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U.S. export control and sanctions regulations are designed to accomplish various national purposes such as achieving foreign policy objectives, protecting national security, and enhancing economic competitiveness. The U.S. Government regulates the export of items and their associated parts, components, software, and “technology”, including to foreign persons in the U.S. Technology includes both technical data, such as blueprints and manuals, and technical assistance that involves design, services (including the transfer of knowledge) and training. The U.S. export control system generally restricts the export of defense articles<sup>1</sup>, defense services, and/or “dual-use” commodities and technologies that have both commercial and military applications. Export control regulations are broadly applicable. The regulations apply to U.S.-origin items, software, and technology located anywhere in the world including the reexport or retransfer abroad to third parties. The regulations also apply to any foreign-origin items, software and technology that are located within the U.S.

The U.S. Government also administers and enforces economic and trade sanctions against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and others engaged in activities contrary to U.S. interests. Sanctions laws apply to all persons located in the United States (regardless of citizenship) and to all U.S. persons (wherever located). These sanctions restrict services of value, including imports from and exports to comprehensively sanctioned locations and with entities and persons subject to list-based sanctions.

Three principal agencies regulate exports from the United States:

- 1) The U.S. Department of State, Directorate of Defense Trade Controls (DDTC)<sup>2</sup> regulates the export of defense articles and defense services through the International Traffic in Arms Regulations (ITAR);
- 2) The U.S. Department of Commerce, Bureau of Industry and Security (BIS) regulates the export of less-sensitive defense items and technology, “dual-use” items, and purely commercial goods under the Export Administration Regulations (EAR); and
- 3) The U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) regulates sanctions against comprehensively sanctioned destinations and selective sanctions through restricted party lists under specialized regulatory actions or executive orders.

Other government agencies (i.e., the Department of Energy, Nuclear Regulatory Commission, etc.) also regulate exports. The U.S. Department of Commerce, Bureau of the Census regulates how and when exports are reported to the federal government through the Foreign Trade Regulations (FTR). While this Program focuses mainly on DDTC, BIS, and OFAC, all applicable regulations must be considered before engaging in any activity that may be subject to export control or sanctions regulations.

While the responsibility for ensuring UM complies with export control and sanctions regulations is housed locally in each institution’s Office of Research, these regulations apply to all University activities, even those that do not involve research. For example, entering into contracts with foreign entities or restricted parties, sending money to a party subject to comprehensive or targeted sanctions, presenting at a conference organized by parties subject to comprehensive or targeted sanctions, remotely employing people who live in places subject to comprehensive sanctions, international travel with University-issued equipment, or shipping items out of the United States all have export compliance implications for UM.

The majority of UM’s export and sanctions compliance challenges are related to the University’s research activities. Export controls and economic sanctions create a unique struggle in an academic research environment because compliance requires balancing concerns about economic development (through the safeguarding of proprietary business information) and national security against the traditional concepts of

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<sup>1</sup> A [glossary](#) of common export compliance terms can be found at the end of this document.

<sup>2</sup> See “[Commonly Used Acronyms](#)” found at the end of this document.

academic freedom in research and the unrestricted publication and dissemination of research findings and results.

While U.S. policymakers recognize that “foreign students and scholars at U.S. universities provide support to university research efforts and to developing some of the nation’s leading-edge civilian and defense-related technologies”,<sup>3</sup> there is still concern over the potential transfer of controlled technologies to other countries and the consequences for U.S. national interests. Therefore, U.S. government agencies require that universities understand and comply with export control and sanctions regulations.<sup>4</sup> All UM personnel must be mindful of export control implications across all university activities, paying particular attention to their impact on research efforts, regardless of the funding source.

The U.S. Department of State, through the Directorate of Defense Trade Controls (DDTC), maintains the International Traffic in Arms Regulations (ITAR) which regulates the export and re-export of defense articles, defense services and related technical data (including software) from the United States to any foreign destination or to any foreign person located in the United States, i.e., a “deemed export”. The ITAR contains the United States Munitions List (USML), which lists those commodities, related technical data, and defense services controlled for export purposes.

The State Department prohibits exports, imports, and sales to or from certain countries through statutory and administrative debarment lists. These lists include the Arms Export Control Act Debarred Parties, the Cuba Restricted List, the Cuba Prohibited Accommodations List, and the Terrorist Exclusion List. Additionally, there are a variety of Nonproliferation Orders that are implemented by the State Department, including but not limited to the Iran Freedom and Counter-Proliferation Act, Executive Orders 13949 and 13382, the Iran and Syria Nonproliferation Act, Missile Sanctions Laws, Chemical and Biological Weapons Sanctions Laws, and the Countering America’s Adversaries Through Sanctions Act (CAATSA).

