

## Terms and Definitions

Term	Definition
<b>Bona Fide Employee Exemption (EAR/ITAR)</b>	Exemption that allows disclosure of unclassified “technology”, technical data or information to a non-U.S. person who is a full time, bona fide university employee and has maintained a permanent address in the U.S. while employed; is not a national of a country to which exports are prohibited; is not a national of a country subject to U.S. embargoes ( <a href="https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations">https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations</a> ); and is not advised in writing not to share the technical data or information with other non-U.S. persons without prior U.S. Government authorization. The exemption does not include the release of a commodity (article, material, or supply) or defense article.
<b>Commerce Control List (CCL)</b>	A list of items under the export control jurisdiction of the U.S. Department of Commerce. The CCL is divided into ten categories: (0) Nuclear Category Materials, Facilities and Equipment, and Miscellaneous; (1) Materials, Chemicals, “Microorganisms”, and Toxins; (2) Materials Processing; (3) Electronics Design, Development and Production; (4) Computers; (5) Telecommunications; (6) Sensors; (7) Navigation and Avionics; (8) Marine; (9) Propulsion Systems, Space Vehicles, and Related Equipment.
<b>Debarred Parties List</b>	List of individuals denied export privileges under ITAR and maintained by the U.S. Department of State.
<b>Deemed Export</b>	Release or transmission of certain items (e.g., information or technology) subject to export control to a foreign national in the U.S. Deemed exports may occur through demonstration, oral briefing, facility visit, as well as the transmission of controlled data. If the university accepts company proprietary information in connection with research, and the information is “technology,” then revealing this information to a non-U.S. person may be a “deemed export”.
<b>Deemed Re-export</b>	The release of technology or information by a non-U.S. person who has been licensed to receive it to a national of another country who has not been licensed to receive the technology or information.
<b>Defense Service</b>	Furnishing technical data or assistance (including training) to foreign persons (i.e., foreign nationals), whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; or military training of foreign units and forces. Defense services also include informal collaboration, conversations, or interchanges concerning technical data.
<b>Defense Article</b>	Any item or technical data (these include military and commercial satellite and space related items, equipment, vehicles, instrumentation, software, and materials), designated by the U.S. State Department in the ITAR. The term includes technical data recorded or stored in any

	physical form, models, mockups, or other items that reveal technical data directly relating to items on the U.S. Munitions List (USML). It does not include basic marketing information on function or purpose or general system descriptions.
<b>Denied Persons List</b>	A list of persons who have been issued a denial order from the U.S. Department of Commerce's Bureau of Export Administration (BXA). U.S. Exporters and third parties in general are prohibited from dealing with these persons in transactions involving U.S. items.
<b>Dual Use</b>	Items that have both commercial and military or proliferation applications. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also "subject to the EAR" (see §734.2(a) of the EAR). Items with <b>no specific ECCN</b> are designated as "EAR99."
<b>Educational Information</b>	Phrase used by the Department of Commerce in §734.9 of the EAR to denote information that is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions. Certain types of information related to encryption software cannot, however, be considered "educational information", and is subject to the EAR even if released "by instructions in catalog courses and associated teaching laboratories of academic institutions."
<b>Empowered Official (EO)</b>	Individual authorized by a business enterprise to sign and process license applications on behalf of the University and who must therefore understand the provisions of ITAR (22 CFR Section 120.25), among others. This individual has authority to inquire into any aspect of a proposed export and to verify the legality and accuracy of the information submitted for a transaction, as well as the authority to refuse to sign "any" license application without retribution from the University. This is important because the EO is held liable for any violations of ITAR. The EO is also responsible for internal audit of export control compliance.
<b>Encryption</b>	The process of encoding a message so that only the sender and the intended recipient can read it.
<b>Encryption Software</b>	Software whose main task is encryption and decryption of data, usually in the form of files on hard drives and removable media, or email messages sent over computer networks or the internet.
<b>End-Use</b>	A detailed description of how the ultimate recipient intends to use the commodities being exported.
<b>End-User</b>	The person who receives and ultimately uses the exported or re-exported items. The end-user is not a forwarding agent or intermediary but may be the purchaser or ultimate recipient.
<b>Entity List</b>	Exports to foreign end-users engaged in proliferation activities are usually prohibited without a license. These are administrated on a case-by-case basis.
<b>Export</b>	<ul style="list-style-type: none"> <li>An actual shipment or transmission out of the United States, including sending or taking of a controlled item (EAR:</li> </ul>

