



US Export Controls on Non-US Transactions

A PRACTICAL GUIDE TO COMPLIANCE AFTER REFORM and ADMINISTRATION CHANGES

PLUS

— **CANADIAN LAW: Contrasts and Conflicts** JOHN BOSCARIOL / McCarthy Tétrault (ITAR Seminar)

— **EU LAW: Contrasts and Conflicts** STEPHAN MÜLLER / Oppenhoff & Partner (EAR/OFAC Seminar)

— **RECENT DEVELOPMENTS in Export Controls** KEVIN J. WOLF / Akin Gump (EAR/OFAC Seminar)

- Former Assistant Secretary of Commerce for Export Administration

- ▶ New and updated definitions of key ITAR and EAR terms
- ▶ Rapidly evolving US sanctions policies
- ▶ Important changes in the treatment of dual and third country national employees of Non-US companies
- ▶ The Trump Administration: New enforcement and regulation priorities
- ▶ How US export rules impact a wide range of transactions outside the US
- ▶ How the US enforces these export regulations on Non-US companies
- ▶ Practical methods for complying with US export regulations

Understand how United States export control rules impact your Non-US parents, affiliates, and subsidiaries, as well as other Non-US businesses that use or resell US-origin products, components, or technology. The US Government can impose serious penalties for US and Non-US companies who fail to comply with the extraterritorial US rules (including monetary fines, a loss of US Government contracts, or a complete ban from receiving any US items).

TWO BACK-TO-BACK SEMINARS:

US ITAR Defense Trade Controls

ITAR Regulations

MAY 13-14, 2019

Learn the ins and outs of compliance with International Traffic in Arms Regulations (ITAR) in a format that is easy to digest.

KEY TOPICS INCLUDE:

- "Specially Designed" Definition
- Canada, UK & Australia Exemptions
- Agreements Requirements
- See Full Agenda on Page 2

US Commercial & Military Export Controls & Embargoes

EAR & OFAC Regulations

MAY 15-16, 2019

A hands-on approach to complying with the Export Administration Regulations (EAR) and Treasury Department trade embargoes (OFAC).

KEY TOPICS INCLUDE:

- Persons and Items Subject to US Jurisdiction
- US De Minimis Content Calculation
- EAR Classifications
- EAR Controls on Military Items
- See Full Agenda on Page 2

“Great to have enthusiastic speakers who passed that on with some degree of fun without degrading the seriousness of the topics.”

Elaine Hayton, UTC Aerospace Systems
Seminar Attendee

“Excellent presenters — the best that I have experienced. Superb seminar — covered all topics of EAR/ITAR and the lecturers were excellent.”

Seminar Attendee

“Time and money well spent.”

Zimbulus R. Nixon, Gulfstream Aerospace Inc.
Seminar Attendee

WHO SHOULD ATTEND:

- ▶ US companies that need to know how the US rules apply to, and impact, their foreign affiliates, customers, and business partners
- ▶ Global trade compliance personnel who have direct or indirect responsibility or concern for the activities of their Non-US affiliates and business partners
- ▶ Non-US companies who deal with US-based companies and their affiliates outside of the US
- ▶ Companies and governments that purchase US-origin products, components, or technology



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ITAR DEFENSE TRADE CONTROLS SEMINAR

MAY 13-14, 2019

Registration: 8:00 on MAY 13
Program: 8:30 to 5:00 on MAY 13-14

Export Controls Overview

- Primary Regulations (EAR/ITAR/OFAC)
- US Export Control & Defense Trade Policy
- Compliance Resources & Information
- Directorate of Defense Trade Controls (DDTC)
- Arms Export Control Act (AECA)
- International Traffic in Arms Regulations (ITAR)

Controlled Items & Activities

- ITAR-controlled Items
 - Defense Articles; Technical Data; Defense Services
 - United States Munitions List (USML) & Identifying ITAR vs. EAR-Controlled Items
 - The Meaning of "Specially Designed"
 - Significant Military Equipment (SME)
 - Commodity Jurisdiction (CJ) Requests
 - Controls on Non-US Items Containing US Content
 - Controls on Non-US Items Produced Using US Technology
- ITAR-controlled Activities
- Exports, Reexports & Retransfers
- Manufacturing of Defense Articles Outside the US
 - Brokering
 - Name Changes, Mergers & Acquisitions
- Prohibited Countries & Debarred Parties

