the USML,**
 - **for any export of information (technical data) required for the detailed design, development, manufacture or production of a Defense Article**
 - **for any transfer of hardware or technical data involving a “foreign person” in or from a “proscribed country”.**



The International Traffic in Arms Regulations (ITAR)

- **Recordkeeping - records must be maintained on most transfers, regardless of whether or not a license was required; i.e., records must be maintained even when using license exemptions**





The Export Administration Regulations (EAR)*

15 CFR 730-774

***Updated via Federal Register Notices**

<http://bis.doc.gov>



The Export Administration Regulations (EAR)

- **Regulations which control the export of goods and technical data on the Commerce Control List (CCL), including certain items on the Missile Technology Control Regime Annex.**
- **Items on the CCL are typically referred to as “dual-use” items.**



The Commerce Control List (CCL) - 15 CFR 774

- **Category 0 - Nuclear Materials, Facilities and Equipment and Misc.**
- **Category 1 - Materials, Chemicals, Microorganisms and Toxins**
- **Category 2 - Materials Processing**
- ***Category 3 - Electronics***
- ***Category 4 - Computers***
- **Category 5 - Telecommunications and Information Security**
- ***Category 6 - Lasers and Sensors***
- ***Category 7 - Navigation and Avionics***
- **Category 8 - Marine**
- ***Category 9 - Propulsion Systems, Space Vehicles and Related Equipment***



The EAR in Civil Space

- **ECCN 9A004 – covers the International Space Station,*
*not necessarily the payloads and experiments that
permanently or temporarily occupy it***

* **Note: technical data required for the detailed design, development,
manufacturing or production of the ISS remains under the control of the ITAR**



The NASA Export Control Program

- [Export Processing Template - Roadmap to Compliance](#)
- **The NASA EPT is a part of the NASA ECP**
- **The EPT is your personal roadmap to compliance**
- ***Please* ... understand and use it**





Before Effecting any Export...

- **Understand the authority and the necessity for the “export” - NASA/Foreign Partner Agreement, etc.**
- **“Classify” the item(s) to be exported (hardware, software, technical data)**
- **Determine if the item is eligible for an “exception/exemption” to obtaining an export license, and if not,**
- **Apply for and obtain an export license (through the Agency Export Administrator @ NASA Headquarters)**
- **Cite exception/exemption/license authority on export paperwork and comply with requirements of regulations, license and/or agreement.**



Classification Requests

- **Classification Requests to BIS**
 - If unable or uncomfortable in determining the “classification” of the item to be exported, a “classification” can be requested from BIS. BIS will “classify” an item for you, advise you that an item is not subject to the **EAR** and no license is required, or that the item is subject to the jurisdiction of another agency
 - Typically takes 30 working days from receipt of all necessary information at BIS
 - Work with your Center Export Administrator



NASA & IMPORTS



IMPORTS BY or FOR NASA

- **TWO DISTINCT ASPECTS**
 - IMPORT LICENSING
 - IMPORT “DUTY”



IMPORT LICENSING – ITAR v. EAR

- **When NASA “temporarily” imports ITAR Defense Articles, we use our ITAR license exemption authority at 22 CFR 126.4**
 - authorizes Defense Article imports pursuant to an approved international activity
- **When NASA “permanently” imports ITAR Defense Articles, no license is required per 27 CFR § 47.53 - BATF Regulations**
- **In general, import licenses are not required under the EAR**

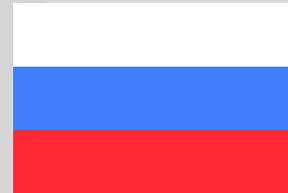


IMPORT DUTY

- **Most NASA No-Exchange-of-Funds International Agreements provide for the waiver of U.S. import duty (and vice-versa for foreign import duty)**
- **NASA authority for such waivers is found in the Harmonized Tariff Schedule of the U.S. -- 9808-00-80**
- **NASA policy on such waivers is found in 14 CFR § 1217**
- **Space Act Agreements Manual, Import Duty Clause**
 - **3.5.r; 4.2.a. "Customs/Taxes/Immigration" Sample Clause**
 - In accordance with its laws and regulations, each party shall facilitate free customs clearance and waiver of all applicable customs duties and taxes for equipment and related goods necessary for the implementation of this agreement. In the event that any customs duties or taxes of any kind are nonetheless levied on such equipment and related goods, such customs duties or taxes shall be borne by the party of the country levying such customs duties or taxes. The parties' obligation to ensure duty-free entry and exit of equipment and related goods is fully reciprocal.
- ***N.B.: Don't confuse Duty-Free Import Authority with whether or not an "Import License" is required***



Foreign Nationals @ NASA





NPD 1371.5A: NASA Foreign Visits Policy

- **Delegates approval of all *Non-Designated Area* foreign visits to Centers**
- **All *Designated Area* foreign visits approved by Headquarters (Plus FN's on NASA Exchange Visitor Program)**
- ***Export control* is an integral part of review/approval process, because exports to Foreign Nationals within the U.S. are considered exports to their Home Country -- “deemed export” rule**
- **Defines “Foreign National” as any non-U.S. citizen**
- **Invitations to visitors from Designated Areas requires NASA HQ approval**
- **Media visits require PAO approval**
- **All requests must be entered into NFNMS**
- **Revised processing times**
- **Specifies NAC & agreement requirements**
- **Provisions on NASA's J-1 Exchange Visitor Program**



How Do We “Manage” All These Foreign Nationals?

