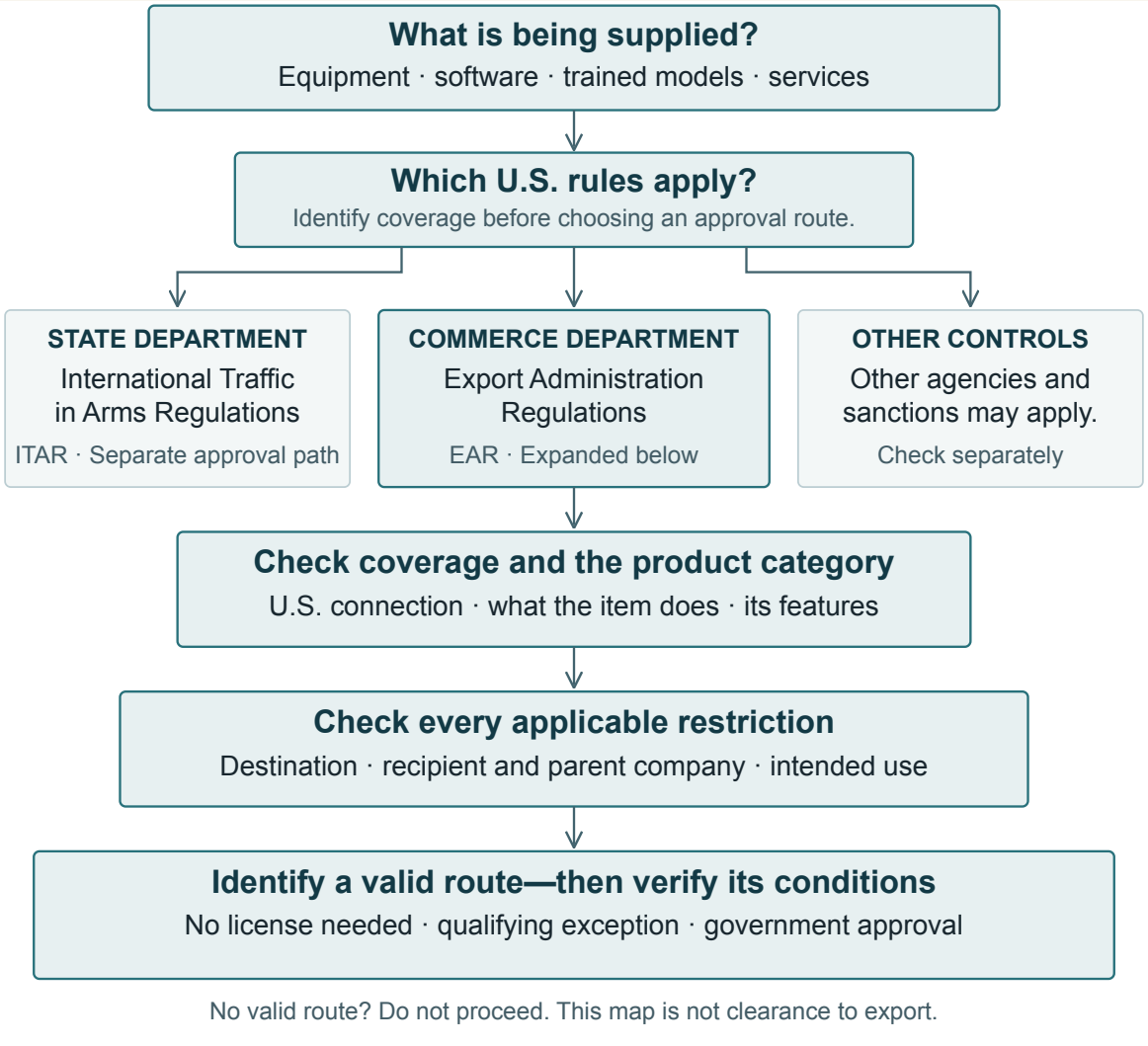
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Exporting AI: A plain-English guide to U.S. export controls

Why a commercial product can face restrictions, and how the licensing path works

The export-control path, at a glance



An explanatory map, not permission to export. More than one set of controls can apply. The Commerce Department path is expanded because it is the focus of this paper.[1][3][4]

Source: U.S. Commerce Department, EAR Parts 734 and 736; U.S. State Department, ITAR Part 120; Salience Path diagram. Sources reviewed October 15, 2026.

