



# Department of Defense INSTRUCTION

**NUMBER** 2030.08  
May 23, 2006

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USD(P)

**SUBJECT:** Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control

References: (a) DoD Directive 2030.8, "Trade Security Controls on DoD Excess and Surplus Personal Property," November 17, 1997 (hereby canceled)  
(b) Deputy Secretary of Defense Memorandum, "DoD Directives Review—Phase II," July 13, 2005  
(c) DoD 4160.21-M-1, "Defense Demilitarization Manual," April 22, 2004  
(d) Title 41, Code of Federal Regulations, Section 101-45.001, current edition  
(e) through (t), see Enclosure 1

## 1. PURPOSE

This Instruction:

- 1.1. Reissues Reference (a) as an Instruction according to the guidance in Reference (b).
- 1.2. Requires the establishment of measures to implement Trade Security Controls (TSC) for transfers of U.S. Munitions List (USML) and Commerce Control List (CCL) personal property to parties outside DoD control.
- 1.3. Reinforces provisions that require the removal of military capabilities and inherent dangers in such property before transfer from DoD control according to References (c) and (d).

## 2. APPLICABILITY

This Instruction applies to:

- 2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other

organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

2.2. DoD-owned or DoD-controlled USML and CCL personal property to be transferred outside DoD control regardless of the authority upon which it is transferred.

### 3. DEFINITIONS

Definitions for this Instruction are in Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. DoD programs for the transfer of DoD USML and CCL personal property shall be administered to ensure that transfers comply with TSC.

4.2. TSC are applied in the interest of U.S. national security. The DoD Components shall apply TSC measures to prevent illegal acquisition or other unauthorized transfers of defense and dual-use technology, goods, services and munitions by or to individuals, entities and/or countries whose interests are adverse to the United States and to prevent those technologies, goods, services and munitions from being exported directly or indirectly into unauthorized areas designated by the Secretary of State, the Secretary of Commerce, or the Director of Foreign Assets Control.

4.3. All DoD USML and CCL personal property, whether located within or outside the United States, shall be transferred according to Section 2778 of 22 United States Code (U.S.C.), 22 Code of Federal Regulations (CFR) parts 120-130, Chapter 35 of 50 U.S.C., 15 CFR parts 730-799, and 31 CFR parts 500-598 (References (e) through (i)) and any similar applicable regulations that may be issued by any Federal agency including the Department of Homeland Security. DoD USML or CCL personal property will not be transferred to any person or entity that is ineligible to obtain a Department of State (DoS), Department of Commerce (DoC), or Office of Foreign Assets Control (OFAC) export license.

4.3.1. DoD USML and CCL personal property will not be transferred directly or indirectly to any person or entity unless it has been determined eligible after a TSC assessment.

4.3.2. DoD USML or CCL personal property will not be transferred to the control or possession of a non-U.S. citizen unless authorized by statute or under regulations issued by the Secretary of State; the Secretary of Commerce; or the Director, Foreign Assets Control. DoD personnel involved in such transfers must ensure that any necessary licensures or approvals have been obtained before relinquishing custody from the Department of Defense.

4.4. TSC shall be implemented through appropriate supplementary measures, in coordination with programs established by the Directorate of Defense Trade Controls (DTC), the DoS; the Bureau of Immigration and Customs Enforcement (ICE), the Department of Homeland Security; the Bureau of Industry and Security (BIS), the DoC; the OFAC, the Department of Treasury; the Defense Security Cooperation Agency (DSCA) and the Defense Technology Security Administration (DTSA). These measures shall be designed to prevent the illegal acquisition by or unauthorized transfers to ineligible transferees. The Heads of the DoD Components shall ensure TSC measures are established with respect to all transfers of DoD USML and CCL personal property to parties outside the control of the Department of Defense.

4.5. TSC measures shall require:

4.5.1. Proper demilitarization coding and demilitarization of defense goods (if the sale/transfer requires demilitarization).

4.5.2. Written agreements, signed by recipients, to comply with the terms and conditions on the use of controlled property.

4.5.3. TSC assessments to determine the eligibility and suitability of recipients to possess and/or control the further disposition of DoD USML and/or CCL personal property and inquiries to verify the destination and proposed use of transferred DoD USML and/or CCL personal property.

4.5.4. Limited access to defense property and technical data whether maintained in written or electronic formats.

4.5.5. Including appropriate contract clauses (terms/conditions) in DoD contracts requiring compliance with DoS, DoC, and DoD export licensing, demilitarization and approval requirements.

4.6. All DoD activities and personnel involved in the disposition of DoD USML or CCL personal property and those acquiring such property or associated technical data, are required to report suspected instances involving fraud and abuse, theft or violation of the Arms Export Control Act, illicit diversion of U.S. export controlled technology, or other violations of U.S. export laws and regulations involving DoD programs and operations for investigation according to DoD Directive 5106.1 (Reference (j)), DoD Instruction 5505.2 (Reference (k)), and References (f) and (h). Failure to report such violations to the appropriate authorities may result in criminal and/or civil penalties.

