Upon completion of this training, participants should be able to:

• Form a basic understanding of Export Control regulatory scope, purposes and current review process
• Identify areas of research subject to federal regulations that are not generally known to the research community
• Understand expectations for CUNY Export Control Administrators
• Determine when to reach out for additional information/assistance
Export – any oral, written, electronic, visual or physical item shipment, transfer or transmission sent outside of the U.S.

Deemed Export – releasing or transferring of information or technology to a foreign national/person within the U.S.

Foreign National/Person – any person who is not a U.S. citizen or lawful permanent resident (e.g., green card holder) or protected individual

(can also refer to: any corporation, business association, partnership, trust, society or any other entity or group that is not incorporated in the United States or organized to do business in the U.S.)

Technology – specific information that is necessary for development, production, or use or a product

Technical data - information that is required for the design, development, operation, installation, etc. of defense articles (e.g., blueprints, plans, diagrams, engineering specifications, etc.)
What are export controls? What are their purpose?

U.S. Export Controls are federal laws, regulations, sanctions and embargoes that restrict the transfer or export/release of controlled goods, technology/technical data, information, services, and software to foreign nationals in or outside the U.S.

**Their purpose:**

- Support U.S. national security and foreign policy
- Prevent terrorism
- Prevent proliferation of weapons of mass destruction (WMD)
- Preserve U.S. economic competitiveness
Who administers the export control regulations?

Department of Commerce – Bureau of Industry & Security (BIS)
• Regulates commercial goods/services with potential military applications (dual-use) through the Export Administration Regulations (EAR)
• Commerce Control List (CCL)
• EAR99

Department of State – Directorate Defense Trade Controls (DDTC)
• Regulates exports of single-use articles/services and related technical data that are military in nature through the International Traffic in Arms Regulations (ITAR)
• Safeguarding U.S. National Security
• U.S. Munitions List (USML)

Department of Treasury – Office of Foreign Assets Control (OFAC)
• Enforces embargoes and trade restrictions against: foreign countries, governments, entities, and individuals that threaten national security through the Foreign Assets Control Regulations (FACR)
• Specially Designated Nationals (SDN)
Activities that may require an export controls review

- Engaging in research that involves controlled materials, technical data, and biological agents; shipping/transferring items, software or technology/technical data depending on the item, destination, recipient and end use
- International collaborations with countries such as Cuba, Crimea, Donetsk, Luhansk (regions in Ukraine), Iran, North Korea, and Syria
- Teaching, researching or collaborating with foreign nationals or entities in the U.S. and abroad if they are associated with sanctioned countries (including providing and sharing research results or protected intellectual property with individuals or entities associated with sanctioned countries)
- Hiring/Hosting foreign nationals on campus (i.e., visitors)
- Foreign national involvement in research projects in the U.S. (Deemed Export)
- Training foreign nationals that may have access to export-controlled data or technology, including foreign nationals on tours through research areas that may be restricted
- Traveling to or working in sanctioned countries, including traveling with controlled materials, technical data and/or technology
- Sponsored research agreements containing contractual restrictions on publication, dissemination and foreign national involvement
- Department of Defense (DoD) related research projects
- Material Transfer Agreements (MTAs) involving exporting chemicals, toxins, research equipment, etc.
Roles and Responsibilities of CUNY Export Control Administrators (ECA)

- Provide initial advice to the CUNY faculty, staff and students at their respective college regarding export control issues, including export licensing requirements
- Communicate with the CUNY Office of Research (OR) to ensure compliance with export control regulations
- Implement a Technology Control Plan (TCP)
- Coordinate export control activities of other college functions including:
  - Human Resources
  - Information Technology
  - Facilities Management
  - Procurement
  - Shipping & Receiving
- Identify export control training needs at their college and address in collaboration with OR
This document should be completed so that the ECA can perform a preliminary review of a project that may have export control implications. Once completed, please send to University Export Control Officer for any questions answered ‘yes’ or if you need additional assistance.
What is an export license? How do I know if one is required?

An export license is prior authorization from one or more of the government agencies that gives the licensee the permission to export a specific commodity or engage in a specific activity that is normally prohibited.