About this paper. This is an introduction for readers without a technical or regulatory background. It is not legal advice or permission for a transaction. It explains the system using dated official sources, rather than providing a complete list of current restrictions. Before acting, check the applicable rules, government guidance, and any actual approval.

1. Why would a commercial AI product face export controls?

Artificial intelligence, or **AI**, has civilian and military applications. The same powerful computer might support medical research or military analysis. A product does not have to be a weapon to raise an export-control question.

This is the idea behind **dual-use**: an item has civilian applications as well as potential military, terrorism, or weapons-of-mass-destruction-related applications. U.S. Commerce Department regulations expressly recognize this category.[14]

For example, a computer chip that helps train a commercial AI system can also provide computing power for security-sensitive work. The government's concern may therefore be who receives the chip and what it will be used for, even if the manufacturer sells it as a commercial product. Government guidance on AI training discusses that risk.[13]

Two qualifications matter:

- **Dual-use is not a separate licensing system.** It describes possible uses of an item, not an application form or a government approval.
- **The Commerce Department's rules cover more than dual-use items.** They also cover purely civilian items and certain military items that fall outside the State Department's arms-export system.[14]

Calling something dual-use does not, by itself, tell us whether a license is required. That depends on the item and the proposed transaction.[14]

2. Which department's rules apply?

Two U.S. regulatory systems are especially relevant:

System	Who administers it?	What should the reader understand?
International Traffic in Arms Regulations (ITAR)	State Department	Covers defense articles and defense services identified by its rules, including related technical information.
Export Administration Regulations (EAR)	Commerce Department	Covers a much broader range of commercial, dual-use, and certain military items, as well as specified activities.

Source: U.S. Commerce and State departments, EAR Parts 730 and 734 and ITAR Part 120. Sources reviewed October 15, 2026.[1][4][14]

The regulations define their respective coverage. A company does not choose whichever system seems easier.[1][4][14]

The State Department uses the **U.S. Munitions List** to identify covered defense articles and services. The Commerce Department uses the **Commerce Control List** to describe specified controlled items. An item can still fall under Commerce's rules even if it is not on that list.[1][4]

A useful starting point is to ask which system covers the particular product, information, or service. But "military customer means ITAR" and "civilian customer means unrestricted" are both unreliable shortcuts. State's rules say that intended military or civilian use after export does not, by itself, determine ITAR coverage.[4]

A business that knows ITAR should not assume the EAR works the same way. Being covered by the EAR does **not** automatically mean an individual government license is needed. The rest of the analysis determines that.[1][14]

Other controls, including financial sanctions, may also apply. Satisfying Commerce's rules does not settle every other legal requirement.[1][14]

3. Under the EAR, start with four questions

What is being supplied?

"AI technology" is a broad business description. It might mean:

- A chip or a server: the physical computer equipment.
- Software: the instructions a computer runs.
- **Model weights:** the learned numerical values that help an AI model produce its answers.
- Technical information: details about how something is designed, built, or used.
- Access to computing power over the internet.

- Assistance or training provided to another person or business.

The rules treat equipment, software, information, and specified activities separately. They do not all follow one “AI license” path.[1][7][10]

The EAR can also apply beyond a shipment leaving the United States. U.S.-origin items may remain covered abroad, and some foreign-made products are covered because of controlled U.S. content or their connection to specified technology or production equipment. Manufacturing an item overseas does not automatically put it outside U.S. controls.[1]

How is the item classified?

Classification means matching an item’s actual features to the descriptions in the Commerce Control List. A product’s power, functions, and technical characteristics matter more than its marketing name.[2][10]

A listed item receives an **Export Control Classification Number**, usually shortened to **ECCN**. Think of this as the item’s regulatory category, not an approval to sell it. For example, the list has separate entries for specified advanced chips, computers, software, and technical information.[2][10]

An item covered by the EAR but not described by a list entry is designated **EAR99**. That means “covered, but not specifically listed.” It does not mean “unrestricted”: the customer, intended use, or destination may still create a license requirement.[1][2][3]

The Commerce Department’s **Bureau of Industry and Security**, abbreviated **BIS**, administers these rules. A company can classify its own items and is responsible for getting the classification right.[2] It can ask BIS for a classification determination when needed. A classification answer is not an export license.[9]

Where is it going, and who will receive it?

