



Technology-based Export Controls

GENERAL DEFINITIONS

Person – a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities.

US Person – a natural person who is a US citizen, permanent resident, or is a protected person; any entity legally organized to do business in the US; and, US federal, state, and local government agencies.

Foreign Person – any individual or other entity that is not a US person. **Foreign national** may be used to refer to natural persons who are not US persons.

Export – Physical shipment or transmission of controlled items, software or information out of the US; transferring controlled information to a foreign national in the US (i.e., a deemed export); or providing a foreign national access to certain controlled items in the US.



INTRODUCTION

Export controls are a general term for the laws and regulations governing the dissemination of US items, software and information (technology). This brochure provides a brief introduction to the technology-based regulations, but the trade sanction regulations and embargoes under the jurisdiction of the Office of Foreign Assets Control, Department of the Treasury can also impact research and teaching activities.

Most university activities are exempted or excluded from the scope of US export controls. For example, the following activities are not typically controlled:

- Providing instruction as part catalog-listed courses and associated teaching labs;
- Attending and presenting research results at open scholarly meetings; and
- Dissemination of publicly available information, which includes information published in the open literature and the results of fundamental research.

However, the items and software we use in research and teaching activities are subject to export controls, as is much of the proprietary technical information we receive. When the University accepts technology subject to export controls, we also accept responsibility for preventing unauthorized exports.

MINIMIZING THE POTENTIAL FOR EXPORT CONTROL ISSUES IN SPONSORED RESEARCH

DO

- Ask for help! The Office of Export Controls is here to provide support for your research and scholarly activities
- Read solicitations and other funding announcements carefully for export control language
- Discuss potential export control issues with sponsors early and often
- Seek grants rather than contracts
- Ask vendors for export information when pricing equipment and software
- Identify all potential applications in your proposals, particularly those to DoD funding agencies

DON'T

- Travel to sanctioned countries
- Accept publication restrictions
- Accept or sign non-disclosure, secrecy or confidentiality agreements*
- Travel internationally with controlled items, software, or technical data
- Use defense articles, including technical data, in your University activities

** Not all proprietary or confidential information is subject to export controls, but an assessment will be required to make that determination.*

EXPORT ADMINISTRATION REGULATIONS

The EAR (15 CFR 730-774) are issued by the Bureau of Industry & Security (BIS), Department of Commerce, to implement its authority under the Export Administration and International Emergency Economic Powers Acts.

The EAR has a very broad scope, covering all items in U.S. commerce not subject to the jurisdiction of another agency as well as EAR-listed US-origin technology regardless of where it is located. However, only a small fraction of dual-use technologies (having both commercial and military uses) are subject to licensing requirements, and then only in specific situations. The need for a license depends on the technology, country of ultimate destination, end-user and end-use. BIS is responsible for both licensing and enforcement under the EAR.



ACTIVITIES THAT MAY REQUIRE AN EXPORT LICENSE

- Shipping equipment, supplies, samples, etc. out of the US
- Paying for services in a foreign country
- Sharing proprietary technical data with a foreign national in the U.S.
- Using cloud-computing to store controlled information
- Access to, use or development of defense articles, including technical data, anywhere
- Taking your laptop or other device containing controlled information on foreign travel
- Taking or sending equipment to international waters or the international space station
- Integrating something into a defense article
- Providing foreign sponsors with deliverables other than scientific or scholarly publications or presentations
- Transferring controlled information to a person in a foreign country



INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

The ITAR (22 CFR 120-130) are rules and procedures issued by the State Department implementing its authority under the Arms Export Control Act and Executive Order #11958.

The ITAR control the export and temporary import of items or technologies identified on the U.S. Munitions List; these are principally technologies that are of military origin or have predominant military/intelligence utility (defense articles). The ITAR also control the provision of information, assistance, training, etc. in the use, development, or manufacture of a defense article (defense services) to foreign nationals. Licensing of defense articles and services is under the jurisdiction of the Directorate of Defense Trade Controls.

NUCLEAR REGULATIONS

The Atomic Energy Act (AEA) is the principle law governing the import, export and use of nuclear equipment, materials and information but certain military nuclear technology is subject to control under the ITAR, while some materials and equipment used in civilian nuclear power plants are subject to the EAR.

The AEA gives the Nuclear Regulatory Commission (NRC) jurisdiction over the import and export of nuclear equipment and materials and their use in the US. The NRC regulations (10 CFR 110) contain a list of subject equipment and materials.

The Nuclear National Security Administration (NNSA), Department of Energy, has authority over the provision of assistance to foreign atomic energy activities (10 CFR 810), which include, but are not limited to, providing information or training in the design, operation, or manufacture of nuclear reactors and other nuclear fuel cycle facilities. Regulated assistance can take the form of technology transfers to foreign nationals.

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