



EXPORT CONTROLS POLICY STATEMENT

POLICY STATEMENT

The U.S. government actively regulates, and in some cases, restricts the export of certain items and information, including technologies that it deems critical to the interests of national security, the economy, and foreign policy. Harvard University is committed to complying with applicable U.S. laws and regulations pertaining to exports of items, services and technology by or on behalf of the University.

The Office of Research Compliance within the Office of the Vice Provost for Research oversees Harvard University's compliance with U.S. export control laws and regulations and maintains and updates the University-wide Export Compliance Manual and a [website](#) with information and guidance regarding export requirements. In addition, each school has an individual designated as the point of contact regarding export control matters within the school. The Vice Provost for Research appoints the members and leadership of the Harvard University Export Control Council, comprised of the school export control contacts and other University officers. The Export Control Council advises the Office of Research Compliance on export control issues and disseminates export control guidance documents and updates to affected departments and individuals within the schools. If you are planning to export materials, equipment or technology abroad, to engage in research that may be controlled, to engage in international collaborations with foreign persons, or have any other questions about the application of export controls to activities in which you are involved, please consult the [Office of the Vice Provost for Research website](#) or contact your School's representative on the [Export Control Council](#) or the University's Chief Compliance Officer.

DEFINITIONS

An **export** is a shipment of a tangible item (e.g. hardware), the transmission or transfer of software or technical data and information, or provision of certain services to another country.

A **U.S. person** is a citizen of United States, a lawful permanent resident alien of the US, (a "Green Card" holder), a refugee or someone here as a protected political asylee or under amnesty. US persons also include organizations and entities, such as universities, incorporated in the US. The general rule is that only US persons are eligible to receive controlled items, software or information without first obtaining an export license from the appropriate agency unless a license exception or exclusion is available.

A **foreign person** is anyone who is not a US person. Examples of foreign persons are students, post-doctoral scholars, or research staff in F-1 or J-1 status, and Harvard foreign national employees in H1-B status. A foreign person also means any foreign corporation, business association, partnership or any other entity or group that is not incorporated to do business in the US. Foreign persons may include international organizations, foreign governments, and any agency or subdivision of foreign governments such as consulates.

Deemed Export is the transfer of certain export-controlled information to a "foreign person" in the United States. The export control laws and regulations state that a transfer of source code, technology, or



technical data to a foreign person is “deemed” to be an export to the home country of the foreign person.

Fundamental research, as used in the export control regulations, includes basic or applied research in science and/or engineering at an accredited institution of higher learning in the U.S. where the resulting information either is ordinarily published and shared broadly in the scientific community or where the resulting information has been or is about to be published. Fundamental research is distinguished from research that results in information that is restricted, among other things, for proprietary reasons or pursuant to specific U.S. government access and dissemination controls.

APPLICABILITY

All Harvard personnel, including faculty members, visiting scientists, postdoctoral fellows, students and staff at, employed by, or affiliated with Harvard University must comply with this policy and the related Export Compliance Manual. Export control regulations apply regardless of the source of funding, both external and internal.

POLICY RATIONALE

Harvard University researchers engage in a broad range of innovative and important research. Equipment, software, or other technologies acquired or developed during these research activities may be subject to U.S. export control laws and regulations. Additionally, Harvard University faculty and researchers collaborate with foreign persons both in the United States and overseas. It is important to understand and comply with country-specific embargoes and financial sanctions on individuals, organizations, and countries when entering into such collaborations.

In the event of a violation of U.S. export control law, both the individuals involved in the violation, as well as the university, may be held liable. The exporter and the individual Harvard employees involved may be subject to administrative and civil sanctions as well as criminal penalties, including imprisonment for intentional violations. Penalties can also include the denial of export privileges and debarment from contracting with the federal government. Almost all enforcement actions are public. Failure to comply with U.S. laws and regulations, or failure to comply with this Policy and the attendant Export Compliance Manual, also may result in disciplinary action.

SCOPE

The Departments of State, Commerce, and Treasury administer the primary controls on exports of goods, commodities, and information. The Department of State Directorate of Defense Trade Controls (“DDTC”) administers export controls of defense items, Department of Commerce Bureau of Industry and Security (“BIS”) administers export control of items that have both commercial and military applications, and the U.S. Department of the Treasury Office of Foreign Assets Control (“OFAC”) enforces country-specific embargoes and financial sanctions on individuals, organizations and countries. In certain circumstances, these agencies may require the University to secure a license before items or information are exported to another country or shared with a foreign national.

Examples of activities that *may* trigger export controls include, but are not limited to:



- The export of physical items, such as scientific equipment, or transfer of controlled information, including technical data, to persons and entities outside of the United States.
- The “deemed export” of verbal, written, electronic, or visual disclosures of controlled scientific and technical information related to export controlled items to foreign persons within the United States.
- Travel to certain sanctioned or embargoed countries for purposes of teaching or conducting research.
- International collaborative projects involving foreign persons or entities.
- Research projects containing restrictions, such as publication restrictions.

All Harvard personnel are required by the University Export Control Policy to demonstrate their due diligence and to document their adherence to US export controls and trade sanctions laws when applicable.

EXCLUSIONS

Most of the information or software that Harvard shares with its colleagues and research partners is not export controlled or subject to trade sanctions. And the majority of tangible items that Harvard exports, like materials, prototypes, components, or equipment, do not require export licenses since they are generally not destined to countries of concern or to individuals or organizations subject to US embargoes or sanctions.

As host to researchers from around the globe, Harvard relies on the “fundamental research exclusion” from the export-control laws. This exclusion allows us to share our research freely with foreign persons on campus as long as there are no access or dissemination controls, such as non-disclosure agreements, on the information. The conduct and results of fundamental research are generally excluded from export restrictions.

Research that carries access, participation, or dissemination restrictions, however, will not qualify as fundamental research for purposes of the export control regulations. Such research may also give rise to export issues if the primary research is to be conducted outside of the US or if it requires exposure of foreign persons to proprietary or confidential export controlled information provided by third parties such as corporations, commercial vendors or government collaborators.

CONTACTS AND REFERENCE DOCUMENTS

Office of the Vice Provost for Research: <http://vpr.harvard.edu/pages/export-controls-policies-and-procedures>

School Export Control Liaisons: <http://vpr.harvard.edu/pages/school-export-control-contacts>

Export Control Compliance Manual

[Openness in Research Policy](#)

[Export Controls Guidance Document for Outsourcing IT Services](#)

[Export Controls Guidance for SDN Screening and Follow-up](#)

