Subsection 5.N
Jurisdiction & Classification
(the “J/C Procedure”)

1. **Purpose**

   This document provides guidance on determining export jurisdiction and classification (or J/C) in accordance with applicable regulations. None of the examples or images used in this document contain technical data.

2. **Table of Contents**

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I</td>
<td>Jurisdiction and Classification</td>
</tr>
<tr>
<td>Chapter II</td>
<td>Derived Data Under the US ITAR</td>
</tr>
<tr>
<td>Chapter III</td>
<td>Semi-Finished Forgings, Castings, and Machined Body Commodities</td>
</tr>
<tr>
<td>Chapter IV</td>
<td>Recordkeeping</td>
</tr>
<tr>
<td>Attachment 1</td>
<td>Visual Access Determination</td>
</tr>
</tbody>
</table>

3. **Roles and Responsibilities**

   **J/C Focal Point (J/C Focal):** A local business technical point of contact with who will perform CW self-classifications of CW products related to their business.

   **GTC J/C Staff:** A J/C Focal who is a full time employee in a CW Global Trade Compliance position, possessing Senior Classifier knowledge.

4. **Definitions & Acronyms**

   **Technology or Technical Data:** As defined in the GTC Manual: Means information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, installation, maintenance or modification of an item. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation. This does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain. It
does not include basic marketing information on function or purpose or general system descriptions of the product. Examples of non-technology include product data sheets, marketing materials, pricing information, part numbers

**Software**: Software includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems, and support software for design, implementation, integration, test, operation, diagnosis, and repair purposes.

**Firmware**: any related unique support tools (such as computers, linkers, editors, test case generators, diagnostic checkers, library of functions, and system test diagnostics) directly related to equipment or systems covered under any category of the Export Control List are considered as part of the end-item or component. Firmware includes but is not limited to circuits into which software has been programmed.

**Part**: This is any single unassembled element of a “component,” “accessory,” or “attachment” which is NOT normally subject to disassembly without the destruction or the impairment of design use. Examples include threaded fasteners (e.g., screws, bolts, nuts, nut plates, studs, inserts), other fasteners (e.g., clips, rivets, pins), common hardware (e.g., washers, spacers, insulators, grommets, bushings), springs and wire.

**Component**: This is an item that is useful only when used in conjunction with an “end item.” “Components” are also commonly referred to as assemblies. For purposes of this definition an “assembly” and a “component” are the same. There are two types of “components”: “**major components**” and “**minor components**.” A “**major component**” includes any assembled element which forms a portion of an “end item” without which the “end item” is inoperable. For example, for an automobile, “components” will include the engine, transmission, and battery. If you do not have all those items, the automobile will not function, or function as effectively. A “**minor component**” includes any assembled element of a “major component.” “Components” consist of “parts.”

**Accessory**: These are associated items for any “component,” “end item,” or “system,” which are NOT necessary for their operation, but which enhance their usefulness or effectiveness. For example, for a riding lawnmower, “accessories” and “attachments” will include the bag to capture the cut grass, and a canopy to protect the operator from the sun and rain. **For purposes of this definition, “accessories” and “attachments” are the same.**

**Attachment**: These are associated items for any “component,” “end item,” or “system,” which are NOT necessary for their operation, but which enhance their usefulness or effectiveness. For example, for a riding lawnmower, “accessories” and “attachments” will include the bag to capture the cut grass, and a canopy to protect the operator from the sun and rain. **For purposes of this definition, “attachments” and “accessories” are the same.**
System: This is any combination of “end items,” “equipment,” “parts,” “components,” “accessories,” “attachments,” firmware, or “software” that operate together to perform a function.

End Item: This is a system, equipment or assembled commodity ready for its intended use. Only ammunition, fuel or other energy source is required to place it in an operating state. Examples of end items include ships, aircraft, computers, firearms, and milling machines.

Material: This is any list-specified crude or processed matter that is not clearly identifiable as any of the types of items defined terms, “end item,” “component,” “accessories,” “attachments,” “part,” “software,” “system,” “equipment,” or “facilities.”

Significant Military Equipment (SME): US ITAR term: Articles for which special export controls are warranted because of their capacity for substantial military utility or capability (see ITAR §120.7).

The following defined acronyms are used throughout this document:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>BIS</td>
<td>Bureau of Industry and Security (under U.S. Department of Commerce Agency who oversees implementation of the US EAR)</td>
</tr>
<tr>
<td>BU</td>
<td>Business Unit</td>
</tr>
<tr>
<td>CCATS</td>
<td>US Commodity Classification Automated Tracking System</td>
</tr>
<tr>
<td>CCL</td>
<td>US Commerce Control List (US Dual Use Goods List)</td>
</tr>
<tr>
<td>CJ</td>
<td>US Commodity Jurisdiction</td>
</tr>
<tr>
<td>DIT</td>
<td>Department for International Trade (in the United Kingdom)</td>
</tr>
<tr>
<td>DDTC</td>
<td>Directorate of Defense Trade Controls (State Department Agency who oversees implementation of the US ITAR)</td>
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<tr>
<td>DPRN</td>
<td>Document Property Rights Notice</td>
</tr>
<tr>
<td>EAR</td>
<td>US Export Administration Regulations</td>
</tr>
<tr>
<td>ECCN</td>
<td>US Export Control Classification Number</td>
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<tr>
<td>ECU</td>
<td>UK Export Control Joint Unit</td>
</tr>
</tbody>
</table>
4. **Procedure**

**Chapter I  Jurisdiction and Classification**

Jurisdiction and Classification ("J/C") is the first step in the process by which you determine whether your Curtiss-Wright produced commodity, software, technology, or activity is subject to export control regulations. Specifically, it is an analysis of technical and physical characteristics of physical and electronic (intangible) items, and anticipated end-use of services provided, to determine if they are described or listed in the export control regulations of the country from which they originate or whether they are released from such regulations.

A physical and intangible item under review must be evaluated to determine if it matches or exceeds control parameters stated in the applicable export control regulations. Intangible items include the release of technology and technical data by visual access, conversations, electronic transmissions, and the direct application of knowledge. Characteristics used in classification of
tangible items include performance capabilities, physical form and properties, chemical properties, functional limitations, end-use specificity or purpose, and military applicability.

Evaluation of the above criteria results in a J/C of the item under applicable export control laws, usually expressed in a chapter/subchapter citation within specific regulatory documentation (e.g., ECCN 9E991, ITAR XIX(g), ML10d, 2-11.a).

Prior to the export of an item, CW employees must use their local ERP systems, the CW GTC Classification Database found here (or other internal export class database), to determine if an item has been assigned an export J/C. If an item has no export J/C then the CW employee must perform a J/C review through the GTC XClass tool found here or an equivalent database approved by GTC. CW businesses that do not have access to XClass may utilize the “CW Product Export Jurisdiction-Classification Review Worksheet Template” available on the CW GTC Help Desk found here or from assigned GTC J/C Staff. A list of business J/C Focal Points can also be found on the GTC Help Desk. All J/C Focal Points must complete J/C Level 1 Training which can be found here.

In situations where a J/C Focal Point cannot determine the proper J/C of an item for export, the J/C Focal Point shall contact their assigned GTC J/C Staff for assistance. GTC is CW’s final internal authority in determinations of an item’s J/C and shall have the authority to file formal classification and categorization requests with the relevant government agency.

