

## Procedure for export control

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**Description:**

This procedure is a complement to the applicable export control rules (SU FV 1.1.2-1938-20), with the aim of describing how Stockholm University shall deal with exporting high-tech products and technologies. The procedure describes legal compliance, support functions, training, responsibility and delegation.

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## Introduction

The university must prevent strategically sensitive products from falling into the wrong hands. The Inspectorate of Strategic Products (ISP) has been tasked with investigating the work of Swedish authorities in connection with export control. During an inspection at the University in spring 2019, ISP noted that Stockholm University needs to improve its knowledge and routines for handling dual-use items (DUIs) and military equipment, since the University handles both items and technology that may be subject to export control. The University must have knowledge about export control legislation, and about the fact that there are criminal sanctions for breaches of these rules. Good knowledge about export control is also in line with the University's policy to defend and promote good research practice (SU FV-1.2.1-4285-20).

Although scientific freedom is central to research and researchers often have strong incentives for international cooperation, it is important to be aware that there are actors who take advantage of European educational institutions' openness and offer collaborative research, invitations to conferences, etc., in order to acquire sensitive technology or products. Researchers and research organisations must be attentive in order not to unintentionally breach export provisions (see Appendix 1, Warning flags).

### Legal context

The export control legislation exists to protect the security and foreign policy interests of Sweden and the EU. Regulation (EU) 2021/821 and the Swedish Dual-Use Items and Technical Assistance Control Act (2000:1064) govern the transfer, provision and transit of dual-use items (DUIs) and technical assistance. Other pieces of legislation that form the basis for this procedure are the Swedish Military Equipment Act (1992:1300) and the Swedish Dual-Use Items and Technical Assistance Control Ordinance (1992:1303).

## Purpose

The purpose of this procedure is to ensure that Stockholm University complies with applicable export control legislation. The procedure is aimed to educate staff, researchers and other employees who may export products or technologies that are subject to the export control legislation.

The University has made this procedure as a supplement to existing control rules (SU FV 1.1.2-1938-20), in order to describe how the University should handle DUIs and to provide additional knowledge about legal compliance, support functions, training, responsibilities and delegation.

## Dual-use items (DUIs)

Article 2 of Regulation (EU) 2021/821 of the European Parliament and of the Council defines DUIs as follows:

*“Items, including software and technology, which can be used for both civil and military purposes, and includes items which can be used for the design, development, production or use of nuclear, chemical or biological weapons or their means of delivery, including all items which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices.”*

This means that items which are normally used for civilian purposes but can also be used within the military sector may be controlled. Since the items in question are mainly used for civilian purposes, their potential for misuse is not always obvious.

The licence requirements for DUIs are item-related. In other words, those items that are subject to control are listed in control lists (Regulation (EU) 2021/821, Annex I). The list is divided up into ten main categories and five sub-categories, and is updated regularly. Every item on the list has an Export Control Classification Number (ECCN). The various classification numbers describe which category an item belongs to and the reason (the control regime) for the item being controlled. More information about the control list can be found in Appendix 2 to this procedure.

### Export control of technology

It is important for the University to be aware that technology may also be controlled. Technology is defined in the Regulation as specific information that is necessary for the development, production or use of items. Instructions to a colleague who works abroad may therefore constitute technical assistance if this assistance meets the technology thresholds in Annex I of Regulation (EU) 2021/821.

There are exemptions to the licence requirements when exporting listed technologies. Technology that is the result of basic research, is already “publicly available” or is a minimum requirement for a patent application is exempt from the licence requirements.

“Publicly available” technology means technology or software that has been made available without restrictions for further dissemination. (Copyright restrictions do not prevent technology or software from being publicly available).

Scientific classification of a project as “basic research” does not necessarily mean that it meets the definition of “basic research” in the EU Regulation on DUIs. In order to determine whether the “basic research” exemption from control applies, the technological degree of maturity and whether the research has been financed by industry are normally taken into

consideration. Research that is part-financed by an industrial partner is often closer to a finished product, and therefore rarely falls under the “basic research” exemption from control.

### Catch-all

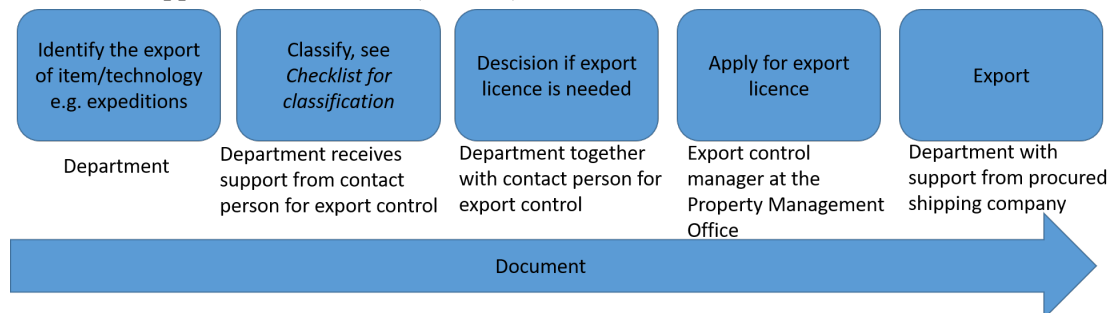
In special cases, items that fall outside the list may also be controlled with reference to a general clause in the legislation that is usually referred to as a “catch-all” clause. This clause means that if an exporter or a licensing authority has information that the item may be intended for military use or in connection with weapons of mass destruction, the item may require an export licence even if it is not included on the control list.

