

Policy on Export of Technology

Introduction

Technology (technical data) is subject to export control when it is required for the "development, production or use" of items that are on the military or dual-use control lists. A transfer subject to export control can only take place when an export license or authorisation is in place irrespective of its end-use. For instance, dual-use technology exported for use within a military item (e.g. the single crystal casting process). A licence would be required irrespective of the mode of delivery – for example a paper copy, CD-ROM or an attachment to an e-mail.

Licensable information may take a number of forms including, but not limited to: blueprints, plans, diagrams, models, formulae, tables, 'source code', engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories; 'source code' (or source language).

Therefore before any technology can be exported it is necessary for the business or function to determine whether there are any restrictions on its export. This process begins with the collection of information about the technology concerned, as follows:-

- a full description of the technology;
- the country of origin and any other countries that may exercise export control jurisdiction over the technology in question;
- the export control classification of the technology in each applicable jurisdiction;
- the country and site from where the technology is to be moved to, or accessed from (including where technology is currently located);
- the purpose of the technology transfer or access (e.g. for use by a supplier to make a part);
- details of the destination and recipient of the technology (name of individual or company [or both]), address, country, citizenship if applicable);
- the volume and value of the technology to be moved or accessed;
- the period of time (days, months, years) over which the technology is to be moved or accessed (is it a one-off or recurrent export);
- the involvement of any third party in the provision or use of the technology;
- any other details that would assist in determining whether an export license or authorisation was required.

Before technology can be considered for export, all parties involved in the transaction and the destination must be screened to ensure that they can lawfully receive or access the technology in question (see Destination Specific Policies and Policy on Screening of Parties).

Policy

1. If the destination of a proposed export of technology is not acceptable under the terms of the corporate destination specific policy, or the screening of parties involved in the transaction highlights an entity that should not receive it, access to or provision of the technology is denied.

2. Where the destination and recipients have been approved, under the terms of the corporate destination specific policy, details of the technology must be assessed to determine if an export license or authorisation is required by the country or countries with jurisdiction over the technology. This assessment will include the export control classification, recipient and destination.

3. Where the movement of, access to or provision of technology is subject to an export license or authorisation that has already been granted, all terms and conditions of that permission must be complied with.

4. Where any new persons or entities are required to receive transfers of or access to a particular technology, a thorough assessment should be made to determine whether it may be necessary to apply for a supplementary export license or seek an amendment to an authorisation to permit the technology to be shared.

5. If an export license or authorisation is not available, or the terms of that permission cannot be complied with, an export control manager or Export Point of Contact (EPOC) must be consulted. Only export control managers and specially empowered EPOC's are permitted to apply for export licences or authorisations or communicate with the appropriate regulatory authority.

6. An export license is for specific content and cannot be used as justification for system access unless adequate (auditable) data segregation and access controls can be demonstrated.

7. If the Items are additionally subject to US export controls and are proposed to be re-exported / re-transferred from outside the US to a recipient, a US export authorisation must be identified for the Items.

8. Any required supporting documentation (e.g. End User / Consignee Undertakings) must be obtained in support of the license application and the validity of such documentation maintained.

9. In some cases, when multiple jurisdictions are involved, an export license or authorisation may be granted by one jurisdiction but refused by another. In such cases the proposed movement of, access to or provision of the technology must not take place, and the advice of an export control manager or EPOC sought.

10. Where an export license or authorisation grants approval to transfer access or provide technology, arrangements must be made in accordance with the provisions of the license or authorisation and all persons involved (including the recipients) must be familiar with those provisions.

11. Where a license or authorisation places restrictions on access to controlled technology, access restrictions must be in place to ensure that only the persons or entities authorised are provided with access.

12. Physical exports of controlled technology must be made using an accredited shipping agent, freight forwarder or carrier that is able to discharge the export license or authorisation on behalf of the company with the customs / border agencies on all countries through which the item passes.

13. Exports of controlled technology must not be made by regular post or by courier (unless the courier is able to discharge the export license or authorisation on behalf of the company with the customs / border agencies on all countries through which the item passes).

14. Export controlled technology being exported in hard-copy, on laptops or other electronic media must not be hand-carried through customs without the prior authorisation of an export control manager or specially empowered EPOC.

15. Electronic transfers of technology must be made via a recognised information portal, collaborative sharing system or other approved electronic media and a record of the transfer kept – see Policy on Record Keeping.

16. A record of the export of any technology by means of telephone, fax, conference call, video link, physical meeting, verbal exchange or other presentation must be kept – see Policy on Record Keeping.

17. All technology must be exported using document markings, transmittal sheets or other legends as appropriate.

18. When a license or authorisation is suspended or revoked by the regulatory authority, no further transfers are permitted irrespective of order status.

19. When a license or authorisation is exhausted because the quantity or value limits have been reached or when the validity period has expired, no further transfers are permitted irrespective of order status.

20. Where there are any areas of doubt over requirements or outcomes, the relevant EPOC or export control manager must be consulted.