

University of Wyoming
Export Control Review Process

Office of General Counsel



Photograph courtesy of Vanda Grubisic, Desert Research Institute

Table of Contents

Contracts	3
Department of State Registration	5
International shipments	6
International travel	7
Purchase orders	8
Visitors	9
Software login information	10
Determining an export classification	11
Checking the Export Classification	12
Exemptions/Exceptions	13
OFAC embargoes	14
Obtaining a license	15
Screening the denied parties list	16
Recordkeeping	17

Contracts

Process if contracting with an international party

Step 1: If the agreement is with an international party, the party name should be screened using the visual compliance software (See “Screening the denied parties list”).

Step 2: Save a copy of the screening and emails in Electronic Legal Files-Current→Export control→Year→Agreement Screening.

Process if the agreement contains an export clause

Step 1: If an agreement contains an export clause (i.e. UW must comply with all applicable export control regulations), forward the agreement to the UW Export Control Officer for review.

The Export Control Officer should conduct the next steps:

Step 2: Check the export log to see if the item is in the export log (See “Recordkeeping”). If so, make sure the item is in the same department and if so, STOP.

Step 3: If the item is not in the log classify the item.

- Note: The company may have already done this for you, so have the department send a quick email to the vendor (text available in the in the Export Control folder under “template emails” on the L Drive).
- If the company has not classified the item or is not willing to provide the classification, work with the faculty/staff member to classify the item (See “Determining an export classification”).

Step 4: Once you have the export classification use the country chart to determine which countries require a license (See “Checking the export classification”).

Step 5: If the item is only export controlled to the E:1 countries send standard email (text available in the in the Export Control folder under “template emails” on the L Drive).

Step 6: If the item is export controlled to more than the E:1 countries or technical data is involved, work with the faculty member to develop a TCP (The TCP templates is available on the ORED website and also in the Export Control folder on the L Drive).

Step 7: If applicable, obtain a license for a foreign national to access technical data (See “Obtaining a license”).

Process if revising export control language in an agreement and/or adding export control language to an agreement.

Scenario 1:

- **Step 1:** Generally UW does not agree to provide export classification information to contractors. In this situation, try to revise the language to make each party responsible for their own export control compliance (example text available in the in the Export Control folder under “export control agreement clauses” on the L Drive).
- **Step 2:** If a policy decision is made to keep the language in the agreement, work with the faculty member to classify the item (See “Determining an export classification”).
- **Step 3:** If the item is export controlled, include disclaimer language in the email to the contractor (text available in the in the Export Control folder under “export control agreement classification emails” on the L Drive).

Scenario 2:

- **Step 1:** If you review a research agreement and think it would be appropriate to add export control language (i.e. UW is obtaining software, the agreement involves an international party, UW is obtaining technical data, etc.), insert export control language into the agreement (example text available in the in the Export Control folder under “export control agreement clauses” on the L Drive).

Department of State Registration

Each year before September 30th, the University is required to submit its Exporter Registration to the Department of State. (The registration documents for the last three years are in the Export Control Folder (Department of State Registration) on the L Drive. The application materials are submitted online: <https://www.pmdtc.state.gov/registration/> .

International shipments

Step 1: If you don't already have the information, obtain the following information from the shipper:

- The item being shipped (including who the item was purchased from and the part number if applicable).
- The name of the individual receiving the item
- The name and address of the entity the individual is affiliated with.
- What the item will be used for. Note: if the item will be used for research obtain a description of the research including whether the research has any military purpose (i.e. chemical warfare).

Step 2: Screen the destination country to make sure there aren't any embargoes on the particular country (See "OFAC embargoes").

Step 3: Screen the name and entity of the individual who the item is being shipped to make sure the entity/individual is not on the denied parties list (See "Screening the denied parties list").

Step 4: Check the export log to see if the item is in the export log (See "Recordkeeping").

Step 5: If the item is not in the export log, work with the faculty/staff member to classify the item (See "Determining an export classification").

Step 6: Once you have the classification, check the export classification in Visual Compliance to determine which countries require an export control license (See "Checking the export classification").

Step 7: Obtain a license if necessary (See "Obtaining a license").

Step 8: Save information in the shipment log (See Recordkeeping").

International travel

Step 1: If you don't already have the information, obtain the following information from the UW employee:

- The destination country and places the employee will stop on the way there and the way back to the U.S.
- Description of the item (including who will be using it and whether it will be left in the foreign country) or activity (i.e. the service).
- What the item/activity will be used for. Note: if the item will be used for research obtain a description of the research including whether the research has any military purpose (i.e. chemical warfare).

Step 2: Screen the destination country to make sure there aren't any embargoes on the particular country (See "OFAC embargoes").

Step 3: Check the export log to see if the item is in the export log (See "Record keeping").

Step 4: If the item is not in the export log, work with the faculty/staff member to classify the item (See "Determining an export classification").

