

The following condition has been the subject of several Advisory Opinion requests. For that reason, BIS is providing the agency interpretation of this condition.

The Condition:

**Only permanent employees of (name of the consignee) are authorized access to this controlled technology/technical data.**

The interpretation:

Data can only be released to persons that are in a long term employment arrangement with the consignee. This condition is intended to exclude release of the technology licensed for export to employees of the ultimate consignee/end user who are contract employees, temporary employees, consultants, and others who are not subject to all of the conditions/benefits of permanent, full-time employment.

In addition, unless otherwise specified, this condition limits release of the controlled technology/technical data to permanent employees of the ultimate consignee/end user who are citizens or permanent residents of the country in which the ultimate consignee/end user is located. Exports of technical data are treated somewhat differently from exports of commodities under the EAR, in that the release of technical data subject to the EAR to a foreign national in the United States or abroad is deemed to be an export or reexport, respectively, to the home country of the foreign national (EAR §734.2(b)(2) and (b)(5)). On certain licenses, the condition has been explicitly expanded to authorize release within the country where the ultimate consignee/end user is located to employees who are citizens of specified other countries. An example of this expansion is, “Employees must be citizens of (host country of consignee), citizens of European Union countries or citizens of the United States. In no case other than as explicitly authorized by the above noted expansion of the condition does this condition authorize release of controlled technology/technical data to permanent employees who are not citizens or permanent residents of the country in which the ultimate consignee/end user is located.