

Georgia Institute of Technology Export Control Compliance Manual

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EXPORT REVIEW PROCEDURES

for

Export & Trade Compliance, Office of General Counsel's (OGC) Office of Ethics & Compliance

This document sets forth Georgia Institute of Technology's ("Georgia Tech" or "GT") general procedures followed by GT's Export & Trade Compliance in the Office of General Counsel ("OGC") ("Export & Trade Compliance") for export control reviews.

I. Introduction

Federal law restricts exports of goods and technology. Thus, when research or educational activities involve the provision of information or services to foreign nationals, it is important to know whether the goods, services, data, software and/or technology are covered by U.S. export control laws and regulations. Generally, export controls cover all fields of science and engineering. An export occurs when there is a transfer of items/information or the provision of specific services to a foreign national (except for green card holders and protected individuals, e.g., persons officially granted U.S. political asylum). The export can occur even if the foreign national is in the U.S., *i.e.*, "deemed export." It is important to determine in advance whether the transfer of information or provision of services is excluded or exempted from the regulations, and, if not exempt, whether the proper authorization (license, license exception, license exemption or General license) has been obtained before engaging in export-controlled transactions.

A. Policy Statement

Georgia Tech is committed to compliance with the laws and regulations of the U.S., including U.S. export controls and trade laws. As such it is Georgia Tech's policy that all faculty, staff, and students must comply with U.S. export control and trade laws and regulations. It is the responsibility of faculty, staff, and students to be familiar with this policy and comply with Institute policies and procedures.

Accordingly, faculty, staff, and personnel must obtain prior authorization for research that involves export-controlled goods and technology to identify and establish appropriate controls. Advance approval is also required to export or reexport from the U.S. or elsewhere any commodity, technology, or software (including foreign-produced items that are the direct product of U.S. technology and software and subject to U.S. export controls).

Failure to comply with U.S. export control policies may result in criminal or civil fines and penalties, including potential imprisonment, reputational harm and loss of exporting privileges for affected individuals. Violations of export -control regulations are personal to the individual and not just to Georgia Tech. Additionally, Georgia Tech could be subject to administrative sanctions for export control violations, including penalties, loss of exporting privileges, and reputational harm which would result in a loss of funding. NOTE: if Georgia Tech lost its exporting privileges, the Institute could not have international sponsored research, host/hire international persons, export (ship) items internationally, collaborate internationally, help the U.S. Government outside the U.S., have international campuses and more.

B. Applicable Laws and Regulations

Numerous laws and regulations cover U.S. export controls, including principally the following:

- The Export Controls Act of 2018 (“ECA”), which repealed the Export Administration Act of 1979, provides the statutory authority for dual-use export controls and the Export Administration Regulations (“EAR”). The EAR is designed to control commercial items, technologies, materials, or software considered to have “dual use,” having both civil and military applications. U.S. Department of Commerce, Bureau of Industry and Security (“BIS”) administers export licensing and enforcement functions of the dual-use export control system. BIS also enforces U.S. antiboycott regulations concerning the Arab League boycott against Israel.
- The Arms Export Control Act of 1976 provides statutory authority for defense articles and services export controls. The International Traffic in Arms Regulations (“ITAR”) administered through the Department of State, Directorate of Defense Trade Controls (“DDTC”) sets out the U.S. licensing policy for exports and temporary imports of U.S. Munitions List (“USML”) items. An export license is required for nearly all USML items.
- International Emergency Economic Powers Act (“IEEPA”), National Emergencies Act or similar authorities are administered by the U.S. Department of the Treasury, Office of Foreign Assets Controls (“OFAC”), which enforces U.S. economic and trade sanctions programs against targeted foreign governments, individuals, groups, and entities in accordance with national security and foreign policy goals and objectives, e.g., for terrorists, narcotics traffickers, etc. OFAC publishes various lists of sanctioned end-users, countries, etc. Most activities with sanctioned countries or individuals require an OFAC license authorization to proceed.

The term “export” is defined differently in the EAR and the ITAR. Common elements include: (1) tangible good shipments and (2) release or disclosure, including verbal disclosures or visual inspections, of covered technology, software, or technical data to any foreign national whether in the U.S. or abroad. The EAR definition is set forth in 15 C.F.R. § 734.13 and the ITAR definition is set forth in 22 C.F.R. § 120.50. Accordingly, an export need not involve tangible goods and can occur inside U.S. borders when covered information or technology is disclosed to a foreign national in the U.S.

Trade Laws

C. Potential Penalties and Sanctions for Noncompliance

Penalties for export control violations can be severe and includes potential both criminal and civil liability for affected individuals and the University, summarized in Figure 1.

Figure 1. Penalties for Export Control Violations

| | EAR Violations | ITAR Violations | OFAC Violations |
|------------------------|---|--|--|
| Civil Penalties | The greater of: <ul style="list-style-type: none"> ▪ Up to \$300,000 per violation; or ▪ Twice the value of the transaction; and ▪ Exclusion from practice | <ul style="list-style-type: none"> ▪ Up to \$500,000 in fines per violation | <ul style="list-style-type: none"> ▪ Up to \$250,000 in fines per violation; or ▪ Twice the value of the transaction |

| | | | |
|---|---|--|--|
| Criminal Penalties | Up to: <ul style="list-style-type: none"> ▪ \$1 million in fines per violation; ▪ 20 years of imprisonment (in the case of an individual); or ▪ Both fines and imprisonment. | Up to: <ul style="list-style-type: none"> • \$1 million in fines per violation; • 20 years of imprisonment (for individuals); or • Both fines and imprisonment. | Up to: <ul style="list-style-type: none"> • \$1 million in fines per violation; • 20 years of imprisonment (for individuals); or • Both fines and imprisonment. |
| Other (civil and criminal matters) | <ul style="list-style-type: none"> ▪ Denial of export privilege ▪ Seizure/forfeiture of the goods. | <ul style="list-style-type: none"> • Debarment (loss of exporter privileges) • Seizure/forfeiture of the goods. | <ul style="list-style-type: none"> • Seizure/forfeiture of the goods. |

See 50 U.S.C. §§ 4819 (b), (c), and (d) and § 4820(j); 22 U.S.C. §§ 2778(c) and (e), 2779(a)(c), 2780(j) and (k) and 22 C.F.R. § 127; and 50 U.S.C. §1705 (b) and (c).

II. Export Control Review Process

All Georgia Tech export transactions involving tangible good shipments or sponsored research require advance review and approval from Export & Trade Compliance.

The review process is initiated upon completion of an export review questionnaire/certification, available on the export & trade website here: <https://ethicsfirst.gatech.edu/exportandtrade/forms> (See form for international shipping). If a sponsored project is involved, the export review process is initiated by the OSP Contracting Officer (“CO”) by opening an e-Routing Export file. The CO will request that the Project Director (“PD”) /Principal Investigator (“PI”) complete the certification form embedded in the e-Routing export or the Export Compliance Officer will request the PD/PI to complete it. The PI or PD is in the best position to explain the technology involved in the export review. The completed export certification form, statement of work, and other relevant information will be in the e-Routing export review file.

Export & Trade Compliance will then review and determine if the project is subject to export controls relying on the PD or PI’s certification and clarifying questions/discussion in making the determination as to whether the research falls within export-controlled areas. Researchers may be held personally liable for violations of the EAR and ITAR and should exercise care in completing the required forms.

Export & Trade Compliance will determine which regulations apply to the transaction.

