



## Service

### ITAR, Export Controls & OFAC Sanctions

#### Industry

Williams Mullen attorneys advise clients on the full array of U.S. export control and economic sanctions laws including under the Arms Export Control Act and the International Traffic In Arms Regulations (“ITAR”), the Export Administration Regulations (“EAR”), the U.S. sanctions programs administered by the Office of Foreign Assets Control (“OFAC”), the munitions import control regulations administered by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“BATFE”) and the U.S. antiboycott regulations.

Under ITAR, Williams Mullen advises clients on all aspects of munitions trade controls administered by the Directorate of Defense Trade Controls (“DDTC”) within the U.S. State Department, including licensing requirements for defense articles, technical data, defense services and software, assistance in applying for export licenses, technical assistance agreements (“TAA’s”), manufacturing license agreements (“MLA’s”) and other authorizations, registration of defense manufacturers, exporters and brokers, reexports and retransfers, temporary import transactions, obtaining advisory opinions from DDTC, broker regulations, conducting ITAR compliance audits, license administration, ITAR controls in electronic files and data systems, adoption of technology control plans, ITAR recordkeeping and reporting requirements and treatment of classified items. Our attorneys provide analysis and advice regarding export jurisdiction and classification of items on the U.S. Munitions List including obtaining commodity jurisdiction determinations from DDTC. We regularly prepare compliance programs for ITAR compliance including policies and procedures, training and ITAR compliance audits. Our attorneys have experience in advising clients in dealing with ITAR violations, including internal reviews and investigations, submitting voluntary disclosures, responding to directed disclosures, dealing with enforcement officials to resolve enforcement issues and defense of export enforcement actions. One of our attorneys served previously with the Directorate of Defense Controls within the U.S. Department of State.

Under the EAR, we advise clients on export licensing requirements administered by the Bureau of Industry and Security (“BIS”) within the U.S. Commerce Department for commodities, technologies and software, applying for export licenses, amendments and reexport authority, application of EAR license exceptions (including Strategic Trade Authorization), dealing with deemed export issues, advice on jurisdiction and classification, including identification of Export Control Classification Numbers (“ECCN’s”) and submission of BIS classification requests (C-CATS), encryption classifications, obtaining advisory opinions on EAR issues, screening for prohibited parties on the Denied Persons List, Entities List and Unverified List, compliance with end-use based controls, embargoes, Wassenaar Arrangement, Validated End-User Authorization, Know Your Customer due diligence requirements, de minimis requirements, BIS recordkeeping and reporting requirements, export compliance procedures for data systems, adopting export compliance programs and export clearance requirements under the Automated Export System (“AES”) and

Foreign Trade Regulations administered by the U.S. Census Bureau. Our attorneys perform risk assessments and develop specialized strategies to help reduce liability in high risk countries and safeguard against illegal diversion. We perform specialized due diligence reviews in merger and acquisition transactions and assist in dealing with EAR violations, including internal investigations, voluntary disclosures, responding to agency subpoenas and defense of enforcement actions.

We advise on the array of trade and economic sanctions laws imposed under various U.S. statutes, executive orders and regulations administered by OFAC, including restrictions on targeted financial transactions, export and import embargoes, dealings with blocked funds and other blocked property interests and dealings with blocked persons and entities involving Iran, Syria, N. Korea, Cuba, Burma, Sudan, Libya, Somalia, Yemen and other OFAC programs. Our attorneys advise on the application of specific and general licenses, license exclusions, OFAC reporting and recordkeeping requirements, special rules regarding agricultural commodities, food, medicine and medical devices, application of the Berman amendment and special rules related to information materials, obtaining interpretative rulings from OFAC, restrictions on reexports, retransfers, illegal diversion, transshipment, facilitation and evasion and penalties and enforcement matters. Our attorneys have experience in corporate procedures for screening for parties listed on the Specially Designated Nationals and Blocked Persons List (“SDN’s”) and compliance procedures for business transactions regulated under U.S. sanctions laws. We advise on sanctions requirements on the foreign operations of U.S. companies, as well as the application of the U.S. sanctions laws to foreign companies coming within the jurisdiction of the United States. We also advise on the special securities reporting obligations under the Iran Threat Reduction and Syria Human Rights Act of 2012.

