

Carnegie Mellon University

Office of Research Integrity
and Compliance

EXPORT COMPLIANCE OFFICE (ECO) MANUAL

LIST OF ABBREVIATIONS

BIS	Bureau of Industry and Security
CCATS	Commodity Classification Automated Tracking System
CCL	Commerce Control List
CJ	Commodity Jurisdiction
CMU	Carnegie Mellon University
CTTEC	Center for Technology Transfer and Enterprise Creation
DDTC	Directorate of Defense Trade Controls
EAR	Export Administration Regulations
ECCN	Export Classification Number
ECO	Export Compliance Office
EO	Empowered Official
FBE	Full-Time Bona Fide Employees Exception
FFRDC	Federally Funded Research and Development Center
FRE	Fundamental Research Exception
IEEPA	International Emergency Economic Powers Act
ITAR	International Traffic in Arms Regulations
NREC	National Robotics Engineering Center
NSDD	National Security Decision Directive
OFAC	Office of Foreign Assets Control
ORIC	Office of Research Integrity and Compliance
RPS	Restricted Party Screening
SDNL	Specially Designated Nationals List
SEI	Software Engineering Institute
TCP	Technology Control Plan
TWEA	Trading with the Enemy Act
USML	United States Munitions List

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I. [INTRODUCTION](#)

- A. [Commitment to Export Control Compliance](#) - It is the policy of Carnegie Mellon University (CMU) to comply with United States export control laws and regulations including, without limitation, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR), as well as those imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC).

Although we must not lose sight of the university's mission to encourage the free and full exchange of information and ideas, it is incumbent upon all members of the university community to understand the possible impact of laws regulating the export to foreign destinations and to foreign persons of U.S. technologies, technical data and technical services. CMU strives to maintain a community in which faculty, staff, researchers and students may freely explore their research interests and disseminate their research results. Our community also seeks opportunities to collaborate with international colleagues and welcomes the participation of foreign researchers and students in the conduct of university research projects. As the volume of university research activities expands, the necessity to exchange technical data and ideas with foreign colleagues, both abroad and in the United States, will continue to grow. These activities must take place within the legal framework set forth by U.S. export control laws and regulations as well as university policy.

The majority of university activities fall within exceptions to the export control laws but it is possible that some technologies, technical data and technical services either received or created by university personnel may not be freely shared with all foreign persons, whether they are graduate students, teaching assistants, research assistants, post-doctorate scholars, visiting faculty, colleagues at meetings and symposia, contractors, subcontractors, or partners in research projects. Members of the university community are responsible for complying with the law and the university's export control guidelines.

- B. [Purpose](#) - The purpose of this Export Compliance Manual is to provide the CMU community with guidance on complying with U.S. export control laws and regulations and CMU export compliance policies. It also provides information on how to identify potential export compliance issues, and procedures for handling common export compliance matters.
- C. [Scope](#) - The policies, and procedures contained in this manual apply to all CMU campuses, faculty, staff, students, and programs regardless of location. This manual provides an overview of U.S. export controls, export control red flags, and procedures for conducting activities at all CMU locations.
- D. [Key Actors Responsible for Export Control Compliance](#)
- i) [Empowered Official](#) – The “Empowered Official” is responsible for all processes relating to all applicable export control laws and regulations, specifically ITAR regulations. The Empowered Official (EO) is responsible for authorizing ITAR license applications and other approvals required for compliance with export control laws and regulations, and serves as CMU's representative and point-of-contact with federal agencies having export control jurisdiction. The EO is the CMU official authorized to bind CMU in any proceedings before government agencies with export control responsibilities and has final responsibility for

compliance with export control laws and regulations. The Vice Provost for Research usually serves as the EO for the university.

The Empowered Official will draw primary support from the Office of Research Integrity and Compliance and the Office of General Counsel, whose responsibilities will include the following:

- assist the Vice Provost for Research in establishing export compliance guidelines at the university level;
 - oversee and coordinate any disclosures or provision of information to the U.S. Government, whether in response to informational requests or self-initiated submissions;
 - oversee the development of guidelines related to university personnel who violate the university's export policies, procedures and the law;
 - coordinate the university's export compliance-training program; and
 - provide guidance and advice on export policies and university compliance procedures.
- ii) [The Office of Research Integrity and Compliance \(ORIC\)](#) – The Office of Research Integrity and Compliance maintains CMU's export program through its Export Compliance Office (ECO)

The ECO is responsible for directing and monitoring the university's export control compliance program, recordkeeping, and implementing procedures and/or guidelines to comply with federal export control laws and regulations, including developing, implementing, and updating this manual.

When requested, the ECO will determine, or assist other offices and employees in determining, export control compliance obligations with respect to university activities involving Foreign Persons or international activities under applicable export control laws and regulations. The ECO will also conduct Restricted Party Screenings (RPS) and review technology housed and used at any CMU facilities.

- iii) [Individual Responsibility](#) – All CMU employees, faculty, staff, post-doctoral fellows, visiting scientists and students must abide by and act in accordance with U.S. export control regulations. This is extremely important as these regulations not only apply to the university but also apply to all U.S. citizens, permanent residents and U.S. entities in the United States and abroad. To maintain compliance with these regulations CMU personnel must be aware of these regulations, and how they affect their responsibilities at CMU.