Key questions to ask yourself:

- What is being shipped, sent, transmitted, etc.?
- Who is receiving the item? (end-user)
- Where is the item going?
- What will it be used for? (end-use)
- Is this a temporary export?
Research areas affected by export controls

- Engineering
- Space Sciences
- Computer Sciences
- Research with lasers
- Encryption technology
- Research involving advanced cryptographic technology
- Research involving controlled chemicals, biological agents, toxins or select agents

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Fundamental Research

Any basic or applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.
Fundamental Research Exclusion (FRE)

FRE applies to:
- Research conducted in the U.S.
- Research with no publication restrictions other than pre-publication review with the purpose of ensuring protection of proprietary information
- Research with no sponsor restrictions on nationality of the personnel involved in research
- The results of the research

FRE does NOT apply to:
- Research conducted outside of the U.S.
- Physical shipment of goods
- Use of equipment controlled by ITAR
- Specific software (including encryption software) with access limitations
- Research not intended for publication or restrictions apply
Restricted Party Screening – when is it needed?

Screening should be done prior to engaging in the following activities prior to:

• Engaging into a contract with a vendor
• Exchanging information or materials as part of a Confidentiality Disclosure Agreement (CDA) or a Material Transfer Agreement (MTA)
• Collaborating with foreign nationals either in the U.S. or overseas
• Traveling international for CUNY related research, conferences, meetings etc. especially sanctioned countries
• Hiring/hosting foreign nationals
• Signing an agreement with foreign support or foreign sponsors
Descartes Visual Compliance screens against:

- Export related Restricted, Denied, and Blocked Persons Lists
- Sanctions programs and Related Blocked Persons Lists
- General Services Administration (GSA)
- Politically Exposed Persons (PEP) and Office of the Inspector General (OIG)
- International Terrorists, Blocked Person, Wanted and Entity Lists
A Technology Control Plan (TCP) is a documented set of procedures that generally includes but is not limited to the following areas:

- Physical controls (laboratory security)
- IT Controls (data file/computer access security)
- Deemed Export license requirements
- Protocols for sharing and transferring the items with other authorized parties outside the scope of the CUNY laboratory
- Personnel authorization
- Labeling of items as controlled
- Timeframe for which the TCP is applicable
Non-compliance with U.S. Export Regulations

Violations of the Export Administration Regulations (EAR)
• May be subject to both criminal and administrative penalties for both individuals and institutions
• Criminal penalties include up to 20 years of imprisonment and up to $1M in fines per violation, or both
• Administrative monetary penalties can reach up to $300,000 per violation or twice the value of the transaction, whichever is greater
• Violators may also be subject to the denial of their export privileges

Violations of the International Traffic in Arms Regulations (ITAR)
• Civil - $1M per violation, debarment
• Criminal -$1M or up to 20 years imprisonment, debarment

Violations of the Foreign Assets Controls Regulations (FACR)
• Civil and criminal penalties can exceed several million dollars (civil penalties vary by sanctions program)
• Fines or imprisonment or both

Voluntary Self-Disclosure
• Strongly encouraged and can be used as a mitigating factor when determining administrative penalties (if any are imposed)
At CUNY, we are committed to maintaining an open teaching and research environment that supports the global benefit of our academic and research endeavors. At the same time, we remain equally committed to complying with export control regulations pertaining to the conduct of our research and the dissemination of its products. The information provided on this site details the regulatory requirements related to export control issues in research and sponsored projects and University policies and procedures for meeting those requirements.

**Policy and Guidance**

1. Export Compliance Policy Memo
2. 1-129 Policy Memo
3. Export Control Overview
4. Guidance: Communication Amongst Compliance Functions
5. Guidance: Faculty Academic Leave Process
6. Guidance: International Travel Briefing

**Procedures, Work Instructions and Forms**

1. Export Control Procedures
2. Work Instructions by Functional Area
3. Preliminary Evaluation Form
4. 1-129 Questionnaire

**Frequently Asked Questions**

Glossary of Acronyms

CUNY Export Control Administrators
3 N.Y.U. Scientists Accepted Bribes From China, U.S. Says

By Benjamin Weiser
May 20, 2013

It was, the chief federal prosecutor in Manhattan said on Monday, “a case of inviting and paying for foxes in the henhouse.”

Three researchers at the New York University School of Medicine who specialized in magnetic resonance imaging technology had been working on research sponsored by a grant from the National
For additional assistance

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