



EXPORT CONTROLS: OVERVIEW & CHECKLIST FOR RESEARCHERS

What are Export Controls? "Export Controls" are federal statutes and regulations restricting the transfer of goods and technology to foreign persons and entities and to anywhere outside the U.S. These laws are implemented by the **U.S. Department of Commerce** through its **Export Administration Regulations (EAR)**, the **U.S. Department of State** through its **International Traffic in Arms Regulations (ITAR)**, and the **U.S. Department of Treasury** through its **Office of Foreign Assets Control (OFAC)**. The export control laws and regulations have several purposes: to restrict exports of goods and technology that could contribute to the military potential of U.S. international adversaries; to prevent proliferation of weapons of mass destruction; to advance U.S. foreign policy goals; and to protect the U.S. economy and promote trade goals.

What activities are impacted by Export Controls? (1) Transfers of controlled information, including technical data and manufacturing know-how, to foreign persons and entities and to anywhere outside the U.S.; (2) Shipment of controlled physical items, such as scientific equipment, that require export licenses from the U.S. to a foreign country; (3) Verbal, written, electronic, and/or visual disclosures of controlled scientific and technical information related to export controlled items to foreign nationals within the U.S. ("deemed exports"); (4) Provision of services to or conducting any financial transactions with a sanctioned country or restricted individuals or entities; and (5) travel to countries with sanctions imposed by the U.S. Treasury Department.

Examples of situations that may be subject to Export Controls include, but are not limited to:

- **Shipping controlled materials, supplies, or samples to other countries**
- **Exchanging controlled information with foreign nationals located overseas or in the U.S. (including on the UNT campus) by any means, including e-mail, file transfers, visual inspection, etc.**
- **Training a foreign national in the design, development, use, or testing of controlled equipment**
- **Sharing controlled information disclosed under sponsor confidentiality agreements with foreign nationals, including UNT students**
- **Carrying a university-owned laptop computer containing controlled information or certain types of encryption software on foreign travel**
- **Conducting research with controlled items under a grant or a contract that restricts the participation of foreign nationals or requires sponsor approval for publication of the results of the research (other than reviews for protection of the sponsor's patents or proprietary information)**
- **Traveling to one of the countries with sanctions imposed by the U.S. Treasury Department**

Who is considered a "foreign person"? (1) Any person who is not a U.S. citizen or lawful permanent resident of the United States ("green card" holder); (2) Any foreign corporation or other entity or group that is not incorporated or organized to do business in the U.S.; and (3) Any foreign government.

What is a "Deemed Export"? The transfer of controlled technology by any method to a foreign national within the U.S. or abroad is deemed to be an export to that individual's country of citizenship. Methods of transfer

include but are not limited to fax, telephone discussions, e-mail, computer data disclosure, face-to-face discussions, training seminars, or facility tours which involve visual inspections of controlled technology.

What is covered: The **EAR** covers hundreds of “dual use” items regulated by the **U.S. Commerce Department**. The EAR regulates items designed primarily for commercial purposes that may also have military applications. The EAR restricts the export of these commodities from the U.S., as well as the transfer of technical data about them to foreign persons, both in and outside the U.S. It also covers the re-export of foreign commodities incorporating controlled U.S. commodities. Examples of controlled commodities include but are not limited to lasers, radars, sonar systems, satellite components, computers, signal processors, cameras, centrifuges, fermenters, electron beam systems, fiber optics, GPS equipment, inertial navigation equipment, vacuum pumps, radiation-hardened devices, semiconductors, hydrophones, telecom components. Also controlled are certain microorganisms such as bacteria, fungi, and viruses.

The **ITAR** deals with items that the **U.S. State Department** has “deemed to be inherently military in character.” Those items, organized into general categories, include equipment, software, algorithms, and in each category, technical data and services directly related to the items specified. Examples of categories include, but are not limited to, satellites and spacecraft components, lasers/directed energy devices; submersible vessels; magnetic, pressure and acoustic sensors; radar systems; unmanned vehicles; nuclear weapons, toxicological agents, explosives, ranging and guidance systems, and cryptography systems. Also included any experimental or developmental equipment specifically designed or modified for military applications or specifically designed or modified for use with a military system.

The **U.S. Treasury Department’s Office of Foreign Assets Control (OFAC)** administers and enforces programs based on U.S. foreign policy and national security goals that: (1) regulate the transfer of items or services to embargoed nations; (2) impose trade sanctions and trade and travel embargoes aimed at controlling terrorism, drug trafficking, and other illegal activities; and (3) restrict payments or providing anything of value to nationals of sanctioned countries and to specific foreign entities and individuals. The list of OFAC-sanctioned countries may be reviewed at: <http://www.ustreas.gov/offices/enforcement/ofac/programs/>.

Good News! Most UNT activities are exempt from Export Controls. Most teaching, research, and public service activities conducted at UNT are exempt from the scope of the Export Controls regulations. The EAR and the ITAR regulations include exemptions for: (1) **Education** concerning general scientific, mathematical or engineering principles commonly taught to all students; (2) Information that is already in the **Public Domain** and publicly available from libraries, bookstores, trade shows, seminars generally available to the public for a reasonable fee, public websites, and regular courses listed in a university catalog; and (3) **Fundamental Research** which is already published and which is generally accessible or available to the public such as fundamental research in science and engineering where the resulting information may be freely published and shared broadly in the scientific community. However, researchers need to proceed carefully when relying on these exemptions, as noncompliance with EAR, ITAR, or OFAC requirements can result in civil and criminal penalties for both the researcher and UNT.

