Export Controls &
University Research
Office of Research Compliance – Export Compliance
Export Control Basics

The goals of this presentation are to:

I. Provide a broad general overview of Export Control regulations

II. Discuss the relationship between Export Controls and University Research and provide examples of the types of activities that may be impacted

III. Briefly review how export license determinations are conducted

IV. Discuss what you can do to ensure that the university is in compliance with export control regulations
Export Controls?
Export Control Pop Quiz 1

For which of these situations do you think export controls apply?

A. Researcher is building guidance systems for long range missiles. The guidance system is ready to go and they need to send it to collaborators in Japan for testing Can they send it?

B. A new faculty member is developing computer software for high resolution marine navigation with the Office of Naval Research. There is a Canadian graduate student that wants to join the lab and work on the project. Is this ok?

C. Faculty member has been invited to attend an international conference in Syria, and she plans to take her laptop and iPhone. Is this ok?
Export Control Pop Quiz 1

For which of these situations do you think export controls apply?

D. Researcher is conducting research and intends to pay research subjects in England to participate in a survey on the British Monarchy. Are there any issues?

E. While shopping in Hong Kong you purchase a GPS unit that was made in Finland. You bring it home with you and find that it is defective and needs to be returned to the manufacturer in Finland for replacement. Is this export controlled?

Q: Which of these situations do Export Controls apply?

A: Export Controls would potentially apply to all of them, and in many cases an export license would be required to proceed with the activity.
Overview of Export Controls

The U.S. Government actively regulates, and in some cases, restricts the export of certain information, items or technologies deemed to be critical to the interests of national security, economy and/or foreign policy.

In general, restrictions apply to information, items, technologies or services that include:

- military, weapons, missile technology
- “dual use” items (those items having potential military as well as commercial uses)
- chemical/biological weapons
- encryption technology & related technology
- high performance computers
- lasers and other high technology medical devices
Overview of Export Controls

In addition to activities involving military items or weapons it is critical to note that many normal, everyday University activities are subject to Export Controls, including:

• Traveling overseas to conduct University business (e.g., conferences, field work, international symposia)
• Traveling with some types of equipment including laptop computers, web-enabled cell phones, or other items
• Traveling with unpublished, proprietary information or restricted information
• Research collaborations with foreign nationals (here in the U.S. or abroad)
• Visits or tours of research facilities by foreign nationals
Overview of Export Controls

• Sponsoring research (e.g., via a subcontract) or providing any financial assistance to an embargoed or sanctioned country
• Providing financial assistance to any one that is considered a blocked or sanctioned party, specially designated national
• Providing professional services (e.g., consulting) to problematic end-users or sanctioned countries

KEY TAKE HOME MESSAGE:
Export Controls do not only apply to military work or the shipment of equipment out of the U.S., they impact universities in a variety of ways.
Export Control Regulations

There are 3 primary federal agencies that oversee and enforce Export Controls:

- **State Dept.** – *International Traffic in Arms Regulations* (ITAR) – Governs military, weapons and space related technologies

- **Commerce Dept.** – *Export Administration Regulations* (EAR) – Governs technologies with dual uses (those with both military and commercial applications or strictly commercial applications)

- **Treasury Dept.** – *Office of Foreign Assets Control* (OFAC) – Governs transactions with countries subject to embargo, boycott, or trade sanctions
Export Control – Pop Quiz 2

Which of these would be considered an Export?

A. A colleague in England requests a DNA sample and researcher puts a small amount into a tube and pop it in the mail.
B. Researcher posts drawings of a new widget on the internet for anyone to access.
C. Researcher emails a new algorithm she developed to a college in France.
D. Researcher discusses non-published or proprietary information regarding his research at an international conference.

Q. Which of these activities are an Export?
A. All of them would be considered an export and in some cases an export license would be required to proceed with the activity.
What constitutes an Export?

An export occurs whenever an item, commodity, technology, or software is sent out of the U.S. to a foreign destination.

• If the item being released or exported is a “controlled item” the an Export License may be required before the transfer can legally occur.

