



**Missouri State.**  
UNIVERSITY

R E S E A R C H

Office of Sponsored Research and Programs

2007

# Export Control Training



Office of Sponsored Research and Programs

Missouri State University

11/7/2007



As an employee of Missouri State University, your responsibilities may require you to be aware of export controls or simply as one who has questions about the export control federal laws. These laws could affect the work in which you are involved, the security of intellectual property and research facilities, proper application of research activities, and upholding the laws of the country as it affects export control. To do this, you will require knowledge and awareness to become informed and this training module seeks to present you with those fundamental concepts of the export control regulations.

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### Export Control



Welcome to this web-based training module on Missouri State's Research Security and Export Controls.

Missouri State University is committed to the highest level of ingenuity in all of our endeavors. As such, it is not uncommon for you to come to have access to evolving technologies and privileged information or travel abroad to a myriad of locations.

Some technologies, materials, information and destinations are controlled by the federal government under a series of export control regulations.

## Chapter 1 - "Research Security and Export Controls"

# Course Overview:

In this training course, you will:

- Learn the purpose of export controls
- Define "deemed export"
- Identify the various export regulatory regimes
- Discuss how export controls affects universities
- Discuss the requirements for export controls
- Describe fundamental research, public information, and public domain
- Outline licensing procedures
- Identify and discuss the operating principles of OFAC Regulations
- Explain embargoes
- Understand the penalties against institutions and individuals who violate the export control regulations

## Importance of the Course:

As an employee of Missouri State University, your responsibilities may require you to be aware of export controls or simply as one who has questions about the export control federal laws.

These laws could affect the work in which you are involved, the security of intellectual property and research facilities, proper application of research activities, and upholding the laws of the country as it affects export control.

To do this, you will require the necessary knowledge to become informed and this training module seeks to present you with the fundamental concepts of export control.



*Compliance Training*

# Topic Outline:

This module is divided into the following topics:

- What is Export Control?
- What is Public Domain?
- Research and Published Information
- Deemed Exports
- Foreign Nationals
- Key Issues for Universities
- Impact of Export Restrictions
- Enforcements

Once you have completed these topics, you will take the module Assessment to evaluate what you have learned. Throughout the training, there are review exercises and case studies that will help you retain what you have learnt.

If you wish to view a specific topic, look at the table of contents to find your topic of interest.



*Export Control*

# Export Control Overview:

In this course, you will learn how compliance with export regulations is paramount to the safety and competitiveness of the United States of America. This course will introduce you to the ethical issues all researchers will face as creators of knowledge, stewards of information and catalysts for economic development.


After completing this course, you will be able to:

- Describe the purpose of export controls
- Define "deemed export"
- Identify the various export regulatory regimes
- Discuss how export controls affect universities
- Discuss the requirements for export controls and embargoes
- Describe fundamental research, public information, and public domain
- Outline licensing procedures
- Identify and discuss the operating principles of OFAC Regulations, and
- Understand the penalties against institutions and individuals who violate the export control regulations.

The course will take approximately 1 hour to complete. Various links, review exercises, and case studies are placed throughout the course to provide additional resources and supporting documentation. We have provided a survey that will help to us to evaluate the strengths and weaknesses of the course.

## Course Credits:

This training course has been developed by the Office of Sponsored Research and Programs, Missouri State University, with additional information from the Johns Hopkins University, University of Pennsylvania, University of North Carolina, the Office of Research Integrity (ORI), the U.S. Treasury Department's Office of Foreign Assets Control, the U.S. Commerce Department's Bureau of Industry and Security, the National Institute of Health, and the National Council of University Research Administrators (NACURA).

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Today is Wednesday, May 23, 2007

Research Security & Export Controls | Compliance

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Export Control

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Some technologies, materials, information and destinations are controlled by the federal government under a series of export control regulations.



The menu items on the left will take you to the various topics that will be presented in this training module. At any point in the training, you can click on the "Menu" button below to return to this page.

Click [Start](#) on the Navigation bar below or select a topic from the menu on the left to begin.