When uncertainty exists regarding whether the particular product or service is civil, military, or dual use, a commodity jurisdiction (“CJ”) request may be submitted to DDTC to determine whether the item or service is subject to the jurisdiction of the Department of Commerce or the Department of State, DDTC.

A. Commodity Jurisdiction (CJ)

Georgia Tech may obtain a CJ opinion from the Office of Defense Trade Controls (DDTC) when uncertainty exists regarding whether a specific item is covered by the USML. See 22 C.F.R. 120.4.

CJ requests will be handled by Export & Trade Compliance and must be submitted electronically via the Defense Export Control and Compliance System (“DECCS”) using Department of State Form “DS-4076.”

CJs will only be submitted by Export & Trade Compliance.

Account registration in DECCS is required to access the DS-4076 application.

1. Once logged into the DECCS Industry Service Portal page, click on the Applications dropdown menu in the top left side of the screen and select “Commodity Jurisdiction” to access the online form. (Users will be directed to a CJ Request Launching Pad, which allows users to start new requests, view and edit draft requests, and view previously submitted requests.).
2. Click on the “Start a New CJ Request” button to open a new form.
3. Complete all required information blocks; and
4. Submit the DS-4076 package with the required supporting documentation.

Once the DS-4076 package is submitted in DECCS, a CJ case number is immediately assigned. If no CJ case number is received, the submission may have failed, and the applicant must resubmit a new request. Within 48 business hours, applicants can track CJ cases in the Export License Status Advisor (“ELISA”) application.

Detailed guidelines for submitting CJ requests, including the DS-4076 instructions can be found [here](#).

The following information is required to complete the DS-4076:

- Description of the item, what it is, how used, what it does, how it operates, and any other information that explains the item.
- The origin of the commodity, what it was originally designed for and why, whether it was designed for military use, commercial use, or both, as well as examples of uses, whether it was developed for any U.S. government agency or with U.S. government funding.
- Description of all current uses and whether or not the uses have changed over time and whether the market is mostly military or commercial.
- Any military standards or military specifications that the item is designed to meet and a description of any special characteristics of the item.
- Attachments such as brochures, specification sheets, marketing literature, technical data, or any other document that will assist in a determination.

NOTE: It takes time (approximately 60 business days but time can vary) to draft the CJ application request together for submission to DDTC. It also takes approximately 90 business days or more for DDTC to complete the CJ determination.

III. Exclusions from Export Control Requirements for University Research

Most of the research and education activities taking place at Georgia Tech are covered by the educational, fundamental research or public domain exclusions from export controls, described below.

A. Fundamental Research Exclusion (FRE)

The EAR and ITAR provide exclusions for *Fundamental Research*. The ITAR FRE definition is for basic or applied research in science and engineering performed or conducted at accredited institutions of higher learning in the U.S. when the results will be published and shared broadly in the scientific community or have been or are about to be published. The EAR FRE definition is “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.” Fundamental research is distinguished

from research that results in information restricted for proprietary or national security reasons or pursuant to specific U.S. government access and dissemination controls. **If the subject of review involves a contract with publication restrictions of any type (including pre-publication approvals), for other than the sponsor's review of its proprietary information (no longer than 90 days, the fundamental research exclusion may not be relied upon.**

A. Public Domain

Public Domain is the term used for information that has been published and is generally accessible or is available to the public through a variety of means. Both the EAR and ITAR provide that no license is needed to disclose technical information to foreign nationals within the U.S. in classes or laboratories, at conferences, or in publications if the information is already in the public domain. The EAR and ITAR define public domain differently.

- i. Under the EAR, information is published when it becomes generally accessible to the interested public in any form, including:
 - Publication in periodicals, books, print, etc., available for general distribution either free of charge or at a cost.
 - Readily available at libraries open to the public or university libraries.
 - Patents and open patent applications available at any patent office; or
 - Released at an open conference, meeting, seminar, trade show, or other gathering open to the public.

See 15 C.F.R. § 734.7 and 15 C.F.R. § 734.10.

- ii. The ITAR describes such information as information in the public domain. Information in the public domain may be obtained through:
 - Sales at newsstands and bookstores.
 - Subscriptions or purchases without restrictions to any individual.
 - Second-class mailing privileges granted by the U.S. government.
 - Libraries open to the public.
 - Patents available at any patent office.
 - Unlimited distribution at a conference, meeting, seminar, trade show, or exhibition, generally accessible to the public, in the U.S.
 - Public release in any form after approval of the relevant U.S. government agency; or
 - Fundamental research in the U.S.









See 22 C.F.R. § 120.34.

B. Limitations on the Use of Fundamental Research and Public Domain Exclusions

It is essential to distinguish information or products that *result* from fundamental research from the *conduct* that occurs within the context of fundamental research. While the *results* of fundamental research are not subject to export controls (unless it is ITAR-controlled research), an export license may be required if during the *conduct* of the research export-controlled technology will be released to a foreign national. Such export-controlled technology may come from the research sponsor, a research partner institution, or a previous research project. Additionally, the fundamental research exclusion does not apply to shipments of tangible goods. Figure 2 provides a summary of some of the common

exceptions to fundamental research. These should be evaluated individually for specific export control requirements. Advance approval from Export & Trade Compliance is **required when these conditions apply**.

Figure 2. Exceptions to Fundamental Research and Public Domain Exemptions Checklist

-  Physical exports
-  Sponsor's technical data or technology
-  ITAR-controlled research
-  Some encrypted software
-  Software source code
-  Research conducted abroad
-  Classified information
-  Research with no intention to publish

IV. Export License Control Review Procedures

To determine whether an export license is required, Export & Trade Compliance will evaluate which jurisdiction applies, e.g., ITAR or Commerce Control List (“CCL”) and check if a restricted party &/or OFAC sanctions and embargoes apply to the transaction. The appropriate sections below should be consulted for this review process.

A. License requirements for USML goods

The order of precedence for export controls first requires a determination of whether an item is ITAR controlled. If it is not ITAR-controlled, the EAR should be consulted. The ITAR governs exports, re-exports, and temporary imports of defense articles, services, and related technical data¹ from the U.S., abroad, and/or to any foreign person,² whether located in the U.S. or abroad. The ITAR controls exports of defense articles which are enumerated on the USML, specific “end-use” items, and parts and components that are incorporated into the end-use items.

Designation as a defense article or service is determined based on whether the article:

- Is specially designed, developed, configured, adapted, or modified for a military application.
- Does not have a predominant civil application; or
- Does not have performance equivalent (defined by form, fit, and function) to those of an article or service used for civilian applications.

The intended use of the article or service after its export (i.e., for a military or civilian purpose) is not relevant in determining whether the article or service is subject to ITAR controls. Thus, it is not the intended use (i.e., military or civilian) of an article, service, or technical data that is relevant for determining whether the article, service, or technical data is a defense item. Instead, it is an item’s inherent capabilities and design that are considered in determining whether an item should be given defense item status on the USML.

All U.S. persons engaged in manufacturing or exporting defense articles, technical defense information, or defense services are required to register with DDTC. Registration is a prerequisite for approval of any license application, and the registration number must be included on all correspondence and application forms. Georgia Tech Research Corporation (“GTRC”) and Georgia Tech Applied Research Corporation (“GTARC”) are registered with DDTC. The statement of registration must be signed by a senior officer who has been empowered by the intended registrant to sign documents. See 22 C.F.R. § 120.67.

