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## Export Controls

The US government administers multiple export control programs to monitor and regulate the transfer of goods, technology, software, services, and information to foreign nationals and foreign destinations.

Steptoe attorneys handle all export requirements for transfers of dual-use items, controlled primarily under the Export Administration Regulations administered by the US Department of Commerce, and "defense articles and services," controlled under the International Traffic in Arms Regulations administered by the US Department of State. We also assist clients with nuclear related export controls administered by the Nuclear Regulatory Commission and the US Department of Energy. We have extensive experience with US economic sanctions programs and the manner in which they complement export control regulations. Steptoe lawyers are very familiar with the legal and policy considerations that affect export licensing decisions, as well as the agency procedures that drive regulatory interpretations, decision-making, and enforcement.

For a number of years, attorneys in our practice have consistently received the highest ranking in *Chambers USA* and *Chambers Global*.

### Counseling and Licensing

Not all client requirements are the same, and we pride ourselves in providing the necessary advice and assistance within the confines of time and budget limitations. In assisting clients with transactions subject to export controls, we analyze and identify early the applicable level of governmental control, provide advice on any possible regulatory hurdles or delays that could hinder the proposed export, and then work with the client to obtain the appropriate government authorization. In some instances, proper consideration of the export restrictions can permit a company to reach its business objective through alternative sourcing or modification of the product/service offering.

We have successfully advised on transactions taking into account applicable legal requirements, including those that might emanate from different US government agencies as well as different jurisdictions, and we assist clients in obtaining licenses or identifying general authorizations and license exceptions that can save time, expense, and management resources.

### Jurisdictional Assessments

We have found an increasing level of complexity for clients trying to ascertain the appropriate export control regime and agency with jurisdiction over their products and technologies. This is a result of several factors, including the increasing use of commercial products and technologies in the military sector;

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the expanding scope of the homeland security industry which combines domestic and national security/defense applications; and several policy initiatives to safeguard critical technologies. Steptoe lawyers assist clients by reviewing client products and intellectual property, in conjunction with technical experts as needed, to ascertain the appropriate regulatory controls (e.g. Commerce Department v. State Department v. Nuclear Regulatory Commission). We successfully handle commodity jurisdiction rulings and commodity classification determinations on behalf of our clients. When there is doubt, the correct classification can be the key to a successful international sales strategy while maintaining export control compliance.

## **Internal Corporate Compliance**

Another prominent aspect of our practice is developing and implementing compliance programs for clients. We provide in-depth and sophisticated analyses of regulatory requirements as applied to business transactions to ensure commercial transactions are conducted in a manner consistent with regulatory requirements. In this way, our clients avoid regulatory liability, minimize disruption of business, and can efficiently manage resources for purposes of advancing corporate objectives.

We are well known for our experience with cutting-edge issues, such as control of encryption technology, e-commerce transactions, deemed exports, intellectual property (intra-corporate transfers within multinational entities), mergers and acquisitions, global supply chain issues, information technology, aerospace and defense, homeland security, and technical data exchanges in teaming arrangements. These often present the most difficult compliance problems and require innovative yet workable solutions.

## **Investigations and Enforcement**

Steptoe lawyers handle internal audits, internal investigations and voluntary disclosures where necessary to regulatory agencies. We also have extensive experience assisting clients with government-initiated inquiries, subpoenas, and investigations on both the civil and criminal side of enforcement. Our philosophy is to deal forthrightly and aggressively with allegations of regulatory transgressions, and to advocate or negotiate where appropriate. We have a well-earned reputation and respect among government enforcement officials in this area of the law. Depending upon client needs, we bring to bear the combined talents of our export control, white-collar criminal, and government contracts lawyers .

## **Cross Border Capabilities**

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Somewhat unique in the marketplace, Steptoe offers clients seamless export control, customs, and sanctions assistance in multiple jurisdictions. Our London and Brussels offices have significant experience and capabilities with EU and member country regulatory regimes. We regularly collaborate with our colleagues to handle matters with multiple jurisdictional implications. Through our Lex Mundi affiliate network, we offer expanded global reach in nearly every major trading jurisdiction.

The following are representative industries that we assist in our work:

### Representative Industries

- Aerospace & defense/commercial aviation
- Chemicals & pharmaceuticals
- Computer hardware & semiconductors
- Cyber security
- Data processing
- Energy & power generation - nuclear & fossil fuel
- Engineering & construction
- Financial services
- Force protection services
- Industrial process controls
- IT infrastructure & encryption
- Machine tools
- Medical equipment
- Military electronics
- Oil field services
- Satellite & unmanned vehicles
- Software
- Special and composite materials & metals

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- Telecommunications

### **Representative Matters**

Our firm's attorneys routinely handle cases involving all aspects of US export controls, under the Commerce Department, State Department, NRC, and economic sanctions regimes, including:

- Commodity jurisdiction rulings, product and technology classifications, and advisory opinions
- Export license applications, license amendments and transfers, special license requirements, and exception requirements
- Regulatory compliance in corporate reorganizations, mergers & acquisitions, asset purchases, and strategic alliances involving materials, technology, and manufacturing process sharing
- Internal investigations, voluntary disclosure, negotiation of settlements, and enforcement litigation; ITAR registrations, notifications, brokering, and Part 130 reporting
- Encryption and technology transfers, and software export / re-export rules, including de minimis software and technology filings to the Commerce Department
- Deemed export and re-export requirements and compliance
- Assistance with commercial flow-down export requirements in prime contractor-subcontractor and OEM-supplier relationships
- Compliance policies, procedures and training