**Note Regarding Non Curtiss-Wright Goods:** Curtiss-Wright suppliers are best positioned to classify products of their own design. If Curtiss-Wright procures products from suppliers/vendors, such goods are not subject to this J/C procedure. No supplier provided export classifications will be housed in the CW GTC Classification Database. However, because Curtiss-Wright will ultimately be held accountable for classification errors (even in circumstances where the error was cause by a supplier/3rd party), we must assess export classification information provided by the supplier/3rd party for potential “red flags” such as:

- The export classification seems to deviate from common knowledge of the product and current export controls related to the product.
- The supplier appears generally unfamiliar with export regulations.
- The supplier refuses or is evasive when asked for the product’s export classification.
- The supplier indicates that it assigned “No License Required” for all of its products without apparent due diligence.
- Any other “red flag” that indicates that the supplier lacks sufficient export regulatory knowledge.

If “red flags” are present, the J/C Focal Point must contact the assigned GTC J/C staff for guidance. In all instances “red flags” must be fully dispositioned before moving forward with the transaction.
A. Seeking Government Classification Determinations

1.a.: U.S. Commodity Jurisdiction (CJ):

If you are not certain of an items’ J/C after completion of a CW self-J/C review, then you should request a Commodity Jurisdiction (CJ) determination. The purpose of a CJ request is to obtain a formal determination on whether an item, service, or technology is controlled by the USML requiring a Department of State, DDTC export license or authorization. DDTC is the sole agency with the authority to make an export jurisdiction determination.

The CJ process may also be used for consideration of a J/C re-designation of an item, service, or technology currently regulated by the Department of State, which could result in the item, service, or technology being moved to the licensing jurisdiction of the Department of Commerce. Additionally, a CJ may be used for reconsideration of a previous CJ determination; request for a change to the USML Category determination assigned to an item/service/technology; and/or confirmation of the USML category designation.

BU J/C Focal Points should work with the GTC J/C Staff to discuss the potential need for a Commodity Jurisdiction.

1.b: U.S. CCATS:

If you have determined that an item, service, technology is not controlled by the U.S. Department of State and is not listed on the USML, but are unsure of the export class of the good and what its Commerce Control List, Export Classification Control Number (ECCN) is, then a Commerce Commodity Classification Request (CCATS) may be submitted to BIS. The CCATS process is intended to assist the exporter in determining the proper ECCN and whether an item/service/technology is subject to the EAR. Such a request can be fully requested, submitted, and determined using the Department of Commerce’s SNAP-R system. BU J/C Focal Points should work with the GTC J/C Staff to discuss the potential need for a CCATS.

2. Canada - EXCOL Permit Application:

In Canada, if the export class of an item, software, or technology is unknown then the normal CW procedure for determining export classification is by submitting an export permit via the Canadian Export Permit Application System, known as EXCOL. Global Affairs Canada (GAC) also offers the Advisory Opinion process for the export class determination of Canadian goods but CW does not use such as per Section C.4.2 of the Canadian Export Controls Handbook: “If an applicant requires a binding decision [regarding the export class of an item], an export permit application should be submitted for processing to Global Affairs Canada”. All CW personnel who are interested in an export class determination through the GAC Excel Permit Application
process should contact their BU J/C Focal Points who should work with the GTC J/C Staff to discuss the potential need to use this process.

Based on the guidance above from GAC, CW uses the EXCOL permit application process to submit applications under which an item, software, or technology that requires an export class determination will be listed in the application as a To Be Determined, or TBD item, software, or technology. The Canadian CW business should follow the normal Export Permit Application procedures as listed in the Canadian Export Controls Handbook, Section E: Export and Brokering Permit Application Process to ensure the permit application contains all needed information. CW advises all Canadian CW BUs to provide their initial export class assessment of the item, software, or technology to GAC via the Cover Letter for the application permit, with the logic and analysis of why the CW BU believes the item, software, technology should/should not receive a particular export class. Once the permit application is submitted to GAC it will follow the normal review process and GAC will either A) issue an approved permit, listing the GAC determined export class of the item, software, or technology on the permit, or B) issue a GAC NLR Notification letter to the applicant stating the subject item, software, or technology is Not Subject to the Canadian Export Control List.

3. United Kingdom- SPIRE Control List Classification Advice Service:

In the United Kingdom if the export class of an item, software, or technology is unknown then the normal CW procedure for determining such is by submitting an enquiry to the UK Department for International Trade (DIT) via their Control List Classification Advice Service. The Control List Advice Service process is intended to assist the exporter in determining the proper UK Export Class Rating and whether an item, software, or technology is subject UK Export Controls. This process is accessed through SPIRE, the UK’s Export Control Organisation’s online export licensing system. All CW personnel who are interested in an export class rating determination through the Control List Advice Service process should contact their UK BU J/C Focal Points who should work with the GTC J/C Staff to discuss the potential need to use this process.

Chapter II Derived Data under the U.S. ITAR

This chapter provides guidance for determining when items (including software/technology) produced outside of the United States are subject to the United States International Traffic in Arms Regulations (“ITAR”).

A. ITAR Jurisdiction

Pursuant to the U.S. Arms Export Control Act and the ITAR, the U.S. Department of State regulates items/software/technology produced outside of the U.S. from U.S. origin, ITAR-controlled technical data. Consequently, the use of U.S.-origin ITAR-controlled technical data in
the production of an item outside of the United States makes that item (the “Resulting Defense Article”) subject to the ITAR, provided the item is listed on the U.S. Munitions List (“USML-Listed”).

The USML is a list of articles, software/technologies and related services designated as controlled by the U.S. Department of State, such as certain military aircraft, military electronics, military vessels, military ground vehicles, etc. and specific parts and components for those items. A foreign produced item/software/technology that is merely listed on the USML does not alone render an item subject to US ITAR control. A foreign item, software, or technology is subject to the US ITAR if it is both (a) USML-Listed and (b) subject to U.S. jurisdiction.

“ITAR-controlled” means that the U.S. Department of State has asserted jurisdiction over the export, re-export or retransfer of a USML-Listed item. The U.S. Department of State can assert jurisdiction over a USML-Listed item when the item has a sufficiently strong connection to the United States, such as when a USML-Listed item was built in the U.S., is physically located in the United States, or is produced abroad using U.S.-origin technology. For example, a Russian-designed MIG fighter is USML-Listed but it is not ITAR-controlled (e.g., it was not designed using U.S. technology, was not produced in the United States, and is not located in the United States). The U.S. Department of State therefore cannot control where Russia exports MIGs. A U.S. F-16 fighter is also USML-Listed, but because it was designed using U.S. technology, it is subject to control by the U.S. Department of State. Note that software/technology for an USML-Listed part or component is also USML-Listed.

1. Any part or component designed or produced for the Resulting Defense Article will be ITAR-controlled if it is:
   i. USML-Listed; and
   ii. Either:
      a) Designed and produced with US origin ITAR-controlled software/technology;
      or
      b) A pre-existing non-ITAR-controlled part or component subsequently modified for use in or with the Resulting Defense Article.

2. Any software/technology directly related to the Resulting Defense Article will also be ITAR-controlled (“Resulting ITAR Software/Technology”). This will also apply to any software/technology designed or produced for any USML-Listed, ITAR-controlled components, parts, accessories, or attachments designed or produced for the Resulting Defense Article. If a Resulting Defense Article is incorporated into a non-U.S. origin upper level assembly that is not ITAR-controlled, only the software/technology directly related to the Resulting Defense Article itself would be ITAR-controlled. Software/Technology relating to the overall upper level assembly as a whole would not be ITAR-controlled; provided derivative ITAR technical data was not also included/incorporated into the software/technology for the overall upper level assembly.
On the contrary, any parts or components for a Resulting Defense Article that are not USML-Listed, or any item at a stage in production which is not clearly identifiable as a defense article, would not be ITAR-controlled, and the technical data directly related to such parts or components (or items at such stage of production) would not be ITAR-controlled. Similarly, non-U.S.-origin technical data regarding an item that is USML-Listed that has not been modified by ITAR-controlled technical data is not subject to the ITAR (when not in the United States), even if an item produced in the U.S. using such non-U.S.-origin technical data would be subject to the ITAR because it is USML-Listed and produced in the U.S. Example: Technical data related to a Russian manufactured head up display for end use on a Russian MiG which stays in Russia, is NOT subject to the USML. If such technical data were exported from Russia to the US, then only the technical data located in the US would be subject to the USML; the same technical data residing in Russia would continue to not be subject to the USML.

