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D-12 – Product Classification made by RespectUs, to determine dual-use and military codes

How do you know if your export is controlled and is subject to a Government license or otherwise restricted? The legal requirements are dependent on your product, software or technology, the country of shipping and country of destination, the end-use, the customer and the end-user.

All starts with classifying your product, software or technology with regard to the control lists, which are established by the national States, most often on the basis of agreements they have taken in multilateral regimes.

Are you lacking a clear process ?

ML, DU, HS, CN: all codes that you will meet during your product classification.

Starting with right customs codes is key. If you use wrong codes, your products may get delayed going through customs, or even held indefinitely, you may have to pay too much in customs duties, your customers get disappointed and you may get subject to fines and penalties. And, did you know that some sanctions against countries and persons are built on the customs number ? Are you aware of the differences between the HS (Harmonized System) code and the CN (Combined Nomenclature) code? And what the hell is TarLux and TarBel?



Dual-use classification is a strictly technical check. It is necessary to compare the technical attributes of the product to be classified with the technical description in the checked list item. If there is match, your product is a listed dual-use item. The relevant control list for European exporters is Annex I (and Annex IV) of the EU Dual-Use Regulation 2021/821. But this list is amended at least once a year. Classification requires a lot of technical knowledge of your product, and often also needs input of a legal officer able to jungle through Annex I with its definitions, general notes, technical notes and code descriptions. Good to know, here, is that the actual use of the products does not have any effect on their classification. That is, a listed item does not lose its dual-use status because it will actually be used only for civilian purposes. At the same time, a product that is not on the dual-use list does not become a dual-use item because of a critical use for military purposes, for example. Dual-use classification is independent of the recipient and the use as well.

The same approach is valid for the check against military lists (in Europe, the EU Common Military List; ITAR in the US). But how to check if your product meets the criteria of "specially designed or modified" for a military use (a condition often used by control lists to include the product in the list)? Do you have a clear understanding of what this means? Do you have internal processes in place to get technical information to do this assessment?

All control lists may be easy to understand on the surface, but the challenges and difficulties to implement the checks are considerable.

Product classification also requires a clear documentation of technical checks and systematic maintenance of master data. The process needs most often cooperation of different people in the same company. Where are you storing all your classification sheets? Do you have alerts in place reminding you that the technical code against which you assessed has changed during a yearly update?

How are you handling classification of components you purchased from the manufacturer or supplier? The level of technical detail of the item descriptions in the control lists makes it difficult to classify a product that you yourself did not develop or manufacture. Are you checking the manufacturer's information for export control classification, and if the information is not plausible, are you reclassifying the part independently?



RespectUs is helping you along the classification way

RespectUs has opted to integrate a maximum of automation in its product classification module. We thought it to be an end-to-end process, assessing products against military, dual-use and torture goods lists. It is based on the deep experience we have gained while working with our consulting clients on classifying their products.

The platform is guiding the way, asking the relevant questions, suggesting potential codes against which to assess, offering useful information about technical terms and legal wording. But the user is having and mastering technical knowledge about the products to assess and takes responsibility with regard to a match between the product and the technical code.

In brief: RespectUs' module 2 (Product Classification) is:

An internal classification process

- based on current legislation of the jurisdiction of the user
- always considering the up-to-date control lists
- providing a path to assessment against military, dual-use and torture goods control lists
- allowing to search for customs numbers
- suggesting potential dual-use and military codes against which to assess a product, software or technology
- offering the personalised assistance of RespectUs to validate a classification made online by the user
- storing the saved classification sheets in a dashboard
- providing the user alerts in case the description of technical codes used in a classification has changed since the classification date

Test us. Challenge us. Give us feedback so that we can improve and design this module according to your specific needs.

Cheers,

For the RespectUs team,
Patrick Goergen, CEO

Next to come in this series:

D-9: Sanctions & Embargoes, in the RespectUs style, to get fast answers to an interrogation about exports to sanctioned countries

Did you miss part(s) of the series? Read here the last blogs:

1 March 2023: [D-14 RespectUs is opening subscriptions on 15 March 2023](#)

2 March 2023: [D-13 Knowledge Base, the collection of export control and sanctions regulations](#)