Learn More. All UNT researchers should review the Export Controls information found on the Research Integrity & Compliance Export Controls page: <http://research.unt.edu/faculty-resources/research-integrity-and-compliance/export-controls>. A link to online U.S. Export Controls training from CITI is available on that page.

Get Help. Have a situation that may be subject to Export Controls? Contact Jamie Peno, Director of Research Integrity & Compliance at Jamie.Peno@unt.edu or 940-565-3941.

CHECKLIST FOR RESEARCHERS

Your answers to these questions will help the Office of Research & Innovation determine whether any aspect of your proposal or agreement will be subject to U.S. export controls.

Principal Investigator: _____ ORS Proposal/Project ID #: _____

Sponsor: _____

Attach a copy of the project summary/abstract.

Does this proposal or agreement:	YES	NO
Involve encryption software (other than publicly available software)?		
Include any restrictions on participation by foreign nationals?		
Grant the sponsor a right of pre-publication review (other than reviews for protection of the sponsor's patents and/or proprietary information)?		
Limit access to the sponsor's confidential data and involve a controlled technology (see more information below regarding EAR/ITAR controlled items)?		
Involve research, information, or software that could be used in the development of weapons of mass destruction (nuclear, biological, chemical), or their delivery systems?		
Involve export outside the U.S. or sharing with foreign nationals within the U.S. ("deemed export") of any equipment, software, technology, services, or other items listed on the Commerce Control List under the Export Administration Regulations ("EAR") or listed on the U.S. Munitions List under the International Traffic in Arms Regulations ("ITAR") (see the last page of this form for a listing of general categories and links to specific controlled items)?		
Involve military and/or space technology (e.g., satellites, missiles, explosives, military training, military vehicles, vessels or equipment)?		
Provide data, services or conduct any transaction with any sanctioned countries or involve travel to any sanctioned countries as specified by the U.S. Treasury Department's Office of Foreign Assets Control? (See the following OFAC website for a list of the currently sanctioned countries: http://www.ustreas.gov/offices/enforcement/ofac/programs/)		

PUBLIC DOMAIN EXCLUSION

Is **ALL** of the information and/or software involved in your research published and generally accessible to the public through one or more of the following?

- Publication in periodicals, books, print electronic, or any other media available for general distribution to any member of the public;
- Subscriptions that are available without restriction to any individual who desires to obtain or purchase the published information;
- Websites available to the public free of charge or at a cost which does not exceed the cost of reproduction and distribution;
- Libraries open to the public, including most university libraries;
- Patents and open (published) patent applications;
- Instruction in general science, math and engineering principles commonly taught at schools, colleges and universities, and conveying information through courses listed in course catalogues and in associated teaching laboratories of academic institutions; or
- Release at an “open” conference, meeting, seminar, trade show or other open gathering in the U.S., which is generally accessible by the public for a reasonable fee and where attendees may take notes and leave with notes. **Note:** If the release occurs outside the U.S., please indicate here:

Yes

No

FUNDAMENTAL RESEARCH EXCLUSION

Does the information and/or software involved in your research meet **ALL** of the following criteria?

- Results from basic and applied research in science and engineering conducted at an accredited institution of higher education and located in the U.S.;
- Is ordinarily published and shared broadly within the scientific community; and
- Is not restricted (either by written agreement or by informal understanding) for proprietary reasons or specific national security controls, or subject to specific U.S. government access and dissemination controls.

Yes

No

By signing below, I certify that to the best of my knowledge the above answers are accurate for this research proposal or agreement.

Principal Investigator: _____ **Date:** _____

EAR AND ITAR CONTROL LISTS BY MAJOR CATEGORIES

COMMERCE CONTROL LIST (CCL), Export Administration Regulations (EAR)

<http://www.access.gpo.gov/bis/index.html> (for a detailed list of EAR controlled categories, see “EAR Database,” Part 774)

Category 0	Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)
Category 1	Materials, Chemicals, Microorganisms, and Toxins
Category 2	Materials Processing
Category 3	Electronics Design, Development and Production
Category 4	Computers*
Category 5	(Part 1) – Telecommunications (Part 2) – Information Security *
Category 6	Sensors and Lasers
Category 7	Navigation and Avionics
Category 8	Marine
Category 9	Propulsion Systems, Space Vehicles and Related Equipment

*Controls generally apply to high performance computers with an Adjusted Peak Performance (APP) of .75 WT (Weighted TeraFLOPS) and encryption software.

U.S. MUNITIONS LIST (USML), International Traffic in Arms Regulations (ITAR)

http://www.pmddtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf
(for a detailed list of ITAR controlled categories, see list which begins on page 470)

Category I	Firearms, Close Assault Weapons and Combat Shotguns
Category II	Materials, Chemicals, Microorganisms, and Toxins
Category III	Ammunition/Ordnance
Category IV	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
Category V	Explosive and Energetic Materials, Propellants, Incendiary Agents and Their Constituents
Category VI	Vessels of War and Special Naval Equipment
Category VII	Tanks and Military Vehicles
Category VIII	Aircraft and Associated Equipment
Category IX	Military Training Equipment
Category X	Protective Personnel Equipment
Category XI	Military Electronics
Category XII	Fire Control, Range Finder, Optical and Guidance and Control Equipment
Category XIII	Auxiliary Military Equipment
Category XIV	Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
Category XV	Spacecraft Systems and Associated Equipment
Category XVI	Nuclear Weapons, Design, and Testing Related Items.
Category XVII	Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
Category XVIII	Directed Energy Weapons
Category XX	Submersible Vessels, Oceanographic and Associated Equipment