Downstream Analysis

The use of Resulting derivative ITAR-controlled Technical Data in the production of an item outside of the U.S. that is USML-Listed will render such item a Resulting Defense Article and will render any technical data directly related to such item Resulting ITAR Derivative Technical Data. The analysis set forth in this document will continue to apply to all downstream Resulting Defense Articles and Resulting ITAR Technical Data until Resulting ITAR-controlled Technical Data is used to produce an item that is not USML-Listed. Neither that item nor any technical data directly related to it will be ITAR-controlled.

Flow Chart Illustration

The flow chart below illustrates the process through which an item produced outside of the U.S. may become subject to U.S. jurisdiction and ITAR control. Scenarios further illustrating the concept of ITAR controlled derived data are contained below.
Scenarios to Illustrate ITAR – Controlled Derived Data

**Scenario 1**

Under a U.S. State Department Technical Assistance Agreement (“TAA”), a U.S. Customer supplies the technical specification of an Actuator for F35 Aircraft use to a UK Company. The UK Company designs the actuator based on the U.S. specification.

- U.S. supplied technical data is ITAR-controlled
- Actuator not specifically called out in USML Category VIII(h)(2 to 26). However
• Actuator is for an Aircraft listed in USML Category VIII(h)(1)

Therefore

• The Actuator is USML-Listed (under Category VIII(h)(1)), and
• It was designed using U.S. origin ITAR-controlled technical data
• Derived data for the actuator is ITAR-controlled under USML Category XI(d)

The UK Company outsources some of the manufacturing of screws and washers for the top level actuator:

• Screws and washers are not USML-Listed
• ‘Fastener’ release by paragraph (b)(2) of Specially Designed

Therefore

• Derived data for the screws and washers is not ITAR-controlled

**Scenario 2**

Under a TAA, a U.S. Customer supplies the technical specification of an Actuator for Typhoon Aircraft use to a UK Company.

The UK Company designs the actuator based on the U.S. specification.

• U.S. supplied technical data is ITAR-controlled
• Actuator not specifically called out in USML Category VIII(h) (2 to 26). And
• Actuator is not for an Aircraft listed in USML Category VIII(h)(1)

Therefore

• Actuator is not USML-Listed
• Derived data for the actuator is not ITAR-controlled

**Scenario 3**

A non-U.S. company designs a USML-Listed, non-ITAR-controlled Data Acquisition Unit (DAU), including designs for individual parts and components. The non-U.S. company sources the manufacture of certain USML-Listed non-U.S.-designed parts from a U.S. supplier.

The U.S. supplier manufactures the parts and exports them under a DSP-5 license; the shipment includes data required to document the conformance of the part to the design, specifically x-ray photograph and lab reports (other documents could include, depending on the lab requirements: mill test reports, blanket test reports, and supplier report).

• Original non-U.S. part design is USML-Listed but not ITAR-controlled (note, while in the U.S., the copy of the part design is ITAR-controlled, but is not ITAR-controlled after it leaves the U.S., nor are copies of the same part design outside the U.S. ITAR-controlled)
• U.S. supplier’s part is ITAR-controlled (because it was manufactured in the U.S.)
• U.S. supplied technical data is ITAR-controlled
- There is no ITAR-controlled derived data

Scenario 4

Scenario 4(a):
Quality issues are identified with the U.S. supplied, non-U.S. designed parts. A TAA is set up between the U.S. Supplier and the non-U.S. company to identify the root cause of, and a solution for, the quality issue. Technical data is exchanged and discussions occur (i.e., U.S. Supplier has exported ITAR-controlled technical data). The root cause is determined to be due to a design flaw. The U.S. Supplier collaborates with the non-U.S. company to correct the design; this collaboration includes the provision of ITAR-controlled technical data and discussions directly related to corrections to the design.

- U.S. supplied technical data is ITAR-controlled
- U.S. supplier part is USML-Listed and ITAR-controlled
- Original non-U.S. part design is USML-Listed but not ITAR-controlled
- Revised non-U.S. part design is USML-Listed and is ITAR-controlled.

Scenario 4(b):
Quality issues are identified with the U.S.-supplied, non-U.S. designed parts. U.S. supplier provides test results identifying the non-conformances of the parts, under DSP-5: Permanent Export License. The non-U.S. company studies the test results and determines without assistance from the U.S. supplier that a modification to the design will make the part more easily producible within the defined tolerances and most likely will solve the quality issues. The non-U.S. company proceeds with re-designing the part.

- U.S. supplied technical data is ITAR-controlled (i.e., test results)
- Non-U.S. supplier part is USML-Listed and ITAR-controlled
- Original non-U.S. part design is USML-Listed but not ITAR-controlled
- Revised non-U.S. part design is USML-Listed but not ITAR-controlled (merely referring to test results does not constitute use of ITAR technical data to design or produce an item)

Scenario 5
Scenario 4(a) continues (redesigned part design is ITAR-controlled).

The non-U.S. company decides to no longer source the revised part from the U.S. Supplier, but rather to manufacture the part in-house. The non-U.S. company creates manufacturing instructions, based on the part design.

- Revised non-U.S. part design is USML-Listed and is ITAR-controlled derived data
- Revised Part is USML-Listed and is ITAR-controlled
- Non-U.S. created manufacturing instructions are USML-Listed and are ITAR-controlled derived data.
Scenario 6

A non-U.S. company designs a USML-Listed, non-ITAR-controlled embedded computer, including designs for individual parts and components. The non-U.S. company sources the design and manufacture of a certain USML-Listed component, the ASIC, from a U.S. Supplier. The non-U.S. company assembles the embedded computer and runs it on a test bench to ensure the computer satisfies the quality criteria required for new, production embedded computers. The output of that test includes limits concerning the vibration, altitude and cooling paired with the actual performance data of the test.

It is acknowledged that the ASIC influences the operation of the embedded computer.

- The non-U.S. assembled embedded computer is USML-Listed and is ITAR-controlled by virtue of the ITAR-controlled ASIC (see-through rule)
- U.S. Supplied ASIC design is USML-Listed and ITAR-controlled
- Non-U.S. supplied USML-Listed parts are not ITAR-controlled
- Non-USML-Listed parts (from any country) are not ITAR-controlled
- Test limits (e.g., level of acceptable vibration) of non-U.S. designed embedded computers are USML-Listed but not ITAR-controlled
- Test bench output data containing the limits and the performance data is USML-Listed and is ITAR-controlled derived data

Scenario 7

U.S. aircraft original equipment manufacturer (“OEM”) provides technical specifications/requirements under a Technical Assistance Agreement (“TAA”) to a non-U.S. company for the design of a USML-Listed embedded computer. The non-U.S. company develops (either a new design or one based on previously created technical data) specific requirements, designs, manufacturing instructions, test instructions, repair schemes, etc. for the computer and its parts and components. The computer is assembled outside of the U.S. using parts and components manufactured both outside of and in the U.S.