• An export can take any form – not just physical shipments – and the manner in which the transfer or release of the item takes place is not relevant to export control regulations.
Types of Export Activities

Examples of activities that are considered exports and would be subject to Export Controls include:

- Shipment of items out of the U.S.
- Written or oral communications
- Electronic or digital transmissions
- Hand Carrying items out of the country
- Providing visual inspections or tours of facilities
- The use or application of a controlled service or technology on behalf of or for the benefit of a foreign person or entity
Foreign Persons/Entities

Foreign Persons are persons who:

• Are not U.S. Citizens
• Are not permanent resident aliens of the U.S. (i.e., they do not have a Green Card)
• Are not in the U.S. as a refugee or with asylum status

Foreign Entities are those businesses, organizations, and governments that are not incorporated or organized to do business in the U.S.
Deemed Exports

In addition to the physical transfer of items out of the country, the U.S. Government also actively regulates the release or transmission of controlled technology or information to Foreign Nationals within the U.S (e.g., a foreign national graduate student at OSU). This is referred to as a “Deemed Export.”

- Deemed Exports are regulated by the same Export Controls as the actual transfer of items out of the U.S.
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Deemed Exports

Deemed Exports is the area of biggest concern for universities and the area where there is the greatest compliance for exposure.

Foreign persons are major drivers of university researcher and it is critical to the overall research mission that we continue to have a free and open exchange of ideas with scholars and students of all nationalities.
Why do you need to be concerned

Following the events of 9/11 there has been a heightened level of awareness and scrutiny of all export activities with a growing emphasis on enforcement.

- Federal agencies are increasingly focused on Universities and their compliance with export regulations.
- Non-compliance with export regulations can lead to substantial and severe criminal and monetary penalties imposed on both individual researchers and institutions.

But do we really need to be concerned? Does the government really care about academic institutions?
Don’t let this happen to you...

Retired University of Tennessee Professor Convicted of Arms Export Violations

KNOXVILLE - On Wednesday, September 3, 2008, a federal jury convicted retired University of Tennessee professor Dr. J. Reece Roth, after a seven day trial, of illegally exporting military technical information relating to plasma technology designed to be deployed on the wings of drones operating as a weapons or surveillance systems.

The Arms Export Control Act prohibits the export of defense-related materials, including the technical data, to a foreign national or a foreign nation, without the required U.S. government license. The illegal arms exports by Dr. Roth related to technical data and information that was developed through a U.S. Air Force research and development contract to develop this advanced form of a drone.

Dr. Roth was specifically convicted of one count of conspiring with Atmospheric Glow Technology, Inc., a Knoxville, Tennessee, technology company, to unlawfully export in 2005 and 2006 fifteen different "defense articles" to a citizen of the People's Republic of China in violation of the Arms Export Control Act. He was also convicted of 15 counts of violating the Arms Export Control Act and one count of wire fraud relating to defrauding the University of Tennessee of the honest services by illegally exporting sensitive military information relating to this U.S. Air Force contract.

The maximum punishment for the conspiracy conviction is five (5) years imprisonment and a fine of $250,000. The maximum penalty for each of the Arms Export Control Act offenses is ten (10) years imprisonment, a criminal fine of $1,000,000, and a mandatory special assessment of $100 for each offense. Dr. Roth's sentencing has been set for January 7, 2009, at 1:30 p.m., in United States District Court in Knoxville.

"Today's guilty verdict should serve as a warning to anyone who knowingly discloses restricted U.S. military data to foreign nationals. The illegal export of such sensitive data represents a very real threat to our national security, particularly when we know that foreign governments are actively seeking this information for their military development," said Patrick Rowan, Acting Assistant Attorney General for National Security.

United States Attorney Russ Dedrick said, "The strict enforcement of the export technology laws protects our country and its citizens. This verdict, by a jury of Dr. Roth's peers, demonstrates that our citizens and the United States will not tolerate such intentional conduct to undermine the security and the economy of our country. Our scientific and educational communities must take preuations to insure that technology and research are protected, when required, from disclosure to foreign governments."
Don’t let this happen to you...

Department of Justice

FOR IMMEDIATE RELEASE
Wednesday, September 3, 2008
WWW.USDOJ.GOV

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In July 2009, Dr. Roth was sentenced to 4 years in federal prison.
Export Controls & University Activities
Export Controls & University Research

The good news: the vast majority of research conducted at U.S. universities is exempt from export controls under 3 exclusions provided for under the current regulations.

They are:

- The **Fundamental Research Exclusion**
- The **Educational Information Exclusion**
- The **Public Information Exclusion**

Although research may be exempt from Export Controls under these exclusions, the University must demonstrate that the appropriate export control reviews were performed.
**Fundamental Research Exclusion**

The **Fundamental Research Exclusion** applies to any basic or applied research in science or engineering where the resulting information is ordinarily published and broadly shared in the scientific community.

Research performed as Fundamental Research is **not** subject to Export Controls and no licenses are required to release or transfer information to a foreign national in the U.S. or abroad.