[Menu](#) [Print Module](#) Page 3 of 51 [Start](#)

*Export Control Course Menu Page*

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# Background Information:

## In this manual, you will find:

- The impact Export Control Regulations will have on universities to engage in scholarly research
- How to leverage the role of higher educational institutions to abide by the laws
- Detailed case studies and questions to ensure effective transfer of knowledge to support your work
- Brief information on the role of Sponsored Research and Programs as a support and service department of Missouri State University

## About the office of Sponsored Research and Programs

The Office of Sponsored Research and Programs (OSRP) is a service department of Missouri State University, committed to increasing the quality and number of grants awarded to Missouri State University faculty and staff by providing the necessary assistance and support needed to engage in research and innovative scholarly pursuits. Our Specialists in OSRP can help you identify a funding source, generate a project budget, edit proposals, develop compliance training and awareness, and organize proposal development teams that will help you connect with partners beyond the University.

For more information: <http://www.srp.missouristate.edu/Exportcontrols.htm>

You can reach us at <http://www.srp.missouristate.edu/ContactOsrp.htm>





## Chapter 2 - "What is Export Control?"

# Objectives:

## At the end of this chapter you will:

- Understand the importance of the Export Control regulation,
- Be aware of the government regulatory agencies that administer the Export Control regulation,
- Know the history of the Export Control Regulations,
- Learn what items/commodities fall under the export control restrictions,
- Recognize how Export Control regulations affect Military exports,
- Understand Missouri State's policy on Export Control, and
- Know how one can apply for an Export License



*Export Control Policy Page*

# What is the Export Control law?:

It is laws that regulate or restrict the distribution to foreign nationals and foreign countries. It also affects the movement of strategically important products, services, and information, for reasons of foreign policy and national security.

These restrictions are imposed on shipments abroad, as well as access to University research by foreign nationals. Therefore, the term "export" in these regulations has a very expansive meaning.

You can examine the Basic Concepts of Export Control for further information.



## EXAMPLES OF (POTENTIALLY) CONTROLLED ACTIVITIES:

- Transfers of controlled information, including technical data, to persons and entities outside the U.S.
- Shipment of controlled physical items, such as scientific equipment, that require export licenses from the U.S. to a foreign country; and
- Verbal, written, electronic, and/or visual disclosures of controlled scientific and technical information related to export controlled items to foreign nationals in the U.S.

*Export controls are based on:*



- *the nature of the item or activity,*
- *the country involved in the transaction,*
- *the person receiving or ultimately using the item or service, and*
- *the end-use to which the item or service will be implemented.*

*U.S. export controls serve the following purposes:*

- *to control any potential military application,*
- *to protect U.S. trade/economic interests,*
- *to control the exposure of controlled technologies, materials and information to foreign nationals and foreign countries, and*
- *to prevent the proliferation of weapons of mass destruction.*

# History of Export Control:

**On September 5, 1774, the First Continental Congress convened in Carpenter’s Hall in Philadelphia and the following December** the Congress declared the importation of British goods to be illegal. Twelve months later the Congress outlawed the export of goods to Great Britain, thus establishing the first American export controls. Since then, the United States has imposed export controls for a variety of reasons through legislation such as the Embargo Act, Trading with the Enemy Act, the Neutrality Act, and the Export Control Act.

The Export Control Act of 1949 gave the U.S. Department of Commerce primary responsibility for administering and enforcing export controls on dual-use items and for the first time defined three reasons for the imposition of these controls - national security, foreign policy, and short supply. Upon the expiration of the Export Control Act, the Export Administration Act (EAA) of 1969 took effect on January 1, 1970. The EAA was reestablished in 1979, and amended several times since. The Act lapsed on August 20, 1994. The Department of Commerce is currently acting under the authority conferred by Executive Order No. 12924 of August 19, 1994. In the Executive Order, the President invoked his authority, including authority under the International Emergency Economic Powers Act, to continue in effect the system of controls that the United States had maintained under the Act. Controls also are maintained for purposes of nuclear non-proliferation under the Nuclear Non-Proliferation Act of 1978. Presently, the EAA is in the process of being rewritten.

Because unilateral export controls are less effective than controls enforced by many nations, the United States joined forces with other countries to help further its national security and foreign policy interest. Currently, the United States is a member of the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime, and the Wassenaar Arrangement.