- The non-U.S. assembled recorder is USML-Listed and ITAR-controlled
- Non-U.S. supplied parts which are USML-Listed, and were designed or modified for this new application, are ITAR-controlled
- Non-U.S. supplied parts which are USML-Listed, designed for another, non-ITAR-controlled application and not otherwise designed or modified for this application, and technical data for these parts, are only ITAR-controlled while in the U.S.
- U.S. supplied parts which are USML-Listed are ITAR-controlled
- U.S. and non-U.S. supplied parts which are not USML-Listed are not ITAR-controlled
- U.S. aircraft OEM provided technical specifications/requirements are USML-Listed and are ITAR-controlled
- All resulting technical data created by the non-U.S. company, required for new or modified USML-Listed parts/components is itself USML-Listed and ITAR-controlled (e.g.,
specific requirements, designs, manufacturing instructions, test instructions, repair schemes, etc.)

- All resulting technical data created by the non-U.S. company, required for non-USML-Listed parts/components is not USML-Listed and not ITAR-controlled (e.g., specific requirements, designs, manufacturing instructions, test instructions, repair schemes, etc.)
- Test bench output containing the limits and the performance data is USML-Listed and ITAR-controlled derived data

**Scenario 8**

A non-U.S. company modifies an existing non-U.S.-designed and manufactured civil-certified avionics computer ONLY with an ASIC containing U.S.-origin, USML-Listed software for use on a USML-Listed aircraft. The non-U.S. company has a TAA in place with the U.S. Aircraft OEM to facilitate the exchange of technical data. The modified engine is USML-Listed.

- Non-U.S.-designed and manufactured civil-certified avionics computers which has the USML-Listed, ITAR-controlled FADEC installed is itself USML-Listed and ITAR-controlled (see-through rule for software)
- Technical data related to the ASIC is ITAR-controlled
- Technical data related to components other than the ASIC is not USML-Listed and hence not ITAR-controlled
- Any technical data created by the non-U.S. company which contains any ASIC technical data is ITAR-controlled derived data
- Test bench output containing the limits and the performance data is USML-Listed and ITAR-controlled derived data

**Scenario 9**

Scenario 8 Continues. The TAA covers the exchange of technical data to support the avionics computer in service.

- U.S. Aircraft OEM provided computer operational or observed data is USML-Listed and ITAR-controlled (e.g. event information, diagnostic unit downloads, etc.)
- Reports generated by the non-U.S. company utilizing U.S. Aircraft OEM-provided technical data are USML-Listed and ITAR-controlled derived data

**Scenario 10**

A non-U.S. company designs a USML-Listed avionic computer part for a USML-Listed, but not ITAR-controlled computer. The non-U.S. company manufactures this part outside of the U.S. The non-U.S. company requires one step of the manufacturing process to be performed at a U.S. shop-assist facility (e.g., coating). The USML-Listed computer part is sent to the U.S. and back under a DSP-61 Temporary Import License. The U.S. facility may include data required to document the conformance of the part to specification within the shipment.
• Original non-U.S. part design is USML-Listed but not ITAR-controlled
• U.S. supplied technical data is ITAR-controlled
• The coated part is USML-Listed and ITAR-controlled
• There is No ITAR-controlled derived data

**Scenario 11**
A U.S. aircraft OEM provides USML-Listed, ITAR-controlled build-to-print drawings under a TAA to a non-U.S. company for the manufacture of USML-Listed aircraft structural parts.

From time to time the non-U.S. company will manufacture a non-conforming USML-Listed, ITAR-controlled part for which a Quality Notice (QN) will be created by the non-U.S. company.

The QN describes the issue and contains technical data.

• U.S. supplied build-to-print technical data is ITAR-controlled
• Non-U.S. manufactured parts are USML-Listed and ITAR-controlled
• The QN contains technical data which is USML-Listed and ITAR-controlled derived data

**Scenario 12**
A non-U.S. company designs a USML-Listed, non-ITAR-controlled aircraft structural parts, including designs for individual parts and components. The non-U.S. company writes a technical publication document (e.g., overhaul manual) to support continuous airworthiness of the First release of the technical publication document is USML-Listed but not ITAR-controlled. A U.S. designated repair facility provides ITAR-controlled technical data through a TAA, which is used to amend the publication.

• U.S. provided technical data is USML-Listed and is ITAR-controlled
• Original non-U.S. publication is USML-Listed but not ITAR-controlled
• Revised publication containing U.S. origin data is USML-listed and contains ITAR-controlled derived data.

**Chapter III  Semi-Finished Forgings, Castings and Machined Body Commodities (for items subject to US ITAR or EAR ONLY)**

This chapter provides guidance to enable a J/C Focal, with expertise in semi-finished castings/forgings and other unfinished products, to determine if an item has reached a stage in manufacturing where it is clearly identifiable as final hardware.

The scope of this Chapter is intended to help one skilled in the art to determine when unfinished products become clearly identifiable as final hardware. It is understood that employees with intimate semi-finished part knowledge may be able to distinguish the final hardware at an earlier stage in manufacture. However early identification of distinguishing characteristics may not be sufficient to determine final J/C of the commodity.

This Chapter provides clear guidelines for what constitutes “clearly identifiable” by either Mechanical Properties, Material Composition, Geometry or Function.
Under U.S. export regulations, part number markings, associated paperwork, or any indicative packaging does not constitute clear identification as hardware.

Geometry

Semi-finished product is clearly identifiable by Geometry as a final part controlled by the US EAR or the US ITAR if it:

- Has a complex geometric cross section indicative of the final product profile. Specifically, a cross section may show unfinished surfaces that closely approximate final dimensions or partially finished portions machined to final dimensions; or
- Is a casting with final part surfaces; or
- Is a machined body where surfaces have been machined only to further develop and promote manufacturing of features/contours specific to a final part. This may be represented by machined undercuts in excess of those directly accessible from a plane parallel to direction of forging (beyond that what is needed for inspection). Surface machining is also performed to reduce rough profile to a form approaching the finish outer surface dimensions.

Semi-finished product is not clearly identifiable by Geometry as a final part controlled by the US EAR or the US ITAR if it is:

- Completely unfinished, direct product of the forging die (excludes near net shaped forgings that closely approximate final geometry);
- A rudimentary geometric cross section indicative of a simple polygon; or a machined body where machined surfaces are in place only to assist in the inspection of the Forging or Casting (e.g. descaling, flat surfaces for ultrasonic inspection). These surfaces may be represented by machined undercuts limited to surfaces directly accessible from plane parallel to the direction of forging. The resulting forging will have sufficient material remaining to conceivably manufacture the final part and other parts (even if unlikely). *Note that the final part must fit completely within the forging.

Function

The ITAR defines the function of a commodity as the action (or actions) it is designed to perform. A semi-finished part is clearly identifiable as final part if the action (or actions) it is
designed to perform is clearly identifiable. In the case of hardware this will follow the guidelines for clearly identifiable by Geometry.

**Mechanical Properties**

Semi-finished product that is not clearly identifiable by Geometry may be clearly identifiable by Mechanical Properties as a final part controlled by a US CCL 600 Series ECCN or the US ITAR if it has mechanical or physical properties directly related to those items identified in the USML or CCL 600 series ECCNs:

- Ablative materials
- Certain carbon/carbon billets and preforms
- Any material that is classified or being developed with classified information
- Materials, coatings, and treatments for signature suppression/concealment
- Material that is not enumerated elsewhere in the CCL, such as in a CCL Category 1 ECCN, that has specially designed performance characteristics for military applications
- Dual use material that is not enumerated elsewhere in the CCL, such as in a CCL Category 1 ECCN, that has been processed to yield clearly identifiable performance enhancements; or
- Mechanical properties not directly related to materials identified above but directly related to a specific component.

