



SRA INTERNATIONAL
ANNUAL MEETING
CHICAGO 2024
OCTOBER 26-30

Primer on Export Controls, Embargoes and Sanctions

Susan Wyatt Sedwick PhD, CRA, CSM
Senior Consulting Specialist

➤ **Attain** Partners

What laws are we addressing?



International
Traffic in Arms
Regulations
(ITAR)

Department of
Defense Trade
Controls



Export
Administration
Regulations
(EAR)



OFAC

Sanctions
and
Embargoes
(OFAC)



What is controlled under the EAR?

Dual Use Technologies

<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>







Commerce Control List (CCL)

- 0-Nuclear Materials, Facilities and Equipment
- 1-Materials, Chemicals, Microorganisms and Toxins
- 2-Materials Processing
- 3-Electronics Design, Development and Production
- 4-Computers
- 5- Part 1: Telecommunications and Part 2: Information Security
- 6-Sensors and Lasers
- 7-Navigation and Avionics
- 8-Marine
- 9-Aerospace and Propulsion

Export Control
Classification
Number
(ECCN)

3 = Electronics

A = End Items, Equipment,
Accessories, Attachments,
Parts, Components, and
Systems

3 A 0 0 1

Commerce Control Group

Commerce Control List Categories	
0	Nuclear Materials, Facilities And Equipment (and Miscellaneous Items)
1	Materials, Chemicals, Microorganisms and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Part 1 -- Telecommunications and Part 2 -- Information Security
6	Sensors and Lasers
7	Navigation and Avionics
8	Marine
9	Aerospace and Propulsion

3 = Electronics
A = End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems
3A001

Five Product Groups	
A	End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

EAR99

Commerce Control Group

Commerce Control List Categories	
0	Nuclear Materials, Facilities And Equipment (and Miscellaneous Items)
1	Materials, Chemicals, Microorganisms and Toxins
2	Materials Processing
3	Electronics
4	Computers
5	Part 1 -- Telecommunications and Part 2 -- Information Security
6	Sensors and Lasers
7	Navigation and Avionics
8	Marine
9	Aerospace and Propulsion

3 = Electronics
A = End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems
3A001

Five Product Groups	
A	End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems
B	Test, Inspection and Production Equipment
C	Materials
D	Software
E	Technology

EAR99

EAR Prohibitions

1. Exports/Reexports of controlled items/technology to controlled countries
2. De minimis amount of US content
3. Reexport foreign-produced direct product of US technology/software
4. Denial Orders-entities and persons
5. Consideration of end use/users
6. Exports to embargoed destinations
7. Support of proliferation activities
8. In-transit shipments
9. Terms and conditions of license
10. Duty to report violations





What is controlled under the ITAR?

Items on the Munitions List

- Includes both research on *defense articles* and training or assistance in developing *defense articles*
- Technical data related to the manufacture or production of *defense articles*
- Anything with a substantial military application or related to satellites
- <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121>

ITAR/U.S. Munitions List

- Category I - Firearms, Close Assault Weapons and Combat Shotguns
- Category II - Guns and Armament
- Category III - Ammunition/Ordnance
- Category IV - Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V - Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents.
- Category VI - Vessels of War and Special Naval Equipment.
- Category VII - Tanks and Military Vehicles
- Category VIII - Aircraft and Associated Equipment
- Category IX - Military Training Equipment and Training
- Category X - Protective Personnel Equipment and Shelters
- Category XI - Military Electronics
- Category XII - Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Category XIII - Auxiliary Military Equipment
- Category XIV - Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment.
- Category XV - Spacecraft Systems and Associated Equipment
- Category XVI - Nuclear Weapons, Design and Testing Related Items
- Category XVII - Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- Category XVIII - Directed Energy Weapons
- Category XIX - [Reserved]
- Category XX - Submersible Vessels, Oceanographic and Associated Equipment
- Category XXI - Miscellaneous Articles







OFAC

What is controlled under OFAC?

- Enforcement of economic and trade sanctions based on US foreign policy and national security goals
- Specially Designated Nationals List
 - Individuals
 - Entities
 - Countries
- Targeted foreign countries and regimes, terrorists
- Activities related to the proliferation of weapons of mass destruction
- Other threats to national security
- <https://www.treasury.gov/resource-center/sanctions/pages/default.aspx>



Risks for Universities

- Collaborations/discussions with foreign national collaborators and students especially when involving proprietary information
- Taking or shipping items or transferring technology that is controlled to a foreign country or foreign national
- Performing defense services
- Visiting scientists
- Travel to foreign countries including fieldwork and instruction
- Technology and material transfers
- Faculty “start up” companies