Empowered officials (“EO”) have the authority to represent the University before export control

¹ Technical data means information, other than software, which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles, including information in the form of blueprints, drawings, photographs, plans, instructions or documentation. It does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities, or information in the public domain. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

² Foreign person means any person who is not a U.S. citizen, a lawful permanent resident (“green card holder”), or a protected individual (“political asylee”). It also means a corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the U.S. The term also includes international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

regulators in matters related to registration, licensing, commodity jurisdiction and classification requests, and voluntary and directed disclosures. The EO is authorized to sign documents on behalf of the University in any proceedings before DDTC, BIS, OFAC, or other agencies. The EO has independent authority to inquire into any aspect of a proposed export or temporary import by the University, verify the legality of the transaction and the accuracy of the information, and deny any license application or other request for approval without prejudice or any other adverse recourse. Georgia Tech has one individual designated as an empowered official for GTRC/GTRC and GIT who must sign all applications and official correspondence relating to ITAR exports:

- Sheila Cranman, Assistant Chief Counsel - Export & Trade (email: sheila.cranman@legal.gatech.edu)

Generally, any person who intends to export or to temporarily import a defense article, defense service or technical data must obtain prior authorization (i.e., an export license) from DDTC by submitting a license application. The type of license application depends on the type of export that is being proposed.

i. Georgia Tech Process for ITAR License Application

Prior to export, defense articles and defense services require an export license, which will be issued by DDTC. Export & Trade Compliance follows this procedure when preparing a license application:

- ✓ Review Section 126.1 of the ITAR, a list of countries for which U.S. policy denies licenses (exports) of defense articles and defense services. No sale or proposal to sell or transfer any defense articles, defense services, or technical data subject to this section should be made without first obtaining approval of DDTC.
- ✓ Conduct export screening by reviewing the name of the proposed recipient/entity to ensure that it does not appear on any of the following lists: Statutorily Debarred Parties listed on the DDTC website and DOD excluded parties, BIS Denied Party Lists, and the OFAC SDN list. This end-user screening is conducted by Export & Trade Compliance using Visual Compliance Restricted Party Screening (RPS)
- ✓ Review the USML, Section 121.1 of the ITAR to determine if the research or item is covered. The USML designates particular categories and types of equipment as defense articles and associated technical data and defense services. In general terms, any items specifically designed, modified, adapted, or configured for military use will fall under the ITAR.

The USML divides defense items into 21 categories, listed below:

- I. Firearms, Close Assault Weapons and Combat Shotguns
- II. Guns and Armament
- III. Ammunition/Ordinance
- IV. Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- V. Explosives, Propellants, Incendiary Agents, and their Constituents
- VI. Vessels of War and Special Naval Equipment
- VII. Tanks and Military Vehicles

- VIII. Aircraft and Associated Equipment
- IX. Military Training Equipment
- X. Protective Personnel Equipment
- XI. Military Electronics
- XII. Fire Control, Range Finder, Optical and Guidance and Control Equipment
- XIII. Auxiliary Military Equipment
- XIV. Toxicological Agents and Equipment and Radiological Equipment
- XV. Spacecraft Systems and Associated Equipment
- XVI. Nuclear Weapons, Design and Testing Related Items
- XVII. Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- XVIII. Directed Energy Weapons
- XIX. Gas Turbine Engines and Associated Equipment
- XX. Submersible Vessels, Oceanographic and Associated Equipment
- XXI. Miscellaneous Articles

- ✓ Determine whether any license exemption is applicable. The technical point of contact PD or PI should provide answers to the following questions when a licensing determination is being made:
 - What is the item? Describe its use.
 - Did GT develop the item? Was it developed under a U.S. government sponsored contract? If so, provide contract identifying information.
 - What capabilities does the item have?
 - What is the end user's intended purpose for the item?
 - Are there other applications in addition to the intended use?
 - What is the country of ultimate destination?
 - What is the foreign availability for like items?
 - What is the specific purpose for exporting? (If export is in support of a U.S. government program, provide specific program information.)
 - Provide the name and contact information of a U.S. government contact familiar with the item or technology.

- ✓ Determine the type of license approval that will be needed in a particular circumstance. Specific license types include:
 - DSP 5 - "Application for Permanent Export of Unclassified Defense Articles." A DSP 5 is typically used when a defined data package is exported for a specific end use. (Can also be used as a limited defense license application to request ITAR access for a foreign national employee and/or graduate student at GT.)
 - DSP 73 - "Application for Temporary Export of Unclassified Defense Articles." Persons intending to temporarily export a defense article must complete the DSP 73 for approval.
 - DSP 61 - "Application for Temporary Import of Unclassified Defense Articles."
 - DSP 85 - "Classified Defense Articles/Technical Data."

All requested information must be provided by the PI to Export & Trade Compliance who will file for the license through DDTTC's DECCS electronic filing system. The DECCS Industry Service Portal

may be accessed [here](#). Applications of unclassified exports and temporary imports must be submitted electronically. Applications for classified exports and classified temporary imports must be submitted in hard copy. See 22 C.F.R. § 123.1(a).

Supporting documentation must include a letter of explanation, a purchase order or letter of intent, the DSP-83 non-transfer and use certificate for any item classified as Significant Military Equipment (“SME”), and the end-use and foreign end-user. Information, forms, and guidelines for the completion of ITAR license applications can be found on DDTC’s website [here](#).

It is helpful to include references to licenses issued previously to the same entity, product literature, e.g., drawings, technical specs, brochures, etc., and web links to information explaining the technology or supporting the item.

Attachments and supporting technical data or brochures should be submitted in MS Word or PDF format. Certification letters from the EO must be attached. See 22 C.F.R. § 123.1 A DSP 83 Non-Transfer and Use Certificate is required for exports of SME and classified articles, including technical data. A DSP 83 may also be required for exports of other defense articles or defense services under a Technical Assistance Agreement (“TAA”).

The date of issue of the Department of State license will appear in the upper right-hand corner of the license. **The PI must ensure that the conditions and provisos listed in the approval are adhered to for every transfer/shipment.** Licenses are generally valid for four years from the date issued. **Most hardware export licenses must be deposited with U.S. Customs & Border Protection (“CBP”) prior to the Electronic Export Information (“EEI”) filing.** See 22 C.F.R. § 123.22. **EEI filing is required eight hours before exports are transported by air or truck and 24 hours for exports by rail or vessel.** *Id.* Technical data exported electronically must be reported to DDTC prior to export using the system for direct electronic reporting to DDTC of export information and the original license must be self-validated. GT retains the actual license in this situation. Pursuant to 22 C.F.R. § 123(c), licenses issued by the DDTC are subject to “return requirements” as follows:

- (1) A license issued electronically by DDTC and electronically decremented by CBP through its electronic systems does not have to be returned to DDTC. A copy of the license must be maintained by the applicant for five years from the expiration of the license or from the date of the transaction in accordance with the ITAR recordkeeping requirements.
- (2) Licenses issued by DDTC but not decremented by CBP through its electronic systems (e.g., oral or visual technical data releases) must be maintained by the applicant for five years from the expiration of the license or from the date of the transaction in accordance with the ITAR recordkeeping requirements.
- (3) A license issued by DDTC but not used by the applicant does not have to be returned to DDTC, even when expired.
- (4) A license revoked by DDTC is considered expired and must be handled in accordance with paragraphs 1 and 2 above.

