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# INTERNATIONAL TRAFFIC IN ARMS REGULATIONS COMPLIANCE WITH TECHNICAL CONTROLS



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# ITAR – TECHNICAL CONTROLS CAPABILITIES

## ITAR Compliance

The International Traffic in Arms Regulations establishes delivery, transmission and communication restrictions on the export, import or re-export of certain technologies to non-U.S. countries or citizens. All U.S. manufacturers, exporters and brokers of Defense Articles, Defense Services, related technical data and their suppliers, or non-U.S. companies whose technology falls under the regulatory descriptions within ITAR and wish to sell in the United States, are subject to ITAR regulations.

Broadly speaking ITAR regulates:

1. Delivery of controlled goods or services (Defense Articles and Defense Services)
2. Transmission of controlled Technical Data
3. Communication (verbal, digital or written) of protected Technical Data

This whitepaper covers how Data Loss Prevention solutions, such as Websense's Data Security Suite, can mitigate the risk of accidental or intentional transmission of Technical Data.

It is important to control data subject to ITAR carefully, as both civil and criminal penalties can be imposed if violated knowingly or unknowingly. For example, in the case of *U.S. v. Dr. J Reece Roth*, Dr. Roth was found guilty of violating ITAR as he shared test data, via email, from a component for a future U.S. military vehicle with a former student, who was then a colleague at Fujan University in the Peoples Republic of China. Even though the amount of data was small and the goal was to publish at an academic conference, the appeals court upheld the criminal conviction.

## What is Technical Data?

The first step in an ITAR compliance program is to determine if your goods/services or technology are regulated. The definitions of Defense Articles and Defense Services are provided in the appendix, but here we will focus on Technical Data. The definition of Technical Data is quite broad and specified in ITAR §120.10, et seq.

Technical Data means, for purposes of this subchapter:

(1) Information, other than software as defined in Sec. 120.10.(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of Defense Articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.

## Sharing Technical Data

Once you have determined that your data falls within regulatory scope, the next step is to obtain the appropriate license for your Technical Data. Licensing is accomplished through a Technical Assistance Agreement or a Manufacturing License Agreement from the US Department of State, Directorate of Defense Trade Controls ([www.pmdtdc.state.gov](http://www.pmdtdc.state.gov)). Your compliance officer has likely already completed this step, as export can not proceed legally without a registration and a license.

The license will specify where and under what circumstances your technical data can be shared, but all organizations subject to ITAR must review the exclusion lists (black lists) maintained by the Department of State and the Department of Commerce (DoC). The embargoed countries list is managed by the Department

of State, and the Bureau of Industry and Security manages the List of Parties of Concern.

These lists include:

- Embargoed Countries
- Denied Persons List
- The Entity List
- The Unverifieds List
- Consolidated Screening list

The first list is available here:

[http://www.pmdtc.state.gov/embargoed\\_countries/](http://www.pmdtc.state.gov/embargoed_countries/)

The rest of the lists can be found here:

<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>

It's your organization's responsibility to ensure that Technical Data does not reach any of the parties on these lists.

In addition, it's important to know the nationalities of individuals who may have access to Technical Data at the point of origin, whether in the specification, design, development, test or prototype phase.

## Controlling Technical Data Flows

The first step in controlling your Technical Data flows is to identify the component of your data that is subject to control.

The Websense Data Security Suite can identify and control information in the following ITAR categories:

ITAR-1.1	Encryption
ITAR-1.2	Nuclear
ITAR-1.3	Space
ITAR-1.4	Military

Documents in these categories can be discovered on:

- File Systems
- SharePoint
- Databases
- Exchange
- Endpoints

Once the organization's data is discovered, policies need to be implemented to control the flow of Technical Data. With Websense Data Security Suite, you can control access to, and subsequently, the transmission of Technical Data across the following vectors:

Limit which users can copy and move Technical Data

Via email

Over the network

To/From web sites

To/From cloud storage providers (box, dropbox)



On removable media

From which devices (laptops, etc.)

Control when users can access Technical Data based on their location

Intranet

Network Segment

Define whether Technical Data can be printed

On company networked printers

On direct-attach printers

Over email/web style print services

## Verifying Technical Data Flows

As evidenced by the Roth case cited above, individuals are not always able to correctly identify controlled Technical Data. The Websense Data Security Suite offers comprehensive reporting on Technical Data transfers. All the pertinent elements, as well as a copy of the Technical Data accessed, are logged and the administrator is notified.

DSS contains a customizable notification system that enables the user to learn from accidental violation attempts while simultaneously protecting Technical Data, enabling continuous improvement in user handling of Technical Data.

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## Appendix – Additional Definitions:

A Defense Article is:

“(A)ny item or Technical Data designated in [The US Munitions List].... This term includes Technical Data recorded or stored in any physical form, models, mockups or other items that reveal Technical Data directly relating to items designated in [The US Munitions List]. It does not include basic marketing information on function, or purpose or general system descriptions.”

A Defense Service is:

“(1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, operational testing, repair, maintenance, modification, demilitarization, destruction, processing or use of defense articles;

(2) The furnishing to foreign persons of any technical data controlled under this subchapter (see §120.10), whether in whether in the United States or abroad; or,

(3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation and military advice.”

**TRITON STOPS MORE THREATS. WE CAN PROVE IT.**