Semi-finished product that is not clearly identifiable by Geometry is also not clearly identifiable by Mechanical Properties as a final part controlled by a US CCL 600 Series ECCN or the US ITAR if it:

- Has the same mechanical properties as commodities enumerated in the CCL in ECCNs other than the 600 series ECCNs; or
- Is made from materials identified above with property requirements waived or reduced per drawing notes. A waiver on required mechanical properties precludes identification of intended mechanical properties unique to the finished product.

**Material Composition**

Semi-finished product that is not clearly identifiable by Geometry is clearly identifiable by Material Composition as a final part controlled by a US CCL 600 Series ECCN or the US ITAR if the product has material composition specially designed for items identified in the USML or CCL 600 series ECCNs:

- Ablative materials
- Certain carbon/carbon billets and preforms
- Armor (e.g., organic, ceramic, metallic) and armor materials
- Any material that is classified or being developed with classified information
- Materials, coatings and treatments for signature suppression/concealment
• Material that is not enumerated elsewhere in the CCL, such as in a CCL Category 1 ECCN, that has specially designed performance characteristics for military applications
• Dual use material that is not enumerated elsewhere in the CCL, such as in a CCL Category 1 ECCN, with refined chemistry to yield clearly identifiable performance enhancements

Semi-finished product that is not clearly identifiable by Geometry is not clearly identifiable by Material Composition as the final part in a US CCL 600 series ECCN or the US ITAR if the product has the same material composition as commodities enumerated in the CCL in ECCNs other than the 600 series ECCN.

Chapter IV Recordkeeping

All CW export jurisdiction/classification determinations will be completed by using the CW GTC XClass Classification Tool found on the CW GTC SharePoint site found here, or via an equivalent jurisdiction/classification tool approved by CW GTC.

All completed CW jurisdiction/classification records completed using the XClass tool will produce a classification record (which will include all goods you classify) and will be stored in the GTC CW Classification Database on the CW GTC SharePoint site found here. If using a separate CW GTC approved jurisdiction/classification tool, then all records must be uploaded to the GTC CW Classification Database.

CW businesses that do not have access to XClass may utilize the “CW Product Export Jurisdiction-Classification Review Worksheet Template” available on the CW GTC Help Desk found here or from assigned GTC J/C Staff.
Attachment 1 Determination of Visual Access

This Attachment provides guidance for determining when an export by visual access occurs. This document will provide guidance for making a “no technical data” determination for photographs, images, and visual access to hardware. The scope of this guidance is the interpretation of when an export of U.S. EAR or ITAR data by visual access occurs for all CW locations and entities globally.

There are 3 options for completing a visual access determination:

Option 1 – Employee makes an independent assessment;

Option 2 – The local site J/C Focal Point completes the assessment; OR

Option 3 – GTC Staff completes the assessment.

Option 1 – Employee Self-Assessment

In Option 1, any employee can apply a simple set of tests to determine if the visual access is either (a) not subject to the regulations (NSR), or (b) unknown. If the employee can determine NSR, then the review is complete. Reference Option 1 - Self-Assessment Questionnaire.

Option 2 – J/C Focal Point Assessment

Any review in Option 1 that results in Unknown is escalated to a J/C Focal Point. The J/C Focal Point applies more specific technical criteria to determine one of three outcomes: (i) NSR; (ii) a detailed J/C; or (iii) Unknown.

Option 3 – GTC Assessment

Any Unknown after Option 2 is elevated to Option 3 where assigned GTC Staff will use additional written guidance to determine either NSR or a detailed J/C. If GTC Staff is unable to make a determination and the result still yields an Unknown after Option 3, a request to the relevant government agency will be made to obtain the classification.

For the purpose of this document, an indication that an item is “Not Subject to the Regulations” or NSR is equivalent to stating that the document “does not contain any export regulated technical data.”

Photographs, images, and visual access to hardware (which may include items that are visible in a plant tour) can reveal sensitive information. In some cases, this information meets the definition of “Technical Data.” Where there is no Technical Data, the photographs, images, or viewing of hardware are Not Subject to the regulations or simply NSR.
For the purpose of this document GTC interprets “visual access” to mean: The act of viewing, or having the opportunity to view, a photograph, video, or detailed illustration of commodities (e.g., hardware) or the commodities (e.g., hardware) themselves. Throughout this guidance, “visual access” to an item refers to:

- Seeing a photograph or illustration of an item by itself, in a document, or on a monitor
- Seeing a video showing the item
- Viewing the actual item, such as on a display or during a plant tour

Unlike blueprints or documents, the content and type of Technical Data in an image is not obvious. Technical Data may be released through visual access by inserting a photograph into a financial presentation, putting an illustration into a common training course, using a piece of equipment as a backdrop in a group photo or instructional video, or during a plant tour where parts and equipment are visible.

Option 1 – Self Assessment Questionnaire

Employee Name:

**Step 1**

1. Is the item in production and commercially available? ☐ Yes ☐ No
2. Shown in the normal operating state? ☐ Yes ☐ No

For U.S. ITAR-controlled items ONLY:

3. You **KNOW** the image has been officially released through an approved Company process such that it is “public domain” under § 120.11 of the ITAR ☐ Yes ☐ No ☐ N/A

If you answer Yes to all questions (or N/A to Q3) then STOP - the visual access conveys no technical data subject to the regulations and is assessed as NSR.

If you answer No to any question, move to Step 2.

**Step 2**

Does the visual access:

4. Contain dimensions, scales, tolerances, or other parameters? ☐ Yes ☐ No
5. Contain acceptance criteria such as allowable or unallowable defects, thickness, etc.? ☐ Yes ☐ No
6. Contain analytical or test results such as stress or vibration maps, photomicrographs of metal grains etc.? □ Yes □ No

7. Show how an item is assembled or put together? □ Yes □ No

8. Show operation, assembly, repair, manufacture, or testing? □ Yes □ No

If you answer NO to all questions, then the visual access contains no technical data subject to the regulations.

If you answer Yes to any question, escalate to your assigned J/C Focal Point.

**Option I Process Overview**

In this Option, the Employee reviews the visual access in two steps:

- Step 1 is a simple ‘publicly available’ test.
- Step 2 is a review with five criteria (tests) to look for specific information.

If the visual access meets the ‘publicly available’ test, or lacks the characteristics in all five tests in Step 2, the Employee can deem it as NSR and the review is complete.

If the image isn’t released by the ‘publicly available’ test, and at least one characteristic is found during the Step 2 tests, then the visual access may contain technical data, and the Employee will refer the review for an Option 2 - J/C Focal Point review.

**Step 1: ‘Publicly Available’ Test**

In this Step, you must know the export jurisdiction of the item. If you don’t know the jurisdiction, go to Step 2.

If the item is:

- In production and commercially available, and
- Shown in its normal operating state,

then the visual access contains No Technical Data subject to the regulations and is assessed as (NSR). The review is complete.
If the Item is ITAR-controlled, and

You KNOW (i.e., have documented evidence) that the image has been officially released through an approved company process such that it is “public domain” under § 120.11 of the ITAR, the visual access contains No Technical Data subject to the EAR or ITAR (NSR). The review is complete.

If there is any doubt as to the Jurisdiction, or any doubt if the image of an ITAR-controlled Item has been officially released through an approved process, go to Step 2.

**Step 2 Technical Data Determination**

This Step contains five tests, and is constructed in a Yes/No question format. A Yes to any one or more of these five questions means the visual access may contain technical data and will require the employee to elevate this to Option 2 for additional review by a J/C Focal Point.

The questions are as follows:

Step 2 – Question 1 – Dimensions and Other Parameters

*Does the visual access show dimensions, tolerances, scales, or other parameters?*
If “Yes”, elevate to a J/C Focal Point for an Option 2 review. If “No”, go to Question 2.