## Timeline:

1774	1949	1970	1994	1996
<ul style="list-style-type: none"><li>• Congress declare importation of British goods to be illegal.</li></ul>	<ul style="list-style-type: none"><li>• Export Control Act; administrating and enforcing export controls on dual-use items.</li></ul>	<ul style="list-style-type: none"><li>• Export Administration Act (EAA) of 1969.</li></ul>	<ul style="list-style-type: none"><li>• Authority conferred on Dept. of Commerce by Executive Oder # 12924.</li></ul>	<ul style="list-style-type: none"><li>• Federal register published simplifying the Export Administration Regulations after 40 years.</li></ul>

# Export Control Definition:

## What is an export?

The Export Control (EC) Regulations define an export as:

- Any oral, written, electronic or visual disclosure, shipment, transfer or transmission outside the United States to anyone, including a U.S. citizen, or any commodity, technology (information, technical data, or assistance) or software/codes;
- Any oral, written, electronic or visual disclosure, transfer or transmission to any person or entity of a controlled commodity, technology or software/codes with intent to transfer it to a non-U.S. entity or individual, wherever located (even to a foreign student or colleague); and
- Any transfer of these items or information to a foreign embassy or affiliate.

## Example of the Commerce Control List Categories:

0 = Nuclear materials, facilities and equipment (and miscellaneous items)  
1 = Materials, Chemicals, Microorganisms and Toxins  
2 = Materials Processing  
3 = Electronics  
4 = Computers  
5 = Telecommunications and Information Security  
6 = Sensors and Lasers  
7 = Navigation and Avionics  
8 = Marine  
9 = Propulsion Systems, Space Vehicles, and Related Equipment

## Background – Export Control (Missouri State University):

At Missouri State University, there are export control laws that govern software, hardware, and other information that pertain to a number of technologies and has a great impact on the number and type of research projects carried out by researchers.

The Export Administration Regulations (EAR) control the conditions under which certain information, technologies, and commodities that can be transmitted outside of the United States to anyone, including citizens of the United States, or to a foreign national in the United States.

Universities like ours are not exempt and have a responsibility to ensure that its community members adhere to the letter of the law as it deals with export controls and the legal usage of protected technologies.

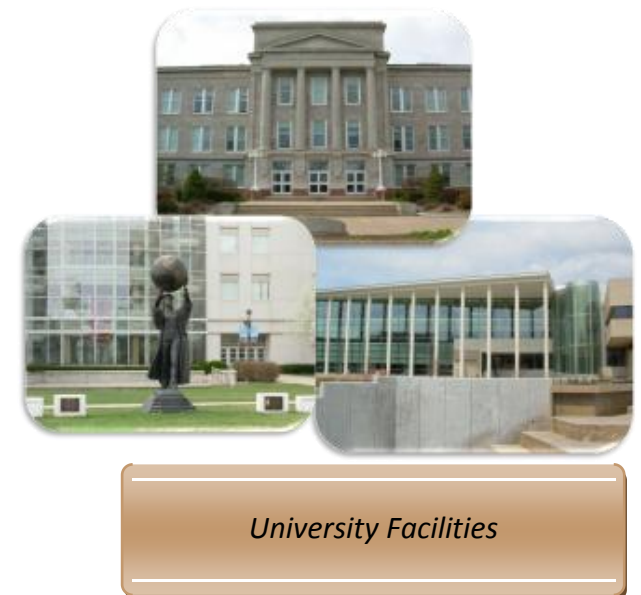


### **Review Exercise 1:**

Export control laws govern information involving a number of various technologies in a manner that could have a major impact on research projects at Missouri State University.

Choose the regulations that identify the department that authorizes the controls and conditions for transmission outside of the United States or to a non-U.S. entity or individual. Choose between; A. EPA B. ERA C. EAR

See [answer](#) .



## Who controls exports?

These are the agencies that control exports.

1. The Department of Commerce through its Export Administration Regulations (EAR), Title 15, sections 730-774 of the Code of Federal Regulations. For a list of controlled technologies, see [15 CFR 774, Supplement 1](#). (PDF document).
2. **The Department of State (which controls the export of “defense articles and defense services”) under the International Traffic in Arms Regulations (ITAR) 22 CFR 120-130.** For a list controlled technologies, see [22 CFR 121.1](#).
3. The Department of the Treasury through its Office of Foreign Assets Control (OFAC) administers the Sanctions Programs which are Country and List-based. See Code of Federal Regulations, [31 CFR 501](#). (PDF document).



Office of Foreign Assets Control (OFAC):



# Regulatory Bodies:

**COMMERCE DEPARTMENT'S EXPORT ADMINISTRATION (EAR)** works with the State Department's International Traffic in Arms Regulations (ITAR) to prohibit the export of specific unlicensed technologies for reasons of national security or for the protection of trade.

