

# Export Control Frequently Asked Questions

## 1. 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.

## 2. What is a “Deemed Export”?

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

## 3. 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.

## 4. What is the ITAR?

The [ITAR](#) (22 CFR 120-130) 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).

## 5. What is the EAR?

The [EAR](#) (15 CFR 774) 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.

## 6. How does the EAR work?

Under the EAR, items and technologies are assigned an ECCN or Export Control Classification Number. This number is a 5 digit alpha-numeric code that identifies the item and technology. Export controls depend on the item classification and the export destination (or home country in the event of a deemed export to a foreign national). In the case of a controlled export, it may be necessary to apply to BIS for an export license.

## 7. This sounds complicated. Where can I get help?

If you are trying to determine the ECCN for a piece of equipment, it is easiest to ask the manufacturer to provide the information. If you are looking at a new technology or item , the University of Pennsylvania subscribes to Visual Compliance, a web based tool that can be used to determine the ECCN or if the technology is subject to the ITAR. Your [export compliance liaison](#) will be able to assist you with using Visual Compliance. In the event you are unsure of whether the ITAR or EAR apply, please contact Elizabeth Peloso at [epeloso@upenn.edu](mailto:epeloso@upenn.edu).

## 8. What are “Specially Designated Nationals” and restricted parties?

SDNs are nations, entities and individuals that are the subject of economic and trade sanctions under the [OFAC](#). Restricted parties are those persons, nations and entities to whom exports are restricted; they may be specially designated nationals, but also include individuals and businesses who have been debarred by the Department of State or restricted by the Department of Commerce because of previous violation of the regulations.

It is important to note that OFAC sanctions severely limit financial transactions as well as actual exports. This includes paying to and accepting payments from sanctioned locations and individuals. Most often, these financial transactions will require a license.

## 9. How can I check for SDNs and restricted parties?

The University of Pennsylvania has software (Visual Compliance) that will screen individuals and entities. The service will send out notifications if previously screened individuals and entities become SDNs or restricted in the future. To find your export compliance liaison please see [Export Control Contacts](#). Alternatively, you may check the SDN lists by checking the [Consolidated Screening List](#).

#### **10. Aren't Universities exempt from the Export Control Regulations?**

Both the ITAR and the EAR have clauses providing exemption from the licensing requirements for fundamental university research. **Information** resulting from basic and applied research in science and engineering conducted at an accredited institution of higher education **in the U.S.** that is ordinarily published and broadly shared within the scientific community falls under this fundamental research exemption.

It is important to note however, that research will not be considered fundamental if: the University or its researchers accept restrictions on the publication of scientific and technical information resulting from the project or activity, or the research is funded by the U.S. government and specific access and dissemination controls protecting information resulting from the research are applicable.

Furthermore, participation of foreign nationals should not be restricted if the exemption is to apply.

#### **11. What is a technology control plan?**

A technology control plan is a formal plan that delineates how an Export Controlled research project will be conducted. It includes details about how the technology will be secured, who will have access to it, and how the technology will be disposed of at the end of the project. The template for the University of Pennsylvania Technology Control Plan may be found [here](#).

#### **12. Where can I get training on Export Controls?**

ORS has an online tutorial on Export Controls. Additionally, ORS will provide project specific training for new projects and personnel as required. Please contact [expctrl@lists.upenn.edu](mailto:expctrl@lists.upenn.edu) for more information.

The BIS also has on-line training sessions, which can be accessed  
at: <http://www.bis.doc.gov/seminarsandtraining/seminar-training.htm>

#### **13. What should I do if I think there has been a violation of the ECLs?**

Violations of the Export Control Regulations need to be reported to one of the following:

Elizabeth Peloso  
215-746-0234

Jessica Buchanan  
Director, Export Compliance  
215-573-8817

Robert F. Firestone, Esq.  
Associate General Counsel  
215-746-5266

Additionally, you may report suspected violations anonymously by contacting the Confidential Reporting and Help Line (215-P-COMPLY)  
<http://www.upenn.edu/215pcomply>