

# TECH|ETCH



Regulatory Compliance

December 10, 2020  
d.burnham



Letter from the Tech Etch Compliance team.

[End-Use Statement](#)

Need assistance with completing and ITAR or an EAR End-Use Statement, please see our examples.

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ITAR or EAR End-Use Statement Templates

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## Export End-Use Statement

Tech Etch is required to follow the United States export laws and regulations. The United States export laws are in place to restrict the use of and access to controlled technology, goods, and information to protect National Security.

The Department of State administers the International Traffic in Arms Regulations (ITAR); they regulate defense and military products.

The Department of Commerce administers the Export Administration Regulations (EAR); they regulate commercial and dual-use products (less sensitive military products).

All exports or re-exports require either a United States Munitions List (USML) Category Number or an Export Control Classification Number (ECCN); this number determines whether a license to export is required from the Department of State or the Department of Commerce.

To obtain either the USML Category Number or the ECCN, we must first have an End-Use Statement. The End-Use Statement provides the information need to classify a part, such as what is the item correctly? Where is it going? Who is going to receive it? What will it be the end-use of it? The classification of an object is essential in determining if Tech Etch will need to apply for a license or not.

“An **End-User Statement** certifies that a buyer is the final recipient of exported materials and has no intention of re-exporting said materials to anyone else. This document can play a vital role in preventing export violations and providing proof of the original exporter's efforts to do the right thing.”

Tech Etch will only share the information provided in the End-Use Statement with either the Department of State or the Department of Commerce for the license application.

*Dauna Burnham*

Dauna Burnham

Compliance Analyst

*WILLIAM MANIATIS*

William Maniatis

Compliance Manager

**EXPORT CONTROL**



# ITAR End-Use Statement Sample



Sample Co.  
25 Sample Place  
Plymouth, MA 02360  
PH: 508-555-5555  
Fax: 508-556-5656  
www.sampleco.com

## END USE STATEMENT

### 1. Purchaser information:

Name: Sample Co.  
Street address 1: 25 Sample Place  
Street address 2: \_\_\_\_\_  
City: Plymouth  
State/Province: MA  
Postal Code: 02360  
Country: USA

### 2. Nature of Purchaser's business:

Electronic Manufacturer

### 3. Part Information:

Quantity: 100  
Unit of Measure: Each  
Part Number: SAMP2502  
Part Description: Mounting Hardware, EMI Shield

### 4. Purchase Order or Contract Information:

Purchase Order Number: SAMP-0001  
Purchase Order Date: 09/18/2020

### 5. Country of Ultimate Destination: Canada

### 6. This Commodity is being financed under (check one):

- ☐ Foreign Military Sale  
Case number: \_\_\_\_\_  
☐ Foreign Military Financing  
Case number: \_\_\_\_\_  
☐ Grant Aid Program  
Case number: \_\_\_\_\_  
☒ Not Applicable

### 7. Ultimate End User: (Manufacturer of final end product)

Name: Enrights Camera  
Street address 1: 95 End Road  
Street address 2: \_\_\_\_\_  
City: Burlington  
State/Province: Ontario

Postal Code: L7P 3S6  
Country: Canada

**8. Nature of Ultimate End User's business:** Camera Manufacturer

**9. Foreign Consignee (such as component or contract manufacturer):**

☐ (Same as ultimate end user)

Purpose/Role of Foreign Consignee:

\_\_\_\_\_

Name: \_\_\_\_\_  
Street address 1: \_\_\_\_\_  
Street address 2: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Province: \_\_\_\_\_  
Postal Code: \_\_\_\_\_  
Country: \_\_\_\_\_

(If more than one foreign consignee, please attach additional information)

**10. Foreign Intermediate Consignee #1 (such as a distributor or freight forwarder):**

☐ None (check box if none)

Purpose/Role of Foreign Intermediate Consignee:

\_\_\_\_\_

Name: \_\_\_\_\_  
Street address 1: \_\_\_\_\_  
Street address 2: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Province: \_\_\_\_\_  
Postal Code: \_\_\_\_\_  
Country: \_\_\_\_\_

