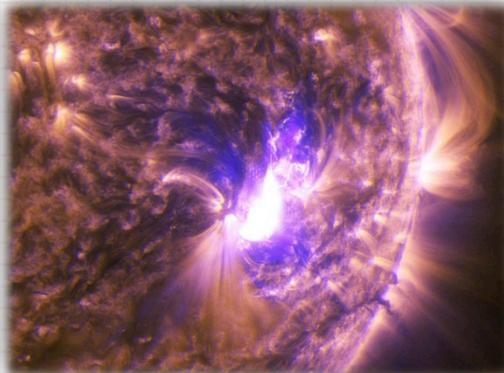
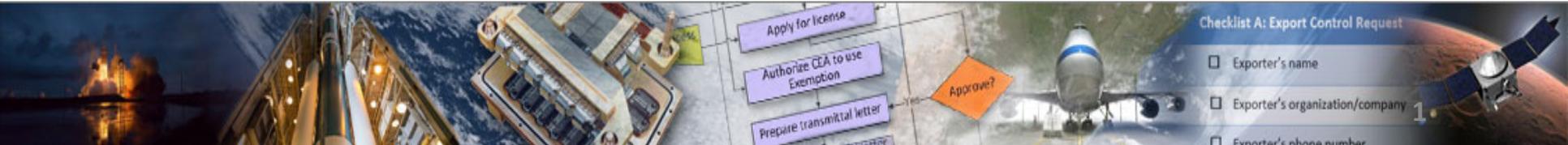


Earth Venture Instrument-4 (EVI-4) Preproposal Teleconference/WebEx



Ken Hodgdon
HQ Export Control Program Analyst
August 18, 2016





...export controls do not exist simply as another set of regulations... They exist to ensure our technological superiority is never employed against us on the battlefield... They exist to ensure our security – our national security, our homeland security, our cybersecurity, and our economic security.”



Penny Pritzker
U.S. Secretary of Commerce

Compliance is Part of the NASA Mission



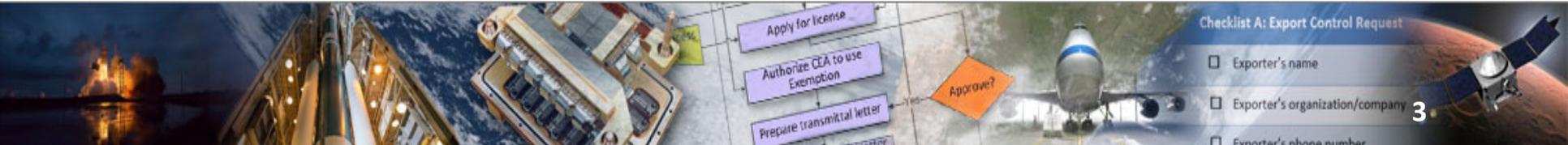
“It is NASA policy to ensure that exports and transfers of commodities, technical data, or software to foreign persons are carried out in accordance with United States export control laws and regulations, and Administration and NASA policy.”

-NPD 2190.1, Section 1.a.

“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 2190.1B, Section P.1.

Compliance is everyone’s job at NASA

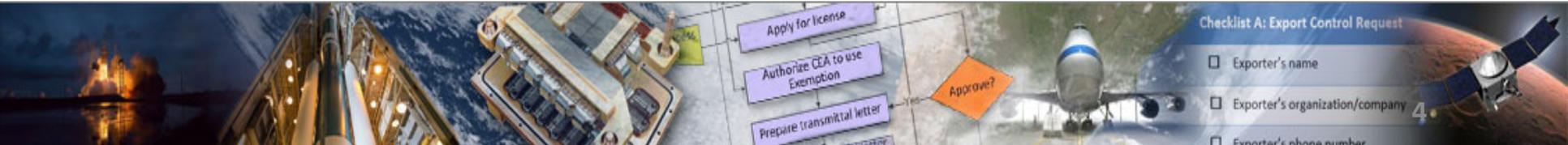


What is an Export?