## A. Items Controlled Under the ITAR

The ITAR regulates the export of defense articles, which are inherently military items and the associated information needed for the design, operation, repair, maintenance, etc. of defense articles. In other words, the ITAR covers not just physical items, but also the technical data, “know-how,” and software required to operate those items. Because the “know-how” associated with a defense article is controlled, training another person on that “know-how” may also be a controlled activity known as a defense service.

The ITAR also controls the parts, components, and technology incorporated into an item, unless otherwise noted in the USML. If an item contains any components that are controlled under the ITAR, the entire item is thereby controlled under the ITAR, an unwritten DDTC policy commonly called the “see-through rule”<sup>5</sup>. “The ‘see through’ rule was most succinctly articulated in the State Department’s Draft Charging Letter in the Boeing QRS-11’ matter, as follows: ‘The QRS-11 is covered by the U.S. Munitions List’ and ‘did not cease to be controlled by the ITAR simply by virtue of its inclusion into a non-USML flight instrument.’”<sup>6</sup> Some non-military items (such as commercial satellites with specific characteristics)<sup>7</sup> and certain chemical precursors, toxins, and

<sup>3</sup> GAO Report “Export Controls: Enforcement Agencies Should Better Leverage Information to Target Efforts Involving U.S. Universities,” June 2022, available at <https://www.gao.gov/assets/gao-22-105727.pdf>

<sup>4</sup> GAO Report “Export Controls: Agencies Should Assess Vulnerabilities and Improve Guidance for Protecting Export-Controlled Information at Universities,” December 2006, available at <https://www.gao.gov/assets/gao-07-70.pdf>

<sup>5</sup> ITAR / USML Updates FAQs: Where can I find the “see-through rule” in the ITAR and how does it work?, available at [https://www.pmdtc.state.gov/ddtc\\_public?id=ddtc\\_public\\_portal\\_faq\\_detail&sys\\_id=e79535e31be7dc90d1f1ea02f54bcbf4](https://www.pmdtc.state.gov/ddtc_public?id=ddtc_public_portal_faq_detail&sys_id=e79535e31be7dc90d1f1ea02f54bcbf4)

<sup>6</sup> Global Trade Law Blog, *Military Electronic Export Reform: Let the Chips Fall Where They May*, Scott Maberry and Reid Whitten, posted December 4, 2014 <https://www.globaltradelawblog.com/2014/12/04/military-electronics-export-reform-let>

biological agents, are also controlled under the ITAR. In addition, there may be occasions where an ITAR item is used for research unrelated to that item's military purpose. It is important to understand that the ITAR designation applies to an item regardless of how it is being used.

## B. The United States Munitions List

The United States Munitions List (USML) enumerates defense articles and defense services (including related technical data and software), as designated by the Arms Export Control Act of 1979, and groups them into 21 categories (see [Exhibit A](#)). An electronic version of the USML is available through the [Electronic Code of Federal Regulations](#), and shall be, for purposes of this Export Compliance Management Program (ECMP), the appropriate authority for the contents of the USML.

## C.

engaged in the creation of data that is not subject to the ITAR or are engaged primarily in the fabrication of non-defense articles for experimental or scientific purposes. No license is needed if only U.S. Persons are involved or have access to defense articles or defense technology in the United States.

If UM researchers desire to involve foreign persons in an ITAR-controlled, restricted research project, it is likely that it will be necessary to obtain a license from DDTC. The University must apply for and receive permission from DDTC in the form of an export license before any export of a USML item, release of ITAR-controlled technical data, or provision of a defense service can occur.

## F. Registration with the Directorate of Defense Trade Controls (DDTC)

Any U.S. person or entity that manufactures, brokers, or exports defense articles or services must be registered with DDTC, and registration is required prior to applying for a license or utilizing some license exemptions. The Curators of the University of Missouri is registered with DDTC and renews its registration annually. UM regularly reviews research projects and available license exemptions to determine if a license is required to complete that project. Ass

Items listed on the CCL are assigned an Export Control Classification Number (ECCN) based on a category and a product group. The first digit of an ECCN represents the category, and each of the ten categories is divided further into five product groups, represented by the second digit of an ECCN (see [Exhibit B](#)). The last three digits establish the stringency of the controls. Numbers beginning with a 'zero' or 'one' (e.g., 4A001), indicate highly rigorous controls while those beginning with a 'nine' (e.g., 4A994), are subject to lower levels of control.