B. License Requirements for CCL goods

Items not covered by the ITAR are subject to EAR requirements. See 19 C.F.R. § 734. Items subject to the EAR include all items in the U.S., all U.S. items wherever located, foreign-made items incorporating U.S.-origin commodities or software exceeding *de minimis* amounts, and certain foreign-produced “direct products.” The EAR does not cover items controlled by other

U.S. government departments and agencies, including the Department of State, Department of Treasury, OFAC, U.S. Nuclear Regulatory Commission, Department of Energy, Patent and Trademark Office, Department of Defense and Department of State Foreign Military Sales and Bureau of Alcohol, Tobacco, Firearms and Explosives.

Once it is determined that an item is EAR controlled, review the CCL. All commodities, technology or software subject to the licensing authority of BIS are included in the CCL, which is found in Supplement 1 to Part 774 of the EAR. See Appendix A for detailed guidance for determining the Export Control Classification (“ECCN”) classification and license requirements under the EAR.

Parts 748 and 750 of the EAR provide information on license submissions and processing and may be accessed electronically through the BIS Simplified Network Application Process - Redesign (SNAP-R). This system allows users to submit export license applications, commodity classification requests, reexport license applications, etc. via the internet. To access SNAP-R, a user must have a Company Identification Number (“CIN”) and an active user account. Information and access to SNAP-R, including export license applications can be found [here](#). Export & Trade Compliance handles all export license applications.

If the commodity falls under U.S. Department of Commerce jurisdiction but is not listed with a specific ECCN on the CCL, it is designated as EAR 99, and no license is required (NLR), unless restrictions or sanctions, and embargoes apply to the individual, entity, or destination.

To aid in determining the appropriate description of the commodity or technology, assistance from the PI is essential.

C. License Requirements for Restricted Parties and Embargo and Sanctions

All research, technology, and shipments of tangible goods (including temporary shipments, repairs, and shipments of test equipment or software) or technology transfers to foreign persons must be reviewed to determine whether a license or restrictions may apply to the transaction, as follows:

i. Restricted Party Screening

Various U.S. government agencies, including BIS, DDTC, and OFAC maintain lists of individuals or entities barred or otherwise restricted from entering certain types of transactions with U.S. persons or entities. Because the University has an extensive international collaborative program, it is important that these lists be reviewed to determine whether these restrictions apply prior to any export shipment or collaboration to ensure that the University does not engage in a transaction in violation of these requirements. Each employee engaging in international collaboration, imports/international purchases and/ or international shipping is responsible for having international parties screened via Visual Compliance. Records of all reviews must be retained for at least five years after the transaction. Please contact Export & Trade Compliance if you have questions.

Personnel must conduct export screening for denied parties, which include the Denied Persons List (“DPL”), Entity List, Unverified Parties List, Military End User List, List of Specially Designated Nationals (“SDN List”), and the State Department’s list of debarred parties to ensure that the individuals or entities to receive the technology or items to be exported do not appear on any of the lists. This screening is completed by Export & Trade Compliance using the Visual Compliance Software. The consolidated lists are also accessible [here](#).

ii. Embargo and Sanctions Screening

BIS implements U.S. government sanctions pursuant to the EAR, either unilaterally or to implement

United Nations Security Council Resolutions, including against Cuba, Iraq, Iran, North Korea, Syria, and more recently, Russia and Belarus, the Russian Industry Sector, Crimea, Donetsk and Luhansk regions of Ukraine. The specific license requirements, license exceptions, and licensing policy for particular sanctioned destinations are set forth in 15 C.F.R. § 746. A transaction with a foreign national of one of these countries is deemed to be an export to the home country of that individual. Accordingly, these lists must be consulted to ensure that Georgia Tech does not engage with embargoed or sanctioned countries without the appropriate license authorizations.

D. Continuing Projects

If a sponsored project is extended after initial review and approval, the PI does not need to complete a new certification form if the original export review resulted in no export issues, *i.e.*, no controlled information, no denied parties, etc. and there are no changes in the statement of work being continued. In such cases, OSP will send a copy of the routing sheet and proposal for the continued work to export@gatech.edu. If new individuals are associated with the project, those names will be screened against the consolidated screening lists. If no matches are found on the denied entity list, Export & Trade Compliance will advise the CO to process the continuation.

E. Technical Assistance Agreements

A Technical Assistance Agreement (“TAA”) must be submitted and approved by DDTC before defense services or training, including technical data, may be provided to a foreign person in the U.S. or in a foreign country. Upon determination that a TAA is required, no technical information or assistance will be provided until the appropriate approval is obtained from DDTC. It is the responsibility of the EO to complete and present the TAA to DDTC for approval through the DECCS Industry Service Portal.

Once Export & Trade Compliance submits the license application or TAA, DDTC will staff out the case to various federal governmental agencies for review (such as DOD - DTSA). Factors to be considered include policies, region, country, technology, level of technology at destination vs. U.S. systems and countermeasures, end-user and end-use history, military operational impact, interoperability requirements, foreign availability of like systems, and classified data transfers.

Once a TAA is approved by DDTC (which can take an average of six months from the date of submittal), exports of technical data in furtherance of the agreement may be made without additional export licenses provided the data exported does not exceed the approved scope of the agreement. *See* 22 C.F.R. § 124.3. The TAA is not effective until approved by DDTC. If an agreement is approved, a copy signed by the U.S. and foreign parties must be filed with DDTC within 30 days after its effective date. If the agreement is not concluded within one year of the date of approval, DDTC must be notified in writing and informed of the status of the agreement. If the agreement is not implemented by the parties, DDTC must be notified within 60 days of the decision not to implement the agreement. *See* 22 C.F.R. § 124.5.

DDTC must be informed, in writing, of the impending termination of a TAA not less than 30 days prior to its expiration. *See* 22 C.F.R. § 124.6). A TAA may only be amended with DDTC’s approval unless the amendment only alters the delivery or performance schedules and does not affect in any manner the duration of the agreement or the clauses or information that must be included in such agreement. One copy of all minor amendments must be submitted to DDTC within 30 days after they are concluded. *See* 22 C.F.R. § 124.1 (d). Guidelines for preparing TAA are attached as [Exhibit B](#).

F. Manufacturing License Agreements

Manufacturing License Agreements (“MLA”) are similar to TAAs but usually involve exports of technical data, defense services, and defense articles necessary for the manufacturing or production of an ITAR-controlled item. Upon determination that an MLA is required, no technical information or assistance will be provided until the appropriate approval is obtained from DDTC. It is the responsibility of the EO to complete and present the MLA to DDTC for approval through the DECCS [Portal](#).

G. OFAC License Requirements

OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals. These sanctions are against targeted foreign countries and regimes, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction and other threats to the national security, foreign policy, or economy of the U.S.

All export transactions whether under ITAR or EAR are subject to U.S. economic sanctions, which broadly prohibit most transactions between a U.S. person and persons or entities in a U.S. comprehensively sanctioned country/region, including but not limited to Cuba, Iran, North Korea, Syria and Crimea, Donetsk and Luhansk regions of Ukraine. These prohibitions include the importation and exportation of goods and services, whether direct or indirect, as well as “facilitation” by a U.S. person of transactions between foreign parties and a sanctioned country. For example, sending a check to an individual in Iran or speaking at a conference requires an OFAC license.