Step 5: Once you have the classification, check the export classification in Visual Compliance to determine which countries require an export control license (See "Checking the export classification").

Step 6: Obtain a license if necessary (See "Obtaining a license").

Step 7: Save information in the travel log (See Recordkeeping").

Purchase orders

Step 1: Procurement sends a copy of the company's response to the PO export classification question. Note: this will change with the new financial system, the system will automatically generate an email that is sent to the Office of General Counsel.

Step 2: Check the export log to see if the item is in the export log (See "Recordkeeping"). If so, make sure the item is in the same department and if so, STOP.

Step 3: If the item is not in the log classify the item (note: the company may have already done this for you, if not, work with the faculty/staff member to classify the item (See "Determining an export classification").

Step 4: Once you have the export classification use the country chart to determine which countries require a license (See "Checking the export classification").

Step 5: If the item is only export controlled to the E:1 countries send standard email (text available on the in the Export Control folder under "template emails" on the L Drive).

Step 6: If the item is export controlled to more than the E:1 countries or technical/data is involved, work with the faculty member to develop a TCP (The TCP templates is available on the ORED website and also in the Export Control folder on the L Drive).

Step 7: If applicable, obtain a license for a foreign national to access technical data (See "Obtaining a license").

Visitors

Note: This is broader than just foreign nationals or foreign entities. The visitor agreement should be used for all individuals that will be visiting research labs or using research equipment.

Step 1: If individuals will just be visiting public areas of campus (i.e. not using equipment or visiting research labs), then stop and no additional steps need to be taken.

Step 2: If individuals will be visiting research labs or using equipment, screen the name and entity of the individual to make sure the entity/individual is not on the denied parties list (See “Screening the denied parties list”).

Step 3: If the individual and entity are not on the denied parties list, have each visitor sign a copy of the visitor agreement (available on the ORED website and also in the Export Control folder on the L Drive).

Step 4: Work with the faculty to determine whether the visitor will be using equipment, accessing technical data, and/or source code.

Step 5: If the visitor will be using equipment, accessing technical data, and/or source code:

- Check the export log to see if the item is in the export log (See “Recordkeeping”).
- If the item is not in the export log, work with the faculty/staff member to classify the item (See “Determining an export classification”).
- Once you have the classification, check the export classification in Visual Compliance to determine which countries require an export control license (See “Checking the export classification”).
- Obtain a license if necessary (See “Obtaining a license”).

Software login information

Software Name: Visual Compliance

Website: <https://www1.visualcompliance.com/vcr/welcome3.cfm?return=1>

Email: aguritza@uwyo.edu

Password: Mnbhgfrew4

Determining an export classification

Step 1: If you haven't already done so, obtain a detailed description of the item from the faculty member and/or company.

Step 2: Login into the software (see above).

Step 3: Determine whether any exemptions/exceptions apply (See "exemptions/exceptions").

Step 4: If not, click on "CCL/ECCN" at the top of the screen

Step 5: Under "search by words and phrases" enter keywords and click "Find ECCN."

Step 6: If USML/ITAR Cross Matches are found (middle of the page under the date in red bolded letters), review those first to determine whether your item falls under any of those classifications. If the item meets the requirements of the classification, STOP and go to "Checking the export classification."

Step 7: If USML/ITAR Cross Matches are not found, review the details of the Export Control Classification Numbers (ECCNs) to classify the item. If the item is not listed under any of the USML/ITAR classifications or the EAR ECCNs, but the item is made in the U.S. or incorporates (generally) more than 10% of items made in the U.S. (See part 734), the item is classified as EAR99 or must fall under an exemption (See "exemptions/exceptions").

Note: You may have to reach out to the faculty member and/or company to get further details as you work through the ECCNs (i.e. dimensions, specifications, etc.).

Checking the Export Classification

If classified under the Export Administration Regulations (EAR):

Step 1: Login into the software (see above).

Step 2: Click on “CCL/ECCN” at the top of the screen

Step 3: Go to the bottom left corner and select your ECCN under “view details of ECCN” and click go.

Step 4: Under Licensing requirements look at the Country Chart information (i.e. AT Column 1, CC Column 1, etc.).

Step 5: Also look to see if any exemptions/exceptions apply (See “exemptions/exceptions”).

Step 6: Click on “Regulations” at the top of the screen.

Step 7: Click on “Supplement No. 1 to Part 738, Commerce Country Chart.”

Step 8: Use the chart (i.e. the column mentioned in Step 4) to determine the countries that require an export license (if the country has an X in the column, a license is required unless an exemption applies) and an export license is always required for Iran, Sudan, Syria, and North Korea. **Note:** If an item is classified as EAR99 it is export controlled to Iran, Sudan, Syria, and North Korea.

Step 9: If applicable, obtain a license (See “Obtaining a license”).