II. IDENTIFICATION OF EXPORT CONTROL CONCERNS

A. Export Control Red Flags – The following is a list of potential export concerns that may indicate someone or an entity is attempting to engage in an illegal or potentially illegal transaction:

- research is intended for military or space purposes;
- international collaboration;
- proprietary services and or contracts;
- encryption software;
- an export controlled physical item;
- traveling abroad with university equipment, chemicals or biologicals;
- conducting research abroad;
- transactions with embargoed countries (North Korea, Iran, Sudan, Syria, and Cuba);
- transactions with embargoed individual and companies;
- shipping to a foreign location;
- clauses in a proposal that state United States personnel only;
- pre-approval rights over publications reserved by the sponsor of the research;
- the project requires the shipping of equipment, chemicals or biologicals to a foreign country;
- space rented to external parties

Should it be determined that a transaction is suspicious or potentially illegal, please do not proceed without proper guidance from the ECO.

B. Restricted Party Screening (RPS) – RPS is a generic term used for screening individuals and organizations against the various governmental lists of prohibited, restricted and debarred entities. Restricted Party Screening conducted at CMU uses vendor supplied software that reviews against approximately 170 restricted party lists.

RPS at CMU must be performed on all entities that we are contracting with, all vendors, foreign sponsors, and foreign national visitors and scholars that will either be attending or working in a CMU facility. RPS follows the process described below.

The department or individual that requests an entity to be screened provides the ECO with the following information:

- the full name of the individual to be screened as it would appear on a passport other formal form of ID;
- a detailed description of the individual's proposed activities or job duties that will be performed at or for CMU;
- a description of the individual's background (a CV or résumé);
- the current citizenship of the entity and individual to be screened;
- For visitors:
 - the name of the individual's home institution or employer; and
 - the individual's job title

The ECO will screen the individual and/or entity and respond to the requestor with any results or issues presented by this screening.

- C. [Technology Reviews](#) - All technology, equipment, chemicals, and biologicals that are used or received at CMU are subject to U.S. export controls. As CMU is a decentralized institution, the ECO may not be aware of received technology, equipment, chemicals, and biologicals, therefore it is mandatory that the purchaser, receiver, or person responsible for these items request guidance from the ECO prior to transferring said items internationally. When requested, the ECO can review and provide guidance on said items' export control classifications and specific controls through the following process.

The department or individual requests a technology review and provides the ECO with the following information:

- the item's name and description;
- the item's serial number;
- the manufacturer of the item;
- the location which the item will be stored in or shipped to

The ECO will review the items and respond to the requestor with any results or issues presented by this review.

- D. [Full-Time Bona Fide Employees \(FBE\) Exception](#) - The FBE exception is found within the ITAR that allows, in certain circumstances, release of controlled technical data without a license, subject to a Technology Control Plan (Technology Control Plan).

To be considered "a full-time bona fide employee" under this exception, the individual must meet the following requirements:

- the employee's permanent abode during the entirety of their employment is in the U.S.; and

- the employee is not a national of a country to which exports are prohibited according to 22 CFR 126.1 (which references a subset of ITAR-prohibited, non-licensable countries and their respective foreign nationals). The employee is informed by their institution in writing that the technical data may not be transferred to any other foreign national without written approval or a license from the Directorate of Defense Trade Controls (DDTC).

As the requirements for a person to be an FBE are very particular, an individual is not considered to be a FBE for ITAR purposes unless they have been pre-determined as such by the ECO.

- E. [I-129 Visa Attestation](#) - The I-129 visa attestation is a document that is required when submitting an application for an H-1B Visa. This document asks the sponsors of the visa to provide a statement to the government that the university will not create a deemed export by employing this individual, or that the university will apply for a license to carry out the activities the employee will be undertaking.

In order to facilitate the I-129 visa attestation, CMU requires the department or individual sponsoring an H-1B for a foreign national to complete a questionnaire. This questionnaire, available from the Office of International Education (OIE), when completed appropriately, provides the ECO with the data required to determine if we are creating a deemed export, whether or not a license is needed, and screening of the individual using RPS.

Please note that in order to complete the questionnaire properly, the respondent must include a detailed description of the individual's job duties and in what specific projects the individual will participate.

Once the ECO has reviewed and approved the I-129 attestation the ECO will provide the signed and completed paperwork to the requestor's office and to the Office of International Education. If required, the ECO will work with the PI and other appropriate entities to create a Technology Control Plan (TCP) or other related assurance document.

III. [GUIDANCE](#)

A. [RESEARCH](#)

i) [Export Control Exceptions](#)

(1) [Fundamental Research Exception \(FRE\)](#)

- (a) [NSDD 189](#) – National Security Decision Directive 189 signed in 1985 by the Reagan Administration is the precursor to all forms of the Fundamental Research Exception. It initially defined the term “Fundamental Research.” Though NSDD 189 is not binding or officially recognized by the current export control regulations, aspects of the definitions created by NSDD 189 are still used in current regulations.

NSDD 189 defines “Fundamental Research” as “basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.”

- (b) [ITAR FRE](#) – The FRE clause found in the ITAR is not a standalone exception. It exists as a component of the ITAR’s “Public Domain” exception found in 22 CFR §120.11. The FRE is part 8 of §120.11. The ITAR FRE sets forth the following:

Public domain means information which is published and which is generally accessible or available to the public through fundamental research in science and engineering at accredited institutions of higher learning in the U.S., where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is defined as 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:

1. the university or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity; **or**
2. the research is funded by the U.S. government and specific access and dissemination controls protecting information resulting from the research are applicable.