More limited sanctions may block a particular transaction or require licenses in certain circumstances for exports to a number of countries, including but not limited to the Balkans, Belarus, Iraq, Lebanon, Libya, Russia/Ukraine, Somalia, South Sudan, Sudan, Venezuela, Yemen, and Zimbabwe. Note these countries are subject to change. <https://sanctionssearch.ofac.treas.gov/> Because this list is subject to frequent change, the OFAC website must be reviewed for the most up-to-date information.

Economic sanctions and embargo programs are country-specific and very detailed in the specific prohibitions. There are exemptions for university travel under some of the OFAC programs, but the scope is very limited. Accordingly, individuals intending to travel to a conference or visit a university in an embargoed destination should consult with Export & Trade Compliance. Individuals traveling internationally for Georgia Tech are required to complete the Workday Financial Spend Authorization and the international travel questionnaire.

Export & Trade Compliance prepares OFAC license application(s) and submits the application(s) electronically via the OFAC portal. OFAC does not have a standard form that must be submitted and instead, OFAC applications are submitted in letter form with supporting documentation. Export & Trade Compliance will work with Institute personnel to determine on a case-by-case basis what information should be included in the OFAC license request. OFAC license requests typically take many months to issue. Accordingly, it is recommended that license applications be submitted well in advance (i.e., at least six months) prior to proposed travel.

H. Responsibility for Managing Export Licenses

Once Export & Trade Compliance receives DDTC license approval, along with limitations and provisos, a copy of the approval and the limitations and provisos will be provided to the PI for review and signature. The PI must have all faculty and staff working on the project read the agreement and limitations and provisos and sign the memo signature sheet stating that they understand the limits of the approval. The signature sheet should be maintained in the department and the signed copy should be sent to Export & Trade Compliance. If the provisos are unclear or

restrict the research project, the PI will work with Export & Trade Compliance to submit a request for reconsideration. PIs are responsible for complying with export licenses and should conduct periodic program reviews to ensure there is no need for an amendment. The PI/PD must provide Export & Trade Compliance written notice of the first transfer of technical data under the TAA so they can provide notice to the State Department.

All information or data transferred must be marked with the following certification statement:

This technical data is controlled by the U.S. International Traffic in Arms Regulations. 22 C.F.R. § 125.4(b)(2). (Also insert the TAA number, if applicable.)

This certification must be in writing and retained in the exporter's file for five years. In addition, data shipped by courier must contain the following destination control statement on the airway bill:

These items are controlled by the U.S. government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.”

See 22 C.F.R. § 123.9(b)(iv)

ITAR 123.26 requires that GT maintain records of all technical data transferred under a TAA. The PI must maintain a log of all transfers for five years. The PI must provide advance notice of any change in scope of the program, any additional funding or addition of a new party, so that Export & Trade Compliance can file for an amendment, for which DDTC approval is required. If an item will result from the work under the TAA, a DSP-5 may be required prior to shipping. Foreign visitors to campus should be screened prior to the visit.

V. Technology Control Plan

A Technology Control Plan (“TCP”) controls access and dissemination of export-controlled information to foreign persons. The TCP should apply to all GT facilities that possess or may possess ITAR-controlled information. TCPs delineate the controls necessary to ensure that no ITAR-controlled information is disclosed to any foreign person, whether an employee, visitor, customer, vendor, contractor, or service representative, unless an export license or other form of approval has been issued to authorize such disclosure.

A TCP is required for all research work involving an ITAR export issue or other restrictions (publication, foreign national restrictions) that exclude the work from the fundamental research exemption. The TCP will be prepared by Export & Trade Compliance in coordination with Research Security who will conduct the physical security inspection. The TCP will be forwarded to the PI for review and signature by all working under the TCP. The TCP must include a physical and information security plan, personnel screening procedures, and a process for carrying out the research in a controlled environment. The TCP will document compliance with the contract terms and conditions and contains the following elements:

- a. OSP project number and title
- b. PI name and department/lab
- c. Research location (lab/building)
- d. Sponsor name and contract number

- e. Reference ICOL or Doc ID
- f. Brief statement of the need for the plan
- g. Description of the plan for the protection of technology
- h. PI signature.

VI. ITAR License Exemptions

The following procedures apply for the use of an ITAR exemption such as when the project sponsor requests GT researchers to perform work under an ITAR exemption. Export & Trade Compliance must be notified at least 60 days or longer before the ITAR activity is required to determine ITAR exemption applicability. All such requests must be coordinated with Export & Trade Compliance and GTRI Export Compliance Coordinators (ECCs). To obtain approval, the request should include the following:

- Identification of the U.S. government entity that is requesting work be performed under an exemption, including the contract number.
- Contact information of the U.S. government official supporting the exemption.
- Identification of foreign parties involved.
- Identification of hardware, technical data, and/or defense services to be exported; these must include the ITAR category and subcategory from the USML, and the applicant must indicate whether Significant Military Equipment is involved. If so, a DSP-83 will be required.
- Detailed summary of the activity and the highest classification of the information involved; and
- Reason for the export, letter of offer and acceptance number, and Memorandum of Understanding Title, or Foreign Military Sales Case or contract number that supports the end use.

An exemption will not be approved if all the requirements of the ITAR are not met. Any applicable shipping documentation must reference the exemption.

The use of ITAR exemptions must be documented by an Export Exemption Letter outlining the activity and signed by an EO. A copy of the signed approval letter must be maintained by the PI or PD, the individual making use of the exemption, and the export office. GT personnel are not permitted to use an ITAR exemption without approval from an EO.

VII. Deemed Exports

Export is defined to include the transfer of controlled information or services to foreign nationals even when the transfer takes place within the territory of the U.S. Under the ITAR and EAR, a transfer of controlled technology, source code, technical data, or defense services to a foreign national is deemed to be an export to the national's country even if the transfer takes place within the U.S.

As a result, if an export license is required to export a controlled item, technology, or software to a foreign national country, an export license is required to release the technical data about the item or to transfer the technology required for development, production, or use of the item to the person or entity in the U.S. Technical assistance related to a development of a controlled item is also subject to this rule.

While a university may be involved in international shipments of equipment or machinery in order to participate in a conference, joint project, or equipment loan programs, most often faculty and students are engaged in teaching and research. Whenever teaching or research is related to controlled equipment or technology, the involvement of foreign students or researchers may trigger export control compliance issues. This is especially true with ECCN "600 series" items. This classification is designated for military items that were previously subject to the ITAR. The 9X515 ECCNs describe "spacecraft"-related items, and some radiation-hardened microelectronic circuits

that were once subject to the ITAR. If such items or technology is made available to a foreign national, a deemed export may occur.

Deemed export applies to U.S. employers hiring foreign nationals (usually on H-1B visas) to work in the U.S. on export-controlled technologies. “Any release in the United States of “technology” or source code to a foreign person is a deemed export to the foreign person’s most recent country of citizenship or permanent residency.” See 15 C.F.R. § 734.13(b).

It is important for Export & Trade to work with the Office of Sponsored Research (OSP) to determine if there is an export issue with research proposals/projects in which a foreign national will be assisting or in situations where a software license agreement contains language indicating that the software is controlled for export to certain countries. In some cases, the supervised use of a controlled computer by a foreign national may not rise to the level of a deemed export if the foreign national works under supervision and does not access the operating system.

As with other exports, technology that is publicly available is not subject to the deemed export rule, nor would the rule apply to fundamental research within an appropriate structure where any export-controlled information or technology would not be released to foreign nationals on the project.