### DUIs at the University

During an inventory in 2020, it was noted that there are DUIs at several of the University’s departments. Being in possession of a DUI does not require a licence, but if the DUI will be moved outside Sweden – regardless of whether this involves a transfer to a country within the EU or export to a third country – the University must investigate whether a licence application needs to be submitted to a licensing authority (the Inspectorate of Strategic Products (ISP), or the Swedish Radiation Safety Authority (SSM, for nuclear items) before a transfer or export can take place.

## Classification procedures

Since the researchers are most familiar with their research, they must be the one carrying out classification of items or technology. The department’s contact for export control and the Export Control Officer can help. If an item or a technology that will be exported is suspected to be subject to export control, the department’s contact for export control and the Export Control Officer must be informed. If an export licence is needed, the Export Control Officer handles the application to the ISP (or SSM).



*Overall description of export control management at the University. The identification and classification of items that will be exported takes place at the department, with support from the department’s contact for export control and the Export Control Officer. If the exported item is deemed to be a DUI, the Export Control Officer applies for an export licence.*

## Classification

The classification of a DUI is based on technical criteria. Items are classified using the control list (Annex I) of Regulation (EU) 2021/821. The list is long, and is full of technical definitions and comments. As a result, there is no simple method for quickly identifying the relevant item area. When classifying items, it is important to carry out a thorough search of Annex I in order to identify the most relevant control classification for the item. Ask the Export Control Officer for help if it is hard to determine whether the item requires a licence before export.

## Checklist

When establishing a classification, it is worth using the checklist for classification of DUIs, which has been drawn up for this purpose. The checklist will help to answer the most important questions in connection with classification. A completed checklist is showing documents how the University has made its classification decision.

## Export routines

When exporting DUIs listed in Annex I of Regulation (EU) 2021/821 outside the EU, an export licence is needed. As a general rule, an export licence is not needed for transfers within the EU. A licence within the EU is only required for transfers of **particularly sensitive** items, as listed in Annex IV of Regulation (EU) 2021/821.

Appendix 4 of this procedure shows a flowchart of situations in which an export licence is needed.

Regardless of whether this relates to transfers within the EU or exports outside the EU, the exporter must inform the recipient that the exported items are classed as DUIs. The exporter must also make a customs declaration that the export relates to DUIs no later than 48 hours before the export will take place. Even if the University receives assistance with customs handling from the procured carrier, the responsibility for correct handling of exports and the obligation to notify the recipient of the item's classification always lies with the University.

## Different types of exports

The DUI regulations class all transfers abroad of controlled items as exports, regardless of whether the goods are exported, sold, lent or given away, or are temporarily outside Sweden's national borders (if the exported item is being returned to the University).

The University may export DUIs under several different circumstances, for example:

- at conferences or during trips abroad
- when selling and transferring e.g. surplus products or chemicals
- on expeditions abroad with advanced instruments and chemicals

- collaborative projects with external parties and/or financiers
- sharing research data, for example via cloud services.

In the case of expeditions, the Export Control Officer shall be involved already at the planning meetings (see Appendix 3, Export control for expeditions).

## Organisation and support functions

Responsibilities and delegation are set out in the export control rules (SU FV 1.1.2-1938-20). This procedure clarifies what the rules mean for researchers, teaching staff and other employees in their professional practice.

The ultimate responsibility for operations linked to export control lies with the President. The President has assigned overall responsibility for export control management to the University Director.

### The Section Security

The Head of Security is responsible for monitoring, coordinating, following up, reporting to the licensing authority and declaring DUIs and chemicals. The section is responsible for drawing up steering and support documents, and for carrying out training. The Head of Security is assisted by an Export Control Officer. The Export Control Officer supports management, researchers and other employees with classification and other issues regarding export control. If necessary, the Export Control Officer also trains contacts for export control at the departments and applies to the licensing authority (the ISP or SSM) for the necessary transfer/export licences.

The Export Control Officer submits declarations to the ISP regarding exports of DUIs, as well as declarations of imports/exports of certain controlled chemicals.

### At the department

#### Head of Department

The Head of Department has overall responsibility for ensuring that routines are in place for the department's compliance with export control regulation. If the department deals with DUIs, a **contact for export control** with specific duties must be appointed. If there is a need for further training at the department or advice ahead of exports, assistance should be sought from the Export Control Officer.

#### Contacts for export control

Contacts for export control should be appointed at departments that deal with DUIs. These contacts support researchers when classifying items and serve as a link for information dissemination and training together with the Export Control Officer.



