Export Control Policy

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General Description

Policy Summary:

Federal laws restrict the export of certain goods, information, technology, and services in ways that may affect Trinity. These laws primarily focus on technology that could have military, nuclear, or aerospace applications but, in some instances, can apply to seemingly innocuous items such as laptop computers (as potential controls for dual-use items). As part of a greater enforcement trend in recent years due to concerns over foreign espionage, the federal government has increasingly focused attention on export compliance in higher education. All institutions must comply with export control laws, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and regulations administered by the Office of Foreign Assets Control (OFAC). This policy outlines the responsibilities of members of the University community and the procedures they should follow in order to ensure compliance with these laws and regulations.

Purpose:

The purpose of this policy is to:

- Ensure Trinity's compliance with export control laws and regulations;
- Protect Trinity and its employees from the penalties of non-compliance; and
- Promote awareness and provide guidance on the requirements of U.S. export control laws and regulations.

Scope:

This policy applies to all Trinity employees, students, visiting scholars, and others involved in the conduct of research, academic, and administrative activities that may be subject to export control regulations.

Policy Content

I. Compliance Responsibilities

The vast majority of teaching, research, and travel conducted by Trinity faculty and staff will not be affected by export control laws. However, laws may limit certain research opportunities, affect publication rights, and/or prevent international collaboration in certain circumstances. Export control laws are most likely to affect Trinity in the following situations:

1. Traveling abroad for academic purposes;
2. "Sharing" (broadly defined and includes emails) science or technology-based research or research products with a non-U.S. citizen, whether in the U.S. (as a deemed export) or abroad;
3. Entering into a contractual agreement (including a grant) related to science or technology with a foreign organization; or
4. Providing services or otherwise dealing with a resident of a sanctioned territory or a sanctioned person.

Trinity faculty and staff must fulfill export control requirements before traveling abroad, sharing science or technology-based research, or engaging in any other activity that may be export-controlled. In most cases, this will simply involve Trinity export control staff confirming that the travel/research falls within an exception to export control laws and, thus, is exempt from export restrictions.

The university's Export Control Officer (ECO), as described below, will determine whether, in fact, an exception to export control laws applies. In the few cases where the activity does not fall within an exception, the ECO will work with Academic Affairs to determine whether an export license from the relevant government agency will be pursued and then file the appropriate applications. The licensing process can take up to six (6) months.

II. Designations of Responsibility

1. **Export Control Officer (ECO)**: Trinity will designate an ECO responsible for overseeing export control compliance, including:

    - Developing and implementing export control procedures to assist in compliance with applicable export control laws.
    - Providing training and resources to the University community.
    - Serving as the primary contact for the University community regarding this policy.

- Reporting any suspected violations of this policy or export control laws to the Senior Director of Research and Sponsored Programs.
- Reviewing research projects and other activities for export control implications.
- Working with faculty before international travel to ensure that research equipment may be taken abroad and that electronics, such as laptop computers and iPads, don't contain technology or software that implicates export control laws.
- Assisting with applications for export licenses when necessary.

2. **Principal Investigators (PIs) and Researchers**: PIs and researchers are responsible for:

   - Understanding and complying with export control regulations relevant to their work.
   - Identifying research that may be subject to export control laws.
   - Consulting with the ECO before international travel, before transferring items internationally, and before possible deemed exports to determine if export licenses are required.
   - Ensuring that project personnel, including students and collaborators, are aware of Trinity's export control requirements.

3. **University Community**: All members of the University community must:

   - Adhere to this policy, associated procedures, and applicable export control laws.
   - Report any potential violations or concerns to the ECO.

III. Procedures

1. **Project Review and Classification**

   The ECO must review all research proposals and projects believed to involve controlled items or technology.
   The ECO will determine if the project involves controlled items or controlled technology and if an export license is required.

2. **License Application**

   - If an export license is required, the ECO will assist in preparing and submitting the license application to the appropriate regulatory agency.
   - No export or deemed export of controlled items or technology may occur until the necessary license is obtained.

3. **Travel to Certain Countries**

All travel to an international destinations requires registration in Terra Dotta and advance approval of the International Travel Committee in accordance with Trinity's International Travel Policy.. Risk Management is responsible for the assessment of risk associated with international travel by destination based upon conditions at the time of the trip and determining whether the destination is a sanctioned territory.

4. **Travel With Laptops, Cell Phones, and other Common Items**

Generally speaking, international travelers may take laptops, cell phones, and other common, personal use technological items so long as:

- You own the device or are using a Trinity-owned device;
- You contact the ECO before traveling to ensure that any controlled technology or software will be protected against unauthorized access by adequate security precautions;
- You will return to the U.S. with the device within one year;
- You are not traveling to a sanctioned territory;
- The device is for personal use or is a type of device that is usual and reasonably used within your profession;
- If the device is Trinity-owned, you will maintain effective control over it at all times (including by storing it in a hotel safe when not in your possession).

