InspectionXpert™

ITAR Requirements Checklist

The purpose of this document is to provide an overview of the International Traffic in Arms Regulations (ITAR) and a checklist to help businesses meet ITAR requirements.

This document should be used only as a guide. Specific requirements may vary based on the business or situation, and some details may change due to updates to the ITAR. Reference the complete ITAR documentation for more information.

What is ITAR?

The International Traffic in Arms Regulations (ITAR) is a United States regulation that controls the export and import of defense articles and services on the United States Munitions List (USML). This includes the actual products on the USML, defense services, and the plans or documentation used to build or support them ("technical data"). Examples of technical data include part drawings, photos, software, and other classified information related to the defense articles or services.

The purpose of the regulation is to prevent military and defense-related items and information from falling into the wrong hands and to protect against national security threats. The ITAR states that only U.S. citizens and U.S. Green Card holders ("U.S. persons" as defined by ITAR) can access items on the USML, and that no foreign persons may access them, unless otherwise authorized.

Who does ITAR apply to?

All manufacturers, exporters, temporary importers, brokers, or providers of defense articles, services, or technical data on the USML must comply with ITAR. If you're working with other companies during your handling of ITAR-controlled items, each company in the supply chain should understand and comply with the regulations.

How do businesses comply with ITAR?

To comply with ITAR, businesses need to:
- Register with the State Department's Directorate of Defense Trade Controls (DDTC)
- Understand how ITAR applies to their USML goods, services, or data, and fulfill the ITAR requirements

After meeting the registration requirement, it's up to each business to develop, implement, and maintain their own policies to comply with ITAR.

The following checklist will help you gain a high-level overview of ITAR requirements and what your organization needs to do to comply with them.

ITAR Requirements Checklist

1. Determine whether ITAR applies to your organization

2. Read and understand the ITAR

3. Register with the DDTC

4. Implement an ITAR/export compliance program across your organization

5. Comply with reporting and recordkeeping requirements

6. Obtain the necessary export/import licenses, approvals for manufacturing agreements, and authorization for defense services

7. Ensure other organizations in your supply chain are ITAR compliant

8. Understand whether any exemptions apply to your organization

9. Report any ITAR violations

10. Resources for learning more about ITAR

Determine whether ITAR applies to your organization

The first step is to understand whether you are subject to ITAR. If your organization is involved with manufacturing, exporting, importing, providing, or handling defense-related items or services that are listed on the USML, ITAR applies to your company and the State Department has jurisdiction over your goods or services.

If your goods or services are not listed on the USML, a different regulation (such as the Export Administration Regulations, or EAR) may apply instead. The EAR is regulated by the U.S. Department of Commerce, Bureau of Industry and Security (BIS) and covers commercial and dual-use items listed on the Commercial Control List (CCL). The EAR also controls some military-related items that aren't covered by ITAR, so if your products or services aren't listed on the USML, they may be listed on the CCL instead.

Review the USML here to check whether your products or services are listed and how to classify them. Some articles may be classified as "Significant Military Equipment", often marked on part drawings, which are subject to further requirements.

Read and understand the ITAR

If your organization is subject to ITAR, it's your responsibility to review and stay up-to-date on the regulations. The ITAR is divided into 11 parts, and is purposefully vague in order to give the government more flexibility and control over defense-related items.

You can read all 11 parts of the ITAR here. You should know how your USML articles or services are classified, what the end user and end use of your articles or services are, and how specific ITAR requirements apply to your company.

Register with the DDTC

Manufacturers, exporters, temporary importers, and brokers of defense articles (including technical data) or providers of defense services on the USML must register with the DDTC. Even if your business only manufactures these items without

exporting, or only exports a defense article once, you still need to register with the DDTC.

This registration list is how the DDTC manages the list of companies who handle ITAR-controlled items, and is generally a prerequisite for obtaining any further export licenses or other approvals. There are also specific requirements for registering as a broker.

Here are the steps for registering with the DDTC:

1. Submit a Statement of Registration and documentation proving you are authorized to do business in the U.S. Follow the directions on the DDTC's website for submitting your registration pack.
2. The DDTC will review your registration. The average review time is 45 days.
3. Pay registration fees and retrieve your registration letter.

Your registration is valid for 12 months and you must re-register each year. If there are any changes to the information you submitted, you must notify the DDTC within five days.

Implement an ITAR/export compliance program across your organization

Organizations subject to ITAR need to understand and comply with ITAR requirements. Exactly how they do so is up to them, but it's strongly recommended that they develop, implement, and maintain an ITAR or export compliance program across their organization.

These compliance programs should be tailored to your organization and its unique risks for ITAR violations. Even if your company isn't involved with manufacturing, exporting, or brokering defense articles, handling or possessing these items or technical data still puts you at risk for non-compliance. It's a good idea to have a program in place to help mitigate these risks.

