

Export Controls Frequently Asked Questions

What is an export?

An export is the shipment of items or data to a foreign country. It is also the electronic or verbal transmission of controlled information (phone, fax, email) to an individual in a foreign country. Provision of a service based on knowledge acquired in the U.S. is also an export.

What is a deemed export?

A deemed export is the disclosure of controlled information or technology to a foreign national within the U.S.

What activities might be considered export controlled?

- Shipment from the United States to a foreign country of controlled physical items, such as scientific equipment, that require export licenses.
- Transactions involving or travel to a sanctioned country or transactions involving sanctioned individuals or entities.
- International research collaborations and/or the transfer of information related to export-controlled items, including technical data, to persons or entities outside the United States.
- Verbal, written, electronic, or visual disclosure to, or sharing with, foreign nationals of controlled scientific and technical information related to export controlled items, even when it occurs within the United States.

What are export controls?

Export Controls generally refer to the federal regulations governing the export of materials, data, technical information, services, and financial transactions to foreign countries based on U.S. security interests. These regulations include the ITAR, the EAR, and OFAC regulations.

Which three export control laws apply to Universities and which federal departments oversee them?

1. Export Administration Regulations (EAR)

- The EAR is implemented by the Bureau of Industry and Security (BIS) in the U.S. Department of Commerce. These regulations apply to “dual use” technologies, i.e. items that have a civilian use, but which may also have a military use or which may be controlled for shipment because of national security concerns.

2. International Traffic in Arms Regulations (ITAR)

- The ITAR is implemented by the Department of State. These regulations are designed to cover materials and technologies whose primary purpose is considered to be military in nature. Materials covered under the ITAR are enumerated in the United States Munitions List. Export of defense services, defense articles, and related technical data on the USML requires licensing from the Directorate of Defense Trade Controls (DDTC).

3. Office of Foreign Assets Control (OFAC)

- The Office of Foreign Assets Control (OFAC) of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States.

What is fundamental research?

Basic and applied research in science and engineering, the results of which are published and shared broadly within the scientific community. The results of research performed as fundamental research as defined above are not subject to export control laws and regulations. No license is needed to share these results, even if they relate to items or technologies that are otherwise controlled. This type of research qualifies for the Fundamental Research Exclusion (FRE).

*** The Fundamental Research Exclusion (FRE) applies only to the dissemination of research data and information, not to the transmissions of material goods.