

GLOBAL TRADE COMPLIANCE

DEFINITIONS

PWP - understood as Pratt & Whitney Rzeszów S.A., Pratt & Whitney Kalisz Sp. z o.o., Pratt & Whitney Tubes Sp. z o.o. and Hamilton Sundstrand Poland Sp. z o.o.

Global Trade - an area of operations intended to provide conformity with regulations on international trade. It is a security policy component. Trade control regulations include the regulations established by the EU, Poland, and the USA. Entities who conduct operations subject to mandatory control are liable for compliance with applicable regulations, and any breach constitutes a risk of administration of financial penalties and criminal sanctions.

“Concession” - an administrative act issued by a concession issuing body on business entity’s request. As construed under the Polish Act on commercial operations in production and trading of explosives, armaments, munitions, and defence or law enforcement use technologies, a Concession granted by the Ministry of the Interior and Administration authorises the receiving business entity to perform commercial operations involving the manufacture of and trading in explosive materials, weapons, munitions, and products and technologies for military or police use if the business entity has conformed to the requirements specified in the same Act.

ITAR, EAR - U.S. Government regulations on control of import and export of defence, dual-use and civil articles, technologies and services originating in the USA.

U.S. AUTHORISATION – an export authorisation, being a permit, a licence waiver, or a licence agreement required for a transaction between entities.

NDA - NON-DISCLOSURE AGREEMENT - an agreement on protection of confidentiality which is required for every contractor as part of regular cooperation and, in the case of ITAR, a separate NDA is prepared as an annex to the MLA (Manufacturing License Agreement).

USML - United States Munitions List - a control code identifying a controlled item in accordance with the USML (ITAR).

US ITAR - a classification attribute of technical data and material classification. It is regulated by the USML (ITAR) on the territory of the USA only (replacing the P-USML attribute).

US EAR - a classification attribute of technical data and material classification. It is regulated by the CCL (EAR) on the territory of the USA only (replacing the P-ECCN attribute).

OUS (Outside U.S.) ITAR - a classification attribute of technical data and material classification. It is regulated by the USML (ITAR) on and outside the territory of the USA (replacing the USML attribute).

OUS (Outside U.S.) EAR – a classification attribute of technical data and material classification. It is regulated by the CCL (EAR) on and outside of the territory of the USA (replacing the ECCN attribute).

Technical data - information provided in any form (electronic, paper, orally transmitted) necessary to design, develop, manufacture, operate, modify or operate equipment, materials, software or processes related to these necessary activities (technology, drawing, sketch, specification, software). This information comes in a form of technical data or technical aids.

Technical data does not include financial, management and specific publicly available data.

DTK/RCTD - Restrictively Controlled Technical Data, both intangible (e.g. a technology stored in and retrieved from computer systems) **and tangible** (e.g. a technology featured on hard copies), is the technical data which meets the requirements of specified classification items listed in one or more of the following:

- USML – ITAR;
- Dual-Use Articles List - EAR, subject to classification different than 9E991 or EAR99;
- EU Dual-Use Articles List;
- Polish Armament List (LU).

MFT – a data encryption system which allows PWP's suppliers and personnel to transfer DTK.

Strategic Articles – pursuant to the Polish Act of 29 November 2000 on the export trade in goods, technologies and services of strategic importance to the national security and for international peace and security, these shall be construed as munitions (armament) and dual-use products.

Dual-use product – articles, technologies, and software which are specified in detail in Annex 1 to the currently applicable Council Regulation on setting up a Community regime for control of export, transfer, agency and transit of dual-use products.

Defence or law enforcement use product - any product specified in the Polish Regulation of the Council of Ministers concerning types of weapons and ammunition for military and law enforcement use, the manufacturing of and trading in which requires a concession.

Form 11015 - a document required to be submitted by a supplier in case full export control classification is unavailable.

1. CLASSIFICATION

On each page of the document, there must be information on the export classification provided in the footnote.

1.1. The Supplier shall specify the classification in all required documents which contain technical data and quality records delivered to PWP, e.g. S.A., e.g. CofC, FAIR, ZN, etc.