**11. Foreign Intermediate Consignee #2 (such as a distributor or freight forwarder):**

☐ None (check box if none)

Purpose/Role of Foreign Intermediate Consignee:

\_\_\_\_\_

Name: \_\_\_\_\_  
Street address 1: \_\_\_\_\_  
Street address 2: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Province: \_\_\_\_\_  
Postal Code: \_\_\_\_\_  
Country: \_\_\_\_\_



(Please attach additional foreign intermediate consignee information if needed)

**12. End Use is:**

☒ Defense (military)

Military Program: Naval

☐ Space:

Launch Provider: \_\_\_\_\_

Launch Site: \_\_\_\_\_

Country: \_\_\_\_\_

Launch Vehicle: \_\_\_\_\_

☐ Other

**13. Specific purpose for which the Tech-Etch, Inc. parts will be used:**

- a. Application (specific purpose) of the parts: Circuit Board Assembly
- b. Countries where the product will be used: Canada
- c. Specific end product the parts will be incorporated into:  
Surveillance and imaging recorder on a submarine

**14. U.S. Consignor and/or freight forwarder:**

Name: UPS  
Street address 1: 55 Glenlake Parkway N.E.  
Street address 2: \_\_\_\_\_  
City: Atlanta  
State/Province: GA  
Postal Code: 30328

**15. Is the End User the armed forces or internal security forces of its country?:**

☐ Yes ☒ No

If it is known or believed by us that the goods will be re-exported or are not intended to be used within the specific country or by an individual or corporation not authorized to receive such goods, then we have a legal obligation to immediately inform you prior to shipment.

I [Enter Name of Responsible Customer Official] hereby certify that we will only export to the country and End User specified above.

Frank Smith

Signature of Responsible Company Official

Frank Smith

Type Full Name of Responsible Company Official

Chief Operating Officer

Title of Responsible Company Official

# EAR End-Use Statement Sample



Sample Co.  
25 Sample Place  
Plymouth, MA 02360  
PH: 508-555-5555  
Fax: 508-556-5656  
www.sampleco.com

**Note: Please Read.**

- Do not complete this form if parts are specifically designed, developed, configured, adapted, or modified for a military, missile, satellite, or other controlled use listed on the United States Munitions List (USML) including component parts of items listed. See the USML at U. S. Code of Federal Regulations (CFR) Title 22, subchapter M, part 121. The USML lists articles, services and technical data designated as being related to defense.
- If the above statement applies to the parts you are purchasing from Tech-Etch, ask your customer service representative for an International Traffic in Arms Regulations (ITAR) End Use Statement.
- Use this form only for "Dual Use" items (defined as having both military and commercial applications) or "Commercial" items (defined as having no military application).

## **END-USE STATEMENT**

The following products:

Item Number	Description	Product Type [RFI/EMI], [Photo-Etch] or [Flex Circuit]	Enter: [Commercial] or [Dual Use]	Part Number
1	Shield	EMI	Dual Use	SAMP-0002
2				
3				

will be used at **Enrights Camera**

Specifically, the parts will be used to: **A circuit board for a surveillance camera that records it subjects.**

The ultimate consignee **Enrights Camera** is located at **95 End Road, Burlington, Ontario, L7P 3S6, CA**

**Enrights Camera** certifies that it will not use these or any other Tech-Etch, Inc. products in research on, or the development, design, manufacture, construction, testing or maintenance of, nuclear explosive devices, or components or subsystems of such a device; in "unsafeguarded nuclear activities"<sup>1</sup> or in unsafeguarded or safeguarded nuclear

<sup>1</sup> Activities including research on, or development, design, manufacture, construction, operation, or maintenance of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept International Atomic Energy Agency (IAEA)

fuel cycle activities;<sup>2</sup> the design, development, production or use of missiles; the design, development, production or use of rocket systems (including ballistic missile systems and space launch vehicles and sounding rockets); the design, development, production or use of unmanned air vehicles (including cruise missile systems, target drones and reconnaissance drones); or the design, development, production, stockpiling or use of chemical or biological weapons.