Deemed Exports

- “Deemed Export” – foreign national with access to information restricted by EAR/ITAR.
 - Applies to a research assistants and students
 - Applies to visiting foreign researchers
 - Applies to U.S. citizens visiting a foreign country
- Does not apply to U.S. Citizens, permanent residents and those with US asylum protection



National Security Decision Directive (NSDD) 189

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

Exclusions & Exceptions

Exclusions

- Information in the Public Domain
- Fundamental research
- Educational Exclusion
 - Catalog courses and instructional labs
- Foreign patent applications

Exceptions

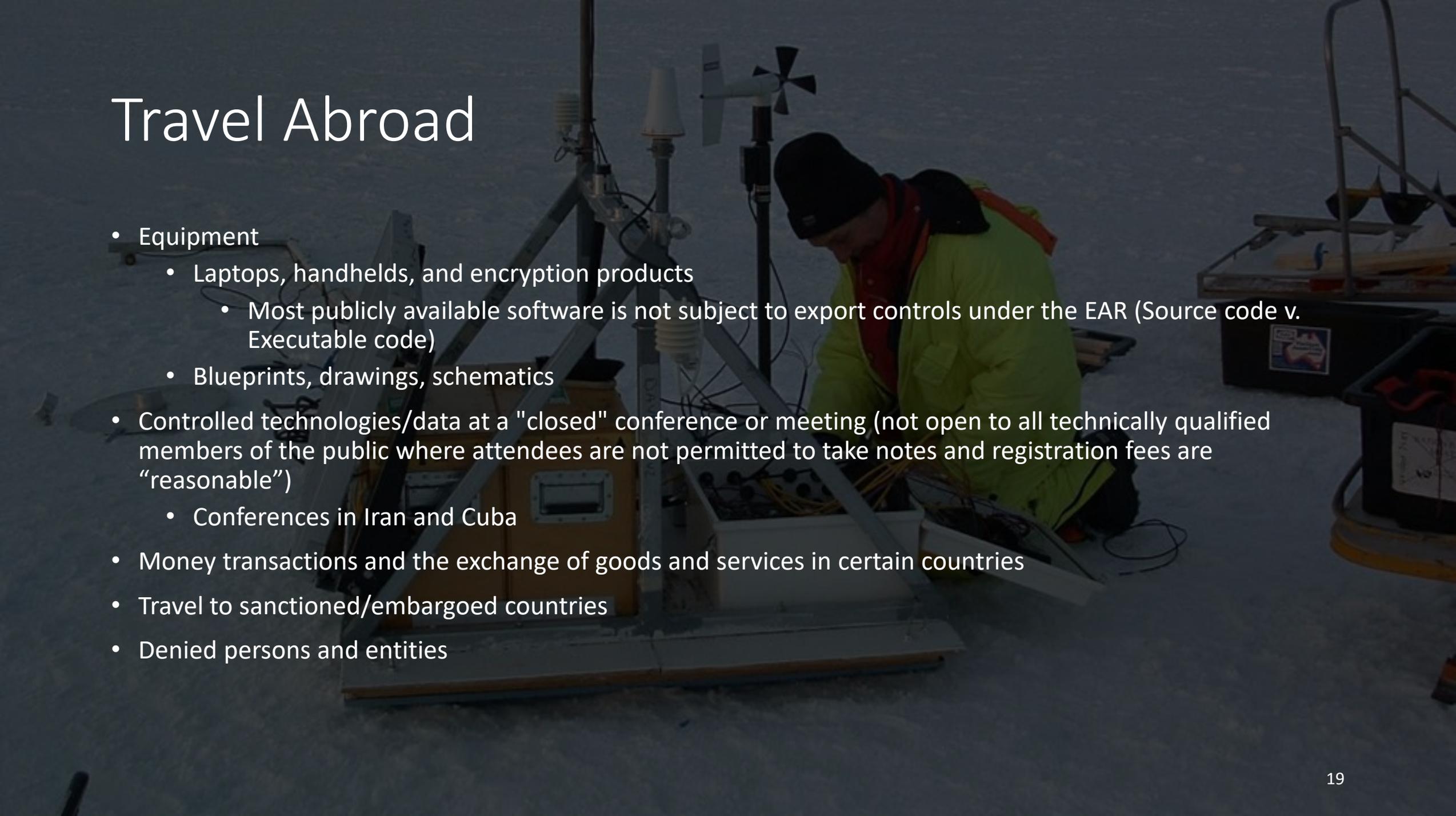
- EAR
 - Temporary (TMP) *Tools of the Trade*
- ITAR
 - If ordered under federal contract

Current Countries of Concern

- China (along with Hong Kong and Macau)
- Russia
- Iran
- North Korea
- Cuba
- Venezuela



Travel Abroad

A person wearing a high-visibility yellow jacket and a black beanie is kneeling in a snowy environment, working on a piece of equipment. The equipment is mounted on a metal frame and includes a windmill-like sensor. The background is a bright, snowy landscape.