The required model classification marking to be featured in the documents shall apply as shown below:

Klasyfikacja eksportu: [] Nie zawiera danych technicznych lub
US [ITAR/EAR]:, Outside US [ITAR/EAR]:, PL/UE:
Data oznaczenia:
or
Export Classification: [] No technical data or
US [ITAR/EAR]:, Outside US [ITAR/EAR]:, PL/UE:
Date of marking:

1.2. Photographs shall also be marked with applicable export classification. Export classification must be included in a file, in the lower left corner of a photograph. If it is technically impossible to edit and mark the photograph internally, other acceptable methods must be used:

- a) these include using MS Office: e.g. pasting the photograph to a Word file or PowerPoint presentation, adding a classification marking and saving the file in a non-editable PDF format.
- b) Specify the classification code in the photograph image file name.

Note:

1. *The Supplier shall specify the classification marking on each page of the delivered document which contains technical data, e.g. CofC, FAIR, ZN, etc. Documentation, supplied in paper or electronic form, that does not contain classification information, shall not be accepted by PWP.*

2. *The requirement for classification of documents containing technical data applies to both the documentation of commercial and strategic significance.*

1.3. Classification of articles and technologies

Examples of classification codes:

NSR - Not subject to export control regulations

9E991 - a technology deemed to be controlled in line with EAR regulations regarding transfers to countries in relation to which certain limits are imposed

9A991.c - an article deemed to be controlled in line with EAR regulations regarding transfers to countries in relation to which certain limits are imposed

LU10.d - military aviation engines and their dedicated components as per PL regulations

LU16 - a semi-finished product used to manufacture military use components as per PL regulations

LU22.a - a military technology as per PL regulations

9E003 - a controlled technology included in the dual-use product and technology list as per PL/EU regulations

9A619.a - a military aviation component as per EAR regulations

9E619.a - a military technology related to an aviation component as per EAR regulations

XIX(g) - a military technology as per ITAR regulations

XIX(f)(1) - a military detail as per ITAR regulations

Note:

The "NSR" (not subject to export control regulations) code shall be used for classification of articles/technologies/software not featured in the PL/EU control lists. It is also used in the concessional classification to determine articles which are not subject to concessions.

2. Form 11015

The U.S. export law has an extraterritorial nature, which means that it can be applied outside the United States and in relation to goods not manufactured in the United States. To ensure compliance with the above requirements, the supplier is required to fill in the classification form (Form 11015) within 10 working days, stating necessary information on the classification and the US Content for the materials currently shipped to PWP.

3. SUPPLIERS' RESPONSIBILITIES FOR POLISH AND EUROPEAN AUTHORISATIONS

3.1 Supplier's mandatory concession

If the Supplier based in Poland is contracted for production of defence or law enforcement use articles, they shall hold a valid concession whose scope conforms to the product ordered, pursuant to the **Polish Act on commercial operations in production of and trading in explosives, armaments, munitions, and defence or law enforcement use articles and technologies.**

Note:

A copy of the concession must be attached to each bid submitted.

3.2 Export permits

As per applicable Polish regulations, the trade in munitions and dual-use products can be performed only with a valid official permit for export or intra-Community transfer, for agency services, and technical assistance services, and for the extent specified in the permit. The Supplier shall submit documents required to be granted an export permit.

4. SUPPLIER'S RESPONSIBILITIES FOR U.S. AUTHORISATION:

Export Classification: No Technical Data

Date of marking: 2023-09-11, Badge: P512505

4.1 Questionnaire

Before commencing contracted cooperation related to U.S. defence or dual-use programmes, the supplier shall fill in and sign the questionnaire provided by PWR representatives.

If the Supplier cooperates with other companies and, during such cooperation, technical data/products related to defence or dual-use programmes are to be exchanged/made available, the Supplier must include such information in the questionnaire. Suppliers/Sub-suppliers are also responsible for verifying the place of birth and citizenship of the personnel who will have access to technical data/products. The Supplier is responsible for submitting questionnaires filled in by their Sub-suppliers listed in the Supplier's questionnaire, within a deadline specified by PWP.