We certify that all of the facts contained in this statement are true and correct to the best of our knowledge, and we do not know of any additional facts that are inconsistent with the above statements. We shall promptly send a replacement certification to Tech-Etch, Inc. disclosing any material change of facts or intentions described in this certification that occur after this certification is prepared and forwarded to Tech-Etch, Inc.

Except as specifically authorized by the U.S. Export Administration Regulations, or by written approval from the U.S. Department of Commerce, Bureau of Industry and Security, we will not retransfer, reexport, resell, or otherwise dispose of any items whose export is supported by this certification:

- (i) to any country not approved for export as brought to our attention by Tech-Etch, Inc.; or
- (ii) to any person if there is a reason to believe that it will result directly or indirectly in disposition of the items contrary to the representations made in this certification or contrary to the U.S. Export Administration Regulations.

Sample Co  
Company Name

11/11/2020  
Date

Frank Smith  
Responsible Official's Full Name (print)

Chief Operating Officer  
Position

Frank Smith  
Responsible Official's Signature

safeguards at the relevant facility or installation when it contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met.

<sup>2</sup> Safeguarded and unsafeguarded nuclear fuel cycle activities include research on or development, design, manufacture, construction, operation or maintenance of any of the following facilities, or components for such facilities:

- (i) Facilities for the chemical processing of irradiated special nuclear or source material;
- (ii) Facilities for the production of heavy water;
- (iii) Facilities for the separation of isotopes of source and special nuclear material; or
- (iv) Facilities for the fabrication of nuclear reactor fuel containing plutonium.



## Terminology

**Commercial Use** - is any reproduction or purpose that is marketed, promoted, or sold and incorporates a financial transaction.

**Consignee** - is the person to whom the carrier (Ship) is supposed to deliver the goods.

**Country of Ultimate Destination** - The country where the goods are to be consumed, further processed, stored, or manufactured, as known to the USPPI at the time of export

**Dual-Use** - refers to technology that can be used for both peaceful and military aims. More generally speaking, dual-use can also refer to any technology which can satisfy more than one goal at any given time.

**End Product** - The final result of an activity or process, especially the finished article in a manufacturing process.

**End-Use/User Statement (EUS)** - certifies that a buyer is the final recipient of exported materials and has no intention of re-exporting said materials to anyone else.

**End-User** – The person abroad that receives and ultimately uses the exported or reexported items.

**Export** - An export in international trade is a good or service produced in one country that is sold into another country. The seller of such goods and services is an exporter; the foreign buyer is an importer.

**Export Control Classification Number (ECCN)** - ECCNs are five-character alphanumeric designations used on the Commerce Control List (CCL) to identify dual-use items for export control purposes. An ECCN categorizes items based on the nature of the product, i.e. type of commodity, software, or technology and its respective technical parameters.

**Export Controls** - are U.S. laws and regulations that regulate and restrict the release of critical technologies, information, and services to foreign nationals, within and outside of the United States, and foreign countries for reasons of foreign policy and national security.

## Terminology (cont'd)

**Freight Forwarder** - does not actually move your freight itself. The freight forwarder acts as an intermediary between a shipper and various transportation services such as ocean shipping on cargo ships, trucking, expedited shipping by air freight, and moving goods by rail.

**Intermediate Consignee** - The person or entity in the foreign country who acts as an agent for the principal party in interest with the purpose of effecting delivery of items to the ultimate consignee.

**International Traffic in Arms Regulations (ITAR)** - is a United States regulatory regime to restrict and control the export of defense and military related technologies to safeguard U.S. national security and further U.S. foreign policy objectives.

**Nature of Business** - refers to the overall activities of a company in their quest to create, market and sell a service or a product.

**Product Type** - is a template of settings and attributes that you create for a specific set of products.

**Purchaser** - and ultimate consignee may be the same entity. Reexport – “Reexport” means an actual shipment or transmission of items subject to export regulations from one foreign country to another foreign country.