Here are the recommended best practices for your ITAR compliance program:

1. Appoint a compliance manager within your company.

2. Put all policies and procedures in writing.
3. Get full support from senior management and implement employee training.
4. Develop procedures for receiving, tracking, marking, and maintaining security of ITAR-controlled items in the company's facilities.
5. Develop methods for preventing unauthorized access to ITAR-controlled items within the company's facilities.
6. When transferring ITAR-controlled items, provide adequate notice to customers or other parties that the items are ITAR-controlled (more information on forms of notice here).
7. Maintain security and controls in the company's IT system to protect against unauthorized access to ITAR-controlled technical data and software, including implementing access controls, controlling how data is stored and processed online, and prominently marking ITAR-controlled documents and data.
8. Regularly review and audit your compliance plan for risks and update as needed.

Comply with reporting and recordkeeping requirements

The ITAR requires that companies must maintain records of their ITAR-controlled articles, technical data, and services, including documentation on exports, license applications, brokering activities, etc. You must maintain these records for five years from the expiration of the license/approval or the date of the transaction.

If your company or its vendors pays more than $100,000 in sales fees/commissions for the sale of ITAR-controlled items, or spends more than $5,000 in political contributions, you may be required to report this to the DDTC.

Congressional notification may also be required for exports of defense articles that exceed threshold amounts or are classified as major defense equipment, or for agreements for manufacturing significant military equipment abroad.

Obtain the necessary export/import licenses, approvals for manufacturing agreements, and authorization for defense services

There are several requirements and procedures around export and import licenses for ITAR-controlled items and technical data. In addition, if you're manufacturing or

distributing ITAR-controlled items overseas or performing defense services for non-U.S. persons, ensure that you get the necessary approvals from the DDTC.

Export & Import Licenses:
- Obtain the proper [export licenses](#) when exporting ITAR-controlled products, technical data, or defense services
- Obtain the proper [import licenses](#) when importing any items on the USML, in either temporary or permanent import transactions
- Comply with all terms and conditions of the licenses
- Obtain the proper authorization for [reexports or retransfers](#) of ITAR-controlled items or items that are based on ITAR-controlled technical data
- Obtain the proper license, authorization, or exemption when disclosing [ITAR-controlled technical data](#) to any foreign persons (including employees, prospective customers, partners, subcontractors, and others) or when taking the technical data in overseas travel on a computer or other device

Defense Services & Manufacturing Agreements:
- If your company is licensing ITAR-controlled technical data to manufacture USML items overseas, comply with the conditions of the [Manufacturing License Agreement](#), maintain records, and file annual reports with the DDTC
- Follow conditions for [establishing a warehouse or distribution point abroad](#) for defense articles exported from the U.S.
- Obtain the proper DDTC approvals and agreements (such as a [Technical Assistance Agreement](#)) for performing defense services for foreign persons, whether in the U.S. or overseas
- Understand exemptions for performing [training and military service](#)

Ensure other organizations in your supply chain are ITAR compliant

If you are working with subcontractors, vendors, or other parties during your transaction or handling of ITAR-controlled items, you need to verify that they are also complying with ITAR. More and more businesses subject to ITAR are requiring that others in the supply chain also be ITAR compliant, including registering with the DDTC, obtaining the proper licenses, complying with reporting and recordkeeping requirements, and having an export compliance program in place at their company.

Each time you work with another business involving your ITAR-controlled items, review the DDTC's Debarred Parties List to ensure they are not listed. This list names companies that are prohibited from participating in the export of defense articles or services.

Understand whether any exemptions apply to your organization

There are several exemptions for the various ITAR requirements, including exemptions when applying for export licenses or when dealing with certain allied or prohibited countries. Descriptions of exemptions can be found throughout the various sections of the regulation. Ensure you understand the situations where an exemption can and cannot be used.

For example, some exemptions under ITAR may not be permitted in these cases:
- Items classified as "Significant Military Equipment"
- Prohibited destinations for exports
- Situations where Congressional notification is required

If you have relied on exemptions from ITAR requirements:
- Understand which exemptions apply to your company and in which situations
- Comply with all the conditions for use of exemptions
- Maintain records of your reliance on exemptions in specific transactions

Report any ITAR violations

Companies are required to disclose whether they have violated any ITAR requirements. Violations include exporting or transferring ITAR-controlled items without the proper licenses and approvals; failure to comply with conditions of licenses, agreements, or exemptions; omitting or falsifying information; and others.

Penalties for not complying with ITAR include:
- Civil or criminal fines up to $1,000,000 per violation
- 20 years imprisonment per violation for criminal charges
- Debarment from participating in ITAR-controlled transactions

Organizations can also face damage to their reputation and potential loss of business as a result of non-compliance. When the violation is reviewed, they may have the option to agree to improve their compliance program, including appointing an outside official to oversee the measures.

Resources

Here are links to resources on the DDTC's website for further information on ITAR.

[Complete updated version of the ITAR](#)

[United States Munitions List (USML)](#)

[ITAR/USML FAQs](#)

[Getting & staying in compliance with the ITAR](#)

[Registering with the DDTC](#)

[Obtaining approval for licenses and agreements](#)

[Reporting a violation](#)

[Glossary of DDTC/ITAR terms and acronyms](#)