

Procedures for Complying with the Export Control Policy of the University of Illinois at Urbana-Champaign

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1. Purpose

To provide procedures for complying with federal law and campus policy regarding exports of commodities, technologies, and information. The full Policy on Compliance with the Export Laws and Regulations of the United States can be found at <http://cam.illinois.edu/xi/xi-3.htm>.

2. Scope

These procedures apply to all members of the campus community, including but not limited to employees, tenure- and non-tenure-track faculty, lecturers, students, postdoctoral fellows, postdoctoral scholars, and other postdoctoral personnel, independent researchers, visiting scholars, visiting scientists, contractors, subcontractors, and volunteers.

3. Definitions

Controlled items include defense articles, dual-use items, and any other technologies identified on either the United States Munitions List¹ or Commerce Control List² as subject to export controls. Note that “items”

¹ [22 C.F.R. 121.1.](#)

² [15 C.F.R. 744, supplement 1.](#)

in this context may refer to information or software source code in addition to tangible items like lab equipment, chemical samples, or biological specimens.

Deemed exports include disclosures of information or software source code to foreign nationals, regardless of format or location. A disclosure of information to a foreign person is deemed to be an export of the information to that person's country or countries of nationality. For example, emailing or verbally discussing research data with a foreign national, or making source code available for download by the general public.

Defense articles are any items or information that serve primarily military or intelligence applications, with few or no civilian applications.

Dual-use items include tangible items, software, and other technologies that have both civilian and military applications.

Exports include shipments of tangible items to recipients outside the United States as well as transmissions of information in any format to foreign persons, including UIUC faculty, staff, and students, wherever located. Examples include shipping equipment or physical samples to a colleague in another country, or emailing or verbally discussing research data with a foreign national.

The Export Administration Regulations (EAR, 15 C.F.R. 730-774) control exports of dual-use items and technologies. EAR-controlled items are less sensitive than ITAR-controlled items, so not all exports require a license. Rather, the Commerce Department's licensing requirements are based on the nature of the item, the destination country, the recipient, and the recipient's intended use of the item.

Export licenses are written authorizations provided by a federal agency that allow exports or deemed exports of specific items or information to specific recipients for specific end-uses. Licenses are generally required in order to export controlled items, depending on the nature of the item, the intended recipient, and the recipient's intended end-use. In some circumstances, it may also be necessary to obtain a license in order to export an uncontrolled item to a recipient in a particular location (for example, an embargoed country). **Not all exports and deemed exports require licenses.**

Export license exceptions are limited circumstances under which exports of controlled items are allowed without first obtaining an export license. These exceptions are detailed at [15 C.F.R. 740](#).

Foreign persons are any persons or entities who do not fall into one of the following categories:

1. United States citizens;
2. Lawful permanent residents of the United States;
3. Refugees, asylees, and similarly protected individuals;
4. Entities of the United States government, including both state and federal agencies; or
5. Corporations, business associations, and other organizations incorporated or otherwise authorized to do business in the United States.

The Foreign Assets Control Regulations (FACR, 31 C.F.R. 500-599) (also known as the Office of Foreign Assets Control or OFAC Regulations) control exports, travel, and financial transactions involving embargoed countries. Many transactions, including research and teaching collaborations, require special permission from OFAC. The terms of these embargoes differ by country, but you should exercise caution when proposing traveling to or collaborating with someone in Cuba, Iran, North Korea, the Republic of Sudan (also called North Sudan), or Syria.

Fundamental research refers to basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community.³ Data and other information that result from fundamental research are not subject to export controls. However, if controlled items are used to conduct research, these items remain controlled, regardless of whether the work itself constitutes fundamental research.

The International Traffic in Arms Regulations (ITAR, 22 C.F.R. 120-130) govern exports of military technologies. The ITAR also control information required for the development or operation of military technologies. Technologies controlled by the ITAR are the most sensitive and therefore the most tightly controlled. **Every export of an ITAR-controlled item requires permission from the State Department.**

Technology control plans (TCPs) are documents that record procedures for securing and managing access to controlled items. TCPs may be specific to individual research projects, or may be established to secure equipment or information that is used for several activities. TCPs are separate from biosafety and radiation safety protocols, and may be required in addition to them.

4. Responsible parties

4.1. The Empowered Official, as required by 22 C.F.R. 120.25, has the following authorities and responsibilities that may not be delegated:

1. Signing applications for licenses and other requests for approval under the ITAR on behalf of the campus and campus personnel;
2. Taking appropriate measures to enforce campus export compliance policies and procedures;
3. Reporting suspected export control violations to the cognizant federal authorities; and
4. Any other authorities and responsibilities enumerated at 22 C.F.R. 120.25.