**Responsible Officer** - any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

**Ultimate Consignee** - is the party who will be the final recipient of a shipment.

United States Munitions List Category Code (USML Category Code) - is a means of identifying your export shipment.

# Frequently Ask Questions

## Export Compliance F.A.Q.

Export compliance is a key function that the U.S. government oversees to ensure tariffs and homeland security are handled properly. The government makes a lot of money from the import and export of products. This means that your business will need to adhere to exporting laws whenever shipping products or data overseas.

U.S. companies that sell goods and services in a global market are required to comply with various export control laws. These laws are published by several U.S. departments like the Department of Commerce, the Department of Treasury, and the Department of State.

## How Does The U.S. Government Enforce Its Export Control Laws?

Enforcement rests primarily with three different agencies of the U.S. government. They are:

The U.S. Department of State: Directorate of Defense Trade Controls (DDTC). This agency is responsible for administration and enforcement of the International Traffic in Arms Regulations (ITAR).

The U.S. Department of Commerce: Bureau of Industry and Security (BIS). This agency is responsible for administration and enforcement of the Export Administration Regulations (EAR).

The U.S. Department of the Treasury: Office of Foreign Assets Control (OFAC). This agency is responsible for administering and enforcing a variety of economic and trade sanctions against certain countries and individuals.

## What Does Export Control Mean?

Export controls are those **processes and procedures within a company** that ensures US Government export and import requirements can be met. Those controls include how items are classified, how access is controlled, how authorization for export is obtained, and how the items can be controlled throughout the business cycle within the company.

## What Are Export Control Regulations?

Export control regulations include the US Department of State's International Traffic in Arms Regulations (ITAR), the US Department of Commerce's Export Administration Regulations (EAR), and the Department of Commerce, Census Bureau's Foreign Trade Regulations (FTR), found in 15 CFR Part 30.

There are also restrictions on the countries and entities that **we can export to or do business with** by the US Treasury Department's Office of Foreign Assets Control (OFAC) that must be adhered to.

## Frequently Ask Questions (cont'd)

### Does An Export Compliance Program Need To Be Certified?

No, there is no certification **process for export compliance**. Export compliance is the responsibility of the individual company and must be developed and implemented by themselves.

It is recommended that an export control professional internal to the company be utilized or that a third party outside the company be brought in to evaluate and monitor your program.

### What Happens If I Made A Mistake And Exported Something Without The Proper License (Thereby Violating The ITAR, EAR and/or OFAC Regulations)?

You need to voluntarily disclose this violation to the appropriate governmental agency. A voluntary disclosure can be a mitigating factor in determining any fines or penalties you may be subject to under the law.

For more information about voluntary disclosures, refer to §127.12 of the ITAR and §764.5 of the EAR.

### How Long Does It Take To Get An Export License Approved?

There are no set time limits for export license approvals but **normally an ITAR license** will take about 60 days and an Agreement will require 90 days to be approved. Commerce and Treasury Department approvals should be expected to take approximately the same amount of time.

### Which Countries Are Difficult To Obtain An Export License?

**Defense articles are restricted to varying degrees** for Afghanistan, Belarus, Burma, Central African Republic, China, Cuba, Cyprus, Democratic Republic of Congo, Eritrea, Haiti, Iraq, Iran, Lebanon, Libya, North Korea, Somalia, South Sudan, Sudan, Syria, Venezuela and Zimbabwe.

The EAR has detailed Embargoes and/or Sanctions on Cuba, Iran, Iraq, Syria, North Korea, specific Russian industries and the Crimea region of Ukraine. Restrictions for commercial items are identified in the Commerce Control List (CCL) for each item and must be individually verified.

The ITAR identifies restrictions in the Section 'Prohibited Exports, Imports, and Sales to or From Certain Countries' (Section 126.1) and the EAR has limitations specified in the CCL and the Commerce Country Chart (Article 738.2 and Supplement 1), as well as Embargoes and Other Special Controls (Article 746).

