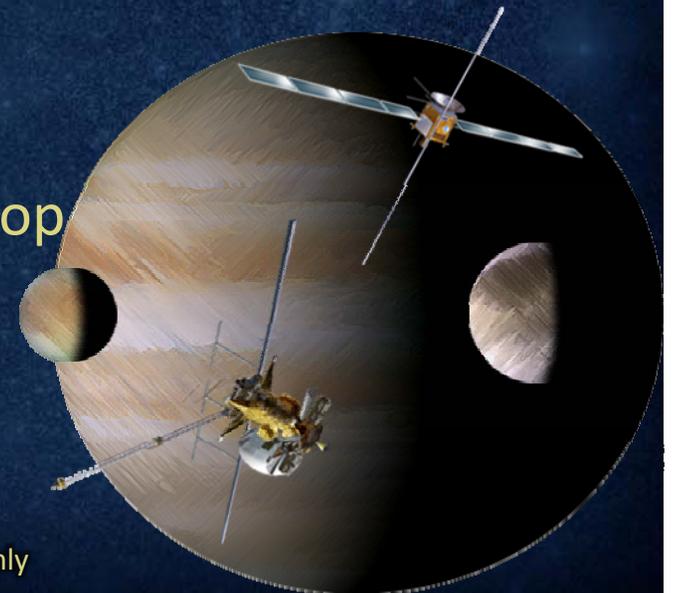




Export Compliance for Foreign and Domestic Contributors

Gina Madden

EJSM Instrument Workshop
July 27-29, 2010





Legal Authority

The regulations most likely to affect the Mission are:

U.S. Department of State

- International Traffic in Arms Regulations (ITAR)
 - Controls Defense Articles and Defense Services (technical data and know-how) found in the U.S. Munitions List (USML)
 - » For example: Category XV – Spacecraft systems, science instruments on spacecraft and associated equipment and software

U.S. Department of Commerce

- Export Administration Regulations (EAR)
 - Controls items on the Commerce Control List (CCL) having a commercial or dual-use (military/strategic and commercial) application

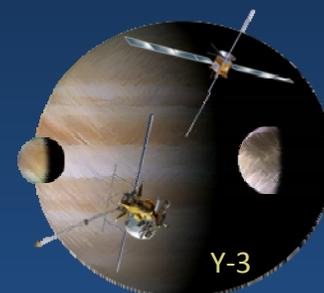
For example: High performance computers, encryption software, robotics.





Export and Technical Assistance

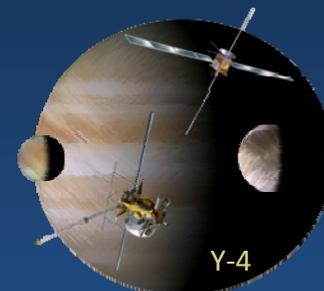
- Collaboration may involve not only the transfer of technical data but also providing assistance in the design, development, manufacture, operation, repair and modification of an export-controlled item. This is considered a Defense Service or Technical Assistance
- If the assistance involves export-controlled technology to Foreign Persons, then a license or other export authority is needed





What is a TAA?

- The Department of State authorizes certain exports by means of a Technical Assistance Agreement (TAA)
 - A TAA defines what export-controlled technical data and services the project will provide to the foreign party(ies)
 - The Department of State reviews the request and grants approval often with limitations
 - Having a TAA doesn't guarantee that you can do everything you want – there are limits

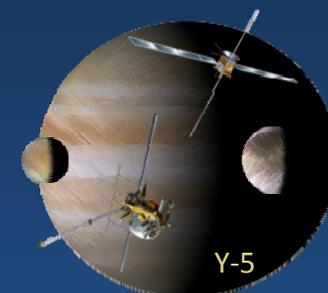




What is a Foreign Person?