4.2. The Export Compliance Officer is responsible for the ongoing development and maintenance of the campus's export compliance policies and procedures. Specifically, the Export Compliance Officer's responsibilities include:

1. Serving as the primary contact for the campus community regarding this policy and export controls generally;
2. Determining the applicability of export controls to campus activities;
3. Coordinating applications for export licenses and related authorizations on behalf of the campus, and applying for or assisting the Empowered Official for ITAR with applying for, such licenses and authorizations;
4. Assisting campus personnel in developing procedures for securing and managing access to items and information subject to export controls, and approving such procedures;
5. Conducting training and providing other educational resources regarding compliance with this policy and with federal export laws and regulations;
6. Assisting academic and administrative units with developing procedures for complying with this policy and with federal export laws and regulations;
7. Performing periodic assessments of efforts to comply with this policy and with federal export laws and regulations; and
8. Investigating suspected export control violations, including violations of this policy.

4.3. Researchers (including tenure- and non-tenure-track faculty; lecturers, postdoctoral fellows, postdoctoral scholars, and other postdoctoral personnel; independent researchers, students engaged in

³ See National Security Decision Directive 189 (1985), available at <https://www.fas.org/irp/offdocs/nsdd/nsdd-189.htm>.

research; and visiting scholars) bear the primary responsibility for ensuring compliance with export controls in the conduct of research and other activities in which they participate. Specifically, this includes:

1. Disclosing to the Export Compliance Officer any activities or relationships that may require a Technology Control Plan or license, including without limitation:
 - a. Research where the sponsor restricts publication or participation by Foreign Persons;
 - b. Research intended to develop military, intelligence, or dual-use applications;
 - c. Research, including fundamental research, involving the use of controlled items or information;
 - d. Travel to embargoed countries for the purposes of conducting, presenting, or otherwise supporting research or establishing relationships on behalf of the university; and
 - e. Exports of controlled items, including travel with controlled information, materials, or equipment, and deemed exports.
2. Disclosing to the Export Compliance Officer any suspected violations of this policy or of export controls;
3. Working with the Export Compliance Officer to appropriately identify, correctly categorize, and adequately secure the controlled technologies they use and produce;
4. Knowing and complying with the terms of funding awards and other agreements that impose export controls and limitations on publishing research data;
5. If deemed necessary by the Export Compliance Officer, developing a Technology Control Plan to manage access to controlled items and information;
6. Monitoring compliance with any applicable Technology Control Plan(s) for themselves and for any other faculty, staff, and students under their supervision; and
7. Working with the Export Compliance Officer to provide appropriate training for other faculty, staff, and students under their supervision regarding conducting research and participating in controlled activities in compliance with their regulatory and contractual obligations.

Academic and administrative units are responsible for developing, in consultation with the Export Compliance Officer, procedures for complying with this policy and export controls.

5. Exports and deemed exports

5.1. Exports and deemed exports generally

Exports and deemed exports are governed by complex legal regimes, and sometimes require special permission (in the form of an export license or other authorization) from an agency of the federal government. Generally, exports are controlled either by the State Department (for military and space items) or the Commerce Department (for dual-use items). Some countries are subject to comprehensive embargoes; exports to these destinations, regardless of the item or information being exported, require permission from the Treasury Department. Not all items are controlled for all destinations, but some items may not be sent to specified individuals, or used for specified end-uses.

The Empowered Official and Export Compliance Officer share responsibility for determining whether a particular export requires a license and, if so, applying for that license. **Faculty members, staff, and students cannot apply for export licenses on their own.** In order to facilitate these determinations, exporters should be able to provide answers to the following questions:

1. **What is the item or information to be exported?** This includes a detailed technical description of the item, its specifications or operating parameters, and any contractual non-disclosure or end-use restrictions that apply to the item.
2. **Where will the item be exported to?** Certain items cannot be shipped to certain countries, or disclosed to nationals of certain countries, regardless of sensitivity or intended use.

3. **Who will receive the item or information?** Certain individuals and organizations are prohibited from receiving exports from U.S. persons. The Export Compliance Officer will need to screen recipients against lists of restricted parties maintained by the federal government.
4. **What is the intended end-use?** The federal government prohibits exports of items and information that will be used to create weapons of mass destruction or conduct criminal activities. Because some items used for legitimate research purposes may also be used for unlawful activities, export licenses require detailed descriptions of how items will be used once they reach their destination.

If the Export Compliance Officer determines that a license is necessary based on the responses to these questions, he or she will apply for a license on behalf of the researcher. Depending on the item to be exported, the government may take up to six months (and in some cases even longer) to process a license application, and there is no guarantee that a license will be issued. **No exports may take place until the required license is issued.**

5.2. Exports of ITAR-controlled items

Items subject to the International Traffic in Arms Regulations include all items and information falling into an enumerated Category of the United States Munitions List⁴ and any other items determined by the Empowered Official or Export Compliance Officer to constitute a “defense article” (as defined at [22 C.F.R. 120.6](#)) or “technical data” (as defined at [22 C.F.R. 120.10](#)).