**OFFICE OF FOREIGN ACCESS CONTROL (OFAC)** of the Treasury Department administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

**INTERNATIONAL TRAFFIC in ARMS REGULATIONS (ITAR)** covers the export and re-exports of defense articles (including satellites and spacecraft), technical data and defense services, unless an exclusion from export controls applies. (See 22 CFR parts 120 to 22 CFR parts 130 [2004]).

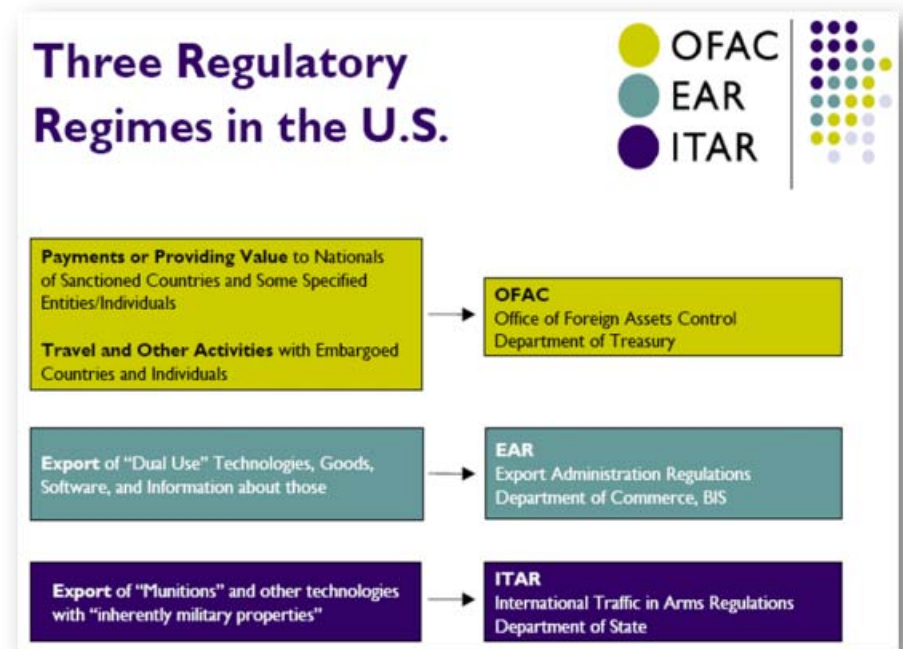


Image courtesy of the University of Pennsylvania:

## Comparisons of EAR and ITAR:

### **There are a number of key differences between the EAR and the ITAR.**

- The EAR is concerned with “dual use” items; ITAR with those that are inherently military in nature.
- The ITAR contains the concept of “defense services,” which includes the furnishing either of training, or
- Technical data related to ITAR-controlled items to foreign persons either in the U.S. or abroad.

Another difference is the treatment of fundamental research.

- In the ITAR, it is subsumed under “public domain.”
- In the EAR, it is a separate and distinct category.

In general, the EAR is clearer and more specific in its coverage than the ITAR.

### **EXPORT ADMINISTRATION REGULATIONS:**

(15 CFR 730-774; <http://www.access.gpo.gov/nara/cfr>)

### **INTERNATIONAL TRAFFIC IN ARMS REGULATIONS:**

(22 CFR 120-130; <http://www.access.gpo.gov/nara/cfr>)

# Export Items:

Any item that is sent from the United States to a foreign destination is an export. "Items" include commodities, software or technology, such as military hardware, clothing, building materials, circuit boards, automotive parts, blue prints, design plans, retail software packages and technical information.

How an item is transported outside of the United States does not matter in determining export license requirements. For example, an item can be sent by regular mail or hand-carried on an airplane. A set of schematics can be sent via facsimile to a foreign destination, software can be uploaded to or downloaded from an Internet site, or technology can be transmitted via e-mail or during a telephone conversation. Regardless of the method used for the transfer, the transaction is considered an export for export control purposes.

An item is also considered an export even if it is leaving the United States temporarily, if it is leaving the United State but is not for sale, (e.g. a gift) or if it is going to a wholly-owned U.S. subsidiary in a foreign country. Even a foreign-origin item exported from the United States, transmitted or transshipped through the United States, or being returned from the United States to its foreign country of origin is considered an export. Finally, release of technology or source code subject to the EAR to a foreign national in the United States is "deemed" to be an export to the home country of the foreign national under the EAR.