As the ITAR FRE is a component of the “Public Domain” exception, it is only intended to cover information. This means that the FRE is limited to information such as publications, presentations, journal articles, and other data. The FRE does not cover controlled data provided to CMU, nor does it cover any tangible products created by CMU or ITAR-governed research tools used in the pursuit of otherwise fundamental research.

In defense-related projects (DOD, DARPA, IARPA, etc.), the FRE may not be able to be self-declared, but instead the governmental contract manager must declare that the project is FRE-covered in writing.

(c) [EAR FRE](#) – The EAR FRE 15 CFR §734.8, is the most comprehensive of the FRE definitions. To paraphrase, §734.8 states:

- the Fundamental Research Exclusion applies to basic and applied research in science and/or engineering at an institution of higher education in the United States where the resulting information either is ordinarily published and shared broadly in the scientific community, or where the resulting information has been or is about to be published;
- basic research is distinguished from proprietary research and from industrial development, design, production and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

Please note that the EAR FRE does not cover:

- a sponsor’s IP or previously provided information;
- equipment used to perform said research;
- physical goods;
- encryption and technology, including closed source code;
- research where there is no intention to publish the results; or
- research conducted outside of the United States

(i) [Public Domain / Publicly Available](#)

1. [ITAR Public Domain](#) – 22 CFR §120.11: If information meets the definition of “Public Domain,” then that information is subject to exclusion from ITAR and may be distributed without license.

§120.11 states, “public domain means information which is published and which is generally accessible or available to the public”

- through sales at newsstands and bookstores;

- through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;
 - through second class mailing privileges granted by the U.S. Government;
 - at libraries open to the public or from which the public can obtain documents;
 - through patents available at any patent office;
 - through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States;
 - through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency (see also § 125.4(b)(13) of this subchapter);
 - through fundamental research
2. [EAR Publicly Available](#) – The EAR Publicly Available Exception, 15 CFR §734.7, relies on defining whether information is published to determine if the exception to the EAR is available.

The Publicly Available Exception states, information is “published” when it becomes generally accessible to the interested public in any form, including:

- publication in periodicals, books, print, electronic, or any other media available for general distribution to any member of the public or to a community of persons interested in the subject matter, such as those in a scientific or engineering discipline, either free or at a price that does not exceed the cost of reproduction and distribution;
- ready availability at libraries open to the public or at university libraries;
- patents and open (published) patent applications available at any patent office; and
- release at an open conference, meeting, seminar, trade show, or other open gathering.
 - A conference or gathering is “open” if all technically qualified members of the public are eligible to attend and attendees are permitted to take notes or otherwise make a personal record (not necessarily a recording) of the proceedings and presentations.
 - All technically qualified members of the public may be considered eligible to attend a conference or other gathering notwithstanding a

registration fee reasonably related to cost and reflecting an intention that all interested and technically qualified persons be able to attend, or a limitation on actual attendance, as long as attendees either are the first who have applied or are selected on the basis of relevant scientific or technical competence, experience, or responsibility.

- “publication” includes submission of papers to domestic or foreign editors or reviewers of journals, or to organizers of open conferences or other open gatherings, with the understanding that the papers will be made publicly available if favorably received; or
 - software and information is published when it is available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution.
- (d) [Educational Information](#) – The Educational Information Exclusion of the EAR states that educational information is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions.

The Educational Information Exclusion may not exempt out-of-class projects, executive or contract courses, and other non-catalog courses.

- (i) [Contract Provisions of Concern](#) - The following clauses generally will create an export control issue. If one of these clauses is found in an agreement and cannot be removed, please contact the ECO for further review:

- DFAR 252.204-7000 - Disclosure of Information
- DFAR 252.225-7046 - Exports by Approved Community Members in Response to the Solicitation
- DFAR 252.225-7047 - Exports by Approved Community Members in Performance of the Contract
- DFAR 252.225-7048 - Export Controlled Items
- FAR 52.227-14 - Rights in Data
- FAR 52.245-1 - Governmental Property
- NASA Procurement Information Circular (PIC) & Grant Information Circular (GIC) 12-01A - NASA China Clause
- NASA Export Contract Clause 1852.225-70 - Export Licenses
- ARL 52.004-4400 - Foreign Nationals Performing Under Contract
- ARL 52.005-4401 - Release of Information

- DARPA / IARPA BAA - Publication Approval Clause

(ii) [Procedures Applicable to Research Agreements and Subcontracts](#)

1. [Proposals](#) – All proposals submitted to the Office of Sponsored Projects (OSP) are accompanied by a routing sheet that includes a checklist with questions related to export control that must be completed. Proposals that may contain export control issues are routed for review by the ECO. Depending on the issues present in the proposal, it will be either given approval to proceed, the proposal will be flagged for further review upon reward, or the ECO will contact the department or individual who submitted the proposal in order to better determine if any export issues are present or if licenses may be necessary.
2. [Agreements and Subcontracts](#) –If an export control issue is presented during contract negotiation, OSP will work with the ECO and the lead PI to address any potential export risks and determine if a TCP or license is necessary.