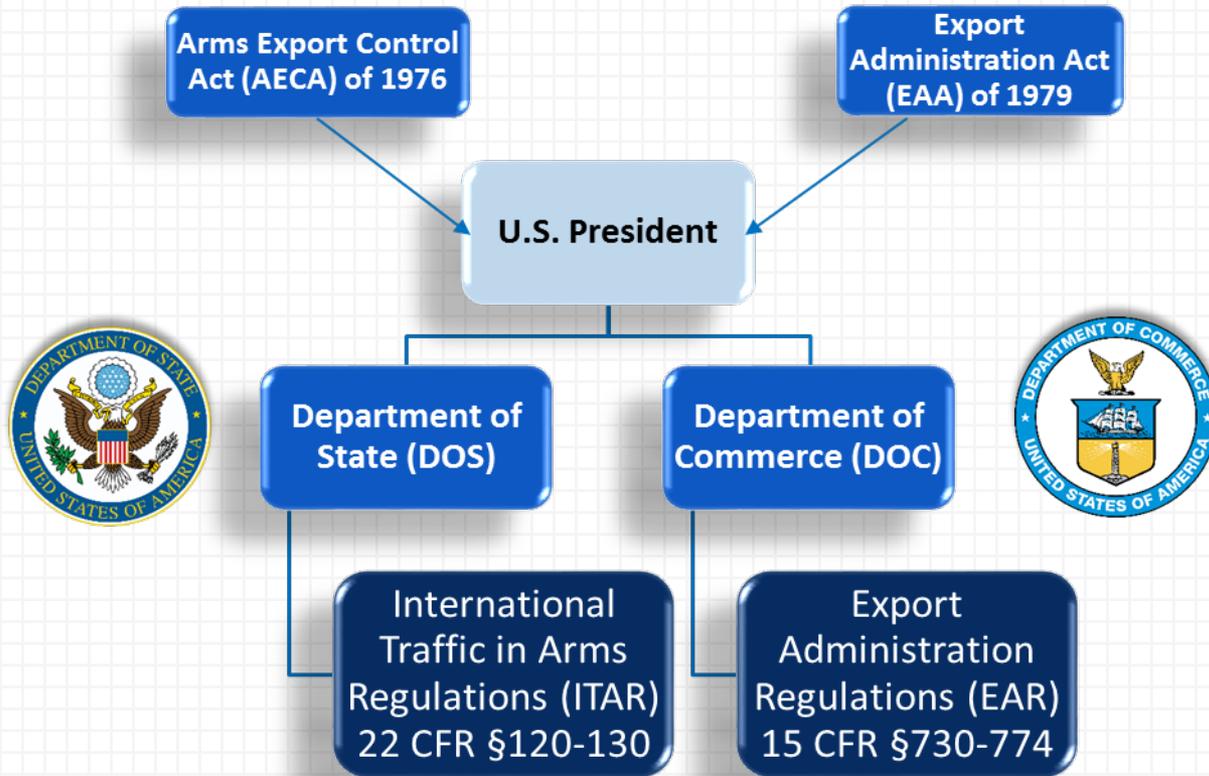


An export is the transfer of *anything* to a foreign person or a foreign destination by *any means*, *anywhere*, *anytime*.

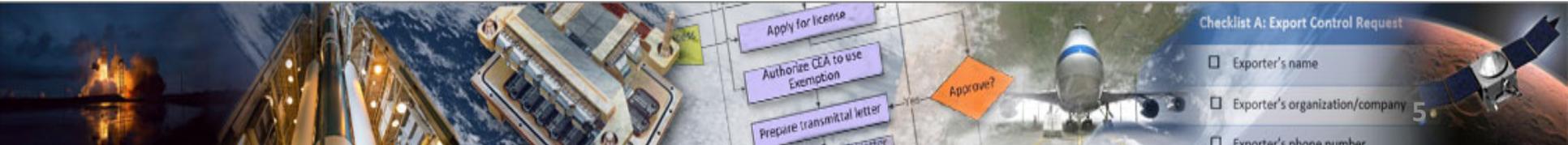
- An export can involve a commodity, software, technical data, technology, and/or providing a defense service or technical assistance.



