UWM Export Controls in Research Program

Export Control Overview

Export Control Overview

- Topics -
  - Export Control Basics
  - Export Control Regulations
    - International Traffic in Arms Regulations (ITAR)
    - Export Administration Regulations (EAR)
    - Foreign Asset Control Regulations (FACR)
    - Related Restrictions and Controls
      - Restricted Party Screening (RPS)
      - Controlled Unclassified Information (CUI)
  - Export Controls at UWM

What is an Export?

Sending, taking, or transmitting items and/or information out of the United States

- An "export" is more than just shipping
  - Examples of exports:
    - Shipping – commercial shippers
    - Hand-carry (carry-on/checked luggage, laptop, flash drive)
    - Electronic transfer of technology or technical data (e.g., e-mail, text, social media, fax)
    - Verbal transfer of technology or technical data (e.g., in-person, phone, Skype)

Deemed Exports

An "export" to a foreign person within the U.S.

- Export regulations control the transfer, release, or disclosure of technology or technical data to foreign persons in the U.S.

  - A deemed export is treated as an "export" to the foreign person's home country

- The regulations define "Foreign Person" as anyone who is NOT a "U.S. Person"

  - Also includes international organizations, foreign governments and any agency of a foreign government

- A "U.S. Person" is:

  - U.S. citizen or national; permanent resident; refugee or individual granted asylum

Export Controls

Export controls consists of a group of federal regulations that control…

- Distribution of certain commodities, technologies, information and data (EAR, ITAR), and

- Financial transactions with prohibited individuals, entities, countries (FACR)

…and apply to a broad range of items and activities, including:

- Items – Goods, commodities, materials, defense articles, substances, software, technology, equipment, technical data, information, and money

- Activities – Provision of services such as technical assistance and training, software downloads, conference presentations, research collaborations, travel

Purpose of Export Control's

- **National Security**

  - To **prevent** arms, military and dual use products, technology, and services to foreign persons or organizations

- **Economic Security**

  - To have a **competitive** advantage and **protect** assets

- **International Compliance**

  - To comply with certain **international agreements**, such as embargoes

- **Human Rights**

  - To counter the misuse of goods, software, and technology that enable serious human rights abuses

Export Control Regulations

Parameter	ITAR	EAR	FACR
Name of Regulation	International Traffic in Arms Regulations	Export Administration Regulations	Foreign Asset Control Regulations
Agency	State	Commerce	Treasury
What Does Regulation Control?	Military equipment & information	Dual use items & information	Foreign assets (bank accounts)
Control Listing	USML (United States Munitions List)	CCL (Commerce Control List)	Specially Designated Nationals List
Comments	Treats all foreign destinations the same	Need for license depends on commodity, destination country, reason for control & exemptions	Depends on who (person or organization) you are communicating with

Source: UW-Madison

International Traffic in Arms Regulations (ITAR)

The ITAR are overseen by the U.S. Department of State.

These regulate military items and information, which can include:

- Defense articles
  - Items listed on the *United States Munitions List (USML) and related technical data
- Defense services
  - Military training, technical assistance and provision of technical data related to items on the USML
- Technical data
  - Information directly related to items on the USML, including software that incorporates such info

General requirements -

- ITAR-regulated items and information may not be exported to prohibited location; for all other foreign destinations, a license is required.

> *** Items regulated under the ITAR can be found in the USML (22 CFR 121) and include naval vessels, ordnances, military aircraft, tanks, their software, components and accessories**

Export Administration Regulations (EAR)

The EAR are overseen by the Department of Commerce.

These regulate dual use items and information, which can include:

- Dual use items
  - Commercial items that could also be used for military, terrorism, nuclear proliferation, or similar purposes
    - Includes information necessary for the development, production or use of such commodities, including software
  - Controlled commodities are listed on the *Commerce Control List (CCL)

General Requirements -

- EAR-regulated items and information may require a license. Determination depends on commodity, destination country, reason for control, and exemptions available

> * Items regulated under the EAR can be found in the CCL (15 CFR 774 – Supplement No. 1), and include items such as lasers, telecom equipment, IR sensors, computers, electronic test equipment, non-commercial encryption software

Foreign Asset Control Regulations (FACR)