Licenses

- Types of DDTC Licenses
- Supporting the US Exporter's Licensing Efforts
- General Correspondence (GC) & Retransfer Approvals for Non-US Companies

Agreements and US Government Approval

- Manufacturing License Agreements & Technical Assistance Agreements
- Agreement Application & Agreement Guidelines
- Scoping Agreements
- Sublicensing
- Dual/Third Country National Employees
- Handling Hardware in Agreements
- Warehouse & Distribution Agreements
- Agreement Amendments
- Government Review Process
- Congressional Notification
- Checking License Status
- End-Use Checks
- Expedited Licensing Programs

Exemptions & Exclusions

- Exemptions Available to US Exporters
- NATO+ Retransfer Exemption
- Country-based Exemptions: Australia, Canada, and the United Kingdom
- Exemption for Reexports to Dual and Third Country National Employees of Non-US Entities
- Public Domain and Basic Marketing Information Exclusions

Special Issues

- Exporting Defense Articles to the US
 - Permanent and Temporary Imports into the US (Including Repairs)
- Procurement in the US
 - Brokering; "Who is a Broker?"; Brokering Activities
 - Prior Approvals, Exemptions & Reporting
- Political Contributions, Fees & Commissions

Compliance Programs

- Key Elements, Considerations & Procedural Approaches
- Risk Assessment & US Government Program Recommendations

Export Control Reform (ECR) & Recent Developments

- ECR and Existing License/Agreement Transition Rules
- Latest ECR Regulatory Changes
- Other Recent Developments in the ITAR

ITAR Export Enforcement

- Enforcement Agencies & Methods; Fines & Penalties
- Voluntary Disclosures
- Enforcement Case Studies

EAR & OFAC EXPORT CONTROLS & EMBARGOES SEMINAR

MAY 15-16, 2019

Registration: 8:00 on MAY 15
Program: 8:30 to 5:00 on MAY 15-16

Introduction to the Export Administration Regulations

- US Export Control Policies & Key Control Concepts
- Comparison to International Regimes & Extraterritoriality of Rules
- Primary US Export Control Regulations
 - Export Administration Regulations (EAR)
 - International Traffic in Arms Regulations (ITAR)
 - Office of Foreign Assets Control (OFAC) Sanctions Regulations

EAR Controls

- STEP 1: Controls on US Persons & US Subsidiary Activities
- STEP 2: Sensitive US Content Always Subject to Controls
 - 600-Series and 9X515 ECCNs Sensitive Content
 - United States Munitions List (USML) Content
 - Foreign Direct Products of US Technology
- STEP 3: US Content De Minimis Rules
 - De Minimis Calculations for Hardware, Software, and Technology
 - Rule of Second Incorporation
 - Software Bundling & Technology Reports
 - "Publicly Available" Software & Technology
- STEP 4: Export Control Classification
 - EAR, Commerce Control List, and ECCNs
 - Meaning of "Specially Designed"
 - Understanding EAR99
 - Technology & Software Classification
 - Working with US Suppliers for Classifications
- STEP 5: "No License Required" Determination
- STEP 6: License Exceptions
 - Understanding Country Groups
 - Restrictions on Using Exceptions
 - ECCN-based License Exceptions (GBS, CIV, LVS, ENC)
 - Situation-based License Exceptions (STA, RPL, TMP, GOV, APR)
 - Technology & Software License Exceptions (TSU, TSR, ENC, TMP, CIV)
- STEP 7: End-Use and End-User Controls
 - Prohibited Parties; Embargoed Countries; Proliferation Activities
 - Red Flags
 - China, Russia, and Venezuela Military End-Use/User Rule
 - Other Military End-Use/User Restrictions
 - General Prohibitions
 - Antiboycott
 - Applying for a Bureau of Industry & Security License

Sanctions

- Office of Foreign Assets Control
- OFAC Embargoed Countries: Cuba, Iran, North Korea & Syria
- OFAC Licensing & Approval Policies
- Other OFAC Sanctions Programs
- US Sanctions on Russia, the Crimea Region of Ukraine, and Sudan
- Specially Designated Nationals

