



EMAIL BULLETIN

**DEEMED EXPORTS AND RE-EXPORTS OF CONTROLLED TECHNOLOGY
RESPONDING TO THE HEIGHTENED EMPHASIS ON DENYING
TERRORISTS AND TERRORIST STATES VALUABLE TECHNOLOGY**

1 April 2003

United States Export Control Laws forbid the export or re-export of controlled technology without first obtaining an export license. Exports include the actual shipment or transmission of items subject to control **as well as the release of technology subject to control to a foreign national in the United States which is categorized as a "Deemed Export" even though no physical materials may leave the U.S.** Re-exports involve the actual shipment or transmission of controlled items from one foreign country to another foreign country as well as the release of technology to a foreign national in a third country. While existing in law for a number of years, the various branches of the U.S. government are announcing a renewed national security interest in enforcing control over the dissemination of military and potentially dual use technology.

Given the broad sweep of activity covered by the export control laws, and in particular the "Deemed Export" provision, it is important to consider the potential applicability of such laws to the following categories of people potentially exposed to controlled technology: Foreign national employees, foreign clients visiting your facilities in the U.S.; colleagues from overseas affiliates meeting with coworkers in the United States; vendors; subcontractors attending meetings or co-locating in your offices, joint venture partners representatives visiting foreign national employees; etc. Exposure of any of these types of individuals to controlled technology whether by in-person inspection, through paper documents or images or by exposure or access to electronic means, such as intranets or electronic databases, may be unlawful without a pre-screening from the U.S. government in the form of an Export License. Export controls do not apply to U.S. Citizens and Lawful Permanent Residents (green card holders), regardless of country of origin.

The applicability of export controls generally depends on the types of technology as well as the nationality of the individual exposed to such technology. The following types of technology are covered in varying degrees by U.S. Export Control Laws:

1. Conventional munitions
2. Nuclear technology
3. Rocket systems and unmanned air vehicle subsystems
4. Navigation, avionics, and flight control technology

5. Chemical, biotechnology, and biomedical engineering
6. Remote sensing, imaging, and reconnaissance technology
7. Materials technology
8. Information security technology, including certain encryption technology & software
9. Laser and directed energy systems technology
10. Sensors and sensor technology
11. Marine technology
12. Urban planning technology
13. Advanced computer and microelectronic technology
14. Robotics
15. Advanced ceramics
16. High performance metals and alloys

If foreign nationals visiting or working with your company will be exposed to any of the above-listed technology, please contact your Tindall & Foster immigration attorney. In many cases, a brief analysis will reveal that no license is required. In many cases which actually require licenses, such licenses are often readily obtainable. Taking a pro-active approach to the issue of export controls can help remove potential sources of liability in the future and potential contractual debarment with the U.S. government as export controls are more strictly enforced in the interest of national security.