



**MINISTRY OF FOREIGN AFFAIRS
OF THE RUSSIAN FEDERATION**

Department for Non-Proliferation and Arms Control

Control of Intangible Technology Transfers

in the Russian Federation

27th Asian Export Control Seminar
February 2020

Overview

- Introduction
- Legal basis for ITT controls
- Practical aspects of ITT controls
- Challenges and way forward

Introduction

- Rapid advances in technologies, incl. ICT
- Intensification of scientific contacts
- Internationalization of research / production / trade
- Faster exchanges/technology transfers
- Emerging technologies



INCREASE IN TRANSFERS OF SENSITIVE TECHNOLOGIES BY INTANGIBLE MEANS



**GROWING CHALLENGES TO
EXPORT CONTROL SYSTEMS**

Introduction

ITT include transfers via:

- Electronic means (*e-mails, cloud, web-conferences, etc.*)
- Technical assistance (*training, instruction, consultation, etc.*)
- Education (*foreign students, universities abroad, seminars, conferences, etc.*)
- Intra-company transfers (*local branch of a foreign company, foreign employer of a local company, transnational companies, etc.*)
- Other (*telephone conversations, person-to-person contacts, etc.*)

SUBJECT TO EXPORT CONTROLS REGULATIONS

ITT controls in Russia: legal basis

EXPORT CONTROL LAW

Article 19: - Licensing of transfers of controlled goods and technologies
-Single or General licenses
-Temporary exports

Article 20: Catch-all

Article 22: Procedures for licensing

Presidential Decrees
(control lists)

Government Regulations
(practical aspects of export control)

Instructions/handbooks/guidelines of various agencies, e.g.
the Federal Service for Technical and Export Control (FSTEC)
(more detailed practical aspects)

ITT controls in Russia: legal basis

No definition of ITT

but:

“...permit-based export of controlled goods and technologies... by any means (including by mail or via electronic means of communication)...”

(Government Regulation #1079 of 30.12.2008)

ITT controls in Russia: legal basis

In terms of export controls implementation Russian legislation makes **no distinction** between tangible and intangible transfers of technology

“External economic operations involving transfer of controlled goods and technologies... to foreign nationals... are subject to licensing” (*Article 19, Export Control Law*)

= same legal consequences in case of violations for tangible and intangible transfer of technology

Difference: intangible transfers are not subject to customs procedures

Export of controlled goods and technologies in the form of technical data..., except for export of technologies in the form of the technical data by electronic means of communication, are subject to customs procedures and custom control...
(*para 32, Governmental Regulation #447 dated 7.06.2001*)

ITT controls in Russia: legal basis

Comprehensive approach to ITT controls:

ANY TECHNOLOGY TO BE TRANSFERRED TO A FOREIGN NATIONAL
MUST GO THROUGH AN EXPERTISE (IDENTIFICATION)

if it has export control features

(exception: General Technology Note - in the public domain, publicly available, etc.)



If the technology is subject to export control requirements, the exporter **must apply** for an export license (for listed technology) or permit (catch-all).

ITT controls in Russia: practical aspects

ITT as technical assistance:

In addition to the
standard set of
documents

In order to transfer (disclose) to a foreign national a technology in the form of technical assistance, including by means of education, presentation at conferences, seminars, etc., or providing consultative or other technical services, the exporter is required to provide to FSTEC:

- Information on the nature and content of the technology;
- Information on a means, place and time of transfer (disclosure) of the technology

(Government Regulation #691 dated 15.09.2008)

ITT controls in Russia: practical aspects

ITT as electronic transfers:

To apply for a license/permit for transfer of a sensitive/controlled technology by electronic means the exporter has to indicate:

- The size of transmitted information
 - E-mail address of the sender
 - E-mail address of the recipient
- **In addition to the standard set of documents**
- Measures are to be taken to protect the information subject to export control so as **to exclude access by third parties**
(included as a special condition in the license)
 - The transfer is to be reported to FSTEC within 10 days

ITT controls in Russia: practical aspects

ITT as education:

There is a **requirement** to get a permit / identification statement:

- if a foreign student wants to obtain higher education on sensitive programmes (“open” analogues of the “closed” specializations)
 - *two-layer approach:*
control of both study programmes and specific applicants
- for post-graduate studies in sensitive areas
- if Russian professors go abroad to give lectures in the areas of science that are similar by sensitivity to controlled technologies

For controlled technology license is required

Challenges

- Violations are hard to detect and hard to enforce
- Evolution of ITT methods
- Emerging technologies: civil or dual-use?
- Control vs. freedom of academic research
- Control of informal person-to-person contacts is very difficult

Challenges: way forward

- Continuous adjustment of national export control systems (based on national experience and experience of others)
- Extensive outreach to industry and academia
- Guidance materials to industry and academia
- Training / targeted seminars
- ICPs: promotion and assistance
- Awareness-raising, incl. of legal consequences
- Dialogue with research community (incl. on emerging technologies)

THANK YOU!