



### **EXPORT CONTROL PROGRAM**

# EXPORT CONTROL ASSESSMENT FORM TUTORIAL

# **University of Wisconsin - Madison**





### <u>Purpose</u>

- Assist the PI in answering the questions in the Export Control Assessment Form (ECAF) as found in the UW-Madison Export Control Plan
- The content of this ppt may be included as on-line help, if the ECAF is placed on-line





#### UNIVERSITY OF WISCONSIN - MADISON **Export Control Assessment Form** EXPORT CONTROL ASSESSMENT FORM PROJECT IDENTIFICATION MSN / Project #: PI/PM: Sponsor: Page 1 • Project Title: \*\*\*\* This form shall be completed and signed (see p. 2) by the Principal Investigator \*\*\*\* EXPORT CONTROL ASSESSMENT TOPIC RESPONSE Project Identification Export Controlled Technology Q1) Public Domain - Will this project use or create information that is not or ☐ Yes will not be shared publicly? Answer "No" for patient-related information or 🗌 No data (i.e., HIPAA). Q2) Publication Restriction - Does the award documentation include a ☐ Yes publication restriction that could limit your ability to publish your research? □ No Q3) Personnel Restriction - Does the award documentation include a Yes personnel restriction that limits your ability to hire foreign nationals to work on □ No the project? Q4) NDA - Does this project require a non-disclosure agreement to share Yes items, software, information or data that could limit your ability to publish □ No some or all of your research? Q5) Encryption Software - Do you plan to share or use UW developed or ☐ Yes non-commercial encryption software (including travel abroad with it)? No Export Control Assessment Q6) WMDs - Does the project involve the design, production or use of Yes nuclear, chemical or biological weapons (WMDs)? 🗌 No Q7) ITAR - Does this project include items, software, information or data Yes controlled under the International Traffic in Arms Regulations (ITAR) that are List the USML Category: military- weapon-, spacecraft-, satellite or rocket-related? No Q8) EAR - Does this project include items, software, information or data on Yes the Commerce Control List (CCL) of the Export Administration Regulations List the CCL Classification: (EAR)?No Export / Deemed Export Q9) Foreign Participation - Will foreign persons or students participate in Yes this research as sponsors, collaborators or staff? No Q10) Travel - Does this project require you or your staff to travel Yes; Name of Country: internationally? No Restricted Party Screening Q11) Shipping - Are you planning on shipping any items, software, Yes; Name of Country: information or data out-of-the-country as part of this project? □ No **Restricted Party Screening** The U.S. government generates lists of persons and organizations with which we are not to have transactions (restricted parties). Please Assessment answer the following questions to determine whether a restricted party screening needs to be completed for your project. Yes Q12) Sponsor - Is the project sponsored by a foreign organization? If Yes, please note the name of Organization: 🗌 No Q13) Subawards - Does this project include subawards to foreign Yes No No organizations or persons? If Yes, note name of Organization/Person Q14) Purchasing - Do you plan to purchase, acquire or control movement of Yes any equipment, materials or software from a foreign source for this project? 🗌 No If Yes, note: Name of Organization/Person: Name of Country: For HELP see: Export Control Assessment Form Tutorial @ https://kb.wisc.edu/gsadminkb/page.php?id=35038 Rev H 2/14/17 TAD Page 1 of 2



## EXPORT CONTROL ASSESSMENT FORM TUTORIAL



Export Control Assessment Form	0 UNIVERSITY OF WISCONSIN – MADISON
	EXPORT CONTROL ASSESSMENT FORM
	SIGNATURES
Page 2	Assessment Authorization: The above assessment is complete and correct to the best of my knowledge. If an export license is required, I will ensure that no export or deemed export of the controlled item or technology shall occur prior to receiving that export license.
PI Signature	Signature – Principal Investigator
	**** Send signed form to: exportcontrol@grad.wisc.edu (scan the signed copy), or Tom Demke, AOSS Bldg, 1225 W. Dayton St, Rm 525 ****
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	Rev. H, 2/14/17, TAD Page 2 of 2





### **Project Identification**

Ŵ	UNIVERSITY OF WISCONSIN – MADISON							
	EXPORT CONTROL ASSESSMENT FORM							
	PROJECT IDENTIFICATION							
MSN /	Project #:	oject #: PI / PM: Sponsor:						
Project Title:								
**** This form shall be completed and signed (see p. 2) by the Principal Investigator ****								

- **MSN / Project #:** Insert the MSN #, ID or any discrete project identifier used by the organization
  - Please use the MSN # to identify the project unless an MSN # is not available for the project
- **PI / PM:** Insert the name of the person responsible for the project
- **Sponsor:** Insert the name of the sponsor
- **Project Title:** Insert the name or title of the project

\*\*\*\* Note: The assessment is to be completed and signed by the PI \*\*\*\*





**Q1)** Public Domain – Will this project use or create information that is not or will not be shared publicly? Answer "No" for patient-related information or data (i.e., HIPAA).