**Step 2 – Question 2 – Product Conformity Acceptance Criteria**

Does the visual access contain criteria such as allowable or unallowable defects, thickness, or other visual acceptance criteria?

Note: There must be context of what is and isn’t acceptable; just showing a defect or crack is not sufficient to say “Yes.”
If “Yes”, elevate to a J/C Focal Point for an Option 2 review. If “No”, go to Question 3.

Step 2 - Question 3 – Analytical/Test Results

Does the visual access show analytical or test results such as stress or vibration maps, photomicrographs of metal grains, etc.? 
If “Yes”, elevate to a J/C Focal Point for an Option 2 review. If “No”, go to Question 4.

**Step 2 – Question 4 – Assembly**

*Does the visual access show how an item is assembled or put together?*

Examples are exploded diagrams, assembly drawings, cross-sections, cut-aways, or the interior view of an item not normally seen in operation. This includes complex items where their assembly is not obvious, such as circuit boards, hose or cable routing, linkages, etc.
If “Yes”, elevate to a J/C Focal Point for an Option 2 review. If “No”, go to Question 5.

**Step 2 – Question 5 – Ongoing Actions**

*Does the visual access show operation, assembly, repair, manufacture, or testing?*
If “Yes”, elevate to GTC Staff for an Option 3 review.

If “No”, then the visual access contains No Technical Data and is assessed as NSR. The review is complete.

**Section B Visual Access Review Process – Option 2 and 3**

The purpose of this Section is to provide J/C Focal Points and GTC Staff guidance to help determine the J/C of information as the result of visual access.

Option 1 of this document permits any employee (Employee Role) to screen instances of visual access for technical data. Using a set of conservative tests, the reviewer comes to one of two results: the item is Not Subject to the Regulations (NSR), or a result cannot be determined (Unknown).
In the case of an Unknown result, the review is escalated to Option 2, where a J/C Focal Point will use additional technical guidelines and appropriate domain knowledge to help determine if the instance contains Technical Data, and if so, arrive at the proper J/C, or if not, finalize a NSR result.

If the J/C Focal Point cannot resolve the J/C, the review is escalated to assigned GTC Staff for an Option 3 review. The same guidelines are used for both Option 2 and Option 3. GTC will enlist additional resources (e.g., consultants or outside counsel) or decide if government approval is required.

The J/C of Technical Data in the form of blueprints, drawings, or documents can be readily determined from the blueprint, drawing, or document, as they will contain parameters and text.

Photographs and illustrations are used for information, clarification, or just decoration in posters, presentations, documents, and many other items. Visual access can also occur anytime hardware is present, such as during plant tours, or when bringing in a non-employee to install or service machinery.

Export regulations list photographs and illustrations as possible forms of technical data, and the viewing of hardware can be a release of technical data. This does not mean that all photographs, illustrations, or viewing of hardware constitutes technical data. There are many situations where photographs, illustrations, or viewing of hardware provides the viewer some insight into the design or production of an item, just not insight or information subject to the regulations.

The release of technical data does not depend on the expertise of the person who is viewing it. The regulations are only concerned about the information being exported, not the ability of the receiver to use or understand it. The review process and J/C is the same whether the viewer doesn’t know what they are looking at, or is a leading authority on the subject.

Visual access involves the transfer of information only. No export of hardware occurs when viewing an item. Not all information associated with an item is subject to the regulations. It must reach the level of “technical data.” The intent of this document is to provide detailed guidance in identifying technical data in cases of visual access. Export regulations do not control technical data or “technology” for its own sake; there is no control of general ‘design’ or ‘production’ technology. Export regulations start by identifying an item (hardware, equipment, material, software) that meets a set of selection criteria, and then may control specific technical data or “technology” about that item.

Note: A blueprint or a software logic diagram is technical data or “software.” Visual access to a blueprint or a software logic diagram (or other exposure of such documentation) has the J/C of
that document, assuming it is legible. If it is not legible, then there is no technical data/software present. The purpose of this guidance is to help determine the J/C of visual access to physical items (hardware) or photos, illustrations, or videos of hardware.

**Step 1: Identification**

For visual access, the first step is to identify the item or items subject to the visual access (photograph, video, detailed illustration, or viewing of actual hardware.) The three key pieces of information to know are:

- What is the basic item? (For example, a radar, a harvester, submarine, aircraft carrier or aircraft)
- What is the specific item? (For example, an actuator, embedded computer, data acquisition unit, world traction inverter)
- What is the end use? (For example, embedded computer for an intelligence reconnaissance radar)

**Step 2: Jurisdiction**

What is the jurisdiction of the item(s) shown in the visual access?

**Step 3: Technical Data Interpretation**

Determine if there are any elements of technical data in the visual access.

Export regulations frequently use the term “required” in the definition of technical data, each with slightly different meaning. For the purposes of this document, the term “necessary” will be used for all country regulations as defined in the CW Common Interpretation of Technical Data.

If the visual access is determined to contain technical data under the regulations, then the Classification will be identified in Step 4.

Not all information associated with an item is subject to the regulations. It must reach the level of “technical data.” The control of company proprietary information is out of scope for the purposes of this document. To be technical data under the regulations, the information must be necessary or indispensable. That is, without that information, the item can’t be developed, manufactured, repaired, operated, etc.

There are two points to remember:

1. It does not have to be all the information necessary; it just has to be one piece of the total information necessary to be “technical data.” If a process requires five pieces of information and omission of the information available in the visual access causes the
process to fail, the information in the visual access is necessary, even though it is not all
the information required.

2. Helpful or clarifying data is not necessary data. If the necessary information is
contained in associated text, and the image only provides clarification or is otherwise
helpful, then the image is not necessary data. As such, the image alone (i.e., without the
associated text) is still not necessary data. As a test, if you can do the task or understand
the issue just by reading the text without the photo, and you can’t do the task or
understand the issue with just the photo, then the photo (or other visual access) is not
necessary.

Note: As with any other J/C determination, the review must be done by or with the assistance
of those knowledgeable in the design, production, assembly, testing, repair or operation of the
item in question. Only those persons will have the domain knowledge to know what constitutes
necessary information.

Visual access images are either Static or Active. A static image shows an item that is neither in
operation, nor being operated on (e.g., being produced, assembled, tested, repaired). An active
image shows the item either in operation, or being worked on in some way. A sequence of
static pictures may, taken together, provide additional ‘active’ information. A video may
provide ‘active’ information, depending on context. A video of someone walking in front of an
aircraft may show the person walking (active), and the aircraft from various angles, but the
image of the aircraft is essentially ‘static.’ The same is true for visual access to actual hardware.
Viewing the item from various angles is still ‘static’ information, but watching someone work on
it is ‘active.’

Image Clarity/Resolution

The data provided by an image is dependent on the size and resolution of that image. A low
resolution image may show the general outlines, but there may be insufficient detail to provide
necessary data. The available resolution and detail must be taken into account when reviewing
the image. For actual hardware, the resolution is assumed to be high, and the details are only
limited by normal visual acuity.

Additionally, the form the image takes is critical. An image that is printed or displayed on a
screen only provides as much resolution as the printer or projector/display provides.
Sometimes an image is embedded in a document as a file, and although it may only show up as
a small, low resolution image in the document, it can be expanded. If the document is provided
electronically, any embedded images must be assessed based on the actual, maximum
resolution of the image. This may include printing the image at high resolution or expanding the
magnification of the image on a computer screen.
Publicly Available Information

Export regulations recognize that certain information that is Publicly Available is not subject to the regulations. For this document the term Publicly Available will be used for all export regulations. With the exception of ITAR-controlled items, information can become Publicly Available through various methods. In general, the owner of the information (i.e., the company or author) can make it Publicly Available through publication without U.S. Government authorization, and thereby remove it from the control of export regulations. However, the ITAR requires U.S. Government authorization through a properly approved release process.

