

**What is the "deemed export" rule?**

An export of technology or source code (except encryption source code) is "deemed" to take place when it is released to a foreign national within the United States.

§734.2(b)(2)(ii) of the Export Administration Regulations (EAR).

(ii) Any release of technology or source code subject to the EAR to a foreign national. Such release is deemed to be an export to the home country or countries of the foreign national. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the United States and does not apply to persons who are protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)). Note that the release of any item to any party with knowledge a violation is about to occur is prohibited by §736.2(b)(10) of the EAR.

(3) Definition of "release" of technology or software. Technology or software is "released" for export through:

(i) Visual inspection by foreign nationals of U.S. origin equipment and facilities;

(ii) Oral exchanges of information in the United States or abroad; or

(iii) The application to situations abroad of personal knowledge or technical experience acquired in the United States.