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Recommend policy for the disposition of DoD USML and CCL personal property according to applicable U.S. laws, regulations, and policies.

5.1.2. Direct the Director, Defense Technology Security Administration, to propose updates to this Instruction and to DoD Directive 2040.2 (Reference (l)).

5.1.3. Direct the Director, Defense Security Cooperation Agency, to develop and coordinate with DoS written procedures for implementing TSC policy for DoD USML and CCL personal property transfers administered by the DSCA. These procedures shall be incorporated in DoD 5105.38-M (Reference (m)) and address the demilitarization and/or disposal of property transferred by the Department of Defense to a foreign government, including Foreign Military Sales (FMS) and Military Assistance Program (MAP)/Grant Aid Program property.

5.2. The Under Secretary of Defense for Acquisition, Technology, and Logistics shall:

5.2.1. Provide for the establishment of supplemental procedures and TSC measures needed to implement this Instruction for dispositions of DoD USML and CCL personal property under DoD Directive 4140.01 (Reference (n)).

5.2.2. Direct the Director of the Defense Logistics Agency (DLA) to:

5.2.2.1. Provide assistance to the DoD Components, according to this Instruction, Reference (m), and DoD 4140.01-R (Reference (o)), in cases where they dispose of or transfer personal property to parties outside DoD control. In such cases, DoD Components remain ultimately responsible to ensure their subordinate elements comply with this Instruction.

5.2.2.2. Develop and implement a TSC Enforcement and Investigative Program within DLA.

5.2.2.3. Ensure all dispositions of DoD USML and CCL personal property under DLA's control are executed according to this Instruction.

5.2.2.4. Provide oversight of the Demilitarization Program, according to Reference (c). Ensure that DoD Components are provided the necessary instructions to demilitarize all USML personal property properly before disposition to prevent unauthorized use and/or potential compromise of U.S. national security, except as otherwise permitted by law, regulation, and/or policy.

5.3. The Heads of the DoD Components shall establish and carry out, according to this Instruction, appropriate TSC measures for all DoD USML and CCL personal property authorized to be released from DoD control. These measures will ensure:

5.3.1. Only authorized individuals are allowed access to and/or possession of DoD personal property.

5.3.2. Subordinate elements comply with this Instruction.

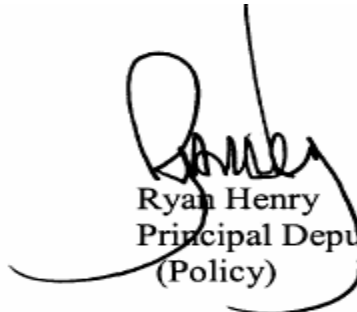
5.3.3. All DoD USML personal property requiring demilitarization has been properly demilitarized as required by References (c) and (d) before release from DoD control, unless it is being transferred according to an authorized exception.

5.3.4. Property to be transferred as “scrap” does not contain useable or salvageable end-items, components, accessories, attachments, parts, firmware, software, systems, or associated technical data that are USML or CCL personal property.

5.3.5. Correct demilitarization codes are assigned for managed inventory items according to Reference (c) and applicable DoD policies. USML and CCL personal property is properly safeguarded to prevent theft, pilferage, or illegal diversion (see Reference (o)). Suspected violations of U.S. laws and regulations involving the disposition of USML and CCL are referred to the appropriate Federal or DoD investigative agency.

## 7. EFFECTIVE DATE

This Instruction is effective immediately.



Ryan Henry  
Principal Deputy Under Secretary of Defense  
(Policy)

Enclosures – 2

- E1. References, continued
- E2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Section 2778 of title 22, United States Code
- (f) Title 22, Code of Federal Regulations, Parts 120-130, "International Traffic in Arms Regulations," current edition
- (g) Chapter 35 of title 50, United States Code
- (h) Title 15, Code of Federal Regulations, Parts 730-799, "Export Administration Regulations (EAR)," current edition
- (i) Title 31, Code of Federal Regulations, Parts 500-598, "Office of Foreign Assets Control Regulations (OFAC)," current edition
- (j) DoD Directive 5106.1, "Inspector General of the Department of Defense (IG, DoD)," January 4, 2001
- (k) DoD Instruction 5505.2, "Criminal Investigations of Fraud Offenses," February 6, 2003
- (l) DoD Directive 2040.2, "International Transfers of Technology, Goods, Services, and Munitions," January 17, 1984
- (m) DoD 5105.38-M, "Security Assistance Management Manual," October 3, 2003, as changed
- (n) DoD Directive 4140.1, "Supply Chain Materiel Management Policy," April 22, 2004
- (o) DoD 4140.1-R, "DoD Supply Chain Materiel Management Regulation," May 23, 2003
- (p) DoD 4160.21-M, "Defense Materiel Disposition Manual," August 19, 1997
- (q) Title 41, Code of Federal Regulations, Section 102-36.40, current edition
- (r) Chapters 5 and 7 of title 40, United States Code
- (s) Federal Acquisition Regulation, Part 45, "Government Property," current edition
- (t) Section 505 of title 22, United States Code, "The Foreign Assistance Act of 1961"