(iii) [Determining an Item's Export Classification](#) – Properly determining an item's export control classification is important, as it will help determine what controls are necessary on a project, such as a TCP or license. There are only three appropriate ways to determine an item's export classification. The first is to file a Commodity Jurisdiction (CJ) request with the Directorate of Defense Trade Controls (DDTC). The second is to file a Commodity Classification (CCATS) request with the Bureau of Industry and Security (BIS). The third and final way to determine an item's export classification is to self-classify. The ECO is able to provide assistance with any of the following forms of classifications. Individuals should not attempt to classify an item themselves.

1. **Commodity Jurisdiction** – Receiving a CJ through the DDTC can be advantageous. First, the DDTC through its CJ request process is the only entity with the jurisdiction to determine if an item is subject to ITAR controls. Secondly, a CJ is a legally binding document, so once a CJ determination is provided it can be relied upon in the future unless the law itself changes. Third, if a CJ determines that an item is not subject to the ITAR, it will either suggest a place in the EAR Commerce Control List to look for the appropriate classification, or it will tell you to petition the BIS using a CCATS submission to determine the appropriate export control classification number (ECCN).
2. **CCATS** – CCATS stands for Commodity Classification Automated Tracking System. The CCATS is used by an entity to inquire with the BIS where a specific item falls on the EAR Commerce Control List (CCL). The BIS will respond by assigning the item an ECCN. This number will identify where the item is in the CCL and what controls are placed on this item. The CCATS will assume that the item is not subject to ITAR, therefore one should be sure to rule out ITAR first. Though a CCATS is the most reliable

way of determining an ECCN, the CCATS is not binding and is not always reliable for the future. Additionally, if a CJ has already been received, the documents used to obtain the CJ can be used in the CCATS application.

3. **Self-Classification** – Self-classification is the third way to determine where an item may fall on either the CCL or the ITAR. This is an acceptable form of classification; however, it does not provide CMU with a document from the government that identifies the items classification. Although this is not always the preferred method of classification, it is an acceptable means with which to classify items.

(iv) Resolving Export Control Issues

1. Office of Research Integrity and Compliance (ORIC) –ORIC through its ECO will work with the university community to explain, ensure regulatory compliance, resolve, or eliminate any export control issues.
2. Technology Control Plan (TCP) – A TCP is used to safeguard export controlled items and projects, or for projects dealing containing proprietary information that is restricted from publication.
 - a. Development – TCPs will be developed and customized by the ECO with the assistance of all parties involved. The TCP will name all entities that will have access to export controlled items and/or will be working on a controlled project. All entities that are named in the TCP will be vetted via RPS and will sign and acknowledge the completed TCP. The final official copy of the TCP will be stored for proper recordkeeping by the ECO.
 - b. Appropriate Security Measures – Security measures surrounding an export controlled project or item are specific to the controls on the specific items used or the project. There is no standard security measure. Each TCP will be created to incorporate the most appropriate security measures for the projects taking place at CMU.
3. Export Licensing – Depending on the export controls placed on an item or involved in a project, an export license may be necessary. There are three main agencies that may issue licenses: Bureau of Industry and Security (BIS), Directorate of Defense Trade Controls (DDTC), Office of Foreign Assets Control (OFAC) and other affiliated regulators.

BIS License – A BIS license is used when a project or tool triggers a deemed export (e.g., access to and use of controlled items outside coverage of the FRE) or when CMU will be shipping or delivering information or materials to a location where a license is needed for an item controlled by the EAR CCL. BIS licenses are among the quickest to receive due to the BIS automated licensing system. That being said, if you believe a BIS license is

necessary, please contact the ECO immediately, as the time-frame to obtain a license may still be significant in some cases.

DDTC License – A DDTC license is used when a project or tool triggers the release of ITAR-covered technical data; generates a “defense service” as the activity is defined in the ITAR, or when CMU will be shipping or delivering information or materials to a location where a license is needed for an item controlled by the ITAR USML. ITAR licenses may take a longer time to obtain than BIS licenses. That said, they are obtainable given the right amount of time. Please contact the ECO immediately once it appears a DDTC license may be necessary.

OFAC License – An OFAC license is used for prohibited travel, trade or financial transactions and other dealings with sanctioned or embargoed countries and entities. OFAC licenses are considered on a fact-specific basis, accounting for the particular country involved. OFAC licenses, in general may take at least 6 months, if not longer to obtain.

B. FOREIGN NATIONAL VISITORS

- i) Responsibility to Request Authorization to Visit – The department or entity that wishes to have a foreign national visit must request guidance and approval from the ECO so that all restricted party screenings may be performed and licenses obtained if needed.
- ii) No Authorization to Access Controlled Information or Controlled Physical Items – Foreign national visitors may not have access to export controlled information / items without prior written approval of the ECO.
- iii) RPS of Subjected International Visitors – All foreign national visitors that will be participating in any activity beyond touring the campus, as well as their current place of employment, must undergo RPS before the visit occurs.
- iv) Procedure to Notify and Request Authorization to Visit – The department or entity that wishes to have a foreign national visit must notify the ECO by emailing export-compliance@andrew.cmu.edu and providing the following information:
 - the full name of the individual to be screened as it would appear on a passport or other formal form of ID;
 - a detailed description of the individual’s proposed activities at or for CMU;
 - a description of the individual’s background (a CV or resume);
 - the current citizenship of the entity or individual to be screened;
 - the name of the individual’s home institution or employer & what country it is based in;
 - the individual’s job title;

The ECO will screen the entity and respond to the requestor with any results or issues presented by this screening.