The destination matters, but so do the recipient and other parties involved. The analysis can include the company using the equipment, its ultimate parent company, restricted-party listings, and the possibility that the item will be diverted elsewhere.[2][3][7]

The EAR has a country chart and country groups used by different provisions. These help identify restrictions, but they are not a single list of “approved countries.” Special rules can impose requirements that the general chart does not resolve.[2][6]

A company with a local address may also have a parent headquartered in a country covered by a restriction. The delivery address does not always answer the customer question.[5]

What will it be used for?

The same item can raise different concerns depending on its intended use. The EAR includes restrictions involving specified weapons-related, military, intelligence, advanced-computing, and semiconductor activities.[7]

An ordinary commercial classification does not cancel these restrictions. Nor should a seller ignore warning signs about the customer or the real destination.[2][3]

4. What are the possible licensing paths?

Once the item and transaction are understood, the answer may take several forms:

Possible result	Plain-English meaning
No license required	The particular transaction does not require a BIS license under the applicable EAR provisions. Other obligations can remain.
A license exception applies	The regulations already authorize the transaction, but only if every applicable condition is met.
A BIS license is needed	The business must obtain government approval covering the transaction before proceeding. Applying is not approval.
An existing approved arrangement applies	A specific government approval covers the relevant recipient, items, sites, and conditions. Its actual scope must be checked.
No valid route is established	The transaction cannot proceed as proposed without resolving the restriction or obtaining the necessary authorization.

Source: U.S. Commerce Department, EAR Parts 736, 740 and 748. Sources reviewed October 15, 2026.[3][8][9]

These outcomes follow from the EAR's general prohibitions, exceptions, and approval provisions.[3][8][9]

A **license exception** is not an informal waiver. It is a written regulatory authorization with conditions. Those conditions can concern the item's performance, the country, the recipient, advance notification, records, or other restrictions.[8]

For advanced computing, some exceptions exclude the most capable datacenter chips. Finding an exception with a promising name is not enough; the actual item and transaction have to qualify.[8]

There are also approvals for certain previously vetted end users, known as **Validated End-User authorizations**. An exporter cannot simply declare a customer validated. BIS must have approved the relevant arrangement, and the transaction must fit its scope. A program's appearance in the rulebook is not evidence that a particular company or site has approval.[9]

If a license is required, BIS can approve or deny the application, approve only part of it, or return it without action. An issued license may contain conditions and limits. A new customer, site, use, or other material change can require further review or authorization.[9]

5. Two examples of why the address alone is not enough

A datacenter outside China

Suppose a supplier plans to send advanced AI computers to a datacenter outside China. That location does not, by itself, establish whether the shipment is permitted.

BIS's May 31, 2026 guidance explains that a preexisting license requirement continues for specified advanced-computing items supplied to entities headquartered in **Country Group D:5** or Macau, or whose ultimate parent is headquartered there, even when the recipient is elsewhere. D:5 is a regulatory country group that includes China.[5][13] Whether a specified exception is available depends on the exact equipment and transaction; the advanced-computing exceptions discussed above do not cover every datacenter chip.[5][8]

The practical lesson is to check the recipient and its ultimate parent, as well as the equipment and destination. This is not a blanket statement that all foreign-owned datacenters are prohibited.[5]

A country's status changes, but special rules remain

A July 2026 rule moved the **United Arab Emirates (UAE)** into a more favorable country group while preserving special requirements for specified advanced-computing items. The rule provided routes for qualifying government agencies and specifically approved commercial recipients, subject to its terms.[12]

For covered transactions, the approval of the ultimate recipient and everyone who will use the items matters. The government-agency approval does not extend to state-owned corporations or government contractors or grantees. Some commercial approvals also have expiry dates, and the approvals do not override separate end-use and end-user restrictions.[12]

A favorable country-group change is therefore not proof that every buyer in that country may receive every advanced chip without a license.[12]

6. Shipping a chip is different from providing an AI service

Several activities can sit behind the phrase "exporting AI":

Sending equipment overseas. The chip or server needs its own classification and transaction review. Putting a covered chip inside a larger computer does not necessarily remove the restriction.[10]

Transferring software or model weights. Sending someone the software or learned values needed to run a model is different from letting them use a service. Published material can receive different treatment from private material, but the exclusions have conditions.[1][10]