	<p>commodities, software, and technology) or a defense article (ITAR: item, technical data) out of the United States in any manner to anyone, including a U.S. citizen;</p> <ul style="list-style-type: none"> <li>• Releasing or otherwise transferring “technology”, source code, or technical data to a non-U.S. person in the United States (as a “deemed export”);</li> <li>• Releasing or otherwise transferring a controlled item or a defense article to a foreign embassy or affiliate;</li> <li>• Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad; or</li> <li>• Providing a service or conducting any type of transactions with embargoed countries and individuals and/or entities listed on the “Prohibited Parties List”.</li> </ul>
<b>Export Administration Regulations (EAR)</b>	A set of federal regulations that regulates the export and re-export of most commercial items.
<b>Export Control Classification Number (ECCN)</b>	A five-character alpha number classification is used in the CCL to identify items for export control purposes. ECCNs are found in 15 CFR §774, Supplement 1, and in the Commerce Control List (CCL).
<b>Export Controlled Item</b>	Items subject to export control regulations include, but are not limited to: goods, commodities, materials, defense articles, substances, software, technology, equipment, technical data, information, and funds.
<b>Export Controlled Activity</b>	Activities subject to export control regulations include, but are not limited to: provision services, technical assistance, training, software downloads, conference presentations, tours of facilities, travel, and collaboration in teaching or research.
<b>Export Controls</b>	Federal regulations that restrict the release of certain items (e.g., commodities, software, technology, equipment, or information) and the provision of certain services (e.g., technical assistance, training) to foreign destinations or to foreign nationals in the United States and abroad for reasons of national security, foreign policy, anti-terrorism, or non-proliferation. Federal export control regulations include the Export Administration Regulations (EAR) and the International Traffic Arms Regulations (ITAR, as well as regulations administered by the Office of Foreign Assets Control (OFAC).
<b>Foreign National</b>	A person who is not a U.S. citizen or lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Foreign National also includes a foreign corporation, business association, partnership, trust, society, or any other foreign entity or group, as well as international organizations and foreign governments.
<b>Fundamental Research</b>	“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. Fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as

	<p>distinguished from research in which the results are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:</p> <ol style="list-style-type: none"> <li>1. The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity; or</li> <li>2. The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable.</li> </ol>
<b>Fundamental Research Exclusion (FRE)</b>	<p>As used in the export control regulations, this means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons. The fundamental research exclusion (FRE) applies only to the information that results from Fundamental Research, not to the transmission of material goods. Fundamental research does not cover the export of hardware, software, technical data, and technology; financial dealings with prohibited parties or entities; export-controlled activities like technical assistance; and other transactions that involve embargoed or sanctioned parties/countries.</p> <p>University research will not qualify as fundamental research if (1) the institution accepts any <u>restrictions on the publication and/or access of the information resulting from the research</u>, other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information or to insure that publication will not compromise patent rights of the sponsor; or (2) the research is <u>federally funded and specific access or dissemination controls</u> regarding the resulting information have been accepted by the university or the researcher.</p>
<b>International Traffic in Arms Regulations (ITAR)</b>	A set of federal regulations used primarily to control the import and export of defense articles and defense services.
<b>License</b>	A written authorization provided by the appropriate governing regulatory authority detailing the specific terms and conditions under which export, or re-export of export-controlled items is allowed.
<b>License Exception (EAR)</b>	An authorization that allows the export or re-export, under very specific conditions, of items that would normally require a license under the EAR. Export License Exceptions are detailed in EAR §740.
<b>License Exemption (ITAR)</b>	An authorization that allows the export of unclassified defense articles without approval from the Office of Defense Trade Controls. Export License Exemptions are detailed in ITAR § 123.16
<b>Non-U.S. Person</b>	Any person who is not a lawful permanent resident (LAPR/I-551 card holder) or citizen of the United States or other protected individual (e.g., a political refugee). Any non-U.S. corporation, business association, partnership, trust, society or any other foreign entity or group, as well as international organizations and foreign governments, are considered

