

## Basic Guide to Export Controls

If you are new to export controls, this short guide is written for you. It answers basic export control questions and is a foundation for understanding more advanced topics. It is not a process or procedure document that explains how to make export control determinations but is an introduction for those who want to understand fundamental export control concepts and why we have a company export compliance program. Although it will not explain your specific export compliance responsibilities, hopefully you will be prompted to learn more about how the company is organized to comply with export control requirements. In a section at the end of this document, you are directed to sources of additional information.

Before we start to answer the basic questions, it is important to acknowledge that export compliance is a very complex regulatory area. Even though countries tend to have similar goals in establishing export controls, individual countries are sovereign nations that have their own unique laws and regulations. For a multinational company like ALE International, this presents a challenge for export compliance personnel because in many cases our products are shipped to the customer from multiple countries, and the export rules of each country of export must be taken into account. In some cases, we must also take into account the export rules of a country other than the country of export. This will be explained in more detail later.

### What is an export?

You may be surprised to learn how broadly some governments define export. Simply stated, an export is the shipment or movement of an item across a country's border to another country. The term "item" means hardware, software or technical information. At first reading, this simple definition of export is probably what you expected. But there are activities that you may not expect governments to put under the definition. Shipping our products from a warehouse in one country to a customer in another country is obviously an export activity. However, you are also exporting when you travel from one country to another with items such as a laptop, software, company proprietary technical information or products (including their components). Under the laws of many countries, you are exporting when you electronically transfer software across the border, or when you email technical information to a colleague in another country. Governments define exports in different ways and, while all countries consider shipments through Customs in the definition, not all countries consider an electronic transfer to be an export.

The United States' export regulations have a broader definition of export than most other countries. In addition to the activities already mentioned, simply posting encryption software on a web site where it could be downloaded from outside the United States is, in some cases, an export, even if the software did not actually cross the border. The consequence of this is that a company could be charged with an export violation by merely making the software available for download. Also, releasing technical information or software source code in the United States to a person who is not a U.S. citizen or permanent resident is considered to be an export from the United States to the country of which the recipient is a citizen. This is not the case in many other countries. While it is not the purpose of this document to explain the export regulations of all countries, you should keep in mind that differences in regulations can result in an activity being prohibited in one country and not in another.

### What are export controls?

Export controls are restrictions that government authorities place on exports from their territories or, in some cases, from the territory of another country. Each country has its own export control laws and regulations that may significantly differ from the export control laws of other countries. Don't confuse export controls with an export licensing requirement. The term "export controls" applies to the entire system of restrictions on exports. Under the rules of that system, the exporter determines whether there is a licensing requirement based on the facts of the export shipment. Later in this guide, we talk about the transaction facts that must be considered.

In the previous paragraph, we state that a government may place restrictions on exports that take place from another country. This is a controversial practice, but it is a reality of export controls that must be addressed by companies such as ALE International. The EU export control regulations require EU-based companies to consult with export control

authorities when brokering certain shipments that take place outside the EU. The US export control regulations apply to exports from any country of items that are made in the United States and to certain items made outside the United States that contain U.S. content. Many countries do not recognize U.S. jurisdiction over exports of these items that take place from their territories. Nevertheless, our policy is to comply with all export control requirements that apply to our transactions, so we must follow these EU and US requirements.

**Why are there export controls?**

Export controls exist for a number of different reasons, including national security, foreign policy, short supply and cultural preservation. Some countries restrict exports of military items to ensure that their enemies, or potential enemies, do not gain access to dangerous military capabilities. Countries also restrict exports of dual-use items for the same reason. A dual-use item is an item that may be commercial in nature but can be used for a military purpose. Countries may also restrict exports because of concerns about human rights, to ensure adequate domestic supply of an item, or to prevent the loss of cultural artifacts.

Many countries collaborate on export controls with other countries that have similar national security and foreign policy objectives.

There are four international export control regimes that are made up of countries that control items in similar ways. Each of these regimes has a web site from which you can learn details of the regime’s members and activities.

Regime Name	What it controls
<b>The Wassenaar Arrangement</b> <a href="https://www.wassenaar.org/">https://www.wassenaar.org/</a>	Export Controls for Conventional Arms and Dual-Use Goods and Technologies
<b>Missile Technology Control Regime (MTCR)</b> <a href="https://mtcr.info">https://mtcr.info</a>	Export of unmanned delivery systems capable of delivering weapons of mass destruction
<b>The Australia Group</b> <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a>	Exports contributing to the development of chemical or biological weapons
<b>Nuclear Suppliers Group</b> <a href="https://www.nsg-online.org/en/">https://www.nsg-online.org/en/</a>	Export of nuclear and nuclear-related technologies