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achieve foreign policy and national security goals by isolating the targets of the sanctions and depriving them of resources. Other goals of sanctions programs are to compel the targets to change their practices, to penalize the targets for their practices, and to make a political statement of opposition to those practices. Sanctions help prevent U.S. persons and organizations from doing business with terrorist organizations, embargoed countries, nationals of some targeted countries, international narcotics traffickers, and other specified entities engaged in activities related to the proliferation of weapons of mass destruction or other

Korea, and Syria. In more recent years, OFAC has also begun to apply sanctions to specific regions of countries. These are the Crimea, Donetsk, and Luhansk



Economic Powers Act (IEEPA), which is the primary sanctions regime the University is most likely to encounter, may be subject to a maximum civil penalty of \$284,582 per violation, except for exports to Cuba or North Korea under the Trading with the Enemy Act (TWEA). Violations of the TWEA are subject to a maximum civil penalty of \$85,236 per violation. The U.S. Government can also criminally prosecute willful violations and in such circumstances, fines may reach \$1,000,000 per violation and imprisonment of up to 20 years. In addition, where there is egregious conduct by the offender, BIS (who assists OFAC in enforcing sanctions) may suspend export privileges.

## E. Voluntary Disclosures

Exports and sanctions regulations are complex, and accidental or inadvertent violations may occur. DDTC,



The ITAR and the EAR do not control information that

National Security Decision Directive (NSDD) 189, *National Policy on the Transfer of Scientific, Technical and Engineering Information*, was issued on September 21, 1985, and affirmed on November 1, 2001. NSDD 189 provides the generally accepted definition of fundamental research, which provides the basis for export compliance decisions relative to ‘fundamental research’ exclusions provided under both the ITAR and the EAR.

As a result of Export Control Reform, the EAR also now includes a definition of fundamental research that is similar to NSDD 189.

*Fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.*<sup>34</sup>

The ITAR also provides a definition of fundamental research and, while slightly different, is very similar to that in NSDD 189.

*Fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:*

- (i) *The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or*
- (ii) *The research is not published or shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls.*

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### **Prepublication Review**

While the ITAR does not currently address prepublication review, the EAR is useful in interpreting the limitations on fundamental research.<sup>35</sup> The EAR instructs that prepublication review by a sponsor of university research solely to ensure that the publication will not inadvertently divulge proprietary information that the sponsor has initially furnished, or compromise patent rights, does not constitute a restriction on publication. Such a review must also be conducted in a reasonable timeframe and not cause more than a “temporary delay” in publication. BIS has also published FAQs to guide exporters understanding of prepublication review.<sup>36</sup>

### **Access Restrictions vs. Funding Restrictions**

On occasion, a research sponsor may limit recipients of funds associated with the award to U.S. citizens or U.S. persons. Often, these restrictions are associated with federally funded training programs whose citizenship restrictions result from a policy mandate to enhance U.S. capabilities or manpower in certain areas of science, engineering, or medicine. These types of funding restrictions are not access restrictions imposed as “specific national security controls” if foreign persons are otherwise permitted to participate in the project and there are not publication restrictions associated with the project. Eese whose c-1.8 ( as)-1.8 ( -1.148 T (i)-1 (c)-1.7 (t)5.7 (i)-1 (o.o)5.1 (ns)-1.7 .6 ( )JTJ e)5.1 (r)0. (pt do

- ii) The employee's permanent abode throughout the period of employment is in the United States;
  - a. Note: The requirement that the employee's "permanent abode throughout the period of employment" is understood to mean "residence throughout the period of employment."

## F. Telework

Per HR Policy HR-522 Telework Arrangements<sup>44</sup>, “telework” is a work arrangement in which some or all of the work is performed from home or another off-



- Recommending processes and procedures that strengthen compliance to senior leadership in order to gain support;
- Maintaining the University of Missouri System CRR related to export controls and sanctions compliance;
- Developing and implementing systemwide processes to ensure that the University remains in compliance with export controls and sanctions regulations and to ensure that each of the four institutions within the University of Missouri System are aligned in their approaches to addressing these risks;
- Ensuring that each institution within the University of Missouri System has standard operating procedures in place that align with the CRR and this ECMP;
- Educating the University community about export control and sanctions regulations and University compliance procedures;
- Monitoring and interpreting legislation;
- Working with others on campus to cultivate a culture of compliance;
-

employee, in collaboration with the visa processing office, the sponsoring faculty member, and the Office of General Counsel.