#### Items To Consider:

- Is this project based upon research that is not published?
- This question can be answered "No" if non-technical information is provided under a NDA, such as health, personal or educational information.
- One of the main characteristics of fundamental research is that it be widely shared with the scientific community. Projects which are not to be shared publicly due to publication restrictions or other reasons may not be fundamental research.
  - Fundamental research is basic or applied research conducted in science or engineering at an institute of higher learning the results of which are ordinarily published and shared broadly with the scientific community

#### Applicable Regulations:

• ND

#### **Potential License Exceptions:**

Fundamental Research Exemption - National Security Directive 189; 15CFR 734.8
 Rev. H. 2/14/2017, TAD





**Q2)** Publication Restriction – Does the award documentation include a publication restriction that could limit your ability to publish your research?

Items To Consider:

- Typically, RSP will not approve an agreement that contains a publication restriction because it violates the UW's fundamental research policy (openness in research).
- If the agreement places restrictions on what information can be published or requires that the sponsor approves articles before they are published, then the answer is Yes.
- Some sponsors request pre-submittal copies of articles for reference purposes or to review the submission for potential patent applications. The purpose of these requests is not to restrict publication; therefore, the answer to Q2 would be No.

Applicable Regulations:

• ND

#### **Potential License Exceptions:**

• Fundamental Research Exemption - National Security Directive 189; 15CFR 734.8





**Q3) Personnel Restriction** – Does the award documentation include a personnel restriction that limits your ability to hire foreign nationals to work on the project?

#### **Items To Consider:**

- Typically, RSP will not approve an agreement that contains a personnel restriction because it violates the UW's fundamental research policy (openness in research).
- Personnel restrictions are usually imposed for security reasons, indicating that the project may be export controlled and is not fundamental research.

#### Applicable Regulations:

• ND

#### **Potential License Exceptions:**

• ND





**Q4)** NDA – Does this project require a non-disclosure agreement to share items, software, information or data that could limit your ability to publish some or all of your research?

#### Items To Consider:

- If technical items, information, software or data are provided through a NDA, then answer Yes.
- Controlled information supplied through a NDA that restricts the ability to publish results may violate the fundamental research exemption and could result in the need for an export license.

#### Applicable Regulations:

• ND

#### Potential License Exceptions:

Fundamental Research Exemption - National Security Directive 189; 15CFR 734.8





### **Export Control Assessment**

**Q5) Encryption Software** – Do you plan to share or use UW developed or non-commercial encryption software (including travel abroad with it)?

Items To Consider:

- Transfer or sharing the source or object code of almost all encryption software to a foreign person or organization is subject to US export regulations.
- US persons are prohibited without prior authorization from providing technical assistance to a foreign person with the intent to assist in the overseas development or manufacture of encryption software that is subject to US export controls.

Applicable Regulations:

- ITAR: 22CFR 121 Category XI(b), XIII(b), XV(b), c)
- EAR: 15CFR 774, Supp. 1 ECCN 5D002, 5D992

**Potential License Exceptions:** 

• Educational Exemption 15CFR 734.9





**Q6) WMDs** – Does the project involve the design, production or use of nuclear, chemical or biological weapons (WMDs)?

Items To Consider:

- Could the project be used directly or indirectly in the design, transport, support, manufacture or use of weapons of mass destruction (WMDs)?
- Does the project use or create precursors or materials that could be used in a chemical, biological or nuclear weapon?

**Applicable Regulations:** 

- ITAR: 22CFR 121 Category XIV
- EAR: 15CFR 774, Supp. 1 ECCN 1C350 to 1C360

Potential License Exceptions:

• ND





**Q7) ITAR** – Does this project include items, software, information or data controlled under the International Traffic in Arms Regulations (ITAR) that are military- weapon-, spacecraft-, satellite or rocket-related?