Note:

1. *Signing the questionnaire does not entitle the Supplier to start cooperating with PWP.*
2. *If the questionnaire mentions a person with a citizenship different than the state of the company's registered office, such a person might have to sign an individual NDA (NON-DISCLOSURE AGREEMENT) provided by PWP.*

4.1.1 NDA for MLA (ITAR)

The Supplier will receive the NDA form from PWP and shall:

- have it filled in and signed by the Supplier's authorised representative;
- deliver NDAs completed by their Sub-suppliers;
- sign individual NDAs with employees mentioned above;
- submit their own and Sub-suppliers' NDAs to PWP within a deadline specified by PWP;

Note:

1. *If the Supplier does not sign an NDA, they shall be disqualified from cooperation on the defence programme in question.*
2. *Signing an NDA does not authorise the Supplier to access any technical data of any defence programme.*
3. *Prior to commencing cooperation with a Sub-supplier, the Supplier shall notify PWP of this fact. The Supplier is obliged to transfer all these requirements onto their Sub-suppliers.*

4.2 Approval of the Supplier for an ITAR/EAR defence programme

Having submitted the required documents and records and being approved by the U.S. Government, the Supplier will become an Approved Supplier. The notice of this approval will be made to the Supplier by email from PWP.

Note:

1. *The documents to be filled in by the Supplier to secure the U.S. Authorisation shall conform to the valid Supplier's incorporation data shown in KRS (National Court Register of entrepreneurs in Poland) / Business Record / an applicable non-Polish business register.*
2. *Each change in the Supplier's incorporation data, including the Supplier's registered office address or resulting from a merger, transfer of ownership, or modification of the incorporation records shall be immediately notified to PWP.*

5. ADDITIONAL REQUIREMENTS FOR SUPPLIERS AS PER U.S. AUTHORISATIONS (ITAR/EAR)

The Supplier's company site shall be secured against all personnel unauthorised to access strategic technical data / products.

The product and technology manufacturing, warehousing, shipment and storage areas must also be secured against unauthorised access, and visual access protection measures must also be implemented in the case of ITAR products and technologies.

Only authorised people can access ITAR/EAR areas, i.e. employees of the Supplier and Sub-suppliers, as per U.S. authorisations.

ITAR products can only be transported by an approved transport contractor.

6. KEEPING RECORDS AND ARCHIVING DOCUMENTS

Archiving documents containing technical data subject to export control.

Documents containing technical data subject to Global Trade shall be kept in secure locations. The documents shall be archived for 5 years from the expiry of the U.S. Authorisation applicable to them.

7. MANUFACTURING PROCESS AND OUTBOUND SHIPMENT SUPERVISION

7.1 The shipment packaging shall be labelled with an applicable classification code as per regulations in force in a given country and ITAR/EAR regulations.

7.2 Semi-finished products, ready-made products and finished parts for defence production controlled by the U.S. Government export regulations shall be identified, traced, secured and labelled at every stage of the manufacturing process.

7.3 The photographs of parts are subject to control as per applicable U.S. Government export regulations. Releasing or transferring photographs of EAR products shall be controlled and recorded as the transfer of technical data. The photographs shall be stored in the same way as the technologies and technical data for EAR products, i.e. on dedicated electronic data storage media and in network locations that can only be accessed by authorised personnel.

7.4 On PWP's request, the Supplier shall return or destroy products of strategic significance.

8. TRANSFER / ACCEPTANCE OF TECHNICAL DATA SUBJECT TO GLOBAL TRADE

During each transfer of technical data, it must be noted that any transfer of export-controlled technical data by email is strictly forbidden. DTK must be transferred and received using, e.g. the MFT system. MFT is one of the group-approved systems for DTK transfer and it facilitates DTK exchange (transfer and acceptance). All transferred data must be classified as required; it must be ensured that all required export permits/authorisations for DTK transfer have been obtained.

