

Knowledge Is Power for Small Business Exporters

By TJ Ogden

Managing Director, Defense Export + Logistics

While the mega conglomerates get all the headlines, the fact is small businesses make up a considerable percentage of the total exports from the United States.

But, what is surprising is the fact that many more companies could take advantage of growing export opportunities but choose not to. Why? Well, from my experience, it usually comes down to one of two things: They either lack an understanding of current export regulations, or they fear running afoul of the

U.S. government.

While it is true that the broad scope of challenges and pitfalls that each company may face are unique, in many cases their solutions boil down to a few simple steps that newcomer exporters can take to help them sleep better at night.

ITAR is not a four-letter word.

One of the biggest roadblocks to companies wanting to enter the export arena is something that everyone has heard of but few understand: ITAR.

ITAR stands for *International Traffic in Arms Regulations* which are governed by the U.S. Department of State. Simply put, these are the primary export compliance documents that govern the export of defense articles, services, and data.

But wait, you say, my products don't fall under these categories. Maybe yes. Maybe no. Many small businesses are surprised to learn that their products and services do indeed fall under the ITAR.

While the regulations are primarily geared towards arms and defense materiel, they also cover ancillary parts, equipment, information, and services that may have a defense application. More often than not, small business owners fail to understand how the ITAR affects the export of their products.

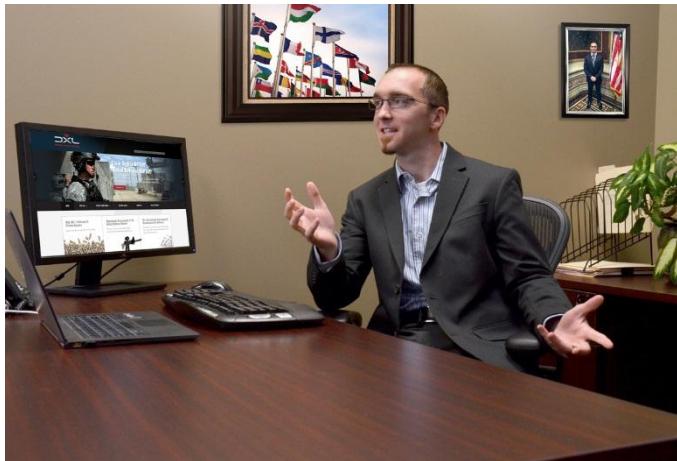
For example, we had a client recently who wanted to export some PC repair components into Germany. What they didn't realize was that one particular part could also be used in manufacturing military equipment and was subject to strict ITAR guidelines so it was in fact, a defense sale. Even though it was going to a strictly commercial entity, it still fell under the ITAR and was ultimately considered a "military" component. You can see why companies get confused and in trouble.



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Have you heard of the EAR?

ITAR isn't the only acronym that exporters have to be familiar with. There are also the Export Administration Regulations (EAR) which are governed by the U.S. Department of Commerce. This is the primary export compliance document governing all commercial exports, services, and data. Similar to, but a bit broader than ITAR, these regulations require government approval prior to exporting or



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you are required to register with the Department of State.

transmitting anything to a foreign national, whether the product or service leaves the U.S. or not.

But wait! How can you have a product or service "exported" if it never leaves the country? Well you can, at least in the eyes of the regulations. And not knowing if, when or how that may happen can get you in a lot of hot water.

Whether your products fall under ITARs or EARs, often, the road to export compliance begins with registering with the Department of State and/or the Department of Commerce. If your business happens to fall under the ITAR,

Ignorance is no excuse.

Unfortunately, all too often we hear about emails or technical information being "accidentally leaked" to foreign sources. Of course, the first defense that all the offenders attempt to use is a lack of knowledge about what they did wrong.

When you're dealing with any kind of export, ignorance about the rules is not a defense! Being proactive in understanding the regulations that impact your organization works more in your favor than just playing dumb.

Even when mistakes are made, investigators tend to look favorably when they know you understand what you should have done and that it is indeed an honest mistake. Everybody makes them.

We had a client who recently made a rather big error regarding some foreign nationals they had working as "consultants" here in the U.S. Unfortunately, they were citizens of a different country than the company had gained approvals for. It had the making of a major issue.

What did we do? When we were alerted, we immediately contacted the government and told them about the mistake. Because we understood the regulations and were proactive in our rectifying the situation and notifying the government there were, thankfully, no repercussions.

The stakes are high, but so are the rewards.

U.S. exports of all types are a rapidly growing segment and companies of all sizes should not shy away from the opportunities. But, you need to do your homework and know everything about how your export products and services will be looked upon by U.S. regulations.

My first suggestion would be to find a company or consultant that is very familiar with the particular type of product or service you want to export. It's a small investment that can save you a lot of time, effort and sleepless nights.



Understanding the regulations and being proactive when a mistake is made is essential in avoiding consequences.

About TJ Ogden, Managing Director Defense Export + Logistics (DXL)

TJ Ogden specializes in International Security & Compliance. Mr. Ogden's background includes a mixture of security management, law enforcement, regulatory compliance, and business development. TJ has a Bachelor's degree from the University of Washington in International Security and Political Science as well as a Master's of Science in Management from the University of Denver. He earned his CPP (Certified Protection Professional) from ASIS International and the Certificate of Advanced International Security Studies from the University of Washington. Mr. Ogden has extensive experience as an "Empowered Official" in export compliance for the International Traffic in Arms Regulations (ITAR). TJ was not only a member of the Department of Homeland Security's Critical Manufacturing Security Council, but also was also appointed to "Chairman" of the Northwest Security Council, elected to the council's national executive board, and featured in a nationwide DHS training video in 2012. For further information, Mr. Ogden can be contacted at +1 206-575-5107 or togden@dxlsolutions.com