C. SEMI-AUTONOMOUS UNITS

- i) NREC – The National Robotics Engineering Center (NREC), through its Contract Manager, works with the CMU ECO to ensure proper export control compliance, TCP creation, and adherence to federal regulations.
- ii) SEI – The Software Engineering Institute (SEI) is a Federally Funded Research and Development Center (FFRDC) that performs mostly controlled research. The SEI through its Ethics and Compliance Office will work with the CMU ECO to ensure proper export control compliance, TCP creation, and adherence to federal regulations.

D. INTERNATIONAL CAMPUSES

- i) CMU Qatar – CMU Qatar, as a U.S. entity, is subject to the same regulations as CMU’s main campus in Pittsburgh. As such, CMU Qatar will work with the ECO to ensure proper export control compliance, TCP creation, and adherence to U.S. federal regulations.
- ii) Rwanda – CMU’s campus in Rwanda, as a U.S. entity, is subject to the same regulations as CMU’s main campus in Pittsburgh. As such, CMU Rwanda will work with the ECO to ensure proper export control compliance, TCP creation, and adherence to U.S. federal regulations.

E. INTERNATIONAL ACTIVITIES

- i) Study Abroad – Study abroad activities must be performed in compliance with export control regulations. If in doubt about whether an activity may need an export compliance review please contact the ECO.
- ii) Conferences – Conferences that are held in some locations may require an export control review to verify if a license is needed for participation. If planning to attend a conference in a possible sanctioned location, contact the ECO immediately to determine how to proceed.
- iii) Research Activities – Research activities that take place in a foreign location or are sponsored by a foreign entity may not have the same protections or exceptions as projects performed at a CMU location in the U.S. Before starting work at a foreign location, please contact the ECO for assistance.

F. FREELANCE WORKER - Freelance workers are all individuals hired to perform tasks on CMU projects through outside vendors or service providers like Upwork (formerly oDesk), Guru, Amazon Mechanical Turk, and others.

Any department that wants to hire a freelance worker must first seek approval from the ECO by providing the following information:

- freelance employee’s name and country of citizenship; and

- the scope of work for the freelance worker.

The ECO will contact the requestor with results of the export review.

G. [TECHNOLOGY COMMERCIALIZATION](#) - The Center for Technology Transfer and Enterprise Creation (CTTEC) works with the ECO to verify that all technology commercialization activities comply with export control regulations.

H. [SHIPPING](#)

i) [Large Shipments](#) - Shipments sent outside the U.S. are considered an export and require a CMU export review and/or authorization based on U.S. controls. For purposes of conducting research abroad or other CMU activities, shipping or hand-carrying items like laptops and the information contained within the laptops, GPS, certain instruments, samples, prototypes, or equipment that may need to be used in another country for research, demonstrations or collaborations is considered an export. Although not all items will require a license to export, an export review and determination is required prior to taking items outside the U.S. You may be prohibited from shipping certain items to countries that have sanctions and/or embargoes in place, or required to obtain a license. The ECO will work with you and the freight forwarder/customs broker on any large shipment to make sure the correct documentation is completed and submitted through the appropriate systems. In order to conduct an export review, the following information is required for items being shipped:

- detailed information about the item(s) being exported;
- final destination of the item(s);
- final recipient of item(s);
- end-use of the item(s).

Applying proper determination of licensing requirements is essential to ensure all items are covered by either a license authorization from the appropriate U.S. government office or whether or not an export exemption/exception may apply. Sufficient lead time should be taken into account for export review and/or application of an export license as necessary. Equipment may not be sent outside the U.S. until a determination has been made regarding whether or not an export license is required.

Shipments controlled under the EAR or ITAR must be handled in strict compliance with the export regulations. Failure to obtain appropriate export licenses or other government approval, or failure to file correct export documentation or shipping documents can result in severe fines and other penalties. International shipments require complex processing and should not be attempted by individuals.

Please contact the ECO (export-compliance@andrew.cmu.edu) prior to engaging in any type of international shipping of items, software, technology, or technical data related to CMU activities to any location outside the U.S.

- ii) [Low Value Shipments](#) - Shipments valued at \$2,500 or less can be sent through FedEx or UPS using a CMU departmental account. Please contact [Procurement Services](#) for assistance in setting up an account if needed. FedEx and UPS conveniently provide online resources to assist with simple international shipments. An export review is required for low value shipments in order to provide the information needed to complete the required export and customs documentation (e.g., HTS/Schedule B numbers, ECCN, license exception if applicable).

In order to conduct an export review, the following information is required for low value shipments:

- the item being shipped and for what purpose (please provide a detailed description, tech/spec sheet, or link to product description);
- address where the item is being shipped;
- sender's contact information (name, address, phone number, email address);
- point-of-contact in (name, address, phone number, email address);
- preferred shipper;
- number of packages;
- weight of each package;
- dimensions of each package;
- quantity of items;
- country of manufacture of item(s);
- value of item(s);
- insurance amount;
- desired shipment date;
- Oracle string for shipment charges (please contact your business manager if you do not have this information).