#### Items To Consider:

- Does the item have a military application, no predominant civil application and no performance equivalent in civil applications? If so, answer Yes to Q7.
- Is the item itself, or any of its components or assemblies listed on the United States Munitions List (USML)?
- The manufacturer of a purchased item should be able to provide the USML category. Ask the manufacturer to provide the USML category if they state the item is ITAR.
  - In those cases where the manufacturer does not provide the category, contact the Export Control Office for assistance in determining if your item is in the list.
- <u>Applicable Regulations:</u>
- 22CFR 121 (US Munitions List)

#### **Potential License Exceptions:**

• ND





## **ITAR Determination Process**

- Need for an export license depends upon whether the item is:
  - Listed in the USML
  - An article (item) or technical data
  - In the public domain (software or data)
  - Being transferred to a foreign person or country





**Q8)** EAR – Does this project include items, software, information or data on the Commerce Control List (CCL) of the Export Administration Regulations (EAR)?

Items To Consider:

- Is the item you are transferring a dual-use item (designed for commercial purposes, but with potential military, missile, terrorism or criminal applications)?
- Is the item itself, or any of its components or assemblies listed on the CCL?
  - Contact the Export Control Office for assistance in determining if your item is listed in the CCL.
- Does the research involve a select agent?
  - All select agents are export controlled under Categories 1C351, 1C353 or 1C354 of the CCL.
- See Appendix for list of CCL categories.

**Applicable Regulations:** 

• 15CFR 774, Supplement 1 - Commerce Control List

**Potential License Exceptions:** 

Contained in 15CFR 774, Supplement 1 - Commerce Control List





## **EAR Determination Process**

- Need for an export license depends upon:
  - If the item is listed in the CCL
  - If the item is an article or technical data
  - The destination country
  - If it is in the public domain (software or data)
  - The Reason for Control listed in the CCL
  - Whether an exemption for an export license is available in the CCL

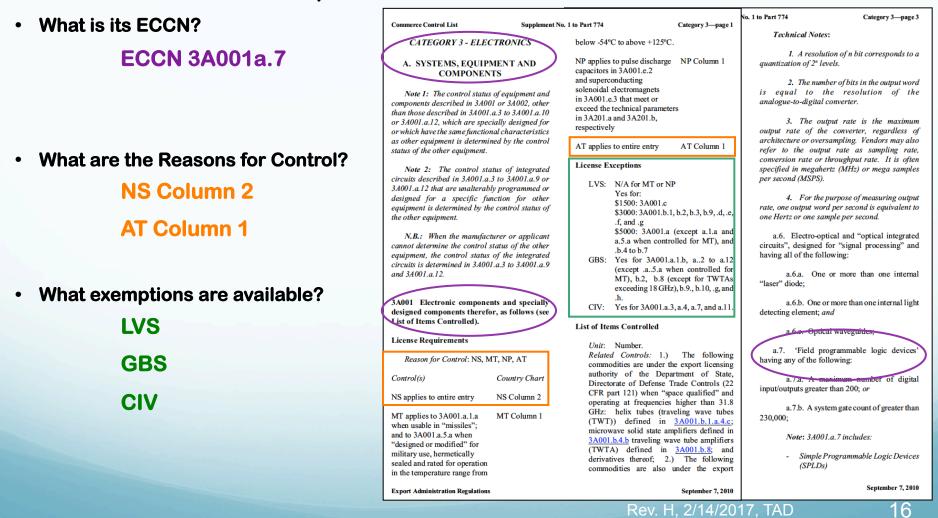


### **EXPORT CONTROL ASSESSMENT FORM TUTORIAL**



#### EAR Determination Process (example)

#### **Electronics:** Altera FPGA Chip





### **EXPORT CONTROL ASSESSMENT FORM TUTORIAL**

Commerce Control List Overview and the Country Chart



Supplement No. 1 to Part 738-page 3

#### EAR Determination Process (example)

#### **Electronics: Altera FPGA Chip**

Destination Country?

#### Cambodia

Do the Reasons for Control apply?
 NS Column 2 - Yes

AT Column 1 - No

Can an exemption be applied?
 IVS GBS CIV - Yes

LVS, GBS, CIV - Yes (see previous page)

Commerce Country Chart																
Reason for Control																
Countries	Cher	Nical & Bi Weapor			u clear oliferation		tio nal curity	Missile Tech		gion al ability	Firearms Convention	•	C rime Contro			nti- rorism
-	СВ 1	CB 2	СВ 3	NP 1	NP 2	NS 1	NS 2	мт 1	RS 1	RS 2	FC 1	1	CC 2	CC 3	AT 1	AT 2
Burma	x	Х	x	x		х	x	x	x	x		x		x		
Burundi	х	х		х		х	Y	х	х	x		х		x		
Cambodia	х	Х		x		x	x	x	х	x		х	x			
Cameroon	Х	Х		Х		Х	×	Х	Х	X		Х		Х		
Canada	x										x					
Cape Verde	x	Х		х		х	х	x	х	x		х		x		
Central African Republic	x	Х		x		х	x	x	x	x		х		x		
Chad	х	Х		X		х	X	x	х	x		х		x		
Chile	x	Х		x		х	х	x	x	x	х	х		x		
China	х	Х	X	X		х	X	x	х	x		х		x		
Colombia	х	Х		X		х	х	x	X	x	x	x		x		
Comoros	х	Х		X		х	X	x	х	x		х		x		
Congo (Democratic Republic of the)	x	Х		x		х	x	x	х	x		x		x		
Congo (Republic of the)	X	Х		x		х	х	x	x	x		х		X		