Compliance Programs

- Considerations & Procedural Approaches
 - Internal & External Compliance Resources
- USG Compliance Program Recommendations & BIS Core Elements
 - Management Commitment
 - Risk Assessment
 - Formal Written Compliance Program
 - Ongoing Compliance Training & Awareness
 - Compliance Throughout the Export Cycle
 - Recordkeeping Regulatory Requirements
 - Compliance Monitoring & Audits

Export Control Reform & Recent Events

- Latest ECR Regulatory Changes
 - Existing License & Agreement Transition Rules
- Other Recent Developments in the EAR
- Recent OFAC Sanctions Updates

EAR & OFAC Export Enforcement

- How US Rules are Enforced Outside the US
 - US Export Enforcement Agencies
- Statutory & Other Penalties
- Enforcement Case Studies
- Preventing Violations
- Voluntary Self-Disclosures to the US Government

SEMINAR TUITION

If You Pay Before or On
APRIL 13, 2019

If You Pay After
APRIL 13, 2019

ITAR US Defense Trade Controls MAY 13-14, 2019	\$1375 _{USD}	\$1495 _{USD}
EAR/OFAC Export Controls & Embargoes MAY 15-16, 2019	\$1375 _{USD}	\$1495 _{USD}
OR register for BOTH Seminars MAY 13-16, 2019	\$2375 _{USD}	\$2595 _{USD}

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\$100 for EAR/OFAC or ITAR test; **\$200** for BOTH

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INSTRUCTORS WITH EXPERIENCE

SCOTT GEARITY is a Principal of BSG Consulting, bringing over a decade of consulting, training, and corporate export compliance program management experience to bear for his clients. Mr. Gearity has substantial experience in military, dual-use, and commercial export controls. His clients have ranged in size from small start-ups to some of the world's largest companies, with a particular focus on the information technology, telecommunications, networking, and software industries. Mr. Gearity joined BSG from Microsoft Corporation where he was based in Ireland and managed the company's export compliance program for Europe, the Middle East, and Africa. Mr. Gearity holds a Bachelor of Arts degree in International Studies and Economics from American University. He is a licensed US Customs Broker.



MELISSA PROCTOR, the founder of Miller Proctor Law PLLC in Scottsdale, Arizona, has been advising Fortune 500 companies, small and medium-sized companies, and startups on the full range of issues involving international trade for over 20 years. Melissa focuses her export practice on the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Foreign Assets Control Regulations, and the Foreign Trade Regulations. Previously, Melissa worked for two international trade boutique law firms and KPMG, served as Senior Corporate Counsel-Compliance for Amazon, and was a Shareholder at the law firm of Polsinelli P.C. Melissa holds an LL.M. in International and Comparative Law from the Georgetown University Law Center, a J.D. from Valparaiso University School of Law, and a B.A. in Spanish and Russian from Indiana University.



JOHN BOSCARIOL is head of McCarthy Tétrault's International Trade and Investment Law Group and a partner in the Litigation Group. He is ranked as a leader in the field of international trade law in numerous legal directories and has been identified as one of the top 25 international trade lawyers in the world by Expert Guides to the World's Leading Lawyers - Best of the Best 2008. Mr. Boscariol is a recognized expert on compliance and enforcement matters with respect to export controls over goods, technology and services, military and defense controls and related programs, economic sanctions, blocking orders regarding foreign extraterritorial measures, Canada's Controlled Goods Program, government contracts, and other trade controls and national security measures. He also advises both private and public sector clients on the application of international trade and investment protection agreements and other international trade matters.



KEVIN J. WOLF is a partner in Akin Gump's international trade practice. His experience encompasses the laws, regulations, policies, and international arrangements pertaining to national security, foreign policy, and other controls over the export, reexport, and transfer of military, dual-use, and other commodities, technologies, software, and services to various destinations, end-uses, and end-users. His work focuses on the US regulations implementing these controls, including the EAR, the ITAR, OFAC sanctions, antiboycott regulations, the Foreign Corrupt Practices Act (FCPA), and multilateral trade controls. Prior to joining Akin Gump, Mr. Wolf served for seven years (2010-2017) as Assistant Secretary of Commerce for Export Administration in the Bureau of Industry and Security (BIS) at the Department of Commerce, where he developed and implemented policies pertaining to Export Administration issues and provided overall direction to, and management of, BIS's national security, nonproliferation, foreign policy, national defense, and strategic industrial resource functions.