The OFAC also has trade sanctions on certain countries which can be found in the OFAC 'Sanctions Programs and Country Information' online. Note that the restrictions and limitations on specific countries in the regulations do change.

# Frequently Ask Questions (cont'd)

## ITAR F.A.Q.

It can be difficult to understand and apply ITAR regulations to your business. Whether you are leading in a division, or you have been in the defense industry for decades, you may have trouble keeping up with the constant changes when it comes to ITAR rules. ITAR compliance is already complicated, so you should not try to make compliance even more difficult.

Trust us- the government does not make it easy. But the good news is that we have been working with companies just like yours for years to help business leaders navigate ITAR compliance in meaningful ways. Lets tackle the ITAR challenge together with some quick frequently asked questions that our clients ask us when it comes to their ITAR compliance.

## What Does ITAR Mean?

ITAR is the abbreviation for and the typical way to refer to the **International Traffic in Arms Regulations**, which documents the US State Department's requirements for the export and import of specific items, referred to as defense articles, that are controlled for foreign policy and national security purposes. The authorization for the State Department to control exports and imports of defense articles and defense services is through the Arms Export Control Act.

## What Is ITAR Compliance?

ITAR Compliance means that an exporter or manufacturer of specific hardware (defense articles) needs to **meet certain requirements** and operate in a certain manner consistent with those requirements to be allowed to participate in the supply chain involved with these items.

The basic elements of a compliance program include documentation in formal written procedures, awareness training for applicable personnel in the control processes, maintaining proper records, auditing the process to ensure that it is being implemented, and investigating and reporting suspected violations. The end result is to enable your company to:

- Determine the jurisdiction and classification of products

- Control access to ITAR items and related documentation

- Ensure that business transactions have proper legal authorization before exporting or importing

- Control products throughout the complete life cycle process.



## Frequently Ask Questions (cont'd)

### Who Needs ITAR?

Any company that manufactures defense articles or is **involved in the export of these items** (exporters, brokers, and freight forwarders) must ensure that they are registered with the DDTC and meet any other applicable requirements specified in the ITAR. A defense article is any item or technical data listed on the United States Munitions List (USML).

### What Is A “Deemed Export”?

Deemed exports involve the transfer of controlled items or information from one person to another. (Compared to the transfer of controlled items from one country to another.) As an example, if a U.S. citizen emails an ITAR-controlled blueprint to a French citizen, then an export is “deemed” to have occurred from the United States to France. The U.S. controls deemed exports in similar ways to actual (physical) movement of items overseas.

### What Are Penalties For ITAR Violations?

**Penalties for violating ITAR requirements** include denying the ability to export items, seizure of goods, significant fines, and potentially even jail time in the most extreme cases.

Fines can be over \$1 million per violation in some cases. Companies are expected to voluntarily disclose potential violations and the degree of their cooperation with an investigation can be a mitigating factor relating to the extent of the penalties.

### What Are ITAR Controlled Goods?

ITAR controlled goods, referred to as defense articles, are those items that are specifically identified in the United States Munitions List, or USML, which is a section within the ITAR.

This list includes descriptions of the items that are controlled. A defense article is **any item or technical data listed** on the United States Munitions List (USML).

### EAR F.A.Q.

ITAR can be confusing, but did you know that EAR actually throws more people off and gets companies in trouble with the government more often than not? You should have a firm understanding of both ITAR and EAR to ensure your business is safe from the severe fines and penalties that come with EAR violations.

Your team has to take great care when it comes to EAR compliance because you need to classify, apply, and submit the proper licenses based on your products and country of destination.

## Frequently Ask Questions (cont'd)

### What Items Are Subject To The EAR?

Items subject to the EAR are any items not specifically controlled by the International Traffic in Arms Regulations (ITAR) of the US State Department or any other US Government agency.

Of these, **certain items are specifically identified** in the Commerce Control List (CCL), which is a section of the Export Administration Regulations, and are given an Export Control Classification Number (ECCN). Items not controlled in the CCL fall into the classification EAR99, no license required (NLR).