July 27 - 29, 2010

Pre-Decisional - For Planning & Discussion Only



Y-5



Export Considerations - Foreign Collaboration

- What is a “Foreign Person”?
 - ITAR defines *Foreign Person* to mean:
 - Any natural person who is not a lawful permanent resident (Green Card Holder)
 - Not a protected individual (such as an asylee or refugee)
 - Foreign corporation, business, association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the U.S.
 - Note: A person holding a student or work visa is considered a Foreign Person under the terms of the ITAR





Export Considerations – Domestic Collaboration



- How do the U.S. Export Regulations apply when collaborating with U.S. partners?
 - If the U.S. company has foreign persons employed at their facility and the foreign persons will have access to JPL/APL controlled data or technology, a license or other form of export authorization will be necessary
 - If the company is a foreign entity and not incorporated in the U.S., a license will be required to transfer controlled data or provide defense services to the company



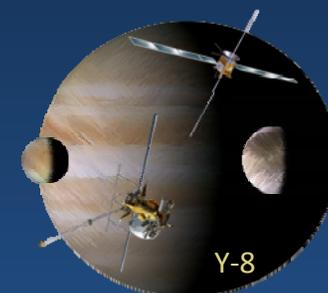


Export Considerations –



Domestic Collaboration (continued)

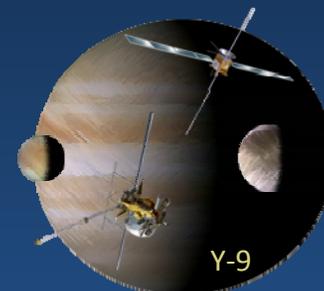
- How do the U.S. Export Regulations apply when collaborating with U.S. partners?
 - If there are foreign persons in the partner's facility that will not require access to controlled data, the partner may need to put access controls in place to prevent unauthorized technology transfers of controlled technical data





What is Your Responsibility Now?

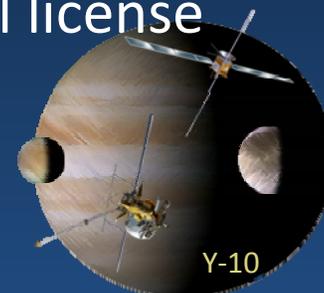
- You or your agency may need to get a license, TAA or other export authorization now in order to conduct export-controlled collaborations and communications with your foreign partners





What is JPL/APL's Responsibility Later?

- We anticipate that there will be numerous instrument and science teams made up of U.S. and foreign entities and individuals
- Once the instruments and science teams have been identified, we will work to assure that the appropriate export authorizations are in place
- Getting license approvals takes time
 - Department of State approval can take up to two months
 - Technical exchange and assistance may need to be limited to general systems or basic marketing information until license authority is granted





What Does the TAA Process Look Like?

- We will provide a skeleton TAA document in the proposal package to familiarize you with what the prospective agreement will look like
- We will work with each of the instrument and science teams to get the proposed TAA drafted
- We will submit the proposed TAA to State for approval



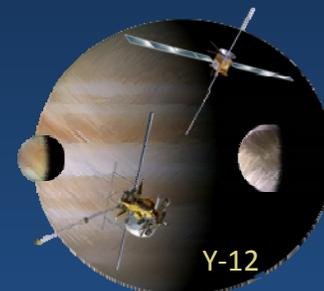


What Does the TAA Process Look Like?



(continued)

- State will review our request and provide their approval usually with limitations
- We will send the approved TAA out to all the parties for signature
- Once it has been signed by all the parties and we have sent a copy to State, we may begin to provide export-controlled data and services





Existing Export Authorization for EJSM

- EJSM has received previous export authorization from the Department of State to “undertake cooperative studies and implementation activities on the OPF mission planning and program definition”
 - TA 1173-08 – Allows JPL to work with ESA and CNES
 - APL mirror TA 1419-08 allows the same
 - TA 2335-08A – Allows JPL to work with ESA, CNES, INAF-IASF and 25 individuals that make up the Science Definition Team
 - APL mirror TA 2462-08 allows the same
 - TA 1991-09A – Allows JPL to work with a two-member Science Definition Team and a four-member Technical Team
 - APL mirror TA 2381-09A allows the same