Once the export review is completed, the ECO will provide a signed pro forma invoice to include with the package. If needed, the ECO can assist with creating the actual shipping documents using the shipper of preference. However, the sender/department is responsible for making arrangements for pick-up or drop-off of packages.

Additionally, depending on the item(s) being shipped and the country of destination, a Certificate of Origin notarized by the Chamber of Commerce may be needed. The [Pittsburgh](#)

[Airport Area Chamber of Commerce](#) provides an [eCertify service](#) to process certificates of origin. *NOTE: The Greater Pittsburgh Chamber of Commerce located downtown and other locations on the South Side, North Shore, South Hills, etc., do NOT provide this service.* The sender/department is responsible for getting a Certificate of Origin processed. Please be sure to report the correct country of origin/manufacturer, as there are specific requirements regarding what constitutes U.S. origin. If uncertain of an item's origin, please contact the manufacturer directly or the ECO if assistance is needed.

Please contact the ECO (export-compliance@andrew.cmu.edu) prior to engaging in any type of international shipping of items, software, technology, or technical data related to CMU activities to any location outside the U.S.

- I. **[TRAVEL](#)** - Traveling abroad may create various export control risks. Individuals planning to travel abroad should contact the ECO so that a proper evaluation of the travel and a briefing of the traveler may take place.

Travelers planning on carrying item(s) overseas must contact the ECO in advance of the anticipated trip so an export review of the item(s) may take place. Additionally, depending on the item and export control classification, the ECO may issue a travel letter and/or a license may be needed.

- J. **[RECORDKEEPING](#)** - All export control related documents are subject to very specific regulatory recordkeeping requirements. In general, all export control related documents must be kept by designated record holders for a minimum of 5 years from the date they are no longer needed. That said both the EAR and ITAR have their own specific requirements.

EAR Recordkeeping (15 CFR §762) - All records required to be kept by the EAR must be retained for five years from the latest of the following time-frames:

- the export from the United States of the item involved in the transaction to which the records pertain or the provision of financing, transporting or other service for or on behalf of end-users of proliferation concern as described in §§ 736.2(b)(7) and 744.6 of the EAR;
- any known re-export, transshipment, or diversion of such item;
- any other termination of the transaction, whether formally in writing or by any other means; or
- in the case of records of pertaining to transactions involving restrictive trade practices or boycotts described in part 760 of the EAR, the date the regulated person receives the boycott-related request or requirement.

ITAR Recordkeeping (22 CFR §123) - ITAR records must be maintained for a period of five (5) years from:

- the expiration of the license or other approval to which the documentation relates;
- the expiration of the license or other export authorization that is exhausted or used completely; or

- the date the license or other export authorization is suspended, revoked, or no longer valid.

In general export related records will be kept by the ECO, unless another entity inside CMU is the originator and appropriate document owner of the record.

- K. **TRAINING** - To support and facilitate proper understanding of export compliance, training and awareness is a necessity. As such, the ECO will provide in person export control training. Additionally, CMU provides online export control training modules through CITI training.

Departments or individuals may request in-person export control training by contacting the ECO at export-compliance@andrew.cmu.edu.

- L. **MONITORING** - The ECO works with other CMU departments to create their own internal monitoring procedure, and performs at least yearly reviews of all CMU non-classified export related procedures. As part of this review the ECO may review a random selection of the following activities to verify that all procedures were followed and all data is appropriately maintained in the records:

- Restricted Party Screening (RPS);
- TCP creation and adherence;
 - This may include a site visit to verify activities covered by a TCP are operating in accordance with the TCP on file.
 - This review may also verify that all records associated with the TCP are up to date and complete.
- item classification;
- adherence to license provisos and conditions where applicable; and
- other relevant export related procedures.

- M. **POSSIBLE VIOLATIONS** - The failure of the university to comply with applicable United States export laws and regulations could result in substantial penalties, including suspension of the university's export privileges, fines, and imprisonment for personnel found to be in violation of these laws.

CMU personnel shall not willfully ignore information that comes to them in the normal course of university activities to avoid potential compliance issues. Knowledge possessed by CMU personnel can be imputed to the university and render the it liable for violations.

Any questionable, unauthorized, or illegal activities, whenever discovered by any employee, must immediately be reported to the Office of Research Integrity & Compliance or the Office of General Counsel for review and evaluation. Reports may be made anonymously through the university's hotline by calling 877-700-7050 or visiting www.reportit.net.

[Attachment A](#)

The International Transfer in Arms Regulations (ITAR)

Under the Arms Export Control Act ("**AECA**"), 22 U.S.C. § 2778 (1994), the United States Department of State, Directorate of Defense Trade Controls ("**DDTC**"), implements the International Traffic In Arms Regulations ("**ITAR**"), 22 C.F.R. §§ 120-130, which control the export of defense articles and services from the United States to foreign destinations and persons.

Defense Articles and Services

Defense Articles - A "**defense article**" is defined as "any item or technical data designated in § 121.1 of this subchapter [ITAR]." ITAR § 120.6. Section 121.1 is the United States Munitions List ("**USML**") and includes the commodities, related technical data and defense services controlled for export purposes. A copy of the USML is appended to this manual as Appendix B. The ITAR controls, for example, military equipment. To the extent that university personnel develop or transfer technologies related to these types of equipment, or other equipment on the USML, those activities are subject to the ITAR.