The group’s attorneys are knowledgeable about the forthcoming export control reform including transfer of jurisdiction for items from the USML to the newly established Series 600 on the CCL, special licensing requirements and exceptions under the Series 600 licensing regime, definition of “specially designed” under ITAR and EAR, transition licensing rules under BIS General Order No. 5 and the DDTC Transition Plan, strategies for obtaining jurisdiction and classification determinations, revisions to compliance programs to reflect amendments under the export control reform and coordination with prime contractors, subcontractors, teaming partners and foreign affiliates.

Our international attorneys devote extensive attention to the preparation of export compliance programs including under ITAR, EAR, the U.S. sanctions laws, FCPA and other international regulatory areas, including developing written policies and procedures, conducting compliance training, compliance audits, screening for prohibited parties and destinations, license administration and recordkeeping. Our attorneys perform risk assessments and develop strategies to reduce potential liability in high risk countries and transactions.

The firm advises on export compliance strategies for multinational companies, including advising on requirements applicable to foreign parent and other affiliates, joint ventures, teaming arrangements and subcontracting arrangements. Such activities include adopting technology control plans, obtaining authorizations for reexports and retransfers and controls for dual and third country nationals. We advise on export control issues arising in merger and acquisition transactions, financings and other business transactions, including conducting specialized export control due diligence reviews, regulatory filings, pre-closing voluntary disclosures and strategies for reducing successor liability in acquisition transactions.

We advise on the specialized export control requirements for companies in the government contracts, defense, homeland security, intelligence and private security industries, including the overlap with regulation by the Defense Security Service on Foreign Ownership and Control (“FOCI”) issues, security and facility clearances and regulations under the Committee on Foreign Investment In the United States (“CFIUS”).

We also advise on enforcement issues, including conducting internal reviews and investigations, advice regarding voluntary disclosures in conjunction with our white collar attorneys and defense of regulatory enforcement actions in the export control field.

The firm has experience in the specialized area of export control issues in universities, including requirements regarding university sponsored research programs (and the exemption for fundamental research), technology transfer activities, foreign students, foreign faculty, overseas travel by university personnel, joint programs with foreign universities and procurement issues.

The group's attorneys have advised clients in many industries, including the manufacturing, electronics, government contracts, transportation, aerospace, information technology, petrochemical and defense industries.

## Experience

The following are examples of a number of projects in which our attorneys have been involved in the export control area:

- Representation of U.S. defense contractor in export control matters including advice on export licenses, technical assistance agreements and other export authorizations, structuring export compliance organization within company business units, DDTC registration, adoption and roll-out of export compliance program, employee export control training, assisting in conducting export control audit, advice on export issues in acquisition transactions and ongoing advice regarding export control matters involving company operations in Iraq, Afghanistan and other foreign countries.
- Representation of NASDAQ manufacturer of semiconductor products on export control issues, including advice on export licensing strategy, classification of products, adoption of export compliance program, government relations issues and adoption of specialized compliance procedures to protect against diversion risk and high risk destinations.
- Representation of joint venture company owned by public French company and U.S. (NYSE) company involving joint development of high performance composite materials, including classification of relevant products and technical data, applying for TAA for joint development activities performed in conjunction with parent company in France, and preparation and adoption of ITAR compliance procedures within U.S. subsidiary and foreign French parent company.
- Representation of public Belgian manufacturer of high performance materials used in the defense, energy, automotive and chemicals industries on ITAR regulatory issues involved in corporate reorganization, transfer of operations to U.S., and requirements applicable to Belgian parent company under ITAR regulations.
- Representation of U.S. manufacturer of optical and hyperspectral imaging products on export control issues involved in export and import of company's spectrometer products.
- Representation of European manufacturer of chemical, biological, radiation and nuclear protective equipment and its U.S. subsidiary in export and import control issues in the import and sale of CBRN protective equipment to U.S. Government customers, including advising on import requirements by BATFE, ITAR licensing requirements for the joint development of products by European parent company and U.S. subsidiary, and adoption of an ITAR compliance programs for the U.S. and parent company.
- Representation of publicly traded Australian defense industry firm in establishment of U.S. subsidiary to pursue U.S. defense contracts, including identification of export control requirements under ITAR and EAR for relevant government contracts, advice regarding ITAR compliance by U.S. subsidiary and Australian parent company, advice on corporate formation, tax and corporate structuring,

employment law issues, submitting bid proposals and entering contracts, subcontracts and teaming agreements.