Taken from <http://www.bis.doc.gov/licensing/index.htm>



# Military Exports:

U.S. export controls serve the following purposes:

- to control any potential military application;
- to protect U.S. trade/economic interests;
- to control the exposure of controlled technologies, materials and information to foreign nationals and foreign countries; and
- to prevent the proliferation of weapons of mass destruction.

Federal EC regulations are promulgated through the following agencies and regulations.

## US State Department, International Traffic in Arms Regulation (ITAR)

Governs defense articles (including technical data) and defense services (predominately military items and information, including satellites and spacecraft).

## US Commerce Department, Export Administration Regulations (EAR)

Governs commodities, software and technology (or information) (primarily civilian); also includes some sanctions, embargoes and restrictions on transfers to certain end-uses and persons, including terrorists.

## US Treasury Department, Office of Foreign Assets Control (OFAC)

Maintains trade sanctions, embargoes and restrictions on transfers to certain persons, such as terrorists and narcotics traffickers.

## US Nuclear Regulatory Commission

Governs nuclear equipment, materials, software and technology.



Military Hardware:

# Export Control Policy:

Certain types of University research may fall under Federal Government Export Controls (EC) regulations that prohibit unlicensed export of specific information and technologies, require prior approval for foreign nationals to access information, technologies and materials, and participate in research, limit partnering with a foreign company, and/or prohibit sharing research with persons who are not U.S. citizens.

Export controls may affect many aspects of research because the term “export” covers not only the shipment of information or materials to another country but also the release or disclosure of information or materials to foreign nationals on U.S. soil (“deemed export”).

These restrictions are imposed on shipments abroad, as well as access to University research by foreign nationals.

## **Deemed Export:**

An export (as defined on previous page) but to a foreign national (other than a U.S. citizen or permanent resident) inside the United States

See information on Missouri State [Export Control Policy](#).



## **Review Exercise 2:**

**True or False:** Items leaving the United States, or going to a wholly-owned U.S. subsidiary in a foreign country are not considered export and thus does not fall under the Export Control laws. See [answer](#) .

# Applying for an Export License:

## Export License:

\* If an export license is required, the best and fastest way to submit an export license application is to use the on-line Simplified [Network Application Process Redesign \(SNAP-R\)](#). Visit the SNAP-R section of the BIS Website for more information on signing up to be a SNAP-R user.

Exporters may prepare an original Form BIS-748P, "Multipurpose Application Form," and submit it for review and approval. The application form can be used for requesting authority to export or re-export, or to request BIS to classify your item for you. Requirements for submitting a license application are detailed in Part 748 of the EAR. Exporters may request form BIS-748P.

To order forms, you may submit a request by fax at (202) 219-9179 or call the Bureau of Industry and Security, Exporter Counseling Division at (202) 482-4811 or their Western Regional Office at (949) 660-0144, or you can use the order form found on their Web site.

Exporters must be certain to follow the instructions on the form carefully. In most cases, technical brochures and support documentation must also be included.

See the Bureau of Industry and Security, in the U.S. Department of Commerce, for the Export License [Application processing](#).



U.S. Department of Commerce logo:

\* - From the Bureau of Industry and Security website

# Summary – Export Control:

**At the beginning of the chapter, we identified several objectives you would accomplish after reading the chapter.**

The objectives were to:

1. Understand the importance of the Export Control regulation,
2. Be aware of the government regulatory agencies and the history of the export control regulations,
3. Learn what items/commodities fall under the export control restrictions. These restrictions cover countries and individuals who are restricted from receiving items/commodities,
4. Recognize how Export Control regulations affect Military exports,
5. Understand Missouri State's policy on Export Control, and
6. Understand how you can apply for an Export License.



Learning about the Export Control Regulatory Bodies:

## Conclusion – Export Control:

It is important that all University administrators, faculty and students responsible for or involved in research, teaching, and travel, understand their obligation to comply with Export Control regulations.

The consequences of violating the regulations can be severe for both the institution and the individual violators, and include fines and prison time.

You have been  
warned!!!!



Violating the Export Control laws:

Let us now look at the concept of **Public Domain (Chapter 3)** as well as the basic concepts that explain the expansive meaning of Export Controls, and to learn what is accessible and available to the public.



## Chapter 3 - “What is Public Domain?”