

Internal Export Control Classification

Item:

Record results in the right-hand column. Record categories considered, reasoning, etc. in the “Notes” section at the end (and indicate in the “notes?” column).

Step 1. Jurisdiction (ITAR, EAR)

	Result	Notes?
<p>Is the item listed on the US Munitions List? If “yes”, item is ITAR-controlled, go to Step 2a.</p>		
<p>Is the item similar to items in a USML category that includes “specially designed” as a criterion? If “no”, item is EAR-controlled, go to Step 2b.</p>		
<p>An item is "caught" by the "specially designed" criteria if its development resulted in properties peculiarly responsible for an item on the USML's achieving the performance, characteristics, or functions that make it ITAR-controlled, or if it's a part, component, accessory, attachment, of software for use with a USML item.</p> <p>Is the item “caught” by the ITAR “specially designed” criteria? If “no”, then item is EAR –controlled, go to Step 2b.</p>		
<p>An item is "released" from the "specially designed" criteria if it's a fastener, is equivalent to a non-USML item already in production, was developed for USML and non-USML items, was developed as a general purpose item, or if determined by the State Department to be subject to the EAR. Note that this is a summary: the ITAR order of review is completely described in §121.1(b)(1)¹. The State Department has designed a decision tool² to help determine whether an item is "specially designed".</p> <p>Is the item “released” by the ITAR “specially designed” criteria? If “yes”, then item is EAR-controlled, go to Step 2b. If “no”, then item is IATR-controlled, go to Step 2a.</p>		

Step 2a: Classification (ITAR)

<p>Review the general characteristics of the item, which should lead to the appropriate USML category, then match the particular characteristics and functions of the item to determine the specific entry within that category.</p>		
--	--	--

¹ <http://www.ecfr.gov/cgi-bin/text-idx?SID=86008bdffd1fb2e79cc5df41a180750a&node=22:1.0.1.13.58&rgn=div5>

² http://pmdt.state.gov/licensing/dt_SpeciallyDesigned.htm

Step 2b: Classification (EAR)

<p>Review the general characteristics of the item, which should lead to the appropriate Commerce Control list category.</p>		
<p>Determine the applicable product group: A (end items, equipment, accessories, attachments, parts, components, and systems), B (test, inspection, and production equipment), C (materials), D (software, or E (technology).</p>		
<p>Is the item described by a "500 series" or "600 series" ECCN (9x515 or nx6xx)? If "no", then skip to Step 2c.</p>		
<p>Is the "500" or "600 series" paragraph describing the item a "specially designed" paragraph (usually 9x515.x or nx6xx.x)? If "no", then the "500 series" or "600 series" paragraph is the item's classification.</p>		
<p>An item is "caught" by the "specially designed" criteria if its development resulted in properties peculiarly responsible for the 9x515 or nx6nn item achieving the performance, characteristics, or functions described in the relevant ECCN or USML paragraph, or if it's a part, component, accessory, attachment, of software for use with a CCL or USML item.</p> <p>Is the item "caught" by the EAR "specially designed" criteria? If "no", then skip to Step 2c.</p>		
<p>An item is "released" from the "specially designed" criteria if:</p> <ul style="list-style-type: none"> • it's in an ECCN paragraph that doesn't include "specially designed"; or • it's been determined through Commodity Jurisdiction (State Department) or Commodity Classification (CCATS, Commerce Department) to be EAR 99; or • it's a fastener; or • it's equivalent to an item already in production, not on the USML and if on the CCL controlled only for anti-terrorism (AT) purposes; or • it was developed for use with items on the CCL and with items not on the USML and if on the CCL controlled only for anti-terrorism (AT) purposes; or • it was developed as a general purpose item, not for use in a particular item or type of item; or • it was developed for use with items controlled by EAR99, or with items controlled by EAR99 and items controlled by an anti-terrorism (AT) ECCN <p>Is the item "released" by the EAR "specially designed" criteria? If "no", then the "500 series" or "600 series" "specially designed" paragraph is the item's classification. If "yes", continue to Step 2c.</p>		
<p>If the item was "caught" and not "released", then its ECCN is that of the "specially designed" paragraph that "caught" it.</p>		

Step 2c: Classification (EAR, not 500 or 600 series)

Starting at the beginning of the applicable product group (A, B, C, D or E), review each ECCN to determine whether it describes the item — the first (most controlled) match is the item's ECCN.		
If no ECCN describes the item, its classification is EAR99, meaning that it's not on the Commerce Control List, but like all EAR-controlled items subject to controls for restricted end user, end use, or destination.		
Note that this is a summary: the EAR order of review is completely described in <u>Supplement No. 4 to §774</u> ³ and in the "specially designed" definition in <u>§772</u> ⁴ . The Commerce Department has designed an <u>order of review tool</u> ⁵ as well as a <u>decision tool</u> ⁶ to help determine whether an item is "specially designed".		

Technical review

Date

Export control
review

Date

Notes:

³ http://www.bis.doc.gov/index.php/forms-documents/doc_download/987-774

⁴ http://www.bis.doc.gov/index.php/forms-documents/doc_download/838-772

⁵ <http://www.bis.doc.gov/index.php/export-control-classification-interactive-tool>

⁶ <http://www.bis.doc.gov/index.php/specially-designed-tool>