- Representation of Fortune 500 distributor of medical and surgical products regarding OFAC sanctions requirements in connection with overseas acquisition.
- Representation of major Japanese electronics manufacturer in export compliance matters, including advising on deemed export issues, application for export licenses for disclosure of controlled technical data to Japanese employees in U.S. manufacturing facility and export compliance program.
- Representation of major diversified Japanese industrial company regarding CFIUS issues in connection with a U.S. merger transaction.
- Representation of NASDAQ electronics manufacturer on export controls issues, including product classification, ITAR compliance processes for company's manufacturing facility in India, adoption of export compliance program and employee export compliance training.
- Representation of U.S. automotive engineering firm on ITAR issues related to design and retrofit of vehicles for foreign military organization, including advice regarding licensing strategy, transfer of ITAR-controlled technical data to foreign customer during design process, and ITAR brokering issues.
- Representation of manufacturer of body armor in export control matters, including assistance in obtaining export licenses, advice regarding internal organization for export compliance, voluntary disclosures, ITAR brokering issues and other ongoing compliance issues.
- Representation of U.S. ship repair contractor providing technical services for foreign military vessels under Foreign Military Sales contracts, including advice regarding ITAR requirements for obtaining TAA's and other ITAR authorizations, related exemptions and adoption of ITAR compliance program.
- Representation of U.S. security firm on ITAR compliance issues, including whether contracts in Iraq, Afghanistan and other countries require TAA's, export licensing requirements for company equipment used in overseas deployments, ITAR compliance program and employee compliance training.
- Representation of U.S. defense contractor providing maintenance and technical support for unmanned aerial vehicle programs in ongoing ITAR compliance, including registration, export licensing requirements, availability of applicable exemptions, adoption of ITAR compliance program and compliance issues under the Foreign Corrupt Practices Act in foreign marketing activities.
- Representation of U.S. technology company on export control issues in acquisition of manufacturer of specialized computer components used in intelligence activities, including structuring acquisition transaction, export control due diligence review, preparation of specialized purchase agreement contract provisions addressing export control issues, and pre-closing voluntary disclosure of export violations discovered in due diligence review.
- Representation of public U.S. technology company involved in ITAR violations in transfer of controlled technical data to company operations in Afghanistan, including internal investigations, preparation of voluntary disclosures and remedial revisions to ITAR compliance program.
- Representation of U.S. government contracts firm in export enforcement investigation by U.S. Immigration and Customs Enforcement ("ICE") within U.S. Department of Homeland Security involving export of defense articles to Afghanistan.
- Representation of U.S. defendant in criminal prosecution by Assistant U.S. Attorney for export control violations and violation of OFAC Iran sanctions program.
- Representation foreign based public transportation and logistics firm and its U.S. subsidiary in export control requirements (EAR, ITAR, OFAC sanctions) for company's freight forwarding and logistics business, including freight forwarder obligations under ITAR, EAR, and sanctions programs applicable to company's U.S. subsidiary and foreign parent company.
- Representation of U.S. government contracts firm providing technical services to U.S. defense agencies on ITAR matters for various contracts in Iraq, Afghanistan and other locations, including registration, obtaining TAA's and other export authorizations, adoption of compliance program and compliance training for senior executives.
- Representation of global shipping and transportation company on export control issues, including obtaining export licenses for components of customized worldwide communications network, ongoing licensing for computers and software, reexport transactions, advice regarding obligations under U.S. sanctions laws, SDN screening, adoption of export compliance program and compliance training, sale

of various foreign-based subsidiaries to foreign purchasers, including transfers of computer hardware, software and communications system components to foreign purchasers.