**What are you exporting?**

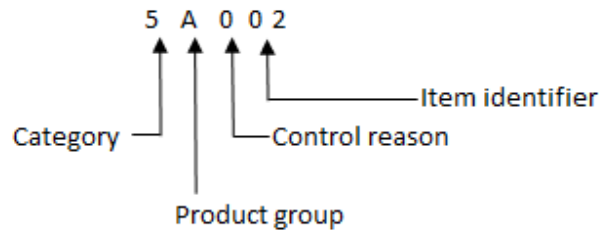
The particular items you are exporting are a major factor in determining whether there is an export control. Semiconductor manufacturing equipment is more likely to be subject to export controls than toys. In general, telecommunications equipment is not subject to significant export controls, but telecommunications equipment with certain functions or features, such as encryption, may be controlled. Therefore, it is critical to have a complete picture of exactly what you are exporting in order to determine the controls that apply.

Governments publish lists of items that are subject to export controls. The European Council, which issues regulations that are binding on EU member states, publishes lists of controlled military and dual-use items. The United States, Canada and many other countries publish similar lists. These lists generally include Export Control Classification Numbers, or ECCNs, that describe a particular type of item that is controlled. ECCNs can be very technical in describing the controlled item. For example, the EU list contains the following entry:

ALE International Export Compliance Organization

5A002 Telecommunications systems, equipment, components and accessories as follows:

The EU, the United States and certain other countries use the same numbering system for their ECCNs, which are structured as follows:



For ALE International, the possible categories (from 0 to 9) are mainly:

5 – Telecommunications and Information Security

For ALE International, the possible products groups are mainly:

A – Systems, Equipment and Components

D – Software

For ALE International, the control reason is mainly:

0 – National Security / Multi-lateral “Controlled” Items

9 - Anti-terrorism, Crime Control, Regional Stability, Short Supply “Non-Controlled” Items (specific for US-regulation; n/a in Europe)

The item identifier is a number that serves to distinguish one type of item from another; the “2” stands for “encryption”.

The first step in determining whether export controls apply to a particular transaction is to identify and classify all items being exported. Classifying an item involves comparing its technical characteristics to the ECCN descriptions on a control list. This should be done by an Export Control Officer or their designate. However, product managers and other ALE International employees who are knowledgeable about the technical characteristics of our products are critical to the classification process.

Another aspect to classification is whether the item is subject to U.S. export controls. All items that are manufactured in the United States are subject to these controls, regardless of the country from which they are being exported. In other words, the U.S. controls apply, no matter how many times the item is shipped from one country to another. This is generally not the case under the export control rules of other countries. In addition to items made in the United States, certain other items made outside the United States are subject to the U.S. export control rules based on their U.S. origin content. An explanation of this very complex export control area is beyond the scope of this basic guide.

**From what country are you exporting the items?**

The country from which the items will be exported determines the export control rules that apply to the shipment. In some cases, there will be only one country of export. However, the rules of a number of different countries will have to be applied in the case of a large project where items are sourced from several different countries. If the ALE International legal entity that enters into the contract with the customer is located in the European Union, the rules of the country where that entity is located will have to be taken into account. In addition, as stated in the previous section, the U.S. rules will have to be applied to items made in the United States or otherwise subject to the U.S. regulations.

**To what country are you exporting the items?**

Along with the export classification of items in an export shipment, the destination is also a critical factor. You may be familiar with countries that are embargoed by the United States, such as Cuba, Iran, North Korea and Syria. While it is true that these countries fall under the tightest restrictions, it is important to understand that export controls do not consist only of countries that are embargoed. Licenses are required to export most items to these countries. But a license is also required to export certain digitally controlled radio receivers to any country. The point is that licensing requirements are based primarily on the export classification of the item and the destination country. Most items tend to require licenses to embargoed countries, while a very small number of items require licenses even to a country's closest allies. In between, there are a number of items that require licenses to various countries.

For details about a **list of countries to which we may not sell or export ALE International products**, or to know and determine **if all government end-users require a US Export License**, please check the FAQ document that contains details, and refer to the agencies' websites. See direct links below too.

**Who will receive the item and what will the recipient use the item for?**

Two other critical factors in determining the applicability of export control restrictions are the end user of the exported items and the intended end use. Many governments publish lists of individuals or entities that are not permitted to receive exported items without a license. These tend to be persons, companies or organizations that are involved in certain activities such as terrorism, drug trafficking or the development of weapons of mass destruction. Even if the recipient is not on a government list, there may be an export licensing requirement if the exporter knows that the customer is involved in an activity prohibited by the government of the country of export.