5. **Research**

Most research at Trinity will fall within an exception to the export control laws. If the resulting research is published and generally accessible to the public (or shared broadly within the scientific community), the research is likely exempt from export control laws. However, these exceptions are lost if certain contractual terms are accepted, particularly concerning:

Exclusion of or requiring background checks of foreign nationals on a project;
Publication restrictions or pre-publication review by the sponsor; or
Access or dissemination controls imposed by the sponsor.

Thus, it is imperative that a contract - including a grant – be carefully reviewed to see if any clauses address the aforementioned issues.

6. **Foreign Shipments**

The ECO is charged with determining whether or not an export license is required for the shipment of items, technology, or software outside of the United States. To determine if an export license is necessary, the individual preparing the shipment or transfer must provide the ECO with the information necessary to complete an export review of the proposed shipment.

If the ECO determines that a license is required for the shipment, the ECO will prepare and apply for the appropriate license.

7. **Deemed Exports (Disclosures or Data Transfers to Foreign Persons)**

In general, preventing a deemed export is a challenging compliance issue facing nationwide university research. A deemed export is the release of controlled technology or source code to a foreign national within the United States, including to students in the U.S. on a student visa.

Therefore, it is important that Trinity assesses a research project/proposal for export issues whenever a foreign national is involved and the following is true:

- Information or data owned by a third party and considered proprietary may be shared.
- A software license agreement contains language indicating that the software is controlled by certain countries.
- The agreement executed between the sponsor and Trinity contains a clause that restricts the publication of results or states that the research is not fundamental research.
- There is any other reason to think that the research project will involve controlled technology.

If one of these circumstances exists, the ECO will review the research project to ensure that the foreign national is appropriately involved and, if necessary, what modifications to the foreign national's role in the research are necessary to comply with legal requirements. In this context, the foreign national's most recent country of citizenship or permanent residency will be relevant to the ECO's analysis.

IV. Violations and Penalties

Non-compliance with export control regulations can result in severe civil and criminal penalties for both the individual and Trinity. Consequences may include fines, imprisonment, loss of research funding, and loss of export privileges. Any suspected violations must be reported to the ECO immediately.

V. Conclusion

Compliance with export control regulations is a shared responsibility within the Trinity community. Adherence to this policy ensures Trinity meets its legal obligations and protects its research, staff,

and students.

Terms & Definitions

Terms and Definitions:

Term:	Definition:
Export Control Laws	Laws and regulations governing the export of controlled items, technology, software, and services for reasons of national security and foreign policy, as well as economic sanctions laws and regulations that restrict certain transactions with sanctioned territories or with entities or individuals identified as sanctioned on lists such as OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List).
Export	Any transfer from the U.S. to a foreign destination of any item, technology, or software by any means. A deemed export (defined below) is also considered an export. The export of services (that is, providing services to a person outside the U.S.) may be regulated by OFAC.
Deemed Export	Any release of controlled technology or source code technical data to a foreign national within the United States. It is a deemed export to the foreign national's most recent country of citizenship or permanent residency. Note that this does not apply to those who are not foreign nationals (as defined below), and, as a result, a release of controlled technology to a lawful permanent resident (for example) does not constitute a deemed export.
Controlled Items:	Items, technology, software, and services listed on the Commerce Control List (CCL) under the EAR or the U.S. Munitions List (USML) under the ITAR
Fundamental Research	Fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons. Fundamental research is generally not subject to export control laws.
Restricted (Non-Fundamental) Research	This refers to circumstances in which there are restrictions placed on the outcome of the research or restrictions on methods used during the research. Proprietary research, industrial development, design, production, and product utilization when the results of the research are restricted, and government-funded research that specifically restricts the outcome for national security reasons are not considered fundamental research.
Dual Use	A "dual-use" item has civil applications as well as military or weapons of mass destruction (WMD)- related applications. The export of dual-use items is generally regulated by the EAR, which are the regulations most likely to

Term:	Definition:
	apply to University activities.
Foreign national	refers to any natural person other than a U.S. citizen, a lawful permanent resident of the U.S., or any other "protected" individual (as defined by 18 U.S.C. §1324b(a)(3)), such as a person granted asylum or admitted as a refugee, as well as any entity that is not organized in the U.S
Sanctioned Territory	means any country or territory subject to comprehensive countrywide or territory-wide sanctions imposed by the U.S. broadly restricting or prohibiting dealings with such country, territory, or nationals thereof (as of the date of this Policy, Cuba, Iran, North Korea, Syria, and the so-called Donetsk People's Republic, so-called Luhansk People's Republic and Crimea Regions of Ukraine).
Technology	means information necessary for the development, production, use, operation, installation, maintenance, repair, overhaul, or refurbishing of an item. "Technology" may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection. In this Policy, "Technology" encompasses "Technical Data" under the ITAR, which is information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles.

Revision Management

Revision History Log:

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Vice President Approval:

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