

## **FACT SHEET: Revisions to Definitions**

On June 3, 2015, the State Department published a proposed rule in the Federal Register (86 FR 31525) revising certain key definitions within the International Traffic in Arms Regulations (ITAR) and adding several new definitions to further clarify the meaning and scope of the ITAR. A primary purpose of these revisions to the ITAR is to harmonize, where appropriate, the ITAR and the Export Administration Regulations (EAR) of the Department of Commerce, Bureau of Industry and Security (BIS). BIS also published a proposed rule (86 FR 31505).

The Department's proposed rule addresses three primary issues:

- 1. The definition of Defense Services:** A proposed definition of Defense Services makes many changes to the current controls and takes into account comments received on the last proposed revision of this definition (79 FR 27180). While it continues to control assistance in developmental and integration activities involving defense articles, it creates a class of U.S. persons who do not need to obtain prior authorization to do certain work on defense articles abroad (e.g., those persons who have not had access to technical data in the area they are currently working in). The definition also clarifies controls on providing assistance in the operation of defense articles, on U.S. persons fighting for foreign militaries, and the provision of assistance to governments of countries listed in §126.1.
- 2. The definition of a number of the fundamental terms in the ITAR:** The definitions of defense article, technical data, public domain, fundamental research, export, reexport and retransfer are clarified and, as appropriate, harmonized with the EAR. New definitions for "required" and "release" are added to assist in clarifying the scope of controls on technical data.
- 3. Changes to the ITAR to address the storage and transmission of technical data:** The proposed rule sets out exclusions from the definitions of export, reexport and retransfer for the electronic transmission and storage of certain secured technical data. Specifically, the proposed language exempts from control on the ITAR the electronic transmission and the electronic storage outside of the United States of technical data when it is encrypted using end-to-end encryption that meets the FIPS 140-2 standard and the data is not stored in a §126.1 country or the Russian Federation.