## E2. ENCLOSURE 2

### DEFINITIONS

E2.1.1. Commerce Control List (CCL) (formerly known as Strategic List Item) Personal Property. Commodities and associated technical data (including software) subject to export controls under the Export Administration Regulations (EAR) (Reference (h)). The EAR contains the Commerce Control List and is administered by the BIS, Department of Commerce.

E2.1.2. Demilitarization Code. A single-character code indicating “USML” or “CCL” and the degree of demilitarization necessary (if any) or trade security controls (if any) before release from DoD control.

E2.1.3. Demilitarization. The act of destroying the military offensive or defensive advantages in certain types of equipment or material. The term includes mutilation, dumping at sea, scrapping, melting, burning, or alteration designed to prevent further use of this equipment and material for its original intended military or lethal purpose and applies equally to material in unserviceable or serviceable condition that has been screened and declared excess.

E2.1.4. DoD Personal Property. DoD property, including technical data, but not including real property (buildings/lands). DoD excess, surplus, and foreign excess personal property (FEPP) are a subset of “DoD personal property.” The terms DoD excess, surplus, and FEPP are based on the Federal Property and Administrative Services Act of 1949, as amended, and are defined in Reference (p). DoD excess personal property is property not needed by any DoD activity, whether located inside or outside the United States. DoD surplus personal property is property not needed by any Federal activity. DoD FEPP is property located outside the United States, American Samoa, Guam, Puerto Rico, or the U.S. Virgin Islands or other such territories under the jurisdiction of the United States. The general term “excess” includes FEPP. This Instruction applies to any transfer of DoD personal property, including excess or surplus, property transferred under “exchange or sale” authority (Reference (g)) or any other excess or non-excess personal property.

E2.1.6. End-Use Certificate. A statement by a prospective purchaser or transferee indicating the intended destination and disposition of USML and CCL property to be purchased/transferred and acknowledging U.S. export license requirements and DoD Trade Security Controls.

E2.1.7. Export. The transfer of controlled USML or CCL personal property out of the United States. Some transfers of USML or CCL personal property in the United States to a non-U.S. citizen are considered exports, even if the transfer or actions leading to the transfer are carried out in the continental United States. For example, technical data is exported if it is transferred to a foreign person whether that person is in the United States or abroad. (See the International Traffic in Arms Regulations (ITAR) (Reference (f)).

E2.1.8. Ineligible Transferees. Individuals, entities, or countries: excluded from Federal programs by the General Services Administration as identified in the Excluded Parties Listing System (EPLS); delinquent on obligations to the U.S. Government under surplus sales contracts; designated by the Department of Defense as ineligible, debarred or suspended from defense contracts; or subject to denial, debarment, or other sanctions under export control laws and related laws, and regulations and orders administered by the Department of State, the Department of Commerce, the Department of Homeland Security, or the Department of Treasury.

E2.1.10. Scrap. Recyclable, waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable USML/CCL items, components, and parts are not "scrap." See also section 102-36.40 of the Federal Property Management Regulation (Reference (q)).

E2.1.12. TSC. The controls on export, import and demilitarization of personal property established by References (e), (f), (g), (h), and (i) and any similar controls established by the Department of Homeland Security.

E2.1.5. TSC Assessment. A pre-award assessment made by a U.S. Government agency verifying that the destination, end-user, and end-use of controlled DoD property conform to export license or end-use certificate requirements.

E2.1.13. TSC Measures. Measures designed to preclude the improper or unauthorized transfer of USML or CCL items, to any entity (i.e., person, organization or country) whose interests are unfriendly or hostile to the United States. These measures shall also be applied to other selected entities as designated by the Under Secretary of Defense, USD(P).

E2.1.11. Transfer. The sale, lease, loan, grant, exchange, trade, barter, release, or donation from Department of Defense to another person or entity other than an agency of the United States Government. For example, transfers can occur under the authority of References (r), (s), (t), and (m), (n) and (o).

E2.1.9. USML Personal Property. Defense articles, associated technical data (including software), and defense services recorded or stored in any physical form, controlled by the ITAR (Reference (f)). The ITAR, which contains the U.S. Munitions List, is administered by the Directorate of Defense Trade Controls, the Department of State.