- Representation of U.S. firm that provides security services to commercial maritime companies related to ITAR compliance, including advice regarding export and import licensing requirements for weapons, night vision and other equipment, adoption of ITAR compliance program and compliance training for senior executives.
- Representation of U.S. government contracts firm in acquisition by U.K. defense contractor, including negotiation of acquisition documentation, CFIUS filings, advice on deemed export issues in connection with disclosures to foreign acquiring party, advice regarding licensing authority and preparation of voluntary disclosure.
- Representation of U.S. technology company to obtain DDTC commodity jurisdiction determination regarding dedicated satellite network system to provide remote communications capability.
- Representation of venture capital-backed software firm to obtain DDTC commodity jurisdiction determination regarding specialized software interface developed under various SBIR contracts.
- Representation of defense contractor to obtain commodity jurisdiction determination regarding software to measure rocket plumes.
- Representation of technology engineering firm to obtain DDTC commodity jurisdiction determination regarding air data measurement system, including air data probe and air data computer to measure real time high speed air flow.
- Representation of U.S. contractor to obtain DDTC commodity jurisdiction determination regarding asset management software designed to optimize performance of physical assets and fleets through predictive maintenance and support programs.
- Representation of U.S. technology firm to obtain DDTC commodity jurisdiction determination regarding software to securely route data and communications between mobile and fixed devices.
- Representation of U.S. technology company to obtain DDTC commodity jurisdiction determination for hearing protection headphones with communications capability.
- Representation of U.S. software firm to obtain DDTC commodity jurisdiction determination regarding conditions-based maintenance software.
- Representation of U.S. Homeland Security contractor to obtain DDTC commodity jurisdiction determination regarding decontaminant products that absorb chemical, biological and other toxic substances.
- Representation of defense contractor to obtain DDTC commodity jurisdiction determination regarding software compendium of resources for emergency management, including chemical, biological and radiation threats.
- Representation of defense contractor to obtain DDTC commodity jurisdiction determination regarding asset tracking software that provides real time locational and situational view of personnel, equipment and resources.
- Representation of U.S. contractor to obtain DDTC commodity jurisdiction determination regarding medical countermeasures that prevent damage to gastrointestinal system for exposure to radiation.
- Representation of SBIR-funded contractor to obtain DDTC commodity jurisdiction determination regarding low power high performance RF imaging system.
- Representation of U.S. manufacturer of computers for harsh environments and mission critical applications in connection with ITAR requirements, including licensing requirements, adoption of compliance program and compliance training, recordkeeping and ongoing compliance issues.
- Representation of U.S. company engaged in the design and manufacture of high performance materials, coatings and related instrumentation at nanometer level in applicable ITAR requirements arising under SBIR contracts and other government-sponsored research programs, including DDTC registration, licensing requirements, adoption of export compliance program and compliance training for company employees.
- Representation of Israeli aerospace engineering/manufacturing company on ITAR compliance matters in connection with contracts with major U.S. aerospace prime contractors, including export licensing, advice on transfer of ITAR-controlled technical data to Israel and related compliance issues.
- Representation of European company regarding the classification of night vision instrumentation

utilized on maritime vessels.

- Representation of U.S. freight forwarder firm in specialized export compliance issues.
- Representation of U.S. freight forwarder/customs broker in export and customs compliance, including advising on Customs Broker registration, advising on corporate structure, preparation of documentation and customer agreements and adoption of compliance program.
- Representation of U.S. defense contractor involved in defense scenario simulation on export control issues, including advising on licensing requirements, exemptions and compliance issues.
- Representation of manufacturer of fiber optic sensors, rotor blade sensors, wireless sensors and related materials on ITAR issues, including advice regarding licensing/TAA, adoption of compliance program and employee training.
- Representation of U.S. company engaged in design and manufacture of unmanned underwater vehicles on ITAR issues, including licensing requirements and ongoing compliance issues.
- Representation of various universities in export control matters, including risk analyses and compliance assessments, drafting export control policies and procedures, technology control plans and related documentation, conducting compliance training for university administrators, advice regarding export licensing and exemptions (including exemption for fundamental research), and issues regarding foreign students, foreign faculty, foreign travel by university staff and procurement policies.
- Representation of state Attorney General's office for export compliance matters for universities within the state's public university system.
- Conducting training for senior executives of U.S. engineering firm providing technical services for chemical/biological protection and remediation.
- Representation of numerous biometrics software companies in export control matters under the EAR, including classifications, licensing requirements, available license exceptions and adoption of export compliance program.
- Representation of U.S. engineering firm in design/technical services of CBRN collective protection systems on military vessels for Japanese Navy, including obtaining Technical Assistance Agreements and DSP-5 licenses for related hardware.
- Representation of U.S. engineering firm that provides technical services for retrofit of foreign naval vessels under FMS and other contract vehicles in connection with ITAR compliance, including registration, requirements for obtaining TAA's and other licensing authority, adoption of compliance program and training for senior executives. )
- Representation of U.S. satellite communications company on ITAR issues, including adoption of export compliance program.

