

FED. SUPPLY CLASS

Trade Compliance Standard 002 (TCS002) – Jurisdictional Analysis and Classification

STANDARD PRACTICE



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TABLE OF CONTENTS

1.	SCOPE	3
1.1	Purpose	3
1.2	Application	3
2.	TERMS & DEFINITIONS	3
3.	PROCESS	7
3.1	Process and Accountability for Classification of Company Products	7
3.2	Jurisdiction and Classification of Company Products & Technology	8
3.3	USML Review	8
3.4	Identification of "Specially Designed" Items in U.S. Export	8
3.5	Specially Designed Items on the USML and CCL	8
3.6	CCL Review	9
3.7	Commodity Jurisdiction Requests	10
3.8	Export Classification Requests	10
3.9	Accurate Jurisdiction and Classification of third party vendor's products & technology	11
3.10	Proper Recording Jurisdiction and Classification Determination	11

REVISION

NEW



Documents

SHEET 2

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1. SCOPE

1.1 Purpose

The standard practices established in this document provide guidance on the processes necessary or recommended for an organization to determine the applicable jurisdiction under which its product, technology or service exports are governed and the applicable classification given that jurisdiction.

1.2 Application

1.2.1 This voluntary standard does not provide legal advice, nor is it intended to address specific export transactions. Users should consult their qualified resource(s) for questions about this standard and related export control compliance issues as appropriate.

1.2.2 These standard practices are applicable to organizations that design, develop, manufacture or overhaul or repair defense articles, dual use and commercial items (commodities, software, and technologies) and/or provide defense services and activities for which providing access to foreign nationals without U.S. government authorization would be prohibited.

1.2.3 The requirements outlined in this standard are generic and are intended to be applicable to all organizations, regardless of type, size and aerospace product provided. Further, this standard simply identifies the recommended processes to fulfill compliance obligations under this topic. Application of these elements should be customized to align with your organization's current business processes and priorities.

1.2.4 Throughout this standard any reference to an "item" or "product" is applicable to commodities, technology, or software. If the type of article is mentioned specifically then the standard only applies to that type of article.

2. TERMS & DEFINITIONS

Note: In certain cases, the ITAR and EAR define terms differently. The terms listed below are common throughout each set of regulations. When conducting a jurisdictional analysis for a product, the specific definition in the appropriate regulation should be consulted. For the ITAR, definitions are in 22 C.F.R. § 120.5 - 45, and in the EAR, definitions are in 15 C.F.R. § 772.1.

2.1.1 Accessory and attachments

Associated articles for any component, equipment, system, or end-item, and which are not necessary for its operation, but which enhance its usefulness or effectiveness. Source: 22 C.F.R. § 120.45 (c), 15 C.F.R. § 772.1.

2.1.2 Catch-all

A "catch-all" control is one that does not refer to specific types of parts, components, accessories, or attachments, but rather controls parts, components, accessories, or attachments only if they were specially designed for an enumerated item. Source: 22 C.F.R. § 120.41, Note to paragraph (b), 15 C.F.R. § 772.1 Note 2 (pg. 36).

2.1.3 Commerce Control List (CCL)

A list of items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. The CCL is found in Supplement No. 1 to part 774 of the EAR. Source 15 C.F.R. § 772.1 pg. 10.

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SHEET 3

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2.1.4 Commodity

Any article, material, or supply, except technology/technology data or software. Source: 22 C.F.R § 120.41, Note to paragraphs (a) and (b), 15 C.F.R. §772.1 pg. 10.

2.1.5 Commodity Jurisdiction or "CJ" –

A procedure used with the U.S. Government if doubt exists as to whether an article or service is covered by the U.S. Munitions List. It may also be used for consideration of a redesignation of an article or service currently covered by the USML. Source: 22 C.F.R. § 120.4, Commodity Jurisdiction.

2.1.6 Component

An item that is useful only when used in conjunction with an end-item. A major component includes any assembled element which forms a portion of an end-item without which the end-item is inoperable. (Example: Airframes, tail sections, transmissions, tank treads, hulls, etc.) A minor component includes any assembled element of a major component. Source: 22 C.F.R. § 120.45 (b), 15 C.F.R. § 772.1 pg. 11.

2.1.7 Development

Related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts. Source: 22 C.F.R. § 120.41, Note 2 to paragraph (b)(3), and 15 C.F.R. §772.1 pg. 13.

2.1.8 ECR

Export Control Reform, the President's Export Control Reform Initiative.

2.1.9 End Item

A system, equipment, or an assembled article (or commodity) ready for its intended use. Only ammunition or fuel or other energy source is required to place it in an operating state. Source: 22 C.F.R. § 120.45 (a), 15 C.F.R. §772.1 pg. 15.

2.1.10 Enumerated

Refers to (i) any article on the USML or the Commerce Control List and not controlled in a "catch-all" control paragraph and (ii) when on the CCL, controlled by an ECCN for more than Anti-Terrorism (AT) reasons only. Source: 22 C.F.R. § 120.41, Note to paragraph (b); 15 C.F.R. § 772.1(b) Note 1.

2.1.11 Equivalent

With respect to a commodity, under the ITAR and EAR definitions of "Specially designed," "equivalent" means its form has been modified solely for fit purposes. Source: 22 C.F.R. § 120.41, Note 5 to paragraph (b)(3); 15 C.F.R. §772.1, Note 2 to paragraph (b)(3)

2.1.12 Fit

Under the ITAR and EAR definitions of "Specially designed," the fit of a commodity is defined by its ability to physically interface or connect with or become an integral part of another commodity. For software, the fit is defined by its ability to interface or connect with a defense article. Source: 22 C.F.R. § 120.41, Note 4 to paragraph (b)(3). Also see § 120.4, Note 2 to paragraph (d).; 15 C.F.R. §772.1, Note 3 to paragraph (b)(3)

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SHEET 4

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