VIII. When a License Is Required under ITAR for a Foreign National Employee

DDTC has a long-standing policy to authorize access to technical data by a foreign person employee of a U.S. person on a DSP-5 via an exception to the requirement for TAAs in accordance with 22 C.F.R. § 124.1(a). In certain instances, DDTC requires a TAA in addition to the DSP-5 license to authorize the U.S. person to transfer certain levels of technical data and defense services. After close review, DDTC has determined this “double” licensing to be redundant. Therefore, all requests for the licensing of foreign persons employed by a U.S. person must be made via a DSP-5 license application to cover all levels of requested technical data and defense services.

The DSP-5 authorizes the U.S. person to transfer technical data and perform defense services to the employee(s) on their products. The DSP-5 authorizes the foreign person to perform defense services on behalf of the employing U.S. person. The foreign person employed by a U.S. person does not have to reside in the U.S. to be considered an employee but may reside and perform the job responsibilities outside the U.S. If the foreign person is a regular employee (i.e., paid, insured, hired/fired and/or promoted exclusively by the U.S. person) and not seconded, the foreign person is considered to be “employed” by the U.S. person. The employing U.S. person is required to ensure the employee’s compliance with U.S. export laws regardless of where the employee currently resides. DDTC recommends that only one DSP-5 be obtained for each foreign person employee to cover all activities.

A foreign person employee access authorization must be obtained for all foreign persons who require access to ITAR-controlled defense articles and/or technical data in the performance of their job responsibilities. If a foreign person employee does not require access to ITAR-controlled defense articles and/or technical data, the employing company must ensure internal controls are in place to prevent unauthorized access. Granting a foreign person access to ITAR-controlled defense articles and/or technical data without DDTC authorization is a violation and must be reported in accordance with 22 C.F.R. § 127.12.

IX. Visitors

Visitors for two weeks or less: Please contact Export & Trade Compliance PRIOR to inviting the visitor to have Visual Compliance Restricted Party Screening and an export review completed to confirm an

export license to a foreign national in the United States (a “deemed export”) is not required for the visit. Prior to the visit, Export & Trade Compliance will need an agenda for the visit including who the visitor will meet, where the visitor will be on campus (rooms, buildings, etc.), what will be discussed, when (Dates of visit), and reason for the visit. Note: Global HR iStart process is not required.

Hosting International visitors for 2 weeks or more including J-1 Scholars (Bridge USA Program):

Please have your School Human Resources (HR) Partner initiate the host/hire iStart process with Global HR/Office of International Education (OIE). Through the iStart e-forms, the Faculty Host will be prompted to complete an export questionnaire and other electronic forms. The export review will be automatically forwarded to the Export & Trade Compliance for review. When appropriate, a TCP is developed.

The purpose of a TCP is to manage the dissemination of controlled information, data, or defense services as defined in the EAR and ITAR to non-U.S. persons, including foreign visitors and guests. A TCP will be developed when a GT PI that has other export-controlled research requests to host a foreign visiting scholar or guest in their research lab to work on fundamental research. The GT PI host will be responsible for implementing appropriate controls to ensure that no export-controlled information is provided to non-U.S. persons in their research labs without the required export license. Additionally, the TCP ensures that both the host and guest understand their obligations under the export control laws and regulations. The TCP will be prepared by Export & Trade Compliance in coordination with Research Security who handles the physical security inspection.

X. International Travel Requirements

Employees must comply with U.S. laws and regulations when traveling internationally on Georgia Tech business.

A Workday Financials Spend Authorization must be completed including the embedded international travel questionnaire. The Spend Authorization international travel questionnaire will be automatically forwarded to Export & Trade Compliance if an export review is required.

Please submit your international travel spend authorization at least 30 days PRIOR to travel.

See the Export & Trade website for international travel tips:

<https://ethicsfirst.gatech.edu/exportandtrade/international-travel-collaborations>

The Foreign Corrupt Practices Act (FCPA) applies to Georgia Tech travelers. Please read carefully: <https://ethicsfirst.gatech.edu/foreign-corrupt-practices-act>

A. Hand-Carrying Tools of the Trade

When hand-carrying tools of the trade to countries outside the U.S., travelers should review Customs regulations of both U.S. and the foreign destination in advance of travel. *Tools of the Trade* are classified as personal and household effects, such as instruments, tools, and other items, including laptops and mobile devices. Portable electronic computing devices are a prime target for theft, especially while traveling. The basic rule for protecting a portable electronic device is to treat it like one’s wallet or purse. Devices should be kept out of sight when not in use, and personal digital assistants should always be kept on one’s person. A hand-carry letter drafted by Export & Trade Compliance is recommended to accompany hand-carried GT portable electronic computing devices and equipment. The letter will list all U.S. export control authorizations for the items the traveler is carrying. There is no required form, but a sample hand-carry letter is shown

in [Exhibit C](#).

B. Presenting at Conferences Overseas or Transferring Controlled Information, Technology, Software, or Equipment to Foreign Parties Overseas

If controlled information, technology, software, or equipment will be transferred to a foreign party overseas, a license may be required before the transfer unless a valid license exception or exemption applies. Faculty presenting at conferences or meetings overseas are responsible for understanding export laws and regulations and how they apply to their respective disciplines. Depending on where the conference or meeting is taking place, an OFAC license may be required. In general, if a conference will be open to anyone and the information to be presented is already published or is information that *will be* published, a license should not be required. Travelers should review the Export & Trade Compliance website at <https://ethicsfirst.gatech.edu/exportandtrade> for information regarding laptop computers and the tools of the trade exception.

C. Travel to Countries for Which State Department Has Issued Travel Warning

GT strongly recommends against, but does not prohibit, GT business travel to countries where the U.S. Department of State has issued an official travel warning (a travel warning is distinct from a State Department issued public announcement) or where there is other reliable information of significant health or safety risks. The final decision about making a trip to such a country is up to the individual making the trip; however, GT reserves the right to require the execution of an appropriate release or waiver before permitting such GT business travel. This recommendation is directed at individual travelers in the following categories: faculty, staff, and graduate students. Faculty/staff taking students on international travel will require prior approval from the Office of International Education.

For further information about U.S. Department of State travel advisories, please consult travel.state.gov. GT will review on a case-by-case basis plans for travel using state or sponsored funds to countries for which travel warnings have been issued.

D. Additional Guidance for International Travelers

Prior to international travel, faculty should become aware of applicable export laws, regulations, and risks associated with international travel. Several key reference sources include:

- GT Export Web site: <https://ethicsfirst.gatech.edu/exportandtrade/international-travel-collaborations>
- State Department: <https://travel.state.gov/content/travel.html>
- Homeland Security: <https://www.dhs.gov/>
- Centers for Disease Control and Prevention: <http://www.cdc.gov/travel/>
- World Health Organization: <https://www.who.int/>
- U.S. Department of Agriculture: <http://www.aphis.usda.gov/travel/>

E. Personal Travel

No export review is required for personal travel, *i.e.*, where employees are traveling internationally on vacation or attending conferences at their own expense. However, a review is required if GT contributes to any cost of the trip, including but not limited to, salary.

X. International Shipments

A. Electronic Export Information

The Foreign Trade Regulations (“FTR”) of the U.S. Census Bureau (part of the U.S. Department of Commerce) requires the filing of Electronic Export Information (“EEI”) for all shipments exported from the U.S. See 15 C.F.R. § 30.2. The former Automated (“AES”) has been integrated into the Automated Commercial Environment (“ACE”) module for reporting of the EEI.⁴

An EEI is used to control exports and act as a source document for export statistics. EEIs are required for shipments when the value of the commodities classified under any single “Schedule B” classification number is over \$2,500.