Export Control Laws and Regulations



- The goal of these laws and regulations is to protect our national security and policy interests.
- Both the **ITAR** and the **EAR** include criminal and civil penalties for export control violations that can result in monetary penalties, imprisonment, or both.



Technical Data and Defense Services



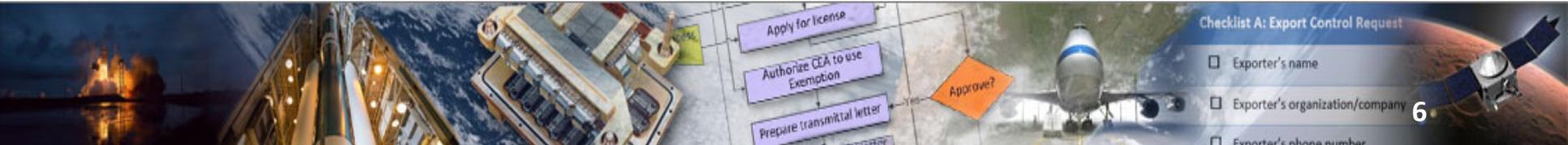
The Department of State (DOS) has specific definitions of technical data and defense services:

Technical Data

Technical data is information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of an export-controlled item and must be protected in accordance with export control regulations (ITAR).

Defense Services

The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles (ITAR).



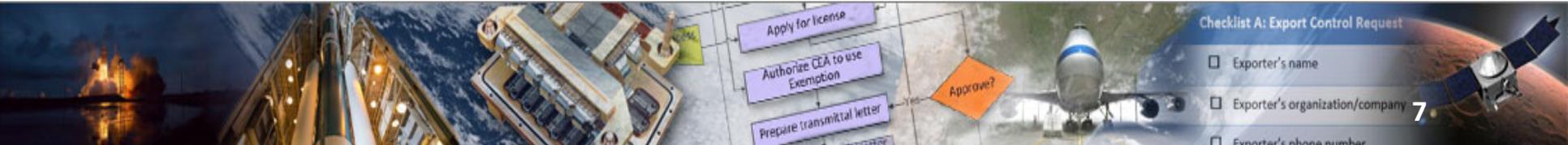
Technology



The Department of Commerce (DOC) has a specific definition of technology:

Technology

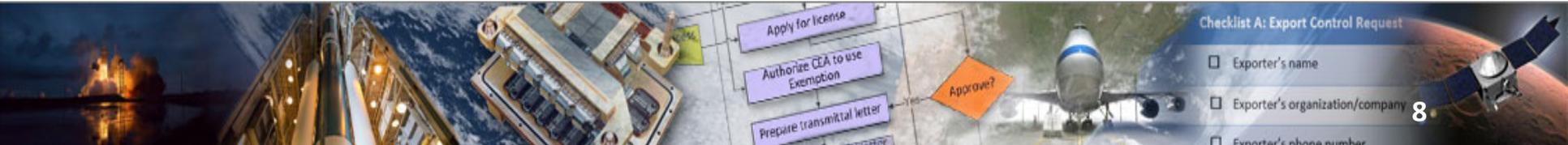
Per DOC, technology is specific information necessary for the “development,” “production,” or “use” of a product. The information takes the form of “technical data” or “technical assistance” (EAR).



Proposal Best Practices



- Mark or identify export-controlled and proprietary information in proposals
 - Marking either pages, sections, or paragraphs
- Identify all foreign partners and participants
- Understand your responsibilities under the U.S. export control regulations
 - Articulate your export control plans





NASA's International Agreements

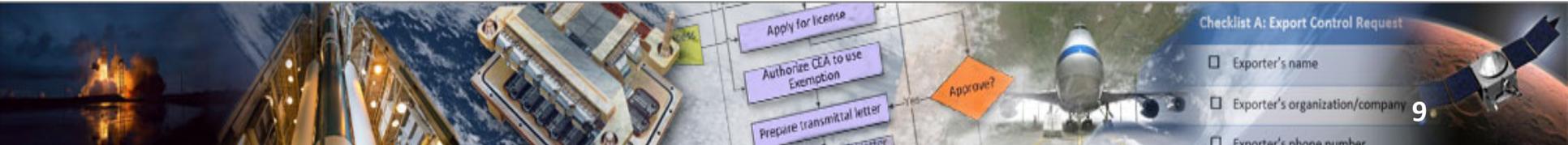
NASA's International Agreements - the basis for NASA foreign cooperative (or reimbursable) activity

