

# **Export Control Frequently Asked Questions**

## **What is an export?**

Any item that is sent from the United States to a foreign destination is an export. "Items" include commodities, software or technology, such as clothing, building materials, circuit boards, automotive parts, blue prints, design plans, retail software packages and technical information. The release of technology or source code subject to the export control regulations to a foreign national in the United States is "deemed" to be an export to the home country of the foreign national under these regulations.

## **Does MSU have an export control policy?**

MSU's export control policy is currently under review.

## **What is the purpose of export regulations?**

The objective of these regulations is to further the foreign policy initiatives of the United States as well as maintain an economic advantage in leading fields of technology. Exports are regulated according to issues concerning national security, anti-terrorism, human rights, and nuclear proliferation among others. These regulations operate as safeguards to maintain control over the dissemination of items or technology that could potentially be used against the United States.

## **Who controls exports?**

Export Controls are under the jurisdiction of three federal agencies, The Departments of State, Commerce, and the Treasury.

## **What is the function of each Federal Agency?**

The Department of State regulates items or technology that is inherently military. The actual regulations promulgated by the Department of State are the International Traffic in Arms Regulations (ITAR).

The Department of Commerce maintains jurisdiction on dual-use items or technology. These are items or technology that can have a commercial as well as military application. The regulations are the Export Administration Regulations (EAR).

The Department of the Treasury maintains the Office of Foreign Assets Control (OFAC) which administers and enforces economic and trade sanctions based on US 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. OFAC maintains trade level embargoes.

### **What is a foreign national?**

For export control purposes a foreign national is a person who 1) is not a U.S. Citizen 2) has been granted permanent residency (green card) or 3) is a political asylee as designated by the government.

### **If I wanted to hire a foreign national on my project what considerations are there?**

Projects involving export controlled materials or technology may require authorization either from the Department of State or Department of Commerce for a foreign national to have access to controlled data or technology. Examples of authorization could be an actual license (DSP-5) or a Technical Assistance Agreement.

### **What if I want to transfer information to another country?**

The export of information or data is treated the same as export of an item. Technical data is defined as information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of controlled articles. This includes information in the form of blueprints, drawings, plans, instructions, diagrams, photographs, etc. The ITAR definition does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain (ITAR 120.10(5)).

### **What is a license?**

A license is the approval documentation issued by an export agency authority authorizing the recipient to proceed with the export, reexport, or other regulated activity as specified on the application. The license application process will be conducted by the Export Control Officer in Sponsored Programs Administration. Currently MSU is listed as a “defense exporter” according to the Department of State. This enables MSU to apply for licenses through the “D-Trade” system. MSU is registered in the Department of Commerce SNAP-R system to allow for online submissions of license applications.

### **What is fundamental research?**

Fundamental research includes basic or applied research in science and/or engineering at an accredited institution of higher learning in the United States where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research which results in information which is restricted for proprietary reasons or pursuant to specific U.S. Government access and dissemination controls. University research will not be deemed to qualify as Fundamental Research if: (1) the University or research accepts any restrictions on the publication of the information resulting from the research, other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information provided to the researcher by sponsor or to insure that publication will not compromise patent rights of the sponsor; or (2) the research is federally funded and specific access and dissemination controls regarding the resulting information have been accepted by University or the researcher. If the project is not deemed to be fundamental research, export controls could apply. The citation for the official definition of Fundamental Research under the EAR is 15 CFR § 734.8. The ITAR citation is 22 CFR § 120.11.

### **How do I know if my project is export controlled?**

Each contract that is administered by Sponsored Programs Administration is given a review for export control concerns. PI's will be made aware of issues related to their specific projects upon review.

### **Who do I contact regarding export control?**

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