If the visual access to an item contains necessary technical data, the image may still not be subject to the regulations if it contains information equivalent to an image that has been publicly released. Therefore, each decision point includes the response – “No – Necessary data present but publicly available.” Although this ‘release’ is available for all technical data types, it will be most useful for determining ‘assembly’ information. High resolution images of complex assemblies (e.g., jet engines, helicopters, landing gear, etc.) will contain ‘assembly information, but these are also items where there are often publicly available images or examples on display.

Visual Access Review Process: Overview

Review the visual access against each of the following eight groupings of technical data characteristics. For each grouping, if the characteristics for that grouping aren’t present in the visual access, check “No -Necessary Technical Data not present” and move on to the next group. If the characteristics are present, determine if the same information meets the definition of “Publicly Released.” If it is, check “No - Necessary data present but publicly available”.

This process combines the Public Release review with the technology review because there may be cases where that one particular piece of critical information is Publicly Released in an otherwise different view of the item. If the reviewer knows the visual access is equivalent to a Publicly Released image, it is acceptable to skip the Technology Review steps. If there are no readily available Publicly Released images that are equivalent to the visual access, check “Yes.”

Note: Using Publicly Released images is a good way to determine if an image with technical data is subject to the regulations. However, there is a universe of images from many different sources. Do not consume a significant amount of time searching for a relevant Publicly Released image in hopes of determining the visual access to be not subject to the regulations.

The evaluation for Publicly Released should only be explored when you know of resources that can resolve the issue quickly.
If the visual access is of a munitions list item:

If the reviewer finds necessary technical data in any grouping (questions 1-8), then there is munitions list technical data present. There is no need to review all the groupings. Classify the visual access per the ‘technical data’ entry of the relevant munitions list category.

Note: If the visual access is of an ITAR-controlled item designated as Significant Military Equipment (SME), you must review the Manufacture/Production grouping (See Step 2 below). Classify the visual access per the ‘technical data’ entry of that ITAR USML category. If there is Manufacture/Production (question 3) technical data, the technical data is SME. No other test, including Assembly (question 3) can trigger SME.

If the visual access is of a dual use item (including EAR “500” and “600 series”):

For dual use items, all groupings must be reviewed. The control of “technology” under the export control list classification depends on what technologies are present.

Note: In some cases, distinctions will be made between similar terms, such as manufacturing and assembly, or repair and maintenance. These distinctions are made solely for the purpose of illustration and clarification, and are not meant to be defined terms for the purpose of the export regulations.

Visual Access Review Process: Detailed Question 1 – Design or Development

1. Does the visual access contain information necessary to the item’s Design or Development?

Note: Whereas a skilled engineer may be able to glean design or development information by looking at an item, this does not mean that there was a release of technical data subject to the regulations.

In order to contain Design or Development information, the visual access must contain more information than just a representation of the item itself – there must be additional specific information or context that is a part of the design or development process. Examples of specific design or development information include: Test or analysis results such as stress maps, temperature indications, photomicrographs of material grain boundaries with explanatory text, etc.

As a reminder, it is assumed that an engineer or designer will gain some design or development insight by viewing an item. However, viewing a completed part, component, or piece of equipment does not provide necessary design or development technical data under export regulations.

Examples of images that do not contain design or development ‘technical data’:
• The number and arrangement of ASICs on a circuit card assembly without geometric definition such as physical dimensions, trace width, logic flow diagrams or electrical/mechanical interface tolerances, etc.
• The placement of bolt holes or stiffeners
• The mechanics of a helicopter mixer assembly

Examples of images that do contain design or development ‘technical data’:

• The number and arrangement of ASICs on a circuit card assembly, with the associated physical dimensions, trace width, logic flow diagrams or electrical/mechanical interface tolerances, etc.
• The placement of bolt holes or stiffeners with stress points shown
• The mechanics of a helicopter mixer assembly showing the kinematics, or required travel

Visual Access Review Process: Detailed Question 2 – Manufacture/Production

2. Does the visual access contain information necessary to the Manufacture or Production process of the item?

For the purpose of distinction:

‘Manufacture’ or ‘production’ is the creation of a part or component (e.g., casting, forging, drilling, ‘cutting chips’)

‘Assembly’ is the fitting of one or more pieces together (see Question 3)

To contain manufacturing or production technical data, there must be specific information necessary to creating an acceptable part. In a static picture, this usually includes dimensions, tolerances, or other manufacturing or production parameters. That information must be specific enough to perform the process at hand.

Examples:
In an ‘active’ picture showing a manufacturing or production operation, there must be specific information present necessary to produce an acceptable item.

Examples:

<table>
<thead>
<tr>
<th>Image</th>
<th>Description</th>
<th>Technical Data</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1.png" alt="Image" /></td>
<td>Showing a finished turbine blade is approximately 6 inches tall is insufficient to produce an acceptable finished item because the associated tolerances are on the order of a few thousandths of an inch.</td>
<td>X Not Technical Data</td>
</tr>
<tr>
<td><img src="image2.png" alt="Image" /></td>
<td>Showing precise dimensions necessary for producing an acceptable item.</td>
<td>√ Technical Data</td>
</tr>
<tr>
<td><img src="image3.png" alt="Image" /></td>
<td>Showing a forging is approximately 6 inches wide may be sufficient to know if the item is acceptable, if the tolerance on a particular forging is +/- 0.5 inch.</td>
<td>√ Technical Data</td>
</tr>
<tr>
<td><img src="image4.png" alt="Image" /></td>
<td>Showing that the item is hollow and the cooling hole pattern is insufficient to produce an acceptable part with the holes of the proper size and location.</td>
<td>X Not Technical Data</td>
</tr>
<tr>
<td><img src="image5.png" alt="Image" /></td>
<td>Showing an example plasma spray, even on an ITAR item, provides no necessary technical data. Additional data such as required gun angle, distance, etc., are required.</td>
<td>X Not Technical Data</td>
</tr>
<tr>
<td><img src="image6.png" alt="Image" /></td>
<td>Showing part-specific tooling setup</td>
<td>√ Technical Data</td>
</tr>
<tr>
<td><img src="image7.png" alt="Image" /></td>
<td>Provides part-specific instructions</td>
<td>√ Technical Data</td>
</tr>
<tr>
<td><img src="image8.png" alt="Image" /></td>
<td>Showing an operation with no details, even if it is on an ITAR part, is not necessary technical data.</td>
<td>X Not Technical Data</td>
</tr>
</tbody>
</table>
3. Does the visual access contain information necessary for some portion of the item’s assembly?

‘Static’ assembly information would include a detailed photograph of a complex mechanical assembly. A photograph of an assembled item where the assembly information is obvious contains no technical data. For example, the image of a gearbox showing that the cover is held on with bolts is obvious.

Note to Static assembly: In the case of non-munitions list items (including non-“500” or non-“600” series items), Static visual access to either the outside of the assembly, or to internal items normally disassembled for servicing, repair, or maintenance (e.g., inside of a transmission, electronics box) is not ‘technical data.’ The assumption is that visual access of items normally available for sale without restriction falls under ‘Publicly Available’ data. Visual access to the internals of items not normally subject to disassembly without rendering the item non-functional (e.g., cutting open a cooled turbine blade, de-lidding an integrated circuit) may still contain technical data.

In the case where there is only Static visual access to non-munitions list items, check the “No – Necessary data present but publicly available” box and move to the next question.