The Accounts Payable (AP) Shared Services Center provides transactional processing for the four campuses comprising our University of Missouri System. As such, departments may focus on their core missions while they provide human capital and systems to ensure their payments are made in a timely and accurate manner while adhering to university policy, state law, and federal regulations. These federal regulations include responsibilities related to export controls and sanctions which may arise when working with and paying

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- International engagements, such that RSC can perform a restricted party screening
- Agreements with Department of Defense (DoD), DoD component agencies<sup>53</sup>, Department of Energy (DOE), NASA, or an intelligence agency (including flow throughs)
- Foreign person restrictions that would limit the participation of non-U.S. persons or non-U.S. citizens in a project, including any sponsor requirement to pre-approve foreign participation or a spe-1.7 ( )JTJ 0 1e04.4 (c)

## F. System Security Plans

In order to accept some contracts funded by the U.S. Department of Defense (DoD) subject to Defense Federal Acquisition Regulation Supplement (DFARS) [252.204-7012](#) that has not otherwise been scoped and negotiated to be fundamental research, the University must agree to implement a System Security Plan (SSP) for the information security standards in the National Institute of Standards and Technology (NIST) Special Publication (SP) [800-171](#) to safeguard systems and networks that process, store w [(a) 211.4 (ri)e /Heade2stiste



allowing Research Security and Compliance to determine whether an export license is or is not required. Research Security and Compliance will also perform a restricted party screening on all visa applicants as part of its review. After Research Security and Compliance makes a licensing determination, Research Security and Compliance will work with the visa processing office and sponsoring department to ensure that the deemed export attestation in the visa application is completed correctly and that Research Security and Compliance submits a deemed export license request if necessary.

## H. International Activities

Travel with, or transmissions of, controlled data to destinations outside the U.S. can have export control implications. A license may be required depending on the items, data, or software leaving the Unitita(es)-1.7 I5 questin

## I. Licensing

The University may be required to obtain an export license prior to authorizing a foreign person to access a restricted research project. Research Security and Compliance at each institution will identify if an export license is required before access can occur when they are aware of a deemed export.

Additionally, the University may be required to obtain a license prior to the export of physical items outside of the country (regardless of whether those items are shipped or hand-carried) and may need to obtain a license prior to engagements with persons located in comprehensively sanctioned destinations or found on restricted party lists. Research Security and Compliance at each institution will identify if a license is required when they have knowledge of the situation.

University personnel may not independently apply for an export or OFAC license to conduct University business. When a license is needed, Research Security and Compliance will prepare the necessary documentation for obtaining a license and an Empowered Official, or their delegate, will submit the application after consultation with the Vice Chancellor for Research and the Office of General Counsel. All parties involved must be aware that license applications require considerable time and effort to prepare, in addition to the (usually extensive) length of time needed for the government to evaluate and make a licensing determination. If approved, all University personnel will follow the terms of the license and will consult with Research Security and Compliance as questions arise.

## J. Training Programs

Research Security and Compliance will prepare updated training materials and will require that employees or students engaged in an export-controlled project receive the appropriate briefing. Research Security and Compliance will also maintain records of training or briefings provided.

## K. Recordkeeping

Research Security and Compliance shall maintain export-related records in their possession consistent with each institution's record retention policies and applicable agency requirements. Records shall be retained no less than five years after the project's TCP termination date, the date of export, or the license termination date, whichever is later. Records that must be retained include all memoranda, notes, correspondence (including email), financial records, shipping documentation, as well as any other information related to export activities.

## L. Continuous Monitoring

To maintain the export compliance and sanctions program and ensure consistent adherence to U.S. export laws, Research Security and Compliance may conduct internal reviews of TCPs, certain projects, and the overall program.

## N. Disciplinary Actions

All University personnel responsible for export control and sanctions compliance or participating in restricted research projects shall be made aware of the substantial criminal and civil penalties imposed for violation of these regulations including personal liability, monetary fines, and imprisonment. Should disciplinary action be deemed necessary, appropriate action shall be taken as provided under the [UM Collected Rules and Regulations](#) and/or the [Human Resources Manual](#).