For shipments exempt from EEI filing requirements, the airway bill or other commercial loading document should state the basis for the filing exemption, e.g., “No EEI required; no individual Schedule B number valued over \$2,500.” See 15 C.F.R. §§ 30.35 and 30.37.

The EEI must be prepared regardless of value for items requiring an export license. See 15 C.F.R. §§ 30.2 and 30.37. FedEx will file the EEI on behalf of Georgia Tech for a nominal fee. A copy of the EEI documentation should be provided to Export & Trade Compliance. **All Exports (permanent, temporary & hand-carry) to China (including Hong Kong), Russia and Venezuela require an EEI filing PRIOR to export.**

Please notify Export & Trade Compliance at export@gatech.edu for an export review and EEI filing.

Required Exporter Disclosures to Foreign End-users

The exporter must incorporate the “Destination Control Statement” on the invoice document, as applicable.

i. Destination Control Statement for ITAR Items:

“These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.”

See 22 C.F.R. § 123.9(b)(iv)

ii. Destination Control Statement for EAR Items:

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations; and

Additionally, the ECCN(s) for any 9x515 or “600 series” “items” being shipped (i.e., exported in tangible form) should be included, if applicable.

See 15 C.F.R. § 758.6

B. Equipment

Equipment may not be sent outside the U.S. until a determination has been made as to whether an export license is required. The shipper must provide the following information:

- Contact details of the PI or other responsible person for shipment, including telephone and fax numbers, e-mail address, and school/department/lab.
- Description of the equipment, including its common name, technical name, manufacturer, model number, general function and/or use, dollar value, and URL where specifications can be found.
- The purpose of the shipment, including the intended recipient and address, intended end-user (requires names of individuals and nationality), and intended use of the equipment.
- Whether GT will be responsible for training a foreign national to use the equipment.
- Whether a loan is involved, and if so, the period of the loan.
- Whether any other disposition of the equipment is involved.
- Whether the equipment/material is controlled under the ITAR, and if so, the PD/PI must identify the USML category; and
- If the equipment/material is controlled under the EAR, the PD/PI must provide the citation.

Useful websites: www.census.gov/foreigntrade/aes/gettingstarted/audience.html#USPPI

C. Chemicals or Biological Materials

Shipments of chemicals and/or biological materials are handled by GT's Office of Environmental Health and Safety (shipping@ehs.gatech.edu). An export review must take place before chemicals or biological materials are shipped. To initiate the export review, please complete the international shipping export questionnaire found here: <https://ethicsfirst.gatech.edu/exportandtrade/forms> and then open an e-Routing export file and upload the international shipping export questionnaire form to the attachments. For questions, contact export@gatech.edu.

Is a Material Transfer Agreement (MTA) Required? Please go here: <https://osp.gatech.edu/mta> to answer the five (5) questions. If you answer 'yes', an MTA is required. Please work with Exchange Agreements.

Note: if an MTA is required, the MTA must be fully executed PRIOR to shipping.

XI. Imports & Trade Compliance Reviews

Georgia Tech is required under US Federal Law to Comply with US Trade Regulations.

An Import/Trade Review is required for **All Purchases via Procurement \$2,500.00 or greater** from international Vendors & and/or Suppliers only. The import review is initiated when Procurement receives a requisition for a new purchase order, screens the vendor in Visual Compliance Restricted Party Screening, and provides PI with the Import review questionnaire via email and copies Export & Trade Compliance at import@gatech.edu

An import/Trade Review is required for ALL purchases under \$2,500.00 which includes purchases via Pcard. PI/GT Purchaser must complete the import/trade review questionnaire here: <https://ethicsfirst.gatech.edu/exportandtrade/forms>

<https://ethicsfirst.gatech.edu/sites/default/files/Import-Trade-Compliance-Review-Questionnaire-Fillable-Jan-2023.pdf>

Once the import trade questionnaire is completed, please email the form to import@gatech.edu. Imports require working with the Import Broker to ensure imports are cleared with the correct information and in a timely manner.

A power of attorney is required to appoint a customs broker to transact customs business on behalf of Georgia Tech before the broker can provide import clearance services. See 19 C.F.R. §141.31. As a state entity, Georgia Tech is not permitted to give a third-party power of attorney. GT

Procurement has an agreement with FedEx to provide import assistance.

XII. Training in Export Control Processes

All GT faculty, staff, and students working on a project/software/equipment with a Technology Control Plan (TCP) must complete export training before beginning work or being charged to the project or accessing the equipment/software. Annual refresher training will be required throughout the life of a project/access to equipment/software. Refresher training will be taken for two years after the initial training. In the third year, individuals will be required to retake the initial training.

Training can be accessed at: citiprogram.org. Select Georgia Institute of Technology and login via the GT SSO.

Specific in-person scenario training for high-risk labs is provided after CITI training is completed. In-person scenario, training may be requested for a lab after CITI export training is completed.

XIII. Compliance Audits

These procedures have been developed to ensure that appropriate reviews and documentation exist to provide evidence of compliance with U.S. export laws and regulations. Export and trade review records are kept by Export & Trade Compliance for five years after the export/import activity is completed. Records must be kept for five years from the expiration date of the authorization or the date an exemption is claimed.

Technology Control Plans (TCP) Annual Audits. Export & Trade Compliance in collaboration with Research Security audit the entire TCP including employees, scope, and physical security.

XIV. Restrictions on “Military End Use” or “Military End User”

Pursuant to 19 C.F.R. § 744.21, exports of goods subject to the EAR to military end-users in Belarus or the Russian Federation are prohibited without a license. Additionally, items listed in supplement no. 2 cannot be exported to Burma, Cambodia, China, or Venezuela for military end-use without a license. *Id.*

Additionally, license requirements exist for military end users in Belarus, Burma, Cambodia, China, the Russian Federation, and Venezuela. *See* 15 C.F.R. § 744.21. Specific entities determined by the End Use User Review Committee to be a military end user may be added to the Military End User List. *Id.* License applications to export items to these countries will be reviewed with a “presumption” or “policy” of denial. *Id.*

GT personnel should check for military end-use activities (include related terms such as use, development, production, operation, installation, maintenance, and deployment). When performing end-user screenings, distinguish between a private company and government-owned entities, obtain information from the end-user regarding how they will use the item, at what location, and for what specific purpose or contract.

XV. International Programs

Antiboycott

The EAR prohibits U.S. companies from engaging in certain aspects of unsanctioned boycotts maintained by a foreign country against a country friendly to the U.S., including providing information about the race, religion, sex, or national origin of a U.S. person or about business

relationships with boycotted countries or blacklisted persons. See 15 C.F.R. § 760.2. The primary impact of this rule is on the Arab League boycott of Israel, but this regulation could also apply to other boycotts. U.S. companies must report to Export & Trade Compliance the receipt of certain boycott-related requests for information designed to verify compliance with an unsanctioned foreign boycott. GT employees may not provide any information or agree to any term or condition that furthers the boycott on Israel or any other unsanctioned boycotted country.

GT policy requires that any such requests received by Georgia Tech personnel, students, or faculty should be reported to the Department of Commerce in accordance with its reporting obligations. See 15 C.F.R. § 760.5. The Export Compliance Coordinator (“ECC”) should coordinate such notice through ORIA and OLA.