### What Is EAR99?

EAR99 is a category of items that are subject to the EAR but not listed within the Commerce Control List (CCL).

This term represents items that are **not specifically controlled by the EAR** (in the CCL) or identified with an Export Control Classification Number (ECCN). Even though they are not specifically controlled, attention must be given to restrictions on the country and/or end user to which an EAR99 item may be exported as additional prohibition may apply.

### What Items Are EAR99?

IEAR99 is a category of items that are subject to the EAR but not listed within the Commerce Control List (CCL).

This term represents items that are **not specifically controlled by the EAR** (in the CCL) or identified with an Export Control Classification Number (ECCN). Even though they are not specifically controlled, attention must be given to restrictions on the country and/or end user to which an EAR99 item may be exported as additional prohibitions may apply.

### What Are Export Approvals Called Under the EAR?

Export approval under the EAR comes in the **form of an export license**. Determining what the export license requirements are under the EAR can be complicated.

It involves finding the specific classification within the Commerce Control List (CCL), determining whether a license may be required under those specifications, and then checking the CCL requirements against a country chart. But remember that the EAR also allows for some specific Exceptions.

## Frequently Ask Questions (cont'd)

### What Is The Difference Between EAR99 and NLR?

EAR99 refers to items subject to the EAR but not specifically controlled by an Export Control Classification Number (ECCN) on the Commerce Control List (CCL).

EAR99 is the equivalent of the ECCN.

### ECCN F.A.Q.

An Export Control Classification Number (ECCN) is the backbone of export compliance. This number consists of a five-character alphanumeric number used in the Commerce Control List (CCL) to help companies classify U.S. exports. This code is meant to help you determine the type of export license you need to categorize based on the item, software, or technology.

The ECCN seems easy enough to figure out, but getting this part wrong in the export process can spell big fines and penalties for your business. Let's take a quick look at the most common questions we get from clients about the ECCN!

### What Is An ECCN?

The ECCN is the Export Control Classification Number, found in the Export Administration Regulations (EAR), section 738.2.

This code represents the classification of an item in the EAR Commerce Control List (CCL) which **identifies the items that are controlled by the EAR**. The five-digit alpha-numeric designation represents the Category (numeric), Product Group (alphabetic), and Type of Control (numeric). An example would be 9A991, identifying the Aerospace category (9), the End-Item product group (A), and the Anti-Terrorism / Crime Control / Regional Stability reason for control (991).

### When Is An ECCN Required?

An ECCN is required whenever an **item is controlled by the EAR/CCL** and must be included in any export documentation, including in the online Automated Export System (AES). All products, technology, and software being exported need to have an ECCN assigned in order to determine if a license is required.

## Frequently Ask Questions (cont'd)

### Why Do I Need An ECCN Number?

All products, technology, and software being exported need to have an ECCN assigned in order to determine if a license is required. An ECCN number is required when completing the Automated Export System (AES) online export information whenever you export EAR controlled item.

Also, when you have an EAR controlled document, the ECCN number should be clearly identified on the cover page or other appropriate place, depending on the medium.

### What Is The Difference Between An ECCN and The HTS Code?

An ECCN is a five-digit alphanumeric code that identifies the classification of an item controlled by the Export Administration Regulations (EAR) and listed in the Commerce Control List (CCL).

The ECCN determines the level of control for an item, software, or technology. The ECCN, as well as the destination of the export, determines whether a license will be required. The HTS code **represents the classification** within the Harmonized Tariff System (HTS), which is required on import documentation. It is used in determining duties upon import into the United States. An HTS Code is typically comprised of ten digits.

### How Do I Get An ECCN Number?

An ECCN is normally provided by the manufacturer of an item. It **can be self-determined by the company** or, if assistance is needed, a request can be made to the Department of Commerce, Bureau of Industry and Security (BIS), for which you will obtain a CCATS (Commodity Classification Automated Tracking System) document.

Source:

Export Solutions Trade Compliance Specialist (<https://www.exportsolutionsinc.com/resources/export-faq/>)