- 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

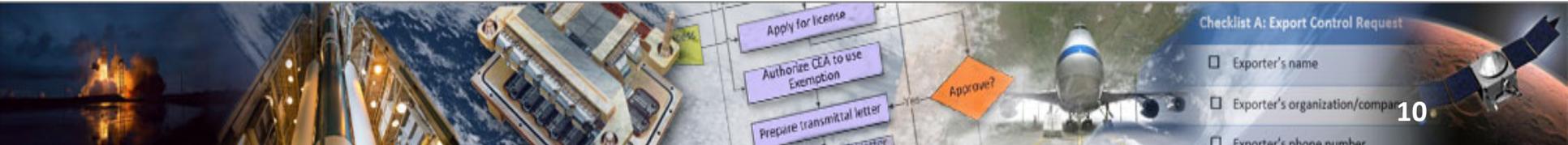
An International Agreement does not replace a contractor's need for a license or other export authorization.



NASA Contractors and Export Control



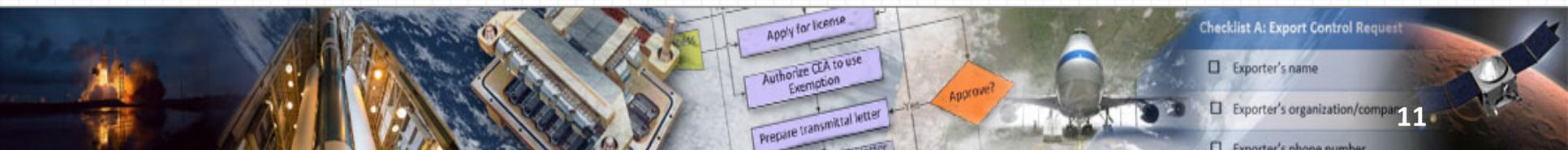
- NASA provides review of licenses submitted to the Department of State and the Department of Commerce
- NASA contractors, should be coordinating with NASA in advance of any license application that will further a NASA program
- NPD/NPR 2190 is applicable to NASA contractors and grantees as required in their contracts or grants
- Contractor is responsible for export compliance in the execution of contracted work (NFS 1825.1103-70 and 1852.225-70)
 - Except when NASA directs or authorizes a contractor to effect exports using a NASA-obtained IVL or GBL
 - 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



NASA & Contractor Best Practices



- Early coordination between the NASA Program/Project Managers, Contractor(s), and NASA Headquarters or Center Export Administrator will benefit programs/projects.
 - Understand what is controlled
 - Identify international parties involved
 - Add export milestones to program/project schedule
 - Develop technology transfer control plan
 - Coordinate meetings with international partner(s) well in advance
- Mark/determine the export jurisdiction of data/hardware when created or acquired
- Recordkeeping



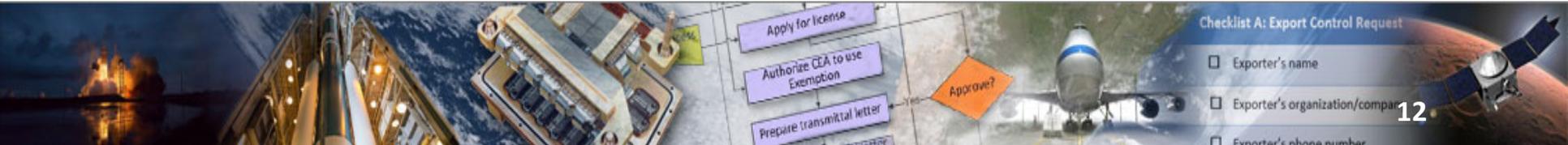
Important Links



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://oir.hq.nasa.gov/nasaecp/index.html>.





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