

# ITAR: Working Within the Law

## PI Team Masters Forum-3

July 29, 2011



**NASA Export Control Program**

**Paula Geisz**

**Ken Hodgdon**

**NASA Headquarters**



## 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 are carried out in accordance with United States export control laws and regulations, and Administration and NASA policy.”

NPD 2190.1, 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)





# Key Export Control & Nonproliferation Principles

- Primary Export Control Laws and Regulations
  - Export Administration Act; Export Administration Regulations (EAR)
  - Arms Export Control Act; International Traffic in Arms Regulations (ITAR)
  - 10 CFR 810 Department of Energy regulations
  - INKSNA
  - Office of Foreign Assets Control (OFAC) regulations
  - Proscribed Countries, Denied Parties, Entities List, etc.
- U.S. Non-Proliferation and Export Control Policy
- National Space Transportation Policy
- National Space Policy
- P.L. 106-391 – NASA Authorization Act of 2000
- P.L. 112-10 – DOD Continuing Appropriations Act of 2011



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

22 CFR 120-130

\*Updated via Federal Register Notices

<http://www.pmdt.c.state.gov/>

Authorizes the President to control the export and import of defense articles and defense services. Authority delegated to the Secretary of State.





# 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

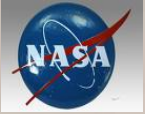


## USML Cat XV

- 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)

## 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

- 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
- SIERRA LEONE
- SOMALIA
- SRI LANKA
- SUDAN
- SYRIA
- VENEZUELA
- VIETNAM
- \*YEMEN
- \*ZIMBABWE

\* Department of State has published restrictive guidance regarding these countries/entities, 22CFR § 126.1.

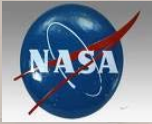




# The ITAR in Civil Space

## 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   |
| <b>125.4(b)(3)</b> | <b>Technical data exports directed by U.S. Gov agency</b>  |
| 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 State Department Directorate for Defense Trade Controls written exemption |
| 125.4(b)(13)       | Publicly available data about defense articles   |
| <b>125.5(c)</b>    | <b>Plant visits</b>  |
| <b>126.4(a)</b>    | <b>Exports by or for U.S. Gov agency</b>   |
| 126.4(c)           | Imports/Exports for use by USG agency abroad   |
| 126.5              | Canadian Exemptions  |



# 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 clauses on transfers of controlled goods & data
- NASA's International Agreements do **NOT** trump export control laws & regulations

***An International Agreement does not replace a contractor's need for a Technical Assistance Agreement***





## Closing

- The Department of State is the regulatory authority for defense articles and defense services.

<http://www.pmdtcc.state.gov/>

- The Department of Commerce is the regulatory authority for dual-use items. <http://www.bis.doc.gov/>

- The NASA Export Control Program is at

<http://oier.hq.nasa.gov/nasaecp/index.html>

- The President's Export Control Reform Initiative is at

<http://export.gov/ecr/index.asp>

- Federal Register Notice – A Proposed Rule

<http://www.federalregister.gov/articles/2011/07/15/2011-17846/proposed-revisions-to-the-export-administration-regulations-rear-control-of-items-the-president>