XVI. Foreign Corrupt Practices Act

Please visit the Export & Trade Compliance website to learn more about the FCPA and how it applies to Georgia Tech employees: <https://ethicsfirst.gatech.edu/foreign-corrupt-practices-act> The Foreign Corrupt Practices Act of 1977 (“FCPA”) is a U.S. federal law that prohibits U.S. citizens and entities from bribing foreign government officials to benefit their business interests.

The FCPA is applicable worldwide and extends specifically to publicly traded companies and their personnel, including officers, directors, employees, shareholders, and agents. Following amendments made in 1998, the FCPA also applies to foreign firms and persons who either directly or through intermediaries, help facilitate or carry out corrupt payments in U.S. territory.

GT policy requires that any political contribution to a foreign government actor, or any fee or commission in connection with obtaining a sponsored contract or business, must be reported to the ECC and approved by OLA or ORC.

GT policy requires that employees should not enter into contracts with third parties to obtain defense contracts without the review and approval of the Office of General Counsel (asklegal@gatech.edu).

Exhibit A - Export Control Classification Number and the Commerce Control List

Key to determining whether an export license is needed from the Department of Commerce is knowing whether the item you are intending to export has a specific ECCN. The ECCN is an alpha-numeric code, e.g., 3A001, that describes a particular item or type of item, and shows the controls placed on that item. All ECCNs are listed in the CCL. See 15 C.F.R. 774, Supplement No. 1 to Part 774 of the EAR. The CCL is divided into 10 broad categories, and each category is further subdivided into five product groups.

Five Product Groups

- A. Systems, Equipment and Components
- B. Test, Inspection and Production Equipment
- C. Material
- D. Software
- E. Technology



Commerce Control List ("CCL") Categories

- 0 = Nuclear Materials, Facilities and Equipment (and Miscellaneous Items)
- 1 = Materials, Chemicals, Microorganisms and Toxins
- 2 = Materials Processing
- 3 = Electronics
- 4 = Computers
- 5 = Telecommunications and Information Security
- 6 = Sensors and Lasers
- 7 = Navigation and Avionics
- 8 = Marine
- 9 = Propulsion Systems, Space

Step 1: Identify the applicable ECCN entry on the CCL.

ECCN entry 3A981 covers the following:

“Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and “specially designed” “components” and “accessories” therefore, n.e.s.”

License Requirements

Reason for Control: CC

| Control(s) | Country Chart (See Supp. No. 1 to part 738) |
|------------|---|
|------------|---|

CC applies to entire entry

CC Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See ECCN 0A982 for other types of restraint devices.

Related Definitions: N/A

Step 2: Determine Export License Requirements

Once you have classified the item, the next step is to determine whether you need an export license based on the “reasons for control” for that item and the country of ultimate destination.

You begin this process by comparing the ECCN with the Commerce Country Chart in Supplement No. 1 to Part 738 of the EAR. The ECCNs and the Commerce Country Chart, taken together, define the items subject to export controls based solely on the technical parameters of the item and the country of ultimate destination.

Below the main heading for each ECCN entry, you will find “Reason for Control” (e.g., National Security (“NS”), Anti-Terrorism (“AT”), Crime Control (“CC”), etc.).

In the above example, the reason for control is “CC”.

Identify the specific reason for control from the ECCN item in the Commerce Country Chart column header and the destination country in the country column. An “X” in the cell located at the point where the column and row intersect indicates that a license is required. If no “X” is marked, no license is required for that particular reason for control and country combination.

Example: Exports controlled for “CC” to Honduras require a license but exports to Iceland do not.

It should be noted that an export license may be required based on certain prohibited end-uses or end-users or for restricted parties, countries, etc.

Commerce Country Chart

Reason for Control

| Countries | Chemical & Biological Weapons | | | Nuclear Nonproliferation | | National Security | | Missile Tech | Regional Stability | | Firearms Convention | Crime Control | | | Ant Terror |
|-----------|-------------------------------|----|----|--------------------------|----|-------------------|----|--------------|--------------------|----|---------------------|---------------|----|----|------------|
| | CB | CB | CB | NP | NP | NS | NS | MT | RS | RS | FC | CC | CC | CC | AT |
| | 1 | 2 | 3 | 1 | 2 | 1 | 2 | 1 | 1 | 2 | 1 | 1 | 2 | 3 | 1 |
| Guyana | X | X | | X | | X | X | X | X | X | X | X | | X | |
| Haiti | X | X | | X | | X | X | X | X | X | X | X | | X | |
| Honduras | X | X | | X | | X | X | X | X | X | X | X | | X | |
| Hong Kong | X | X | | X | | X | | X | X | X | | X | | X | |
| Hungary | X | | | | | X | X | X | X | | | | | | |
| Iceland | X | | | X | | X | X | X | X | | | | | | |
| India | X | X | X | X | X | X | X | X | X | X | | X | | X | |
| Indonesia | X | X | | X | | X | X | X | X | X | | X | | X | |

Exhibit B - Guidelines for Export & Trade Compliance When Preparing TAAs

An application for the approval of an MLA or TAA with a foreign person must be accompanied by a transmittal letter that contains an executive summary of the proposed agreement. The letter requires export and technical information as described in 22 C.F.R. § 124.12 and DDTC guidelines.

The submission requires:

- An Original Certification Letter signed by an EO. *See* 22 C.F.R. § 126.13.
- Proposed agreement, preferably unsigned—since DDTC may require that changes be made prior to signature.
 - a. Required information contained in the main body of the agreement. *See* 22 C.F.R. §124.7.
 - b. Required ITAR clauses (if applicable) contained in the main body of the agreement. *See* 22 C.F.R. §124.8 and 124.9.
 - c. Signature block for each party at end of the main body of the agreement.
- Attachments, Appendices or Annexes, *i.e.*, such as Statement of Work, defense articles to be exported, etc. Be sure to reference the attachments in the body of the agreement and properly reference the agreement in the attachments.
- Supporting technical data, white papers, etc., *i.e.*, relevant to technology export issues. This is generally material not directly referenced in the agreement but that may help support an approval decision.

Information on the preparation of TAAs and MLAs and related correspondence is available on the DDTC [website](#).

Guidelines for Preparing Agreements (Revision 5.0) (February 14, 2022)

See this document for a template for TAA/MLA Transmittal Letters.

**Exhibit C - Hand-carry Letter
UPDATE Hand-carry letter example**

Date

District Director
U.S. Customs and Border Protection
U.S. Port

Re: Temporary Export of Laptop, PC, PDA (other) as “Tools of the Trade”

To Whom It May Concern:

This is to certify that Georgia Institute of Technology employee (name) is hand carrying the following items.
as “tools of the trade” for personal use and not for resale:

[List of items - include make and model number]

The (device) is/are classified under the U.S. Department of Commerce CCL as ECCN _____, exportable to the country of destination as “No License Required” (NLR).

The (device) also contains VPN - secured email for personal use only. The security features are exportable under CCL _____ Commerce License Exception “BAG”. All software loaded on these items represent commercially available software exportable under Department of Commerce License Exception “Technology & Software Unrestricted” “TSU.”

The device contains no technical data as defined in ITAR Section 120.33.

For any questions regarding this export, please contact me at (Export Compliance Team Member’s email address).

Sincerely,

[Sign Here]

Name: _____

Title: _____