Export Administration Regulations

June 28, 2010

### No License Required





**Q9)** Foreign Participation – Will foreign persons or students participate in this research as sponsors, collaborators or staff?

Items To Consider:

- No export license is required if the information or software is only to be disclosed to US Persons.
  - Persons who are lawful permanent residents of the US (have their green card) are considered US Persons.
- No license is required to conduct fundamental research with foreign collaborators.
- ITAR USML-listed information may be disclosed to <u>bona fide</u>, <u>full-time employees</u> of the UW who maintain their only domicile in the US and are not a national of a restricted country as deemed by the US government (see Q11).
  - This exemption does not typically apply to undergrad students, postgrad students, postdoctoral scholars or visiting fellows. An export license would be required to transfer controlled information to these individuals.

#### Applicable Regulations:

- 22CFR 120.15
- 22CFR 120.16

#### **Potential License Exceptions:**

Employment Exemption





**Q10) Travel** – Does this project require you or your staff to travel internationally?

Items To Consider:

- Is international travel budgeted as part of your project?
- Will project staff travel to embargoed or restricted countries (see Q11)?
- What are you doing on your international travel, presenting research findings, conducting research, visiting a vendor or other?
- Are you taking any equipment, software or technical information with you? Handcarrying equipment, software or technical information is considered the same as shipping it (see Q11) and may require an export license.

#### Applicable Regulations:

- 22CFR 120.15
- 15CFR 774, Supplement 1 Commerce Control List
- See State, Commerce and Treasury Dept. websites (DDTC, BIS and OFAC)

#### **Potential License Exceptions:**

Contained in 15CFR 774, Supplement 1 - Commerce Control List





**Q11)** Shipping – Are you planning on shipping any items, software, information or data out-of-the-country as part of this project?

Items To Consider:

- ITAR An export license is required to ship all items on the United States Munitions List abroad, regardless of destination.
- EAR The need for an export license when shipping to a foreign country depends upon the commodity, destination country, reason for control and available license exceptions.
- E:1 Countries: Iran, North Korea, Sudan, Syria.
- OFAC & US Embargo List: Belarus, Burundi, Central African Republic, Cuba, Congo, Iran, Iraq, Lebanon, Libya, N. Korea, Somalia, South Sudan-related, Sudan, Syria, Ukraine-related (Russia), Venezuela, Yemen-related, Zimbabwe
- **ITAR Prohibited Countries (22CFR 126.1):** *Afghanistan, Belarus, Burma, Central African Republic, China, Congo, Cuba, Cyprus, Eritrea, Haiti, Iran, Iraq, Lebanon, Libya, N. Korea, Somalia, Sudan, Syria, Venezuela, Zimbabwe*
- Restricted Party Lists.





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Applicable Regulations:

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- See State, Commerce and Treasury Dept. websites (DDTC, BIS and OFAC)

**Potential License Exceptions:** 

Contained in 15CFR 774, Supplement 1 - Commerce Control List





**Q12) Sponsor** – Is the project Sponsored by a foreign organization?

**Q13)** Subawards – Does your project include subawards to foreign organizations or persons?

**Q14) Purchasing** – Do you plan to purchase, acquire or control movement of any equipment, materials or software from a foreign source for this project?

#### Items To Consider:

- The U.S. government restricts business and transactions with persons and organizations worldwide.
- A restricted party screening should be completed on sponsors, subawardees and vendors to determine whether the federal government has placed restrictions on any of these parties.
- The federal government has placed restrictions on some universities, research institutes and companies. Not all of these restrictions are the same. Some of these restrictions may not impact the tasks/research you plan to complete. Others may require an export license and others may not allow transactions at all.





**Q12) Sponsor** – Is the project Sponsored by a foreign organization?

**Q13)** Subawards – Does your project include subawards to foreign organizations or persons?

**Q14) Purchasing** – Do you plan to purchase, acquire or control movement of any equipment, materials or software from a foreign source for this project?

