

Export Controls - The Basics for Research Administrators

What is an Export?

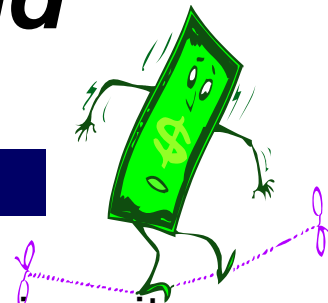


- **An export** is the actual shipment or transmission of items out of the United States or the release of technology or software to a foreign national in the United States.
- **“Deemed Export.”** The verbal, written, electronic, and/or visual disclosures of **controlled** scientific and/or technical information related to export controlled items to a foreign national in the United States.

Export Controls Background Information

- There are a number of US export laws that directly affect University research as well as other corporate or individual activities.
- These laws serve to regulate the distribution to foreign nationals/countries of strategically important products, services, and information for reasons of foreign policy and national security.

Export Controls Background Information



The laws may require in such circumstances that the University apply for a license with the appropriate Agency, or find and record an exception to the law.

Licenses are not easily obtained and require careful preparation and an inordinate amount of lead-time.

Penalties are severe for non-compliance, including monetary and criminal punishment.

There is no requirement that the government show an intent to break the law.

US Export Controls and Responsible Agencies

- Export Administration Regulations (EAR) – imposed by the Commerce Department – addresses “dual-use” technologies (used primarily in civilian applications)
- International Traffic in Arms Regulations (ITAR)- regulated by the State Department – addresses inherently military technologies
- Office of Foreign Assets Controls (OFAC) – enacted by the Treasury Department governing the transfer of assets (see next slide) to countries subject to boycotts, trade sanctions, embargos, etc.

Assets Defined under Export Controls

These regulations exert governmental control and supervision of research related assets involving:

- Technological,
- Biological,
- Chemical,
- Military-related products, services, and information for related to the protection of foreign policy and national security, and
- Transfer of currency.

Especially when a FOREIGN NATIONAL is involved in any segment of the research project.

Foreign Nationals Defined under Export Controls

Individuals not holding a current Green Card from the U.S. Immigration Services.

Foreign students, grad students, postdocs, technicians, visiting professors, etc. may need a license if they do not hold a green card from U.S. Immigration Services.

Exemptions

Publicly available (EAR 734.7)

- Generally accessible to the interested public
- Periodicals, books, print, electronic, other
- Open Patents
- Open Conferences

Educational Information (EAR 734.9)

- Released by instruction in catalog courses
- Associated teaching laboratories of academic institutions

Exemptions

Patent Information (EAR 734.10)

- Public information available on patent application

Fundamental Research (EAR 734.8)

- Basic and applied research where resulting information is ordinarily published and broadly shared within scientific community
- The fundamental research exception only applies to information that “arises during or results from” the research

EAR Embargo Countries

- US Embargos:

Cuba – most stringent

Iran

Sudan

Syria

- UN Embargos:

Iraq

Rwanda

ITAR - Proscribed Destinations

- ▶ Afghanistan*
- ▶ Belarus
- ▶ Burma (Myanmar)
- ▶ China (PRC- including Hong Kong)
- ▶ Congo (formerly Zaire)*
- ▶ Cuba
- ▶ Cyprus*
- ▶ Eritrea (10/06/08)
- ▶ Haiti*
- ▶ Indonesia*
- ▶ Iran
- ▶ Iraq*
- ▶ Cote d'Ivoire*
- ▶ Lebanon
- Liberia*
- Libya*
- North Korea
- Palestinian Authority*
- ~~Rwanda~~ (9/25/08)
- Sierra Leone
- Somalia*
- Sri Lanka*(Jan 08)
- Sudan*
- Syria
- Venezuela
- Vietnam*
- Yemen*
- Zimbabwe*

* Licenses granted ON case-by-case basis

Sanctioned Countries: OFAC

Comprehensive Sanctions:

(or very restrictive limited sanctions)

- **Cuba**
- **Iran**
- North Korea
- **Sudan**
- *Syria*

Limited Sanctions:

- Afghanistan
(Taliban)
- Balkans
- Iraq
- Ivory Coast
- Liberia
- Palestinian
Authority
- Myanmar (Burma)
- Zimbabwe

Red Flags When Considering Export Control Laws

- Shipping equipment to a foreign country?
- Collaborating with foreign colleagues in foreign countries?
- Exposing foreign nationals to research labs?
- Training of students (foreign nationals on research protocols or equipment)?
- Working with a foreign county subject to US embargo?
- Sponsor approval rights over publication? *UVA will not normally except this restriction*
- Sponsor limit on participation of foreign students? *UVA will not normally except this restriction*

For More Information on Export Controls

Please write to export-controls@list.mail.virginia.edu if you have any questions or concerns on export controls.