Defense Services - As noted, the ITAR controls not only the export of defense articles, but also defense services and technical data directly related to articles enumerated in the USML. ITAR § 120.9 states, "**Defense services**" are defined as "[t]he furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles," or "the furnishing to foreign persons of any technical data controlled under this subchapter . . . whether in the United States or abroad."

Technical Data - **Technical data** is similarly broadly defined and includes:

- 1) information, other than software. . . which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles . . . [including] blueprints, drawings, photographs, plans, instructions and documentation;
- 2) classified information relating to defense articles and defense services;
- 3) information covered by an invention secrecy order; and
- 4) software. . .directly related to defense articles.

ITAR Requirements

The ITAR require exporters to comply with registration, licensing, recordkeeping, and reporting provisions of this U.S. export control regime. DDTC is vested with broad discretion to determine, under subjective standards, whether ITAR compliance requirements are satisfied.

Any exporter subject to the ITAR must register and obtain license approval for the export of articles, technology, technical data, or technical services controlled on the USML prior to shipment or transfer. DDTC will issue a license, with any limitations appended ("**provisos**"), valid for a specified period of time (e.g., 24 months, 48 months). An exporter must maintain export records for a minimum of five years in a manner readily accessible to the U.S. Government for review.

The Department of State and the Department of Justice view compliance with U.S. export control laws seriously. Violations of the ITAR, as well as the EAR, anti-boycott, and embargoed countries/persons prohibitions described later in this manual, may result in the imposition of criminal or civil penalties, in addition to the suspension or denial of exporting privileges. Recent cases indicate that the conviction rate under these laws and regulations remains high, and that judges comply strictly with the Federal Sentencing Guidelines in imposing sentences against individuals and entities convicted of violations.

Please refer questions about these requirements to the Office of Research Integrity & Compliance.

Attachment B

EXPORT ADMINISTRATION REGULATIONS

The Export Administration Regulations ("**EAR**"), 15 C.F.R. §§ 730-774, promulgated under the authority of the Export Administration Act ("**EAA**"), 50 U.S.C. App. §§ 2401-2420, control the export of commodities which have both military and commercial applications (*i.e.* dual-use items) and strictly commercial items.¹ The Department of Commerce administers the EAR through the Bureau of Industry and Security ("**BIS**").

Reasons for Control

The EAR are controlled commodities identified in the Commerce Control List ("**CCL**") subject to licensing requirements and proscribe other conduct related to export activities. Reasons for control are:

- A. National Security (NS) - To restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or countries and which would prove detrimental to the national security of the United States.
- B. Foreign Policy and Nonproliferation - To restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations.

Note: Under this policy, controls are implemented for nuclear, chemical and biological weapons and missile proliferation. For this reason, foreign policy concerns have been increasingly important in recent years.

- C. Short Supply - To restrict the export of goods where necessary to protect the domestic economy from excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.
- D. Additional Reasons for Control Include

AT	Anti-Terrorism
CC	Crime Control
CW	Chemical Weapons Convention
EI	Encryption Items
FC	Firearms Convention
MT	Missile Technology
NP	Nuclear Nonproliferation
RS	Regional Stability
SI	Significant Items
SL	Surreptitious Listening
UN	UN Sanctions

¹ Although the EAA expired in 1994, the EAA and the EAR remain in effect through annual executive orders issued pursuant to the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1706.

ECCNs

The CCL is divided into Export Classification Numbers (ECCNs) which are a five-character code. There are ten (10) industry category groups on the CCL:

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

Subject to the EAR

The threshold duty of an exporter under the EAR is to determine whether an article or technology, or technical data is "subject to the EAR." The term "subject to the EAR" means those commodities, software, technology, and activities over which BIS exercises regulatory jurisdiction under the EAR. Items not on the CCL may also be "subject to the EAR."

The Anti-Boycott Regulations - Commerce Department

The EAR (Part 760) also prohibit participation in boycotts or restrictive trade practices that are not supported by the United States. The regulations impose reporting requirements on entities who receive any requests by third parties to participate in such activities. Reports must be filed with BIS detailing the request received. Details must include the nature of the request, the entity or person requesting participation in boycotting activities, the type of documents in which the request was received, and the response, if any, provided by the company receiving the request. U.S. entities or persons subject to the jurisdiction of the United States may not actively or passively respond to any request to participate in boycotting activities. The regulations also require companies to maintain records related to anti-boycott activities for a period of five (5) years. Violations of the anti-boycott regulations are punishable by substantial civil penalties.

The anti-boycott regulations identify specific actions which U.S. entities subject to U.S. jurisdiction may not pursue. No licenses may be obtained to participate in any of the prohibited activities. The regulations specifically prohibit:

- 1) agreements to refuse or actual refusals to do business with or in a boycotted or blacklisted country or with nationals or residents of a boycotted country;
- 2) agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin or nationality;
- 3) agreements to furnish or actually furnishing information about business relationships with or in boycotted countries or blacklisted companies;
- 4) agreements to furnish or actually furnishing information about the race, religion, sex, or national origin of another person (when such activities are undertaken [in furtherance of] a boycott);

- 5) agreements to furnish or actually furnishing information about business relationships with blacklisted companies or with blacklisted persons;
- 6) agreements to furnish or actually furnishing information about associations with charitable and fraternal organizations which support a boycotted country; and
- 7) implementing letters of credit containing prohibited boycott terms or conditions.