## A. The United States Munitions List

Category I.	Firearms and Related Articles
Category II.	Guns and Armament
Category III.	Ammunition and Ordnance
Category IV.	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
Category V.	Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents
Category VI.	Surface Vessels of War and Special Naval Equipment
Category VII.	Ground Vehicles
Category VIII.	Aircraft and Related Articles
Category IX.	Military Training Equipment and Training
Category X.	Personal Protective Equipment
Category XI.	Military Electronics
Category XII.	Fire Control, Laser, Imaging, and Guidance Equipment
Category XIII.	Materials and Miscellaneous Articles

## A. The Commerce Control List<sup>60</sup>

### Categories

0	Nuclear Materials, Facilities and Equipment [and Miscellaneous Items]	5	Telecommunications and “Information Security”
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### **Arms Export Control Act (AECA)**

<https://www.govinfo.gov/content/pkg/COMPS-1061/pdf/COMPS-1061.pdf>

The AECA provides the authority to control the export of defense articles and defense services. The AECA charges the President to exercise this authority, which has been delegated to the Secretary of State. The International Traffic in Arms Regulations (ITAR) implements the AECA.

### **Commerce Control List (CCL)**

[15 CFR 774](#)

A part of the Export Administration Regulations (EAR), this list of items (including materials, software, and technology) includes purely civilian items, “dual use” items, or exclusively military items that are not controlled under the International Traffic in Arms Regulations (ITAR).

### **Commodity Jurisdiction (CJ)**

[22 CFR § 120.4](#)

The purpose of a commodity jurisdiction request is to determine whether an item or service is covered by the USML and therefore to export controls administered by the U.S. Department of State pursuant to the AECA and the ITAR.

### **Controlled Unclassified Information (CUI)**

<https://www.archives.gov/cui/about>

Information that law, regulation, or government-wide policy requires to have safeguarding or disseminating controls, excluding classified information. (Classified information is information that Executive Order 13526 or the Atomic Energy Act of 1954 requires to have classified markings and protection against unauthorized disclosure).

### **Controlled Technical Information (CTI)**

<https://www.archives.gov/cui/registry/category-detail/controlled-technical-info.html>

Technical information with military or space applications that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. CTI is marked with one of the Distribution w 1rt(t)5.6 (e)-57 (l)tion w tubjeDB(on w 1th(o)2.7 (l)-1.9 ugh Fne )4 (h)2TJ [(Es)3.3 TmDtsl26.7 (i



- (4) Releasing or otherwise transferring a defense article to an embassy or to any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States;
- (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad; or
- (6) The release of previously encrypted technical data

[15 CFR § 734.13](#)

Except as set forth in the EAR, Export means:

- (1) An actual shipment or transmission out of the United States, including the sending or taking of an item out of the United States, in any manner;
- (2)



For the purposes of a broker who is a foreign person, the empowered official may be a foreign person who

Note: This does not apply to “technology” or “software” subject to the EAR that is released to conduct fundamental research. There are instances in the conduct of research where a researcher, institution, or company may decide to restrict or protect the release or publication of “technology” or “software” contained in research results. Once a decision is made to maintain such “technology” or “software” as restricted or proprietary, the “technology” or “software”, if within the scope of § 734.3(a), becomes subject to the EAR.

“Technology” or “software” that arises during, or results from, fundamental research is intended to be published to the extent that the researchers are free to publish the “technology” or “software” contained in the research without restriction. “Technology” or “software” that arises during or results from fundamental research subject to prepublication review is still intended to be published when:

- (1) Prepublication review is conducted solely to ensure that publication would not compromise patent rights, so long as the review causes no more than a prepublication delay is publication of the research results with-1 (c)-i n a temMCID 0t pu6.732D 1 >>BDC -46.38339 -1.1 wiewielyt to it e1.7 (onduc)-1.7 t8 (ea)1 (ng as 8 (ea)5oftw)1.7en



**Published**  
[15 CFR 734.7](#)







Arms Export Control Act (AECA)	<a href="#">22 U.S.C. § 2778</a>
Atomic Energy Act of 1954, as amended	<a href="#">42 U.S.C. § 2011</a>
BIS Export Compliance Guidelines	<a href="#">pdf</a>
Bureau of Industry and Security, U.S. Department of Commerce (BIS)	<a href="#">bis.doc.gov</a>
Department of Energy (DOE)	<a href="#">energy.gov</a>
DDTC Compliance Program Guidelines	<a href="#">pdf</a>
Directorate of Defense Trade Controls, U.S. Department of State (DDTC)	<a href="#">pmdtcc.state.gov</a>



