



# FACT SHEET

## *International Traffic in Arms Regulations (ITAR)*

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### **The Arms Export Control Act**

The Arms Export Control Act, 22 USC, §2778(a)(2), requires governments that receive weapons from the United States to use them for legitimate self-defense. The Act prohibits the export of technologies that “contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.” The Act also prohibits U.S. manufacturers from selling certain sensitive technologies to certain parties and requires thorough documentation of such sales to legitimate customers.

### **The International Traffic in Arms Regulations (ITAR)**

ITAR (CFR Title 22, Chapter I, Subchapter M) represents the procedural extension of the Arms Export Control Act. ITAR, which is enforced by the United States Department of State Directorate of Defense Trade Controls (DDTC), is a set of regulations that control the export and import of defense-related articles, services and related technology on the United States Munitions List (USML).

The purpose of ITAR is to prevent the international proliferation of American technology and processes critical to national security. Non-adherence to ITAR can result in significant fines if the State Department discovers that components, systems and software listed on the U.S. Munitions List have been shared with non-U.S. citizens, governments and organizations without approval.

### **The United States Munitions List (USML)**

The USML (CFR Part 121 of Title 22, Foreign Relations) currently consists of twenty categories, and its contents change often. Information on the contents of the USML are occasionally discussed in the State Department’s Bureau of Political-Military Affairs publication *Defense Trade News*. The twenty categories as of 2008 are:

- ◆ Firearms, Close Assault Weapons and Combat Shotguns
- ◆ Guns and Armament
- ◆ Ammunition/Ordnance
- ◆ Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
- ◆ Explosives and Energetic Materials, Propellants, Incendiary Agents, and their Constituents
- ◆ Vessels of War and Special Naval Equipment
- ◆ Tanks and Military Vehicles
- ◆ Aircraft and Associated Equipment
- ◆ Military Training Equipment
- ◆ Military Electronics
- ◆ Protective Personnel Equipment
- ◆ Fire Control, Range Finder, Optical and Guidance and Control Equipment
- ◆ Auxiliary Military Equipment
- ◆ Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- ◆ Spacecraft Systems and Associated Equipment
- ◆ Nuclear Weapons, Design and Testing Related Items
- ◆ Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- ◆ Directed Energy Weapons
- ◆ Submersible Vessels, Oceanographic and Associated Equipment
- ◆ Miscellaneous Articles



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### ITAR Authority and the Space Industry

In 1990, President Bush ordered that dual-use items that would not otherwise compromise national security be removed from the State Department's list of munitions, an action intended to bring U.S. export control policy in line with those developed by the Coordinating Committee for Multilateral Export Controls. In 1992, the State Department requested that communication satellites without certain military characteristics (such as anti-jamming capabilities) be transferred to the Department of Commerce. This transfer took place in 1996.<sup>1</sup>

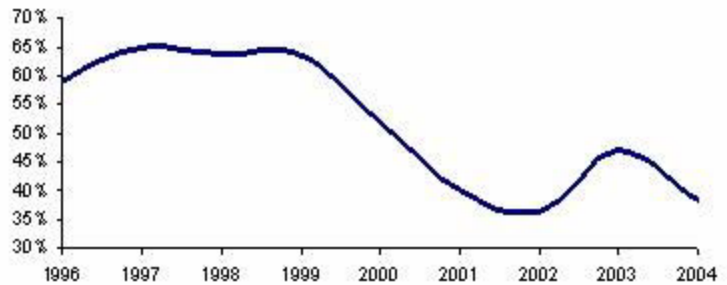
In 1995, a Chinese Long March 2E carrying the Hughes-built Apstar 2 satellite failed shortly after launch. The next year, a Long March 3B carrying Intelsat 708, built by Space Systems/Loral, also failed. In accordance with insurance requirements, the Chinese government and the U.S. manufacturers investigated both failures, and the results were subsequently reviewed by the Commerce Department. Believing that it was authorized to do so, the Commerce Department shared the results with China. It was unclear whether the Commerce Department had the authority to approve such an export. Congress reviewed the data export to the Chinese and determined it violated ITAR. This prompted the 1998 National Defense Authorization Act sponsored by Senator Strom Thurmond (R-SC), which transferred control of all satellite exports to the State Department, whose USML would now contain all satellite components and dual-use technologies. The Act also required that the President of the United States certify in advance that any technology transfers to China will not harm U.S. national security. Hughes and Space Systems/Loral were both heavily fined as a result of the investigations.<sup>1,2</sup>

According to the Satellite Industry Association (SIA), total worldwide revenue for satellite manufacturing, satellite services, satellite ground equipment and launch in 2007 was approximately \$92 billion. Satellite manufacturing constituted just shy of \$12 billion, with the U.S. share being 41 percent of this at \$4.8 billion.<sup>3</sup> The U.S. share of satellite manufacturing was about 80 percent in 1999 and has dropped considerably since, mainly due to broad interpretation of ITAR and the USML.

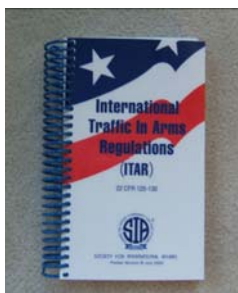
As currently configured and applied, ITAR is harming both the U.S. space industry and national security, with the latter in particular running counter to the intent of the export control regulations. The ITAR restrictions are so tight that international manufacturers are beginning to look beyond the U.S. for component delivery, with Thales Alenia Space going so far as to pursue an "ITAR-free" satellite.<sup>4</sup> Anything associated with a satellite is considered part of the USML, even bolts, batteries and, in at least one case, a simple metal hardware stand.<sup>5,5,7</sup>

Satellite manufacturing is not the only space market affected. Virgin Galactic's contract to manufacture space tourism vehicles through Scaled Composites was for a time hampered by ITAR. The State Department cleared the way for the manufacture of Virgin Galactic's vehicles in 2005.<sup>8</sup>

The space technologies involved pose no strategic threat to the United States if released to international markets, and the reduction in space business for the United States translates into research, development and production vulnerabilities that compromise national security, according to the U.S. Department of Defense.<sup>5</sup>



U.S. market share of commercial satellite manufacturing revenues. From Zelnio, Ryan. "The effects of export control on the space industry," *The Space Review*, January 16, 2006.



Pocket ITAR available from the Society for International Affairs  
(<http://www.siaed.org/en/catalogs/items/view.asp?catalogid=1>).

### Footnotes

1. Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, May 25, 1999.
2. Zelnio, Ryan. "A short history of export control policy," *The Space Review*, January 9, 2006.
3. *State of the Satellite Industry Report, June 2008*, sponsored by the Satellite Industry Association and prepared by Futron Corporation.
4. de Selding, Peter. "U.S. Export Restrictions Help Alcatel Win Chinasat 9," *Space News*, July 21, 2004.
5. "Washington, We Have a Problem," *The Economist*, August 21, 2008.
6. Zelnio, Ryan. "The effects of export control on the space industry," *The Space Review*, January 16, 2006.
7. Foust, Jeff. "Bigelow Aerospace's big day at the rodeo," *The Space Review*, July 24, 2006.
8. David, Leonard. "U.S. Okays Virgin Galactic Spaceship Plans," *Space.com*, August 15, 2005.