Due to data protection and security considerations, transferred data is purged from a folder after 30 days.

Access to MFT is granted when an accessing PWP employee creates a folder in which the DTK recipient's email address is specified. A DTK sender/recipient shall receive an email notification containing a user name and activation link. The process of MFT access account creation and the method of using MFT functionalities are described in the "MFT Third-Party User's Guide".

If logging into MFT is not possible, a PWP Purchasing employee must be informed of this fact to issue the required help-desk ticket.

9. AUDITING SUPPLIERS OF STRATEGIC DEFENCE ARTICLES, TECHNOLOGIES AND SERVICES

PWP reserves the right to audit the above-mentioned Suppliers. The audit date will be agreed individually with the Supplier.

The decision on conducting an unplanned audit of the Supplier is made by the PWR Purchasing Department in the following cases:

- negligence in implementing corrective actions;
- a high violation KPI and/or recurring violations;
- organisational changes at the Supplier (e.g. production relocation);
- for each new Supplier.

The scope of the audit includes the requirements provided in this Instruction.

In case the Supplier uses Sub-suppliers to perform operations referred to in this Instruction, the Sub-suppliers shall be bound by the same requirements as the Supplier. Sub-suppliers can also be audited. The Supplier shall notify their Sub-supplier(-s) about the date and scope of the audit.

The Supplier must disclose the scope of the audit to their Sub-supplier(-s).

Documents presented during the audit must be submitted to auditors within 7 days from the audit completion date (on Auditor's request).

10. SUPPLIER'S RESPONSIBILITIES RELATED TO REPORTING POTENTIAL BREACHES OF GLOBAL TRADE REGULATIONS

The Supplier shall immediately report the following to PWP:

- a) the Supplier or any of their Sub-suppliers learns that they have violated any applicable provisions or regulations concerning Global Trade in relation to their cooperation with PWP or that they have been subjected to sanctions that might exert impact on their cooperation with PWP;
- b) the Supplier learns about any activities conducted by Global Trade entities of any given government aimed at refusing to issue or cancelling an export licence required for the Supplier to fulfil their obligations stipulated in a contract and about making all reasonable effort to mitigate impact exerted by such an incident;
- c) the following has been changed: Supplier's or their Sub-supplier's business name, Directorate of Defence Trade Controls (DDTC) registration status, address, ownership or control over the Supplier.

11. CUSTOMS-RELATED SUPPLIER'S RESPONSIBILITIES

The Supplier shall provide complete, accurate and timely information required to support customs compliance activities, including, where appropriate, the country of origin, indication of customs value, supply chain security programmes, preferential treatment and customs duty reduction programmes, anti-dumping and countervailing programmes, and notify PWP of any changes in such information.

In case PWP is not an Importer of a product or does not hold a licence, the Supplier shall act as the Importer of the product, which also applies to cases in which domestic contracts are performed in cooperation with international suppliers.

RELATED DOCUMENTS

POLISH ACT of 29 November 2000 on the export trade in goods, technologies and services of strategic importance to the national security and for international peace and security, as amended

Current version of the COUNCIL REGULATION (EC) on setting up a Community regime for the control, transfers, agency and transit of dual-use products

POLISH ACT of 13 June 2019 on business activities related to the manufacture of and trade in explosive materials, weapons, munition, products and technologies for defence or law enforcement use, as amended



INTERNATIONAL TRAFFIC IN ARMS REGULATIONS - U.S. Code of Federal Regulations TITLE 22—
Foreign Relations, CHAPTER I—DEPARTMENT OF STATE, SUBCHAPTER M, Part 120-130

EXPORT ADMINISTRATION REGULATIONS - U.S. Code of Federal Regulations TITLE 15—
Commerce and Foreign Trade, Subtitle B—REGULATIONS RELATING TO COMMERCE AND
FOREIGN TRADE (CONTINUED), CHAPTER VII—BUREAU OF INDUSTRY AND SECURITY,
DEPARTMENT OF COMMERCE, SUBCHAPTER C, Part 730-780