- Equipment
 - Laptops, handhelds, and encryption products
 - Most publicly available software is not subject to export controls under the EAR (Source code v. Executable code)
 - Blueprints, drawings, schematics
- Controlled technologies/data at a "closed" conference or meeting (not open to all technically qualified members of the public where attendees are not permitted to take notes and registration fees are "reasonable")
 - Conferences in Iran and Cuba
- Money transactions and the exchange of goods and services in certain countries
- Travel to sanctioned/embargoed countries
- Denied persons and entities

Securing Laptops and Handhelds

BEFORE

- Use a loaner or purchase a new hard drive/phone
- Check for [Encryption Restrictions](#)
- Update security patches and backup
- Leave sensitive information at home

DURING

- Check networks carefully before connecting
- Keep list of credentials used
- Avoid portable storage
- Control access

AFTER

- Assume your computer has been compromised
- Clean hard drive and erase all credentials
- Report suspicious activity

Materials and Technical Information Exchanges



Non-disclosures/Proprietary Use Agreements



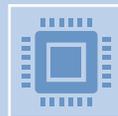
Material Transfer Agreements



Intellectual property licensing agreements that impose publication or other restrictions



Technology transfer disclosures made abroad before a patent is issued except when the disclosure is related to applying for a foreign patent



Processing of disclosures/patent applications in tech transfer offices (foreign national access)

Digital Data Concerns

Cloud

Computing

Portable Storage

Destruction

Email

Sponsored Projects

Solicitation

Proposal

Award

Modifications

Closeout

Tech Transfer

Proposal Checklist

- Read the solicitation
- Note any mention of restrictions on publication or access
- Note foreign travel and collaborations
- Manage PI expectations
- Consider PI's portfolio and lab

Request for proposal



Restrictive Clauses

Restrictions on publication of results requiring approval to publish (beyond acceptable review to protect proprietary information furnished by sponsor or to allow for protection of intellectual property)

Restrictions on the use of foreign nationals for national security concerns

Proprietary Information
Export Controlled Subject

Technology Transfer

Material Transfers

Non-Disclosure Agreements

Invention Disclosures

Licensing Technology

Department of Defense Contracts

- DFARS 252.204-7000 Disclosure of Information (Oct 2016)
- DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Jan 2023)
- DFARS 252.204-7021 Cybersecurity Maturity Model Certification Requirements (Jan 2023)
- NIST 800-171 Rev. 2 Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations



The background of the slide features a hand holding a pen over a laptop keyboard. A glowing blue fingerprint is superimposed over the keyboard area, with a network diagram of white lines and nodes overlaid on it. The overall color palette is a mix of blue, orange, and red, with a digital, data-driven aesthetic.

Controlled Unclassified Information (CUI)

Information that laws, regulations, or Government-wide policies require to have safeguarding or dissemination controls, excluding classified information

DDTC Required Elements

Effective manuals and programs include:

- Organizational structure
- Corporate commitment policy
- Identification, Receipt and Tracking of ITAR Controlled Items/Technical Data
- Re-Exports/Retransfers
- Restricted/Prohibited Exports and Transfers
- Recordkeeping
- Internal Monitoring
- Training
- Violations and Penalties



BIS Elements of Good Compliance



- Management Commitment
- Continuous Risk Assessment of the Export Program
- Formal Written Export Management and Compliance Program
- Ongoing Compliance Training and Awareness
- Pre/Post Export Compliance Security and Screening
- Adherence to Recordkeeping Regulatory Requirements
- Internal and External Compliance Monitoring and Periodic Audits
- Maintaining a Program for Handling Compliance Problems, including Reporting Export Violations
- Completing Appropriate Corrective Actions in Response to Export Violations

Effective Compliance

Top Level
Commitment

Ongoing
Awareness &
Education/Training

Pre- and Post
Compliance
Monitoring

Continuous
Assessment of Risk

Internal Controls
Written Policies
And Procedures

Controlled Work in
Segregated
Facilities

Recordkeeping in
Accordance with
Regulations

Monitoring &
Audits

Self-disclosure &
Corrective Actions



SRA INTERNATIONAL
ANNUAL MEETING
CHICAGO 2024
OCTOBER 26-30

Susan Wyatt Sedwick PhD, CRA, CSM
Senior Consulting Specialist
e. ssedwick.ctr@attainpartners.com
p. 512.983.4525



QUESTIONS