Through the NASA Foreign National Management System
(aka IVAN)



Notional Foreign National Review Checklist

- Requirement for access understood?
- NASA “Host” Identified?
- Computer access?
- Export controlled information access required?
- Escort required?
- Screens performed? - [Entity List](#), [SDN](#), [Denied Parties](#), [Debarred Parties](#), etc.
- National Agency Check? Indices Check?
- Technology Control Plan or Security Plan in place?
- Other....
 - **Caltech is authorized to approve foreign visits of 5 business days or less for nationals from non-*Designated Areas* and Green Card holders**
 - **NASA approves all other foreign visitors, hosts, hires**
 - **All foreign visitors of 30 days or less at JPL are escorted**



Designated Areas for Foreign Access Purposes

- Afghanistan
- Bahrain
- Belarus
- Bhutan
- Burma (now Myanmar)
- China
- Congo
- Cuba
- *Cyprus
- *Eritrea
- Egypt
- *Fiji
- Haiti
- India
- *Indonesia
- Iran
- Iraq
- Israel
- *Ivory Coast

* Department of State has published restrictive guidance regarding these countries/entities, Jun 2007
ITAR Handbook notes, 22CFR §126.1.



Designated Areas for Foreign Access Purposes

(continued)

- Jordan
- Kuwait
- *Lebanon
- Liberia
- Libya
- Macau (China)
- North Korea
- Oman
- Pakistan
- *Palestinian Authority
- Qatar
- Rwanda
- Saudi Arabia
- Sierra Leone
- Somalia
- Sudan
- Syria
- Taiwan
- *Thailand
- United Arab Emirates
- Venezuela
- Vietnam
- *Yemen
- *Zimbabwe

* Department of State has published restrictive guidance regarding these countries/entities, Jun 2007
ITAR Handbook notes, 22CFR §126.1.



NASA Foreign Travel Policy





NASA Foreign Travel

NEW

NASA Financial Management Manual, 9700

<http://www.hq.nasa.gov/fmm/9700/9700.pdf>

- **The Office of External Relations at NASA HQ reviews and approves all NASA HQ foreign travel, and astronaut foreign travel**
- **All other travel is reviewed and approved locally**
- **Country Clearances are sought from Department of State for all NASA foreign travel**
- **Four weeks (20 work days) notification required**
- **Reimbursable travel from non-Federal source requires legal clearance from either Center or HQ**



NASA Foreign Travel

- **Currently two categories of NASA foreign travel**
 - **Program – travel related to NASA program/ project in support of international agreement or contract**
 - **Non-Program – travel for attendance at outside meetings, official foreign travel to research institutions, universities, industrial organizations and other miscellaneous official foreign travel**
- **When a particular trip involves both, non program procedures apply**
- **Foreign “training” also requires prior HQs approval**



NASA Foreign Travel –Forms Required

- **NASA Form 386, Overseas Travel Order (or electronic equivalent from Travel Manager)**
- **NASA Form 1167, Request for Approval of Foreign Training, Non-Program Travel or Gifts of Travel from Non-Federal Sources (non-program travel only)**
- **NASA Form 1676, NASA STI Document Availability Authorization (required when making presentation)**
- **Submission to HQs to include purpose, itinerary, invitation (if applicable), program or agenda, copy of legal review if applicable), other background, justification for late submittal (three weeks or less)**



ALMOST DONE

HONEST



Bottom Line

- **Every NASA employee has a responsibility to observe U.S. export laws and regulations, to comply with NASA's Export Control Program and to be a "responsible" exporter**



Where Can I Get Help?

Call Your Center Export Representatives:

- **ARC/IVV**
 - Raj Shea/CEA
 - Linda Franklin/CEC
- **DFRC**
 - Jerry McKee/CEA
 - Dave Samuels/CEC
- **GSFC/WFF**
 - Tom Weisz/CEA
 - Robert Stephens/CEC
- **JPL/Caltech**
 - Olga King/CalTech
- **JSC/WSTF**
 - Ari Blum/CEA
 - Donna Shafer/CEC
- **KSC**
 - C Wayne Ranow/CEA
 - Don Schiller/CEC
- **LaRC**
 - Sam Capino/CEA
 - William McMurry, Jr/CEC
- **GRC**
 - Steve Fedor/CEA
 - Jerald Kennemuth (Acting CEC)
- **MSFC**
 - Rip Nabors/CEA
 - Jim McGroary/CEC
- **SSC**
 - Trish Penton/CEA
 - Ken Human/CEC

**or Call Washington (if you must):
Paula Geisz or Ken Hodgdon
202-358-1620 or -0535**





Valuable Internal NASA Resources

- NASA International Agreements and/or Contracts
- NPD1050.1G Space Act Agreements
- NPD 1360.2A, Initiation and Development of International Cooperation in Aeronautics and Space Programs
- NPD2190.1A/NPR 2190.1, The NASA Export Control Program
- NPD 2200.1, Management of NASA Scientific and Technical Information
- NPR 2200.2B, NASA Scientific and Technical Information
- NPD/NPR 2210.1A, External Release of NASA Software
- NPD/NPR 1371.1, Requests for Waivers to the Residence Abroad Requirement for Exchange Visitors Employed by NASA Contractors/Grantees
- NPD 2110.1E, Foreign Access to NASA Technology Transfer Materials
- NPD 1371.5A/NPR 1371.2A, Coordination and Authorization of Visits by Foreign Nationals and Foreign Representatives to NASA Installations
- NPR 2810.1A Security of Information Technology - *includes NASA web policy*



Which One are You?

- ✓ I'm more confused now than when I got here
- ✓ What a crock this is!
- ✓ I can't wait to get home and tell my friends about this
- ✓ I can't be bothered with this bureaucracy
- ✓ Who invited this guy anyway?
- ✓ Send them back to Headquarters!
- ✓ Doesn't apply to me
- ✓ My people will take care of it
- ✓ Piece of cake, let me at it
- ✓ This is fun
- ✓ This guy deserves applause
- ✓ HELP!

