

# Of Grants, Contracts, and Graduate Students

## Export controls – and why graduate deans should care



- A. What are ECs, and who regulates them?
- B. How does this impact graduate work?  
*The 'deemed export'*
- C. What fundamental exemptions apply?
- D. Red flags – what and why
- E. What processes does K-State have?

## What is an export?

- ❑ Any oral, written, electronic or visual disclosure, shipment, transfer or transmission outside the U.S. to anyone, including a U.S. citizen, of any commodity, technology (information, technical data, or assistance) or software/codes.
  
- ❑ Such exports include transfers of items or information to foreign embassies, overseas corporate affiliates, and contractors.



### **Export control laws regulate goods and services that leave the U.S.**

Their intent:

- Restrict exports of goods and technology that could contribute to the military potential of adversaries
- Prevent proliferation of weapons of mass destruction (nuclear, biological, chemical)
- Prevent terrorism
- Comply with U.S. trade agreements and trade sanctions against other nations
- Protect America's commercial interests and trade secrets

### **They are regulated by:**

- State Department – International Traffic in Arms Regulations (ITAR)
- Commerce Department – Export Administration Regulations (EAR)  
Largely dual-use technologies & economic assets
- Treasury Department – Office of Foreign Assets Control (OFAC)  
Largely sanctions, boycotts, and embargoes

What is covered?

- ITAR – Munitions Control List [many of which are not strictly munitions]
- EAR – Commodity Control List [dual use and economic interests]
- OFAC – Sanctioned Countries List; Suspected Persons Lists (26 – 28)



## Why should a graduate dean care?

Because there are two types of exports.

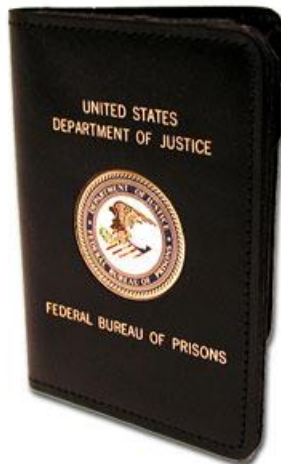
- “Actual Export.” Technology and information leaving the shores of the United States.
- “Deemed Export.” Transmitting the technology or information within the United States to an individual other than a U.S. citizen or permanent resident.
- International graduate students are at issue.
- And the penalties can be SEVERE.



## Fundamental Exclusions from the Export Control Laws:

**Faculty and University employees may not send or take controlled technologies, biologics, etc from the U.S. without a license from the Government [or provide the same to an international graduate student] – unless an exclusion applies:**

- Public Domain Exclusion (ITAR and EAR)**
- Education Exclusion (ITAR and EAR)**
- Employment Exclusion (ITAR only) – does not cover students, postdocs**
- Fundamental Research Exclusion (ITAR and EAR)**



## Red Flags – what to watch out for:

- Travel to an embargoed country – what can a faculty member bring?
- Accepting a grant or a contract that:
  - Has a restriction against publications [or severely limits]
  - Is based on confidential information [CDAs, MTAs] even if the results may be published
  - Has language invoking ITAR
  - Requires sharing/shipping encryption source code with foreign nationals
  - Uses Select Agents or procedures to modify Select Agents



## Professor J. Reese Roth, Univ. Tenn.:

- Air Force Contract [his sub award – less than \$20,000]
- Engaged in “typical faculty research”
  - Shared lab reports and draft publications with graduate students
  - Teaching graduate students to use test equipment
  - Traveled to China with grant proposal on his laptop
  - Had graduate students email him test results to his host’s computer in China
- 17 counts of ITAR violations; 4 years in prison





## K-State Policies and Procedures:

- Every faculty member and staff member must take Export Control Training
  - Every PI on proposals or contracts are checked by our office
- Each contract and proposal is checked for Export Control issues
  - EC Review Sheet
- If necessary, a Technology Control Plan is required
  - EC -TCP template
- Additional training sheets:
  - The Fundamental Research Exemption
  - “Deemed Exports” Questions and Answers

