



EXPORT CONTROLS

What are they?

Federal laws regulating the transfer of items, technology, and services to non-U.S. persons and entities. There are three distinct sets of regulations: the International Traffic in Arms (**ITAR**) administered by the Department of State, the Export Administration Regulations (**EAR**) administered by the Department of Commerce, and the Office of Foreign Assets Control (**OFAC**) administered by the Department of the Treasury.

Export controls serve several purposes: to restrict exports of goods and technology that could contribute to the military potential of U.S. international adversaries; to prevent proliferation of weapons of mass destruction; and to advance U.S. economic and foreign policy goals.

Export Controls impact the following activities:

- ⇒ Shipping items, transferring technology, information or technical data to entities or individuals outside of the U.S.
- ⇒ Sharing technology, information, or technical data with foreign persons within the U.S.
- ⇒ Providing services to or conducting business with an embargoed or boycotted country, restricted individual, or entity.

The reality for Academic Institutions:

Academic Institutions are exempt from most of the export control regulations through 3 primary exclusions:

1. **Fundamental Research Exclusion:** Fundamental research, as used in the export control regulations, includes basic or applied research in science and/or engineering at an accredited institution of higher learning where the resulting information either is ordinarily published (or about to be published) and shared broadly in the scientific community.

University research will **not** qualify as fundamental research if either of the following are true:

- the university or researcher accepts any restrictions on the publication of the information resulting from the research, other than limited prepublication reviews by the sponsor, or
- the research is federally funded and specific access or dissemination controls regarding the resulting information have been accepted by the university or the researcher.

Fundamental research permits U.S. universities to allow foreign members of their communities (e.g., students, faculty, and visitors) to participate in research projects involving non-ITAR export-controlled technical information on campus without a deemed export license.

2. **Public Domain Exclusion:** The Public Domain Exclusion applies to information that is published and that is generally accessible or available to the public: (1) through sales at newsstands and bookstores; (2) through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information; (3) through second class mailing privileges granted by the U.S. Government; (4) at libraries open to the public or from which the public can obtain documents; (5) through patents available at any patent office; (6) through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States; (7) 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; and (8) 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.

ITAR technical information already in the public domain qualifies for the Public Domain exclusion as long as it meets the requirements stipulated above.

3. **Educational Information Exclusion:** The Educational Information Exclusion covers general science, math or engineering commonly taught in courses listed in catalogues and associated teaching laboratories of academic institutions in the U.S. even if the information concerns EAR controlled commodities or items. ITAR items do not qualify for the Educational Exclusion, as instruction is a "defense service."





Travel Outside the U.S.

All UNCG personnel traveling internationally on UNCG business are required to receive prior approval through their department. Potential export control issues must be addressed with the University Export Control Officer (ECO) before departure.

The following are some questions to consider before traveling outside the U.S.:

What type of equipment, data or software do you plan to take with you? UNCG personnel should travel with a "clean" laptop and not take *any* information related to an export controlled project (an export license could be required).

Who will you associate with or do business with during your travel? Are the entities on a denied party/entity list as determined by a screening through the University ECO? Contact the ECO as soon as possible, if the entities are on the denied party list, a license may be required.

Will you be providing any assistance or services applicable to an ITAR controlled project or article? This would require prior Department of State approval in the form of a Technical Assistance Agreement.

What country are you traveling to? **Travel to Cuba, Iran, North Korea, Sudan, and Syria are the most restrictive. Travel to and projects in Iran most likely will require an OFAC license. Although Cuba is no longer considered a terrorist country, OFAC and other licenses could be required.** Note: For travel to Iran, it can take up to a year to receive a license from OFAC. Licenses for Cuba take 2-6 months to receive. As the sanctions for various countries are in a state of flux, this information is subject to change. Contact your ECO for current information.

Important Considerations:

Who is considered a "Foreign Person"? 1) Any person who is not a US citizen or lawful permanent resident of the United States (green card holder); 2) Any foreign corporation or other entity or group that is not incorporated or organized to do business in the United States; and 3) Any foreign government.

Is it a "Deemed Export"? The transfer of technology or source code by any method to a foreign national in the U.S. or abroad is deemed to be an export to that individual's country of citizenship. Methods of transfer include fax, telephone discussions, e-mail, computer data disclosure, face-to-face discussions, training sessions, or facility tours which involve visual inspections of controlled technology.

Penalties for Violations Are SEVERE for *both* the individual and the University!

The laws provide for sentences for individuals of up to 10 years in prison, up to \$1 Million in criminal fines, and civil fines up to \$500,000 for each instance.

Situations possibly subject to Export Controls:

- Shipping lab equipment, research materials, computers, prototypes, or samples outside the U.S.
- Sharing information disclosed under confidentiality agreements with foreign persons
- Traveling abroad with samples, materials, laptop computers, tablets, smart phones, GPS, or other devices in checked or carry-on luggage
- Exchanging unpublished research results or data with foreign persons located overseas or in the US by any means, including e-mail, file transfers, etc.
- Training a foreign person in the design, development, use, or testing of export controlled equipment
- Conducting research under a grant or any contractual agreement that restricts the participation of foreign nationals or requires approval to publish results
- Giving tours or hosting foreign visitors in areas subject to Export Control regulations.



Have a situation that may be subject to Export Controls? Have a question related to Export Controls?

Contact Dr. Lisa A. Goble, UNCG's Export Control Official, at 336-256-1173 or lagoble@uncg.edu for more information.