It is important to note that the fundamental research exclusion only covers the “**results**” of research. It does not cover actual materials, items or technologies involved in or resulting from the research. Export Controls may still apply to these items.
Fundamental Research Exclusion

For research to qualify as Fundamental Research all of the following must be true:

- There can be no restrictions on publication (normal pre-publication review is ok if limited in time)
- There can be no access or dissemination restrictions
- The research must take place at an accredited institution in the U.S.

Delays in finalizing sponsored research agreements can be encountered when sponsors try to insert publication or access restrictions in agreements which would nullify the Fundamental Research Exclusion.
Problematic Clauses

In some cases, sponsors (especially DoD) will add contract restrictions that nullify the Fundamental Research Exclusion.

Examples include:

• DFARS 252.204-7000 – Disclosure of Information
• ARL 52.205-4401 – Release of Information
• ARL 52.004-4400 – Foreign Nationals Performing under Contract
• AFMC 5352.227-9000 – Export Control Data Restrictions

Important to get these clauses removed if at all possible. If included, the project cannot shelter under FRE and a complete assessment will need to be made regarding access and safeguards.
Problematic Clauses

252.204-7000 Disclosure of Information.
As prescribed in 204.404-70(a), use the following clause:

DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless—

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.
Educational Information Exclusion

The Educational Information Exclusion covers information commonly taught in universities via instruction in catalog courses and/or through the associated teaching laboratories.

Information that qualifies as Educational Information is not subject to Export Controls and no export license is required to share information with foreign persons in the U.S. or abroad.
Public Information Exclusion

The Public Information Exclusion covers any information that is already published or out in the public domain. Information in the public domain is not subject to Export Controls. Examples include:

- Books, newspapers, pamphlets
- Publically available technology and software
- Information presented at conferences, meetings or seminars open to the public
- Information included in published U.S. patents
- Websites freely accessible to the public.

Information in the public domain is not subject to Export Controls and no export license is required to share information with foreign persons in the U.S. or abroad.
Export Control Regulations

Educational Information • Fundamental Research • Public Information

*Research with 3rd party Controlled technology

*Interactions with blocked or sanctioned entities

*Research subject to contract restrictions on publication or access by foreigners

*Research in controlled areas (e.g., encryption technology)

*Research in chemical/biological weapons

*Research in nuclear technology or Weapons of Mass Destruction

*Research conducted outside the U.S.

*These activities are not protected and are subject to Export Controls
How do you know?
Determining when Export Controls may apply to your research

The following list of questions is designed to help you determine if Export Controls may apply to your research:

1. Does the research involve military, weapons, defense, chemical or biological weapons, encryption technology & software, space or other dual-use items or export restricted technologies?

2. Does the research involve collaboration with foreign colleagues (including graduate students) either here in the U.S. or abroad?

3. Does the research involve the transfer or shipment of equipment, materials or funding out of the U.S.?
Determining when Export Controls may apply to your research

4. Does any part of the research take place outside of the U.S. (e.g. field work)?

5. Does any part of the research involve the receipt or use of Export Controlled information or items provided by a 3rd party?

6. Are there any contractual restrictions on publication or access to or dissemination of the research results?

7. Does the research involve the shipment or transfer of materials, money or any other type of collaboration with foreign nationals from a sanctioned or embargoed country (i.e. Cuba, Iran, North Korea, Sudan, or Syria)?
Determining when Export Controls may apply to your research

8. Do you have any reason to believe that the end-user or the intended end-use of the item or information violates any existing export controls?

A “Yes” answer to any of the proceeding questions indicates that the research may be subject to Export Controls or OFAC regulations and an assessment should be done. Contact

exportcontrol@osu.edu
Export License Needed?
Export Licenses

An Export License is a document issued by the U.S. government granting you the right to export a specific product, technology, or software to a specific country under a set of defined conditions. Whether a license is needed is driven by the following factors:

• The nature of information or item
• Where the information or item is going
• To whom the information or item is going
• What the end-user will be doing with it
Determining if a license is required

The following steps are used when determining if an export license is required:

1. Is the item/activity subject to Export Controls? Does the item/activity qualify for the FRE or other exclusion?

2. Determine jurisdiction – Does the item/activity fall under the jurisdiction of the ITAR, EAR, OFAC, or other agency?
Subject to EAR Decision Tree

1. Does the item/information relate to the proliferation of chemical or biological weapons or other WMD?
   - Yes: Go to 2
   - No: NOT SUBJECT TO EAR