	“non-U.S. person(s).”
<b>Open Meeting</b>	Term used to describe a conference, seminar, or other gathering where all technically qualified members of the public are eligible to attend and attendees are permitted to take notes or otherwise make a personal record of the proceedings and presentations.
<b>Patent Information</b>	Information contained in a patent application, or an amendment, modification, supplement, or division of an application. Such information is not subject to the EAR pursuant to §734.10 and §734.7(a) 3.
<b>Public Domain/Publicly Available</b>	<p><b>a. ITAR:</b> Information which is already published and generally accessible to the public is not subject to ITAR. This includes information that is available through sales at newsstands and bookstores; through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information; through second class mailing privileges granted by the U.S. Government; through patents available at any patent office; through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public in the United States; 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 (see also §125.4(b)(13) for additional information); <i>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.</i></p> <p><b>b. EAR:</b> Publicly available technology and non-encryption software, such as information that is the subject of an open patent application, published in a book or periodical, released at an open conference anywhere, available on a website accessible by the public with no access controls or information that will be published is not subject to the EAR. This includes submission of manuscripts to journals for consideration with the understanding that the article will be published if favorably received.</p>
<b>Re-export</b>	An actual shipment or transmission of controlled tangible items, software, or information from one foreign country to another foreign country. The export or re-export of controlled, tangible items, software, or information that will transit through a country or countries or will be unloaded in a country or countries for reloading and shipment to a new country, or are intended for re-export to the new country, are deemed to be exports to the new country.
<b>Release</b>	<ul style="list-style-type: none"> <li>• Visual or other inspections by a non-U.S. person of items or defense articles that reveal technology or source code subject to export control or technical data to a non-U.S. person; or</li> <li>• Oral or written exchanges with non-U.S. persons of technology, source code or technical data in the United States or abroad.</li> </ul>

<b>Restricted Research</b>	University research, development, or testing subject to export control sanctions, controlled unclassified restrictions, and/or security controls. Research will not qualify as fundamental research if (1) the institution accepts <u>any restrictions on the publication and/or access of the information resulting from the research</u> , other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information or to insure that publication will not compromise patent rights of the sponsor; or (2) the researcher is <u>federally funded and specific access or dissemination controls regarding the resulting information</u> have been accepted by the university or the researcher, or (3) the university accepts access to, or release services on, a defense article.
<b>Sanctioned Country</b>	Even when exclusions to EAR or ITAR apply, the U.S. Treasury Department, Office of Foreign Assets Control may prohibit payment, travel and the transfer of items, assets, and services of value to sanctioned nations.
<b>Specially Designated Nationals (SDN)</b>	Any person who is determined by the U.S. Secretary of the Treasury to be a specifically designated national for any reason under regulations issued by the Office of Foreign Assets Control. U.S. persons are prohibited from having transactions with the persons listed in the Specially Designated Nationals List.
<b>Technical Assistance</b>	Instruction, skills training, working knowledge, and consulting services, as well as the transfer of technical data.
<b>Technical Assistance Agreement</b>	An agreement (e.g., contract) for the performance of a defense service(s) or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles.
<b>Technical Data (ITAR)</b>	Information, which is required for the design, development, production, manufacture, assembly, operation, repair, testing maintenance or modification of <b>defense articles</b> . This includes information in the form of blueprints, drawings, photographs, plans, instructions, or documentation. Technical data includes classified information relating to defense articles and defense services, and some software may be considered technical data. <i>This definition does not include the controlled equipment/commodity itself, nor educational materials, basic marketing information on function, purpose, or general system descriptions of defense articles contained in publicly available user manuals.</i> The “deemed export” rules apply to the transfer of such technical information to non-U.S. persons inside the U.S.
<b>Technology (EAR)</b>	Any specific information and know-how (whether in tangible form – such as models, prototypes, drawings, sketches, diagrams, blueprints, manuals, or software – or in intangible form, such as training or technical services) that is required for the development, production, or use of a good, but not the good itself.
<b>United States Munitions List (USML)</b>	List of articles, services, and related technical data designated as defense articles and defense services. The State Department has stated that the USML is illustrative only, meaning that the absence of an item on the

	USML does not conclusively rule out the possibility of its being a defense article or defense service.
<b>University Personnel</b>	Faculty, staff, visiting scholars, postdoctoral fellows, students, and all other persons retained by or working for the University. All University Personnel shall comply with all U.S. export control laws and regulations while engaged in activities at or on behalf of the University.
<b>Use</b>	Technology for operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing of a good.
<b>U.S. Person</b>	Under ITAR, 22 CFR 120.15, any person who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). Also, any corporation, business association, partnership, society, trust, or any other entity, organization, or group that is incorporated to do business in the United States. Also, any governmental (federal, state, or local) entity. Under EAR, 15 CFR 760.1(b), any person who is a United States resident or national, including individuals, domestic concerns, and "controlled in fact" foreign subsidiaries, affiliates, or other permanent foreign establishments of domestic concerns.