Government authorities typically advise exporters to look for "red flags" in their export transactions that indicate items may be destined for an inappropriate country, end-user or end-use. Such red flags could include situations in which the customer is unfamiliar with the technical characteristics of the product or declines installation that is normally included in the purchase price, and situations where the items appear to be inconsistent with the customer's needs. When such red flags are evident, the exporter has a duty to perform additional research or make further inquiries to verify the legitimacy of the transaction.

**When is an export license required?**

The answer to this question will depend on the country export rules that are being applied to the transaction, and will be based on answers to the questions discussed above (i.e. what is the ECCN? what is the destination country? Who is the customer? What will the customer use the items for?). Export authorization can be thought of in terms of a formula:

$$\boxed{(\text{ECCN} + \text{country}) + \text{end-user/end-use} = \text{Authorization}}$$

In other words, the ECCN and the country together can result in an export licensing requirement. Separately, the nature of the end user or the end-use can also result in a licensing requirement. All of these factors must be considered together in determining the export authorization requirement. Under a particular country's export control rules, these factors will result in a licensing requirement or the conclusion that no license is required. In some countries, a transaction that requires a license may be eligible for a general license. A general license (known as a "license exception" in the United States) is a type of license that authorizes transactions meeting certain published criteria. The decision about what is the proper export authorization for any particular transaction should be made by company personnel or contractors who have been trained and authorized to make export control determinations.

**What are export control record keeping requirements?**

Export control regulations include requirements that exporters maintain records of export transactions. This is necessary for governments to investigate alleged export violations and to evaluate the adequacy of company export control programs. The ALE International legal entity where the export occurs has the responsibility to maintain records of export transactions, according to the individual country's own unique laws and regulations. The record keeping period varies from country to country. In France, the period is 3 years, while in the United States it is 5 years. In addition to maintaining records, it is important to ensure that the records are readily accessible, in case of government audit.

**Where can I get more information?**

ALE International has Export Compliance Office who can help answer your export control questions. MyPortal contains additional information about Overview of Export Control Policies, Guidance on Compliance and contacts.

You can access these support materials on the “About Export Control” webpage and below links:

<https://myportal.al-enterprise.com/alebp/s/about-export-control>

This section provides guidance to ALE International Business Partners on compliance with export control laws and regulations when exporting, re-exporting or transferring ALE International products. Note that certain ALE International products contain encryption and have been granted authorization for export or re-export under License Exception ENC as either “restricted” or “unrestricted” products.

**Overview of Export Control Policies**

ALE International products are controlled under US Export Administration Regulations (EAR) and under the Wassenaar Arrangement

- <http://www.bis.doc.gov/policiesandregulations/index.htm>
- <http://www.wassenaar.org/>

**Guidance on Compliance**

- [Basic Guide to Export Control](#)
- [Export Control Quick guide for SW-download:](#)
  - Provide guidance to fill in the end user template necessary to apply to the SW-download of ALE Solutions (controlled as “dual-use goods” due to encryption content).
- [END USER SOFTWARE LICENSE AGREEMENT \(EULA\):](#)
  - This Agreement authorizes the Licensee to use the Software and the Documentation.
- [U.S. export-control guidance:](#)
  - This document offers guidance on compliance with U.S. export control laws when exporting, re-exporting or transferring U.S. products.
- [Hong Kong export-control process:](#)
  - Provides guidance on export compliance rules for ALE International products shipped via the Hong Kong Hub to APAC countries.
- [Product Logistics and Custom Information:](#)
  - This export control matrix may be used to determine a product’s classification for export control.
- [Hardware Logistics product info:](#)
  - This export control matrix may be used to determine a product’s HWS classification for export control.
- [Classification disclaimer notification](#)
- [End User information collect form](#)
  - End User information collection.
- [Frequently Asked Questions](#)

**Direct links:**

- [Basic Guide to Export Control](https://myportal.al-enterprise.com/a4F5I000000YObUAG)
- [Export Control Quick guide for SW-download](https://myportal.al-enterprise.com/a4F5I000000YObtUAG)
- [End-User Software License Agreement](https://myportal.al-enterprise.com/a4F5I000000YObYUAG)
- [U.S. export-control guidance](https://myportal.al-enterprise.com/a4F5I000000YOc3UAG)
- [Hong Kong export-control process](https://myportal.al-enterprise.com/a4F5I000000YOc8UAG)
- [Product Logistics and Custom Information](https://myportal.al-enterprise.com/a4F5I000000YP2zUAG)
- [Hardware Logistics product info](https://myportal.al-enterprise.com/a4F5I000000YOcIUAW)
- [Classification disclaimer notification](https://myportal.al-enterprise.com/a4F5I000000YOcNUAW)
- [End User information collect form](https://myportal.al-enterprise.com/a4F5I000000YOcEUAW)
- [Frequently Asked Questions](https://myportal.al-enterprise.com/a4F5I000000YOcJUAW)

**To contact us:**

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