

This newsletter is the 2nd issue in a series intended to assist the campus community in understanding and complying with Export Control regulations, which apply to all members of the University community.

International Shipping – Complying with Export Control Regulations

In this issue, we will be focusing on the actual shipment of a tangible item (i.e. technical data, technology software, research materials/prototypes or other product, collectively called “item”) to any international destination, including Canada and Mexico, by any transportation method (train, plane, boat, etc.). The U.S. Department of Commerce, U.S. Department of State and U.S. Department of Energy primarily regulate the flow of non-public information and all items. More information on the regulations can be found [here](#).

Why should you review your shipment?

[Fines and penalties](#) are costly!

The shipment may qualify as:

- No license required
- Eligible for a license exception
- Require a license
- Prohibited

License: specific approval from the appropriate federal agency provided in response to a detailed written request for a particular transaction.

License Exception: an authorization that allows export, under stated conditions, items subject to the Export Administration Regulations (EAR) that would otherwise require a license.

Note: The federal government requires that documentation for shipments be kept for five (5) years from the date of export – including, if applicable, the steps taken to determine whether or not a license was required.

How should you review your shipment?

When it comes to shipping, there are many federal regulations – for a full list, please see other shipping considerations below.

Export control compliance for any shipment depends on:

- What the export classification of the item is; and
- Where the item is being shipped to; and
- Who the item is being shipped to; and
- Why the item is being sent to them (what will they use the item for)

Notice that these review steps are ‘**and**’ steps not ‘**or**’ steps so even if you have a common everyday item such as a package of pens you would still need to review the shipment.

Export classification of the item

The hardest part of shipping is determining the classification of your item under the regulations!

There are three ways to determine the export classification of an item: (1) ask the manufacturer (2) self-classify or (3) submit a commodity jurisdiction request to the federal agencies through the Office of Research Compliance.

EAR99: “If your item falls under the jurisdiction of the U.S. Department of Commerce and is not listed on the Commodity Control List (CCL), it is designated as EAR99. The majority of commercial products are designated EAR99.” ([Department of Commerce, Bureau of Industry and Security, Export Control Classification Number \(ECCN\)](#))

Where the Item is being shipped

Destination country matters!

Once the classification of the item has been determined, the next step is to determine if a federal authorization (export license or license exception) is required for the proposed destination country.

Remember: Item + Country = Shipment requirements

STOP - Contact SBU's Export Compliance Officer if:

- A vendor or manufacturer informed you that the item is ITAR or USML (controlled by the Department of State). A license would be needed for all destinations.
- You want to ship an item with a classification other than EAR99. Prior to making the shipment an export license may be required.
- EAR99 items can be shipped to most (but not all) locations without an export license. However, if you are shipping to an embargoed or sanctioned country an export license will most likely be required.

The Department of Treasury, Office of Foreign Assets, oversees the U.S. embargo and sanctions programs.

- Each embargo and sanctions program is unique and requires careful review of the regulations to determine what items can be shipped to these locations.

Whom the item is being shipped to

The easiest part of shipping is confirming that you are NOT shipping to a restricted party!

A common misconception is that an item classified as EAR99 can be shipped to anyone as long as it isn't going to an embargoed/sanctioned country. Not true. EAR99 items cannot be shipped to a person or entity that appears on a federal restricted party list. Stony Brook University has software that can be used to screen for a restricted party (see below).

The federal agencies maintain lists of "restricted parties".

- Restricted parties (aka denied or prohibited parties) are persons or entities (i.e. companies, universities, nonprofits, non U.S. government agencies) that are either prohibited or restricted in some manner from receiving non-public information and/or

items.

-[What is a restricted party?](#)

-[How to screen for a restricted party?](#)

Why the item is being shipped to them

The federal agencies require that the shipper know the ultimate end use of the items that they are shipping. Generally speaking, an item cannot be shipped if the shipper has a reason to believe that the item will be used for nuclear activities, missile technology, chemical and biological weapons, maritime nuclear propulsion, or any other illegal activity.

Training and Guidance

Training Module: The Export Compliance Course in CITI (training software available to anyone on campus) has a comprehensive module on International Shipping.

Go to [CITI](#) – select log in through my institution,

select SUNY – University at Stony Brook and then log in using your Stony Brook NetID and password.

Guidance Document: [Shipper Self-Assessment Review Procedure](#)



Shipping Examples

Example #1

Dr. John, a well-known cancer doctor, at the University of Bologna read about your new strain of mice in a journal and asked if you would send some mice to him for his research.