Countries currently participating in prohibited boycotts include:

- **Bahrain;**
- **Kuwait;**
- **Lebanon;**
- **Libya;**
- **Oman;**
- **Qatar;**
- **Saudi Arabia;**
- **Syria;**
- **United Arab Emirates; and**
- **Republic of Yemen.**

Boycott requests, however, sometimes emanate from other countries as well.

Inquiries or other activities related to these prohibitions may arise in numerous situations, and may seem innocuous. For example, requests could occur during negotiations, in contract language, under letters of credit, in financial arrangements, and in a foreign country's import documentation. ***No matter how or when the issue arises, responding to such requests, or agreeing to further the proscribed boycotting activities, is strictly prohibited. There are a few, very narrow exceptions, none of which should be employed without clearance from the Office of General Counsel.***

Attachment C

OFFICE of FOREIGN ASSETS CONTROL REGULATIONS

The U.S. Department of the Treasury, through the Office of Foreign Assets Control (“**OFAC**”), regulates economic trade with foreign countries. The Foreign Assets Control Regulations (hereafter “**OFAC Regulations**”), 31 C.F.R. Parts 500-597, implemented pursuant to the Trading with the Enemy Act (“**TWEA**”), 50 U.S.C. §§ 1-44 and the International Emergency Economic Powers Act (“**IEEPA**”), 50 U.S.C. §§ 1701-1706, administer the statutory economic trade sanctions imposed against several foreign countries. The sanctions range from partial to full trade embargoes and are imposed *in addition to* other U. S. export control law penalties. Information regarding sanctions in effect can be found at the OFAC web site (<http://www.ustreas.gov/offices/eotffc/ofac/>).

Persons Subject to U.S. Jurisdiction

OFAC regulations apply to all persons subject to U.S. jurisdiction. This includes American citizens and permanent resident aliens wherever they are located; any individual or entity located in the U.S.; corporations organized under U.S. laws, including foreign branches; and—solely in the case of Cuba—entities owned or controlled by any of the above (including foreign-organized subsidiaries of U.S. corporations).

Prohibited Transactions

The regulations define prohibited transactions with foreign countries and set forth sanctions for engaging in such conduct. In this context, a transaction involves “any payment or transfer to any such designated foreign country or national. . . any export or withdrawal from the United States to such designated foreign country . . . and any transfer of credit, or payment of an obligation, expressed in terms of the currency of such designated foreign country.” The regulations state that a person subject to U.S. jurisdiction may not participate in:

- 1) transactions involving designated foreign countries or their nationals;
- 2) transactions with respect to securities registered or inscribed in the name of a designated national;
- 3) importation of and dealings in certain merchandise; and
- 4) holding certain types of blocked property in interest-bearing accounts.

Persons subject to U.S. jurisdiction are also prohibited from dealing with specific entities or individuals known as “specially designated nationals,” found in the Specially Designated Nationals List (“**SDNL**”), appended to the OFAC regulations and available at <http://www.ustreas.gov/offices/eotffc/ofac/sdn/index.html>.

No one subject to U.S. jurisdiction may participate in activities with *anyone* on the SDNL.

The regulations also allow for “blocking” or “freezing” assets of designated nationals. The term “blocking” or “freezing” is used to describe a form of controlling assets under U.S. jurisdiction. While title to blocked property remains with the designated country or national, the exercise of the powers and privileges normally associated with ownership is prohibited without authorization from OFAC. Blocking immediately imposes an across-the-board prohibition against transfers or transactions of any kind with regard to any property. Anyone subject to the regulations may not be involved with any account

payments, transfers, withdrawals, or other dealings with those accounts unless such action is authorized by an OFAC license. U.S. individuals or organizations who violate the regulations by transacting business with designated nationals, specially designated nationals, or blocked accounts, may be subject to civil penalties or criminal prosecution.

OFAC regulations also define the type of property that is subject to control. Property is broadly defined to include: money, checks, drafts, debts, indebtedness, obligations, notes, warehouse receipts, bills of sale, negotiable instruments, contracts, goods, wares, merchandise, ships, goods on ships, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

Requirements

U.S. persons must obtain licenses before they may engage in activities prohibited by the OFAC regulations. In limited cases, OFAC will provide general and special licenses to permit a U.S. person to engage in otherwise prohibited activities. The regulations provide for “general licenses,” which are similar to the license exceptions of the EAR. Specific licenses, which are permits issued by OFAC on a case-by-case basis, authorize particular individuals or entities to participate in an activity that would otherwise be prohibited by the embargo or sanctions programs. Specific licenses are granted sparingly and, if granted, are valid only for the *specific activity* proposed on the application.

The OFAC regulations impose both civil and criminal penalties for violations of TWEA, the IEEPA, and the regulations. Criminal convictions include prison sentences ranging from five (5) to twelve (12) years and fines which could exceed \$250,000 for individuals and \$1,000,000 for organizations. OFAC has independent authority to impose civil penalties for violations.

Please refer questions about these requirements to the Office of Research Integrity & Compliance.

[Attachment D](#)

Other Documents

RESERVED