STEPHAN MÜLLER is a partner at Oppenhoff & Partner. Before joining Oppenhoff & Partner in 2008, Mr. Müller was a partner at Linklaters LLP since 2001. He specializes in public law with Export Control forming a major part of his practice. Stephan advises national and international corporations on all national, EU, and US law related compliance and permitting issues, including representation before courts and in administrative proceedings. He lectures on export control law at the University of Applied Sciences, Cologne. Mr. Müller speaks at national and international conferences and has published articles on many aspects of export controls. The JUVE handbook on German commercial law firms has identified him as a "leading name" in his field of expertise for many years now.



CHRISTOPHER TAFE is a special agent assigned to Homeland Security Investigations (HSI), National Security Division, Counter-Proliferation Investigations Unit located in Northern Virginia. Agent Tafe has 18 years of experience investigating the illegal movement of munitions list items and strategic technology having sensitive civil and military applications to proscribed destinations and entities engaged in onward proliferation. He is a member of the National Security Council's Export Control Reform Task Force where he provides law enforcement insight and guidance as it relates to the Administration's reform effort. Agent Tafe also provides programmatic oversight for HSI's industry outreach effort which is commonly known as Project Shield America and has served as a special agent with the legacy US Customs Service and with the Department of Commerce's Office of Export Enforcement (OEE).



JAMES BARTLETT, J.D., LL.M., LCB, is General Counsel of Promethium Global LLC, has an international law practice in Washington, DC, and is a partner of the international trade audit/advisory, Full Circle Compliance, BV, of Amsterdam and Washington, DC. Jim is also a lecturer at the University of Liverpool (London) for the Executive Master's Degree in International Trade Compliance, and is co-author of the course textbook, *United States Export Controls (7th Ed)*. Jim is author of *Bartlett's Annotated International Traffic in Arms Regulation ("BITAR")* and *Bartlett's Annotated Foreign Trade Regulations ("BAFTR")*, editor of SIA's Pocket ITAR, and publisher of the *Export-Import Daily Update ("The Daily Bugle")*. He was Senior Counsel—Export/Import, for Northrop Grumman Corporation for 10 years.



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US Export Controls on Non-US Transactions:

A PRACTICAL GUIDE FOR NON-US COMPANIES

- ▶ **US ITAR Defense Trade Controls**
MAY 13-14, 2019 in WASHINGTON DC
- ▶ **EAR/OFAC Export Controls & Embargoes**
MAY 15-16, 2019 in WASHINGTON DC

PLUS: US, Canada & EU Comparison and Conflict of Law Issues

Guest presenters from the EU (Stephan Müller) and CANADA (John Boscarol) examine how US export control regulations interact — and sometimes conflict — with Canadian and European laws.

SEMINAR VENUE:

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US Export Controls on Non-US Transactions:

MAY 13-16, 2019 in Washington DC

DESIGNED FOR: US, Canadian, EU, and other Non-US Companies



THESE CURRENT TOPICS & MORE!

- *New and updated definitions of key ITAR and EAR terms*
- *Rapidly evolving US sanctions policies*
- *Important changes in the treatment of dual and third country national employees of Non-US companies*
- *The Trump Administration: New enforcement and regulation priorities*

Compliance with Reformed United States Export Regulations:

ITAR, EAR & OFAC Embargoes

DESIGNED FOR:

- *US companies that need to know how the US rules apply to, and impact, their foreign affiliates, customers, and business partners*
- *Non-US companies or governments that deal with US-based companies and their affiliates, or that purchase US-origin products, components, or technology*

YOU WILL LEARN:

- *How US export rules impact a wide range of transactions of your affiliates and business partners outside the US*
- *How the US enforces these export regulations on US and Non-US companies and entities*
- *Practical methods for complying with US export regulations*

REGISTRATION & MORE INFORMATION:

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