



FedEx Regulatory Alerts & Updates

Regulatory Alert: China ITAR Concerns

December 2, 2020

Background

The U.S. International Traffic in Arms Regulations (ITAR) are issued by the U.S. State Department and govern the export of articles on the U.S. Munitions List (USML). The USML is a list of articles, services and technical data designated as defense articles or services.

Companies or individuals who intend to export defense articles or services must obtain a State Department License (SDL) or qualify for an ITAR license exemption. In addition, ITAR Part 126.1 prohibits USML articles from being shipped to, or transiting, the People's Republic of China (China) and other listed countries such as Belarus, Burma (Myanmar) and Venezuela.

FedEx Express offers two options for customers who are shipping USML articles to comply with ITAR and avoid transshipping China or other listed countries: the FedEx International Controlled Export (FICE) service option available from the U.S. and Puerto Rico and the ITAR routing option available globally. Details on the FICE service and ITAR routing option can be found in the REFERENCES section below.

FICE and ITAR routing service do not supersede other terms and conditions of the FedEx service guides. FedEx cannot accept USML articles that are prohibited by the FedEx service guides such as firearms, weaponry and their parts including the specific ammunition for the weapons.

What Has Changed?

On July 14, 2020, President Trump issued Executive Order 13936 on Hong Kong Normalization which directed the State Department and other U.S. agencies to suspend or eliminate preferential treatment for Hong Kong, Special Administrative Region (SAR), China under U.S. laws and regulations.

Following release of the Executive Order, the State Department issued guidance that Hong Kong SAR, China, is now treated the same as China under section 126.1(d)(1) of the ITAR. Requests for a SDL to ship USML articles to Hong Kong SAR, China are subject to a policy of denial and shipments of USML articles may no longer transship Hong Kong SAR, China.

See the U.S. Statement on Hong Kong policy below in the REFERENCES Section.

Content Intended for FedEx Express Customers Only

Q & A

Q1: Can an exporter who lawfully obtained a SDL for shipping USML articles to Hong Kong SAR, China PRIOR to the July 14, 2020 E.O. 13936 continue to rely on the SDL for exports of USML articles?

A1: No. The suspension applies to all SDL shipments of articles including those shipped using the FICE service.

Q2: What happens if exporters ship USML articles with FedEx and do not select FICE or ITAR routing?

A2: If customers tender USML articles to FedEx and have not selected either FICE or ITAR routing, the shipment will be treated as general cargo and may transship China.

Q3: Is FICE service available for all FedEx Express customers?

A3: No, FICE is only available for FedEx Express customers in the United States and Puerto Rico. However, the ITAR routing option is available for customers in all countries that use Ship Manager on fedex.com and certain other automated shipping tools.

Q4: Can an exporter ship USML articles such as firearms and ammunition using FICE or ITAR routing if the exporter has a SDL?

A4: FedEx cannot accept ITAR items that are prohibited by the FedEx service guides (e.g., firearms, weaponry and their parts including the specific ammunition for the weapons). Even if the customer has properly obtained the required license/permit for exporting the weapons, these cannot be transported on FedEx Express International Services and service options.

Q5: Does ITAR routing support compliance with non-US import or export requirements?

A5: The ITAR routing option is for ROUTING ONLY. It does not ensure compliance with local or national requirements for import or export licenses or customs clearance. As a result, customers must ensure that they arrange for licenses and customs clearance in compliance with local or national requirements.

References:

Presidential Executive Order on Hong Kong Status

<https://www.whitehouse.gov/presidential-actions/presidents-executive-order-hong-kong-normalization/>

DOS Statement on Hong Kong Policy

<https://www.state.gov/u-s-government-ending-controlled-defense-exports-to-hong-kong/>

FedEx International Controlled Export (FICE) Service

<https://www.fedex.com/en-us/service-guide/special-handling-services.html>

Note – must scroll down to the FICE link.

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