#### Items To Consider (cont.):

- If any of these three questions are answered Yes:
  - Note the name(s) of the party(ies) and country (for Q14).
  - The Export Control Office will complete a Restricted Party Screening of the foreign parties included in the project.

Applicable Regulations:

• See State, Commerce and Treasury Dept. websites (DDTC, BIS and OFAC)

#### Potential License Exceptions:

• ND





- PI signs form to indicate:
  - Information is correct and complete.
  - Controlled items/technology will not be transferred to a foreign party until a license is received.
- Export Control Office:
  - Determines whether an export license is needed (in consult with the PI).
  - Signs the assessment indicating it is complete.

	UNIVERSITY OF WISCONSIN – MADISON							
EXPORT CONTROL ASSESSMENT FORM								
	SIGNATURES							
The abo	Assessment Authorization: The above assessment is complete and correct to the best of my knowledge. If an export license is required, I will ensure that no export or deemed export of the controlled item or technology shall occur prior to receiving that export license.							
	Date:							
Signatu	re – Principal Investigator							
**** Send	signed form to: exportcontrol@grad.wisc.edu (scan the signed copy), or Tom Demke, AOSS Bldg, 1225 W. Dayton St, Rm 525 ****							
	<completed by="" control="" export="" office="" the=""> EXPORT LICENSE DETERMINATION</completed>							
An Exp	port License is required for this project?							
Comm	ents / Rationale:							
	Assessment Review:							
I ne abo	The above assessment and restricted party screening (if applicable) are complete.							
	Date:							
Signatu	Signature – Export Control Office							
<u> </u>								





### **Contacts**

- If questions arise during the assessment process, please contact:
  - Your College, School, Department or Center Point of Contact for Export Control
  - Tom Demke: tom.demke@ssec.wisc.edu 262-8659
  - Bethany Nelson: <u>bcnelson2@grad.wisc.edu</u> 261-1128
  - Ben Griffiths: <u>ben.griffiths@wisc.edu</u> 263-7400
  - Or e-mail: <u>exportcontrol@grad.wisc.edu</u>



### **EXPORT CONTROL ASSESSMENT FORM TUTORIAL**









#### ITAR Categories (22 CFR121 - US Munitions List

Category	Title	Examples
I	Firearms, Close Assault Weapons and Combat Shotguns	Fully automatic firearms to .50 caliber
II	Guns and Armament	Guns > .50 caliber
	Ammunition/Ordnance	Ammunition for categories I & II
IV	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines	StarTracker
V	Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents	Explosives
VI	Vessels of War and Special Naval Equipment	Battleships
VII	Tanks and Military Vehicles	Military tanks
VIII	Aircraft and Associated Equipment	Military aircraft engines
IX	Military Training Equipment and Training	Radar trainers
Х	Protective Personnel Equipment and Shelters	Body armor
XI	Military Electronics	Imaging radar systems
XII	Fire Control, Range Finder, Optical and Guidance and Control Equipment	NIR detector; AERI cryocooler
XIII	Auxiliary Military Equipment	Cryptographic devices
XIV	Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment	Weaponized biological agents
XV	Spacecraft Systems and Associated Equipment	GOES-R; satellites
XVI	Nuclear Weapons, Design and Testing Related Items	Devices used to fabricate nuclear weapons
XVII	Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated	Classified articles
XVIII	Directed Energy Weapons	Particle beam systems
XIX	Reserved	NA
XX	Submersible Vessels, Oceanographic and Associated Equipment	Military submarines
XXI	Miscellaneous Articles	Not to be used w/o authorization
Red = exam	ples of devices on UW-Madison campus	





#### EAR Categories (15 CFR774, Supplement 1 - Commerce Control List)

Category	Title	Examples					
0	Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)	Nuclear reactors & associated equipment					
1	Materials, Chemicals, Microorganisms, and Toxins	Viruses & bacteria, such as those causing bird flu, botulism, dysentery, brucellosis					
2	Materials Processing	Specific types of machining equipment					
3	Electronics	Multimeter, multifunction instrument (digital I/O, D/A converter, totalizer)					
4	Computers	Computers & related equipment					
5	Telecommunications & Information Security	Ethernet switch, remote control power switch					
6	Sensors and Lasers	Marine acoustic systems, optical sensors					
7	Navigation and Avionics	Accelerometers, gyros					
8	Marine	Submersible vehicles, marine boilers					
9	Propulsion Systems, Space Vehicles and Related Equipment	Turbine engines					
		Rev. H, 2/14/2017, TAD 28					