Active visual access images provide information on how to assemble the item. Examples include part-specific assembly order, required orientations, rigging information, mistake-proofing, etc.

Examples:
### Visual Access Review Process: Detailed Question 4 - Testing

**4. Does the visual access provide information necessary to at least partially test the item?**

Necessary information includes part-specific parametric acceptance criteria, go-no go examples, and part-specific testing processes or methods.

Examples:

- A photo providing inspection parameters or inspection process information for a munitions list item contains munitions list technical data.
- A photo providing specific inspection parameters or processes equally applicable to both munitions list and non-munitions list parts, but that uses a munitions list part solely as an example, is does **not** contain munitions list technical data.
- A photo showing an industry-standard inspection method available in published literature, with no part-specific data, but that uses a munitions list part solely as an example, is publicly available information and Not Subject to the Regulations.

<table>
<thead>
<tr>
<th>ITAR</th>
<th>(Static) High resolution Static photo of the uncovered upper deck of an ITAR helicopter sufficient to show someone how to hook up the cables, hoses, bellcranks, etc.</th>
<th>√ Technical Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>EAR</td>
<td>(Static) High resolution Static photo of the uncovered upper deck of a Civil helicopter sufficient to show someone how to hook up the cables, hoses, bellcranks, etc.</td>
<td>X Not Technical Data because assumed to be publicly available</td>
</tr>
<tr>
<td></td>
<td>(Static) Insufficient detail to assemble (i.e., install the proper components in the right places)</td>
<td>X Not Technical Data</td>
</tr>
<tr>
<td></td>
<td>(Active) Provides part-specific instructions</td>
<td>√ Technical Data</td>
</tr>
</tbody>
</table>
Examples:

<table>
<thead>
<tr>
<th>Shows an engine being tested, but provides no specific data on how to test or what are acceptable outcomes.</th>
<th>X Not Technical Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generic, industry standard Florescent Penetrant Inspection process. No part specific technical data</td>
<td>X Not Technical Data</td>
</tr>
<tr>
<td>Part specific acceptance criteria</td>
<td>√ Technical Data</td>
</tr>
</tbody>
</table>

Visual Access Review Process: Detailed Question 5- Operation

5. Does the visual access provide information necessary to show some portion of item operation?

‘Static’ operating images usually need to contain additional text or information to convey operation. ‘Active’ images can show part of the operating sequence

Examples:
Visual Access Review Process: Detailed Question 6- Repair

6. Does the visual access contain information necessary to perform all or part of a repair on the item?

For the purpose of distinction:

- Repair takes an item that has failed or otherwise no longer meets requirements and returns it to operating condition. This may involve the replacement of failed or worn parts, or the restoration of failed or worn parts to working condition.
- Maintenance takes an item that is still in acceptable working order and applies actions to address worn parts prior to failure, or to perform adjustments or calibrations as necessary. (See question 7)

Necessary information includes part- or item-specific parameters or processes to restore a part to working order, or to replace a broken or failed part. Repair information may be the same as production or manufacture if the parameters or processes are the same. However, repair may have unique processes such as stripping of old coatings, or parameters that are different where the repaired part does not need to meet the ‘as manufactured’ specifications.

Examples:
Visual Access Review Process: Detailed Question 7- Maintenance

7. Does the visual access contain information necessary to perform all or part of a maintenance action on the item?

Necessary information includes part- or item-specific parameters or processes to service the item, such as test methods and go/no-go values, detailed troubleshooting information, assembly/disassembly instructions, etc.

Examples:
Visual Access Review Process: Detailed Question 8 – Modification

8. Does the visual access contain information necessary to perform all or part of modifying the item?

For the purpose of a definition, Modification is the act of changing an item in some way from its original configuration. For example, this may involve adding an attachment, altering the shape in some way (filing, drilling, grinding, welding), or replacing one part or feature with a different one.

Step 4: Classification

If there are technical data elements (answer “Yes” to any question), determine the export classification.

If the visual access is of a munitions list item:

If the reviewer finds necessary technical data in any grouping (questions 1-8), then there is munitions list technical data present. There is no need to review all the groupings. Classify the visual access per the ‘technical data’ entry of the relevant munitions list category.

Note: If the visual access is of an ITAR-controlled item designated as Significant Military Equipment (SME), you must review the Manufacture/Production grouping (See Step 2 below). Classify the visual access per the ‘technical data’ entry of that ITAR USML category. If there is Manufacture/Production (question 3) technical data, the technical data is SME. No other test, including Assembly (question 3) can trigger SME.
If the Visual Access is of a non-munitions list item (including “500” and “600” series):

Determine if the visual access contains “development”, “production”, or “use” technology by comparing which groupings have a “Yes” as follows:

“Development” technology is present if the answer is “Yes” to ANY of the following (question numbers precede each line for reference):

1 Design and Development, or
3 Assembly – ONLY if the image is of a development (non-production) item, or
4 Testing – ONLY if the image is of a development (non-production) item.

“Production” technology is present if the answer is “Yes” to ANY of the following:

2 Manufacture/Production, or
3 Assembly – ONLY if the image is of a production item, or
4 Testing – ONLY if the image is of a production item

“Use” technology is present if the answer is “Yes” to ALL of the following:

2 Manufacture/Production (as used in repair, refurbishment, or overhaul), and
5 Operation, and
6 Repair, and
7 Maintenance

Note: “Development” and “Production” are triggered if any of the elements are present; “Use” requires all of the elements to be present.

Classify under the relevant export classification list category for Visual Access. Note that Technology entries are often specific for “development”, “production”, and/or “use.”

“Required” data under the U.S. EAR.

The EAR definition of “technology” references the General Technology Note (GTN), and the GTN utilizes “required” for items on the CCL. Therefore, the limiter “required” applies to all uses of the term “technology.”

“500” and “600” series.

The “500” and “600” series under export control reform uses “required” “technology for all entries except “.y”, “500” and “600” series items are in most cases identified by name/nomenclature. The ECCN header states that the “technology” is for items controlled by

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the relevant “500” and “600” series components. Therefore, the ‘performance characteristics’ are:

1. The commodities, equipment, materials or software are in the “500” and “600” series, and
2. The type of “technology” (e.g., “development”, “production”, operation, etc.,) is listed in the technology ECCN.

This makes for a very low threshold of “required” “technology.” For example, 9E610.b.1 is “technology” “required” for the “production” of a Static Structural Member controlled under 9A610. The performance criterion is that it be a static structural member controlled under 9A610. Since 9A610 is specific to parts and components (et al) for ‘military aircraft’, simply being “technology” for a static structural member controlled under 9A610 is sufficient.

Because “required” “technology” does not control technical data common to the item and other, not listed items, the “required” “technology” is “production” “technology” specific to that particular part (for 9E610.b.1). “Technology” already has a necessary information limiter.

Therefore, the “required” “technology” for an item described in the “500” and “600” series is the information necessary for the “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishment2 of the part. This is usually restricted to part number specific information, such as the necessary dimensions or particular heat treatment parameters. This is the same threshold as the ITAR.

Note: that the “500” and “600” series does not employ the term “use”, but instead spells out operation, installation, maintenance, repair, overhaul, or refurbishment separately. Where the “classic” EAR requires all six to be present in visual access (and therefore highly unlikely to occur), the presence of any one of the technology types will typically trigger technical data for “500” and “600” series items.

Note: Not all “500” and “600” series “technology” items use all six entries, for example 9E515.a does not include ‘operation’ or ‘maintenance.’ In that ECCN, ‘operation’ or ‘maintenance’ data for the items called out in 9E515 is not controlled in 9E515.a, nor any other ECCN, making it EAR99.

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2 The list of actions will depend on the individual ECCN.