2. Does the item/information relate to software encryption?
   - Yes: Go to 3
   - No: SUBJECT TO EAR

3. Is the item/information prohibited by any order issued under the EAR?
   - Yes: Go to 5
   - No: SUBJECT TO EAR

4. Does the item/information qualify as Fundamental Research?
   - Yes: Go to 6
   - No: NOT SUBJECT TO EAR

5. Has the information/item been published?
   - Yes: Go to 7
   - No: NOT SUBJECT TO EAR

6. Is the item/information publicly or commercially available?
   - Yes: Go to 8
   - No: SUBJECT TO EAR

7. Is the item/information subject to the exclusive jurisdiction of another Agency?
   - Yes: Go to 9
   - No: SUBJECT TO EAR

8. Is the item/information located in the U.S.?
   - Yes: Go to 10
   - No: SUBJECT TO EAR

9. Is the item/information outside the U.S. but of U.S. Origin?
   - Yes: Go to 11
   - No: SUBJECT TO EAR

10. Is the item/information outside the U.S. but made with materials of U.S. Origin?
    - Yes: Go to 12
    - No: SUBJECT TO EAR

11. Is the item/information outside the U.S. but made with use of U.S. software or technology?
    - Yes: SUBJECT TO EAR
    - No: NOT SUBJECT TO EAR
Determining if a license is required

3. Determine if an export license is required – License needs are item and country specific.

Exercise: Researcher is interested in doing field research in Sudan, mapping the effects of refugee locations on local culture. Researcher will be taking GPS units. Is a license required?
Export License Decision Tree

1. Is your item Subject to EAR?
   - Yes
   - No

2. Does item have ECCN# in the CCL?
   - Yes
   - No

3. Classified as “ECCN #”
   - Yes
   - No

4. General Prohibitions
   - 4 to 10 apply?
     - Yes
     - No

5. Is there an “X” in the box on Country Chart?
   - Yes
     - No
   - Yes

6. Classified as “EAR99”
   - Yes
   - No

7. No License Required (export with “NLR”)
   - Yes
   - No

8. Use License Exception (export with 3 letter code)
   - Yes
   - No

9. Submit application for Export License
   - Yes
   - No

Modified from Supp. No. 1 to part 732 EAR
7A117 “Guidance sets” capable of achieving system accuracy of 3.33% or less of the range (e.g., a “CEP” of 10 km or less at a range of 300 km). (These items are subject to the export licensing authority of the U.S. Department of State, Directorate of Defense Trade Controls. See 22 CFR part 121.)

7A994 Other navigation direction finding equipment, airborne communication equipment, all aircraft inertial navigation systems not controlled under 7A003 or 7A103, and other avionic equipment, including parts and components, n.e.s.

License Requirements

**Reason for Control:** RS, AT

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country Chart</th>
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<tr>
<td>RS applies to QRS11-00100-100/101 and QRS11-00050-443/569 Micromachined Angular Rate Sensors. See Related Controls.</td>
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<tr>
<td>AT applies to entire entry</td>
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**License Requirement Notes:** There is no de minimis level for foreign-made commercial primary or standby instrument systems that integrate QRS11-00100-100/101 or commercial automatic flight control systems that integrate QRS11-00050-443/569 Micromachined Angular Rate Sensors (see §734.4(a) of the EAR).

**Related Definitions:** N/A

**Items:**

The list of items controlled is contained in the ECCN heading.

### B. TEST, INSPECTION AND PRODUCTION EQUIPMENT

7B001 Test, calibration or alignment equipment specially designed for equipment controlled by 7A (except 7A994).

**License Requirements:**

*Reason for Control:* NS, MT, AT
### Commerce Country Chart

<table>
<thead>
<tr>
<th>Reason for Control</th>
<th>Chemical &amp; Biological Weapons</th>
<th>Nuclear Nonproliferation</th>
<th>National Security</th>
<th>Missile Tech</th>
<th>Regional Stability</th>
<th>Firearms Convention</th>
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**For Sudan there is an AT1 and RS1 license requirement**
Determining if a license is required

So... YES, a license from BIS would be required to take the GPS units from the U.S. to Sudan under AT1 and RS1 reasons for control.

Example (part 2) : Researcher decides to conduct a different project involving research in Spain instead of Sudan with the same GPS units. Would a license be required?
For Spain there is no AT1 license requirement, only RS1
7A117 “Guidance sets” capable of achieving system accuracy of 3.33% or less of the range (e.g., a “CEP” of 10 km or less at a range of 300 km). (These items are subject to the export licensing authority of the U.S. Department of State, Directorate of Defense Trade Controls. See 22 CFR part 121.)