If the Empowered Official determines that an item is subject to the ITAR, the Empowered Official will, at his or her discretion, apply for an export license on behalf of the university. Per 22 C.F.R. 120.25(a)(2), **only the Empowered Official is authorized to apply for ITAR export licenses on behalf of the university; no other party has such authority. All exports of ITAR-controlled items require a license or other authorization. No exports of ITAR-controlled items may take place before an appropriate license or other authorization has been issued by the Directorate of Defense Trade Controls.**

The following is a non-exhaustive list of activities that constitute exports of ITAR-controlled items:

- Shipping or carrying a defense article to a destination outside of the United States;
- Allowing a foreign person to have physical access to or visually inspect a defense article;
- Releasing controlled technical data to a foreign person, wherever located; or
- Any other activity that constitutes an export under [22 C.F.R. 120.17](#).

5.3. Exports of EAR-controlled items

Items and information subject to the Export Administration Regulations include all items falling into an enumerated Export Control Classification Number on the Commerce Control List⁵ and any other items determined by the Export Compliance Officer to constitute “items subject to the EAR” under [15 C.F.R. 734.3](#).

If the Export Compliance Officer determines that an item is subject to the EAR, he or she will, at his or her discretion, apply for any required licenses or other authorizations on behalf of the university. Not all EAR-controlled items require a license for all export destinations; however, **only the Export Compliance Officer is authorized to determine which destinations require licenses for which items. No exports of EAR-controlled items may take place before authorization by the Export Compliance Officer.**

⁴ 22 C.F.R. 121.1.

⁵ 15 C.F.R. 744, supplement 1.

The following is a non-exhaustive list of activities that constitute exports of EAR-controlled items:

- Shipping or carrying an EAR-controlled item to a destination outside of the United States;
- Allowing a foreign person to access or visually inspect an EAR-controlled item;
- Releasing controlled technology or software to a foreign person, wherever located; or
- Any other activity that constitutes an export under [15 C.F.R. 734.2\(b\)](#).

6. Training

In order to support ongoing compliance requirements, the Export Compliance Officer will offer training programs on a mandatory or voluntary basis for personnel engaging in exports or export-controlled activities. Training requirements will be determined on a per-activity basis, based on the nature of the activity, the person's role in the activity, and the sensitivity of any export-controlled items involved in the activity.

The Export Compliance Officer will use the following guidelines to determine whether training is required for a given activity:

1. All personnel who will have access to ITAR-controlled items must complete a training program prescribed by the Export Compliance Officer prior to commencing the activities in which the ITAR-controlled items will be involved. Such training will focus on the proper management of ITAR-controlled items.
2. The Export Compliance Officer may require personnel who will have access to particularly sensitive EAR-controlled items to complete a training program prior to engaging in activities that involve such items. The Export Compliance Officer will determine these training requirements on a case-by-case basis, but will generally only require such training for activities that involve items whose "reasons for control" listed in the Commerce Control List exceed the anti-terrorism ("AT") categories.
3. If the Export Compliance Officer determines that training is required for particular individuals, those individuals must complete periodic review training until the Export Compliance Officer determines that such training is no longer required (e.g., a research project concludes).
4. The Export Compliance Officer may offer training to the broader campus population that may not be directly involved in controlled activities (e.g., departmental administrators).

7. Relationships with restricted parties and embargoes

7.1. Restricted parties

Researchers who wish to conduct business, including research collaborations, with a person or entity in a foreign country should consult with the Export Compliance Officer prior to entering any agreements.

Federal law may restrict Urbana-Champaign personnel from engaging with certain individuals and organizations ("restricted parties") in the course of university activities. These restricted parties are identified on lists published by various federal agencies.⁶

Individual entries on these lists specify the level of restrictions imposed on the entity. Some entries may restrict exports from certain categories, while other entries may prohibit all exports and deemed exports.

⁶ The Consolidated Screening List, a compilation of all of these lists, is available at http://2016.export.gov/ecr/eg_main_023148.asp.

The Export Compliance Officer will assist Urbana-Champaign personnel in interpreting the restrictions imposed on these parties.

Restrictions imposed on businesses and other organizations also apply to their employees.⁷ This means that there may be additional restrictions on hosting visiting faculty or students from restricted universities, even if the faculty or student is not themselves a restricted party.

Urbana-Champaign personnel are prohibited from conducting any business, including sharing research data, with any restricted party, except as specifically approved by the cognizant federal agency. Only the Export Compliance Officer is authorized to seek such approval on behalf of the university and university personnel.