## Related News

- International Business Compliance Update
- U.S. Officials Continue Pressure on Freight Forwarders for Export Control Violations
- United Technologies Case ? Liability from Selling Commercial Products to Military Customers
- International Business Compliance Programs
- Export Compliance Issues In Mergers And Acquisitions
- Acquirer Can Be Liable For Export Control Violations of Acquired Company
- Legal Checklist for International Defense Transactions
- Legal Checklist for International Defense Transactions
- University Charged with Export Violations
- Proposed Revision of Defense Services Definition May Remove ITAR Controls Imposed on Some University Research
- Update on International Business Compliance
- Williams Mullen Adds ITAR and Export Control Attorney Christopher Stagg from State Department
- Initial Provisions of Export Control Reform Become Effective October 15th ? Steps to Take to Prepare for Export Control Reform

- Christopher Stagg featured in Main Justice
- Christopher Stagg quoted on the Export Control Reform Initiative in Bloomberg BNA publications
- Pre-Recorded Webinar: ITAR For Defense Industry Executives
- Fourth Circuit Holds That Defendant Can Be Guilty of Criminal Violation of Armed Export Control Act Even Without Specific Knowledge That the Exported Item Is a Regulated ?Defense Article?
- 4th Circ. Lowers Threshold For Criminal Violations Of ITAR
- Special Due Diligence Concerns When Buying Unmanned Aircraft Systems
- Williams Mullen Welcomes Export Controls Attorney Rosanne Jacuzzi
- AEROSPACE GROWTH ACCELERATES IN SOUTHEAST USA: Gulfstream, Boeing, Rolls Royce, AIRBUS and more
- New Export Control Requirement for Electronics Manufacturers in Defense and Aerospace Industries
- ITAR/EAR Amendments for Military Electronics Become Effective December 30
- How?s your Export Compliance . . . Better than the Feds?
- Export Controls Laws for the General Counsel
- Williams Mullen Attorney Cameron Rountree Graduates with Distinction from the Naval War College
- Proposed ITAR Amendment Provides Important Benefit for Government Contractors
- Excerpt by Tom McVey about Export Controls Laws published by Law360
- Iran Nuclear Agreement ? Mixed Bag for U.S. Exporters
- Proposed Amendments Provide Data Security Standard Under ITAR and EAR
- Corporate Officers Charged Personally for Export Violations
- Key Export Compliance Issues For 2016
- ITAR For Government Contractors - Revised For Recent Amendments
- Is My Company Subject to ITAR?
- ITAR ? What Government Contractors Need To Know
- Illegal Diversion Emerging As Top Export Control Issue
- New Guidance on ITAR Registration in the Firearms Industry
- State Department Relaunches Company Visit Program to Assess ITAR Compliance
- ?Reason To Know? ? A Chilling Term For Exporters
- Trade Compliance Issues in the New Administration, Part I: Export/Sanctions Laws
- ITAR Guide for the Firearms Industry
- President Blocks Acquisition of Semiconductor Business Under CFIUS
- ITAR Guide for the Firearms Industry
- Williams Mullen Washington, D.C. Attorneys Named 2015 Super Lawyers
- Williams Mullen Washington, D.C. Attorneys Named 2014 Super Lawyers
- Williams Mullen Washington, D.C. Attorneys Named 2013 Super Lawyers
- Attorney Cameron Rountree Returns from One-Year Navy Reserve Mobilization to East Africa
- Dealing with Violations in Export and Import Transactions
- Tom McVey's Alert on Export Violations Republished by Law360
- Recent ITAR Case Sends Important Message to Small/Midsized Government Contractors
- Selling Unmanned Systems Products and Services to the Government
- President Trump Blocks Sale of U.S. Company to Chinese Buyers Under CFIUS
- December 31 Deadline Approaching for Contractors Who Handle Export-Controlled Technical Information
- Important Opportunity for Defense Electronics Manufacturers
- Commerce Department Announces Procedures for Companies to Request Exclusions From Recent Steel and Aluminum Tariffs
- State Department Announces Another Major ITAR Enforcement Case and \$30 Million Penalty
- Law360 Publishes Tom McVey Article on Compliance Lessons from Recent ITAR Case
- Latest Russia Sanctions Ratchet Up Risks of Doing Business in Russia ? Including for Non-U.S. Companies
- Export Control Amendments Proposed for Commercial Firearms, Ammunition and Related Products

## **Related Events**

- Potential Export Violation, Now What? - AAEI Annual Conference
- Complying With ITAR Requirements In Modular Open System Architecture
- Selling Unmanned Systems Products and Services to Federal, State and Local Government Agencies
- Metro Richmond Exports Initiative - Lunch & Learn
- Compliance Week 2016 - Export Controls and Sanctions Update
- Webinar: ITAR for Defense Executives 2015 ? What You Need To Know To Run Your Business
- ITAR For Government Contractors - New Developments Under Export Control Reform
- Advanced Export Controls 2015 - What You Need to Know in the Year Ahead
- Export Controls in International Business Transactions
- ITAR for Government Contracts Firms

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