- What item is being shipped? Mice used in cancer research (they are not modified with a controlled virus)
- Where is the item being shipped? Italy
- Whom the item is being shipped to? Dr. John at the University of Bologna
- Why are we sending the item to them? Cancer research

Answer: The mice are classified as EAR99 under the export regulations. EAR99 items can be shipped to Italy. A screening of both Dr. John and the University of Bologna yield no results as restricted parties. Given your interaction with Dr. John and your knowledge of his work, you have no reason to believe that the transfer of mice is for any prohibited use.

Conclusion: The shipment of the mice would be compliant with export regulations. However, there are still other regulations (i.e. Italy's import regulations) that need to be considered see the Other Shipping Considerations section below.

Example #2

Dr. Joe, a collaborator at the University of Sweden, wants to borrow an infra-red camera for some field research. You have two different models – would it matter which one you sent

- What item is being shipped?
 - FLIR model SC6000, military grade camera, controlled under the Department of State Regulations
 - FLIR model E40, commercial grade camera, controlled under the Department of Commerce
- Where is the item being shipped to? Sweden
- Whom the item is being shipped to? Dr. Joe at the University of Sweden
- Why are we sending the item to them? Field research

Answer: Both camera models are export controlled. A screening of both Dr. Joe and the University of Sweden yield no results as restricted parties. For the FLIR model SC6000 an export license is required for any destination. For the FLIR model E40 a license is required for any destination; however, there may be a license exception available for the shipment to Sweden. Given your interaction with Dr. Joe and your knowledge of his work, you have no reason to believe that he wants to use the cameras for any prohibited use.

Conclusion: You would need a license to ship the SC6000. There may be a license exception available to ship the FLIR model E40. Either way, you need to consult with SBU's Export Compliance Officer.

Other Shipping Considerations

U.S. export regulations and laws are only part of what a shipper needs to consider when shipping internationally. Here is a brief look at other considerations:



Import Laws and Regulations

It is important to understand the import regulations of the destination country. If a shipment does not meet these regulations the shipment can be delayed, seized or even result in fees.

Incoterms® Rules

Short for [International Commercial Terms](#), published by the International Chamber of Commerce are a set of rules that regulate cost, control and liability for the delivery of goods in international sales contacts.

ATA Carnet

[Carnets](#) are used for temporary imports and exports. They are used to avoid paying duties, taxes and penalties and to assist in customs exits/entries. However, these are not export licenses and an export license may still be needed with the carnet. ATA Carnets or Boomerang Carnets can be used to clear customs in a set of specified countries.

Shipments valued over \$2,500 or shipments that require an export license

The U.S. Foreign Trade Regulations requires that Electronic Export Information (EEI) be filed in the [Automated Export System \(AES\)](#) when (a) item(s) shipped under a [Schedule B number/HTS code](#) are valued over \$2,500 to any destination other than Canada or (b) the shipment required an export license.

SBU Offices

Documents, authorizations or agreements may be required from other SBU campus offices dependent upon the specifics of your item.

- Environmental Health & Society – [Shipping of Dangerous Goods](#) (U.S. Department of Transportation and International Air Transport Association regulations)

- Property Management - [Relocation \(temporary or permanent\) of items with an Asset Decal](#)
- Office of Technology Licensing and Industry Relations – Material Transfer Agreements

Other Federal Agencies

Documents or authorizations may be required from other federal agencies dependent upon the specifics of your item.

- Center for Disease Control and Prevention (CDC)
- U.S. Food and Drug Administration (FDA)
- U.S. Department of Agriculture (USDA)
- U.S. Fish and Wildlife Service (USFWS)

About Export Compliance at Stony Brook University

Stony Brook University's [Export Control Policy P212](#) requires compliance with federal export control laws. These regulations can impact activities such as shipping, hosting visitors, international travel, purchasing items, hiring foreign nationals, international collaborations, proprietary research, international conference participation, sharing controlled information with foreign nationals (even while in the U.S.) and/or international research and apply to you regardless of your citizenship status.

For more information about export control laws, best practices or training resources please visit [SBU's export compliance website](#) or contact Susan Gasparo, SBU Export Compliance Officer, at 2-1954 or via email at Susan.Gasparo@stonybrook.edu.

[Additional Resources](#)

[Stony Brook University Export Compliance Website](#), which includes links to:

[Training Resources](#)

[Government Resources](#)