7.2. Embargoes

Other transactions with certain foreign persons, including nationals and entities of countries subject to United States trade embargoes,⁸ require a license or other authorization issued by the Office of Foreign Assets Control. Transactions requiring a license include but are not limited to:

1. Hiring or sponsoring an employment visa on behalf of a national of an embargoed country;
2. Hosting a foreign scholar who is a national of an embargoed country; or
3. Accepting money or other support from an individual or entity in an embargoed country.

If the Export Compliance Officer determines that a transaction requires a license or other authorization under the FACR, he or she may apply for the required licenses and authorizations on behalf of the university. **The Export Compliance Officer will work with the affected researcher or unit to determine whether a transaction is subject to federal sanctions. If the transaction requires a license, only the Export Compliance Officer is authorized to apply for licenses and other authorizations. No transactions may take place before the required license or authorization has been obtained.**

8. International travel with controlled items

Urbana-Champaign personnel should be careful not to travel outside the United States with controlled items or computers or other devices that contain controlled information. Personnel who wish to travel internationally for the purposes of conducting or presenting research should consult with the Export Compliance Officer to determine whether any restrictions apply. **In particular, personnel who are involved in controlled research must contact the Export Compliance Officer prior to finalizing any international travel plans.**

9. Travel to embargoed countries

The FACR may restrict U.S. citizens' and permanent residents' ability to travel to embargoed destinations. Personnel who wish to travel to embargoed destinations must obtain authorization from the Office of Foreign Assets Control. Personnel who wish to travel to an embargoed country (e.g., Cuba or Iran) or other sensitive regions should consult with the Export Compliance Officer and International Health and Safety prior to finalizing travel plans.

⁷ See item 30 under "Entity List FAQs" at <https://www.bis.doc.gov/index.php/component/faqbook/?view=category&id=33&Itemid=#subcat38>.

⁸ A list of embargoed countries can be found at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.

10. Receipt and disposition of controlled items

University personnel may purchase or otherwise acquire controlled items for use in research and other activities. While controlled items may be used to conduct fundamental research without affecting the ability to freely disseminate the results of the research, controlled items must be handled in the following ways:

- ITAR-controlled items must be secured according to a technology control plan developed by the responsible researcher in conjunction with the Export Compliance Officer, the researcher's department, and any other affected compliance unit, regardless of whether foreign persons will have access to the controlled items or whether the controlled items will otherwise be exported. Additionally, technology controls plans and disposition of ITAR-controlled items require the approval of the Empowered Official.
- The Export Compliance Officer may determine that a technology control plan is necessary to secure EAR-controlled items, in light of the nature of the item, the activity it will be used for, and the persons who require access to it. If the Export Compliance Officer determines that a technology control plan is required for an EAR-controlled item, he or she will assist the responsible researcher in developing an appropriate plan. Disposal of EAR-controlled dual-use items should be coordinated with the Export Compliance Officer in addition to any other responsible administrative unit.

11. Violations and enforcement

Because violations of export controls, including inadvertent failures to comply, may result in severe criminal and civil penalties both for individual faculty, staff, and students, as well as for the university as an institution, export compliance is the shared responsibility of all members of the university community. While Urbana-Champaign is committed to openness in research and in the classroom, it may from time to time be necessary to restrict certain individuals' ability to conduct, access the results of, or otherwise participate in certain research projects and other activities.

Suspected violations

If you suspect that a violation has occurred, you should report the suspected violation directly to the Empowered Official or to the Export Compliance Officer. In the event that a suspected violation of this policy is reported to the Empowered Official or the Export Compliance Officer, the Empowered Official will investigate the suspected violation, or appoint an investigator to investigate the suspected violation on his or her behalf.

The Empowered Official (or his or her appointee) has the authority to inspect all documents, including lab notebooks, security records, and internal communications, determined by the Empowered Official (or his or her appointee) to be relevant to the investigation.

During the course of an investigation, the Empowered Official (or his or her appointee) may in his or her discretion order personnel to cease any university activities related to the suspected violation, and may enforce such orders by halting the release of funds for such activities.

12. Contact information

Empowered Official for ITAR

David Richardson
Associate Vice Chancellor for Research
daverich@illinois.edu
(217) 300-7191

Export Compliance Officer

Sam Padilla
sppadill@illinois.edu
(217) 300-6385

13. Version information

Version	Revised by	Date
Revision 1	Sam Padilla, Export Compliance Officer	March 3, 2015
Revision 2	Sam Padilla, Export Compliance Officer	June 11, 2015
Revision 3	Sam Padilla, Export Compliance Officer	April 27, 2016
Revision 4	Sam Padilla, Export Compliance Officer	December 5, 2016