The FACR are overseen by the Office of Foreign Asset Controls (OFAC) in the U.S. Dept. of the Treasury. These regulate assets, persons, organizations and entities through:

- Embargoes

- Sanctions

- Special Designation Lists

  - For example, the Specially Designated Nationals list (SDNs) includes approximately 12,000 names connected with sanctioned targets

General Requirements -

- Transactions between a U.S. person and persons or entities in a sanctioned country or on a government watch list are highly restricted and may be prohibited outright

Individuals, groups, and entities regulated under the FACR can be found in OFACs Sanctions, SDN, and Embargoes lists

Embargoed/Sanctioned/Restricted Countries

- **U.S. Embargoes - Comprehensively Sanctioned**

  - Cuba, Iran, North Korea, Russia, Syria, and regions of Ukraine (Crimea, Donetsk and Luhansk)

- **U.S. Embargoes - Arms**

  - Afghanistan, Belarus, Burma, Cambodia, Central African Republic, China, Cuba, Cyprus, Democratic Republic of the Congo, Eritrea, Ethiopia, Haiti, Iran, Iraq, Lebanon, Libya, N. Korea, Russia, Somalia, South Sudan, Sudan, Syria, Venezuela, Zimbabwe

- **Others Subject to Specific Sanctions and Restrictions**

  - Balkans, Belarus, Burma (Myanmar); Central African Republic, Congo, Dem. Rep. of, Ethiopia, Hong Kong, Iraq, Lebanon, Libya, Sudan, Venezuela, Yemen, Zimbabwe

Restricted Parties

Multiple Restricted Part Lists are maintained by the federal government

- Federal agencies publish lists of "restricted parties"
    - Persons, companies, organizations
        - Both foreign and domestic
- Lists contain the names of individuals and entities that are prohibited or restricted from certain activities
    - Restricted Part Lists include:
        - Denied Party/Entity, Specially Designated Nationals, Debarred Parties, Denied Persons, Nonproliferation Orders, and Unverified Lists

**UWM uses restricted party screening (RPS) software
that provides a consolidated resource for most available lists**

Controlled Unclassified Information (CUI)

In addition to export control regulations, other government agencies, such as the U.S. Departments of Defense (DOD) and Energy (DOE), have additional regulations that may impact specific research projects

- Controlled Unclassified Information –
    - Much like export-controlled information, CUI must be handled and stored so that it is protected from unauthorized access or accidental public disclosure
    - Presentation and publication is restricted
    - Applied to certain grants and contracts as a "Term & Condition"
    - Foreign entities and foreign persons often excluded from access to CUI

Although not technically export controlled, the protected data, referred to as Controlled Unclassified Information (CUI), is defined and described in the Code of Federal Regulations at 32 CFR Part 2002.

Export Controls are federal laws with real consequences

- Civil and criminal penalties can be levied against individuals and organization
  - Federal fines and penalties can be severe
    - Monetary fines
    - Criminal prosecution
    - Imprisonment
- UWM disciplinary action
  - Termination of research activity
  - Termination of employment
- Damage to sponsor relations and public trust
  - Loss of existing funding
  - Limitations on future awards
  - Reputational harm

Export Controls impact what UWM can and cannot do

Limitations, restrictions and costs can affect UWM operations:

- What type of research we do
- Who we can share information with
- Who we work with (collaborators / sponsors)
- What items we can ship
- Where we can travel
- Who we can purchase from
- Who we can provide services to
- What level of security required for projects / labs
- How much out of pocket expenses UWM must cover

UWM strives to foster and protect an environment of openness in research and academic freedom while complying with federal export control regulations

UWM Policy Statement

Openness in research and free dissemination of research results are core values at UWM… however, where export controls are applicable to UWM's research activities, UWM is committed to fully complying with all applicable export control regulations.

UWM employees and students, and other persons involved in research on campus are obligated to comply with all applicable export control regulations and to work cooperatively with those responsible for UWM's export control compliance.

UWM SAAP No: 14-3

UWM's *Export Controls in Research Program*

Information and Resources:

- [Guidelines for Export Controls in Research](#)

- [Export Controls in Research Policy](#)

- [Openness in Research Policy](#)

- [Research Integrity webpage](#)

Thank you!

Questions?

Contact the Office of Research
or
Message the *Export Controls in Research Program*
at
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