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License Requirements

Reason for Control: RS, AT

Control(s): RS applies to QRS11-00100-100/101 and QRS11-00050-443/569 Micromachined Angular Rate Sensors. See Related Controls.

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License Requirement Notes: There is no de minimis level for foreign-made commercial primary or standby instrument systems that integrate QRS11-00100-100/101 or commercial automatic flight control systems that integrate QRS11-00050-443/569 Micromachined Angular Rate Sensors (see §734.4(a) of the EAR).

Related Definitions: N/A

Items:

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B. TEST, INSPECTION AND PRODUCTION EQUIPMENT

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License Requirements

Reason for Control: NS, MT, AT
Determining if a license is required

4. Check to see if there are any valid license exceptions available for the item.

5. Apply for an export license if needed.

6. Ship/transport your item using the appropriate License, License Exception or No License Required (NLR) information on all shipping documents.
The Office of Research Compliance
Export Compliance

Export License Decision Tree

1. Is your item Subject to EAR?
   - Yes
   - No

2. Does item have ECCN# in the CCL?
   - Yes
   - No

3. Classified as "ECCN #"
   - Yes
   - No

4. General Prohibitions 4-to-10 apply?
   - Yes
   - No

5. Is there an "X" in the box on Country Chart?
   - Yes
   - No

6. Classified as "EAR99"
   - No

7. No License Required (export with "NLR")
   - No
   - Yes

8. Use License Exception (export with 3 letter code)
   - Yes
   - No

9. Submit application for Export License

Modified from Supp. No. 1 to part 732 EAR
What can you do?
Strategies for ensuring compliance with Export Controls

- Review research/activities for potential export control issues, and if you think that they may be subject to Export Controls, contact the Export Control Office. Obtaining a license can take 3 to 6 months and there is no guarantee that a license will be granted.

- If project involves the receipt or use of Export Controlled information or technology from outside the University, contact the Technology Commercialization Office (TCO) to notify them of the incoming export controlled information.
  - Require that any controlled information or materials is clearly marked
  - Require that the disclosing organization must obtain written approval before they can provide export controlled information.
  - Mark associated projects in PeopleSoft as Export Controlled
# Strategies for ensuring compliance with Export Controls

<table>
<thead>
<tr>
<th>CODE</th>
<th>Description</th>
<th>When Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECAPP</td>
<td>Export Controls Apply</td>
<td>Top-level code put on all projects that have export restrictions including any project not under FRE, use of export controlled info, contract restrictions, etc.</td>
</tr>
<tr>
<td>ECDTA</td>
<td>Data Restrictions</td>
<td>Used when we know that the project has data transfer restrictions (usually due to contract language).</td>
</tr>
<tr>
<td>ECEQP</td>
<td>Equipment Shipping Restriction</td>
<td>Used when we know that the project has international shipping requirements that will need license review.</td>
</tr>
<tr>
<td>ECFNL</td>
<td>Foreign National Restriction</td>
<td>Used when the contract restricts the use of foreign nationals.</td>
</tr>
<tr>
<td>ECGEN</td>
<td>Project Results are Export Controlled</td>
<td>Used when project results are not freely releasable (usually due to contract language, e.g. AFMC clause).</td>
</tr>
<tr>
<td>ECMTL</td>
<td>Material / Information Transfer Restriction</td>
<td>Used when we know that the project has material or information transfer restrictions (usually due to contract language).</td>
</tr>
<tr>
<td>ECOFC</td>
<td>OFAC Restrictions</td>
<td>Used on projects that involve provision of funds overseas (e.g., payment for participation on a research survey in a foreign country).</td>
</tr>
<tr>
<td>ECPUB</td>
<td>Publication Restricted</td>
<td>Used when publication requires prior approval by the sponsor or other publication restrictions apply.</td>
</tr>
<tr>
<td>ISDOD</td>
<td>Information Security DoD</td>
<td>Used when the project falls under the requirements of DFARs 252.204-7012.</td>
</tr>
<tr>
<td>ISOTH</td>
<td>Information Security Other</td>
<td>Used when the project has information security requirements that are anything other than DFARs 252.204-7012.</td>
</tr>
</tbody>
</table>
Strategies for ensuring compliance with Export Controls

Marking Projects in PeopleSoft as Export Controlled (cont)

Example: a project under a DOD contract that had the DFAR 252.204.7000 clause attached. We would mark the project with the following codes and terms:

- ECAPP – Export Controls Apply – Term: DFAR252.204.7000
- ECFNL – Export Control use of foreign national restriction – Term: “Use of foreign nationals requires sponsor approval”
- ECPUB – Publication Restricted – Term: “Publications require prior written approval by sponsor”

Example: a project under an AFMC clause attached. We would mark the project with the following codes and terms:

- ECAPP – Export Controls Apply – Term: AFMC5352.227-9000
- ECFNL – Export Control use of foreign national restriction – Term: “Use of foreign nationals requires sponsor approval”
- ECGEN – Project results are export controlled – Term “All project equipment and technical data subject to ITAR”
- ECPUB – Publication Restricted – Term: “Publications require prior written approval by sponsor”
Strategies for ensuring compliance with Export Controls (cont)

• If there is a plan to hire a foreign national or project involves working with foreign collaborators on export controlled research, University must determine if an Export License is required. If required, the License must be obtained before work can proceed.

• All foreign collaborators may need to be screened against the Blocked parties, Specially designated nationals, and other “lists” to ensure that they are not barred or blocked entities. There are commercially available software packages that compile all of the list to facilitate the screening process.

• Before hiring or involving a foreign national in research involving export controlled items, you may be required to develop a plan for securing the information and controlling access by foreign nationals.
Strategies for ensuring compliance with Export Controls (cont)

• Sponsored Program Officers need to ensure that all publication and access restrictions are negotiated appropriately to preserve the Fundamental Research Exclusion whenever possible.

• Maintaining the FRE is critical to allowing academic institutions to pursue the academic mission of free and open exchange of information and the pursuit and dissemination of knowledge.

• Beware the troublesome clauses and unnecessary flow down from restrictions placed in the prime contracts when subcontracting.

Fight back! If research being done is fundamental research, we should not accept restrictions.
Strategies for ensuring compliance with Export Controls (cont)

- If it is determined that an Export License is required, check to see if there is a valid License Exception available. Work with the Export Control Office to obtain any necessary Licenses.
- When shipping export controlled items, include the appropriate licensing information (e.g., license number, License Exception symbol, or No License Required) on all export documents.
- Document, document, document
  - Maintain original records of all Export documents including all assessments/reviews for five (5) years.
- Continue to follow any access or control provisions throughout the life of the project and beyond (as required).
The Cost of Noncompliance

Failure to comply with Export Controls can result in severe criminal and monetary fines to both the individual researcher and the University.

The severity of the fine/penalty depends on many factors including which regulations were violated, the extent of the violation and more importantly the intent of the violation.

Non-compliance can lead to loss of export privileges, loss of federal funding, and significant harm to the integrity and reputation of the University.
Fines and Penalties - EAR

Department of Commerce – Violations against the Export Administration Regulations (EAR):

• CIVIL FINES
  • Fines of $10,000 to $120,000 per violation
  • Suspension/debarment from Government contracts
  • Loss of export privileges

• CRIMINAL PENALTIES:
  • $50,000 to $1,000,000 per violation
  • Up to 10 years in prison
Fines and Penalties - ITAR

Department of State – Violations against the International Traffic in Arms Regulations (ITAR):

• CIVIL FINES:
  • Up to $500,000 per violation
  • Suspension/debarment from Government contracts
  • Loss of export privileges

• CRIMINAL PENALTIES:
  • Up to $1,000,000 per violation
  • Up to 10 years in prison
Fines and Penalties - OFAC

Department of Treasury – Violations against U.S. sanctions or embargoes administered by the Office of Foreign Assets Control (OFAC):

• CIVIL FINES:
  • Up to $250,000 per violation
  • Suspension/debarment from Government contracts
  • Loss of export privileges

• CRIMINAL PENALTIES:
  • Up to $1,000,000 per violation
  • Up to 10 years in prison
Summary
Summary

For academic institutions, the vast majority of research is shielded from export controls under the Fundamental Research, Education and Public Domain exclusions.

Almost everything made in the U.S. or made with U.S. technology and/or located in the U.S. will be subject to the EAR, however very little of it is export restricted or requires a license.
Summary

Export Controls apply to all international University activities not just shipping equipment overseas.

Export Controls apply regardless of funding source.

If project involves any type of international component (e.g., shipping an item abroad, collaborating with an international colleague, subcontracting with a foreign entity, etc.) then an export control assessment needs to be done to determine export license requirements.
Questions?

Help and additional information available at:
http://orc.osu.edu/exportcontrol/