If classified under the International Traffic and Arms Regulations (ITAR):

Step 1: Generally all ITAR/USML classified items require a license to export the item to any country. However, similar to the EAR, there are exemptions under the ITAR (See “exemptions”).

Step 2: If applicable, obtain a license (See “Obtaining a license”).

Exemptions/Exceptions

There are exemptions/exceptions under the EAR and ITAR. Exemptions are for items that are not subject to the export control regulations. Exceptions are general exceptions that apply in certain situations to export controlled items and activities. Below is a brief description of each exemption/exception, but before using the exemption/exception you should review the regulations.

Exemptions for both EAR and ITAR items/activities:

1. Information in the Public Domain/Publically Available (i.e. published information/software).
2. Marketing Information (See: 15 CFR 734.7 and 22 CFR 120.10(5)).
3. Educational information released in official catalogue courses and associated teaching labs of U.S. institutions of higher education (See: 15 CFR 734.9 and 22 CFR 120.10(5)).
4. Information in publicly available patent applications (See: 15 CFR 734.10 and 22 CFR 120.11(5)).
5. Fundamental Research (Basic and applied research at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls) (See: 15 CFR 734.11(b) and 22 CFR 120.11).

Exceptions

If classified under the Export Administration Regulations (EAR), see 15 CFR 740.19.

- **Note:** Before using a license exception, make sure the ECCN is eligible for the licensing exception, (See step 5 under “Checking the export classification”).
- Examples of exceptions include:
 - Shipments of limited value
 - Shipments to Group B countries
 - Civil end-users
 - Technology, Software, and Computers
 - Temporary exports
 - Servicing and replacement of parts and equipment
 - Humanitarian donations
 - Baggage and hand carried items
 - Agricultural commodities
 - Consumer communication devices (i.e. phones).

If classified under the International Traffic and Arms Regulations (ITAR), See 22 CFR 125.4 and 125.5.

OFAC embargoes

Step 1: Login into the software (see above).

Step 2: Click on “Regulations” at the top of the screen.

Step 3: Click on “OFAC Sanctions.”

Step 4: Review any applicable OFAC country sanctions and program sanctions to determine whether any embargoes are currently in place.

Step 5: If an embargo is in place and applies to this item/activity, you will need to request an export control license (See “Obtaining a license”).

Obtaining a license

Each agency has different requirements if the agency provides a manual, review the manual before submitting an application. Below are the links to the licensing websites for EAR, ITAR, and OFAC.

Department of Commerce (EAR): <https://www.bis.doc.gov/index.php/licensing> . Note: Use the Simplified Network Application Process Redesign system (SNAP-R).

Department of State (ITAR): <http://pmddtc.state.gov/licensing/> .

Department of Treasury (OFAC): <https://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx> .

Screening the denied parties list

Step 1: Login into the software (see above).

Step 2: Click on “RPS” at the top of the screen

Step 3: Insert either the individuals or the company’s name.

Step 4: Hit screen.

Step 5: If the result is “no matching records found,” click “email these results” and email the results to yourself.

Step 6: If matching records are found, review the records to determine if this is the same entity/individual (look at address, middle initials, date of birth, etc.). If the records are not the same entity/individual, write up an explanation and place in the export control files.

Step 7: If the matching records are the same person, review the list to determine what limitations are placed on doing business with the entity/individual. Once next steps are determined, save a copy of the write up in the export control files.

Recordkeeping

Logs

There are two logs in the Export Control folder on the L Drive, (1) Export Control Log and (2) Export Control Log-Shipment-Travel. Anytime an export control classification is made on an item, enter the information into the Export Control Log. Anytime an item is shipped outside of the U.S. or a faculty member travels with an item outside of the U.S., enter the information into the Export Control Log-Shipment-Travel.

Emails

There is a general export control inbox (export@uwyo.edu). In the Export Control folder on the L Drive. The emails are organized by year and contain the following key information:

1. *Agreement Screening*: Files related to screening a party related to an agreement (organized by the faculty member's last name and the outside entity).
2. *Agency Requests*: Files related to requests we have received from the Department of Homeland Security.
3. *Export Control Items*: Files related to items that were classified for export that year (organized by company name).
4. *Research Agreements*: Files related to screenings/export analysis related to research agreements (organized by the researcher's last name).
5. *Shipments-travel*: Files related to international shipments/travel (organized by the faculty member's last name and destination country).

Licenses

If you obtain an export control license from the Department of Commerce, Department of State, or Department of Treasury, each agency has recordkeeping requirements. Check the regulations for the most up-to-date information, but generally the recordkeeping requirements for each Department can be found here:

1. Department of Commerce: 15 CFR 762.
2. Department of State: 22 CFR 123 and 124.
3. Department of Treasury: 31 CFR 501.

Exemptions

If you use an exemption under the ITAR, there are certain recordkeeping requirements (See 22 CFR 123).