Providing computing power remotely. A customer using an online service is not necessarily receiving the underlying hardware or model weights. But remote access is not a universal exemption. BIS guidance discusses potential license requirements for certain AI-training arrangements when a supplier knows the model will be used for weapons-of-mass-destruction or military-intelligence purposes. The guidance includes training for parties headquartered in China, other D:5 countries, or Macau. It also warns suppliers not to deliberately ignore warning signs. It does not establish a blanket ban on every Chinese cloud customer.[13]

Sharing controlled technical information. A disclosure to a foreign person in the United States can count as a **deemed export**. This means an export can occur without a physical shipment crossing the border. The question is what information is actually released and whether the rules cover it, not simply whether someone uses AI at work.[1]

Assistance can also need separate analysis under the State Department's defense-service rules or Commerce's restrictions on specified support activities.[4][7]

7. Why an announcement may not settle the answer

Rules can change in stages. A government announcement, the text printed in the regulations, and the instructions given to enforcement officials do not always change at the same time.

The **AI Diffusion framework**, a set of rules introduced in January 2025, illustrates the problem. It added broad controls on specified advanced computers and AI model weights. BIS announced in May 2025 that it would not enforce the framework's new requirements and planned to issue a regulation formalizing its rescission. Provisions remained visible in the regulatory text reviewed for this paper.[6][10][11]

That did not remove every earlier restriction. The May 2026 headquarters guidance and July 2026 UAE rule explained requirements that BIS continued to enforce.[5][12]

For a particular transaction, distinguish:

- What the written rules require, and when those requirements apply.
- What the government says it is enforcing.
- What an actual license, exception, or other approval permits.[5][9][11]

This paper does not treat the printed AI Diffusion provisions as a straightforward, fully enforced worldwide licensing system. Nor does it assume that announced non-enforcement has removed every restriction on advanced computing or AI.[5][11][12]

8. What this means for a proposed AI project

For a business or investor, the useful question is whether the project can actually obtain the equipment or service it needs.

A proposed purchase, a possible licensing path, an issued approval, and delivered equipment are different stages. A supply announcement should not silently become an assumption that access is secured.

Useful questions include:

- What equipment, software, information, or service does the project need?
- Who will receive and use it, and where is the ultimate parent headquartered?
- Does the actual transaction need a license or qualify for another valid route?
- Is there evidence that the required approval exists and covers this project?
- Could a change in ownership, location, intended use, or policy alter that conclusion?

These are questions for assessing access, not a substitute for a legal review. Salience Path follows the policy changes and evidence that can affect a project's timing or feasibility. It does not authorize exports.

The short version

Commercial AI technology can face export controls because it can serve both civilian and security-sensitive purposes. "Dual-use" explains that concern; it does not provide the licensing answer.[14]

The first task is to identify which rules apply. Under the Commerce Department's system, the next questions concern the item, the destination, the people and companies involved, and the intended use. Those facts determine whether a license is needed and whether another valid route is available.[1][2][3]

A datacenter's address, a product's commercial label, or a policy headline cannot answer all of those questions.

Sources and regulatory locators

Official sources reviewed October 15, 2026. The electronic Code of Federal Regulations is continuously updated and is not the official legal edition. This paper is an introduction, not a transaction-specific legal opinion.

[1] EAR Part 734 — Scope, exports, reexports, and releases
https://www.ecfr.gov/current/title-15/part-734

[2] EAR Part 732 — Steps for Using the EAR
https://www.ecfr.gov/current/title-15/part-732

[3] EAR Part 736 — General Prohibitions
https://www.ecfr.gov/current/title-15/part-736

[4] ITAR Part 120 — Purpose and Definitions
https://www.ecfr.gov/current/title-22/part-120

[5] BIS — Headquarters and ultimate-parent guidance, May 31, 2026
https://www.bis.gov/media/documents/bis-guidance-may-31-2026.pdf

[6] EAR Part 742 — Control Policy, including regional stability
https://www.ecfr.gov/current/title-15/part-742

[7] EAR Part 744 — End-Use and End-User Controls
https://www.ecfr.gov/current/title-15/part-744

[8] EAR Part 740 — License Exceptions, including NAC and ACA
https://www.ecfr.gov/current/title-15/part-740

[9] EAR Part 748 — Applications, classification requests, and VEU
https://www.ecfr.gov/current/title-15/part-748

[10] EAR Part 774 — Commerce Control List
https://www.ecfr.gov/current/title-15/part-774

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https://www.govinfo.gov/content/pkg/FR-2026-07-14/html/2026-14132.htm

[13] BIS — Policy statement on training AI models, May 2025
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