## Researchers

Consult with the contact for export control in the case of exports that may be subject to export control.

## Office for Research, Engagement and Innovation Services

The office informs researchers about export control legislation in connection with support for project applications and collaborative projects. If researchers within the project need to apply for an export licence or if export control needs to be investigated further, researchers will be referred to existing information on the staff intranet, checklists and the Export Control Officer.

## Responsibility for agreements

Agreement signatories are responsible for determining whether the agreement involves exporting DUIs or other sensitive technology or materials. Those who are authorised to sign agreements are responsible for ensuring that the agreement does not commit the University to carrying out inappropriate exports of DUIs.

## Legal Secretariat

The Legal Secretariat provides advice on legislation affecting exports of DUIs and military equipment in contracts and research agreements.

## Military equipment

According to the Swedish Military Equipment Act (1992:1300), the term “military equipment” refers to “equipment that is designed for military use and that constitutes military equipment under government regulations and to such technical support for military equipment that, according to government regulations, constitutes technical assistance”.

The legislation on military equipment is stricter than the legislation on DUIs, and is aimed at products and technologies that are specifically adapted for military use. Research on the dissemination and detection of chemical weapons or radiation from chemical weapons can also be classified as technical support for military use, and may thus require a licence. A licence is also needed in order to produce, research or otherwise supply military equipment. An export licence is needed for transfers within the EU, and no agreement may be entered into with a foreign party on cooperation regarding military equipment without a licence from the ISP.

This procedure does not describe actions regarding exports of military equipment in detail, as the University does not routinely is involved in research on military equipment. If a researcher wishes to participate in research on equipment for military use or participate in research collaboration with military parties (e.g. the Swedish Defence Materiel Administration or the

Swedish Defence Research Institute), the responsible researcher should inform the Head of Department, the department's contact for export control and the Export Control Officer at the Section for Security for support and assistance.

## Sanctions

Sanctions against individual countries are not part of the regulations for military equipment and DUIs, but are still something that the University must consider. Sweden complies with sanctions issued by the UN, the EU or the Organisation for Security and Cooperation in Europe (OSCE) to ensure peace and security, and to promote democracy. Restrictions and sanctions can also be issued against individuals and businesses. The USA has its own sanctions that the University should be aware of and understand the content of when cooperating with American businesses or educational institutions. It is hard for researchers to be aware of all sanctions against countries, businesses and individuals, and researchers are therefore encouraged to contact the Export Control Officer if assistance is needed.

## Declaring income and exports/imports

Stockholm University must declare income from the sale of DUIs each year. The University must also declare exports and imports of certain chemicals, in accordance with the Chemical Weapons Convention. A declaration is made by the Section for Security within central administration, if necessary with the support of the departments' contacts for export control, the University's local KLARA administrators and research teams. In terms of operations, this means that central administration may request supplementary information about certain products that have been identified as being subject to declarations.

## Further training and information

The Export Control Officer shall provide information and training on an ongoing basis to relevant members of staff at the University about dealing with DUIs. Heads of Department or other relevant managers should invite the Export Control Officer to visit their operations if they identify a need for further training. Overall information about routines and support in connection with export control management can be found on <https://www.su.se/medarbetare/r%C3%A5d-st%C3%B6d/s%C3%A4kerhet-krishantering/s%C3%A4kerhet/exportkontroll-1.463142>.

## External courses

The Swedish Export Control Society provides regular training on export control for businesses and educational institutions.

## **Monitoring and archiving**

When dealing with export control matters, the department should archive documentation and decisions in accordance with the usual routines. When making classification decisions within the department, a copy of the decision should be sent to the Export Control Officer at the Section for Security.

When dealing with matters where it is noted early on that there are no export licence requirements, simplified documentation may be sufficient. Simplified documentation could consist of saving emails and documents that explain the decision.

Both when exporting DUIs outside the EU and when transferring DUIs within the EU, documents and paperwork such as delivery notes, order confirmations and customs declarations should be archived. Imports of DUIs and signed end-user certificates should be registered to prevent researchers from unintentionally exporting DUIs onwards and thus being guilty of unauthorized export.

## **Physical and information security**

DUIs (including software and technology) must be protected, and appropriate measures must be taken to prevent the theft or dissemination of sensitive technology. Heads of Department and researchers who handle DUIs in their work need to assess which physical and digital security measures are appropriate. Measures may include limiting access to certain premises and measures for the secure storage of software, such as file encryption and firewalls.

## Appendix 1. Warning flags

Researchers within fields where results and products may be controlled should pay attention to any warning signals, particularly in the case of enquiries for delivery of objects or technical assistance and joint research applications from previously unknown parties.

Some warning flags that should give reason for caution are listed below:

- The inclusion in cooperation of individuals, educational institutions or businesses whose identity is unclear and who lack clear and traceable references.
- Cooperation with countries or organisations against which sanctions have been imposed.
- Guest researchers wish to take part in projects but have an unclear picture of what this cooperation will lead to or the end-use of the resulting products.
- The cooperation partner has few or no previous examples of collaboration with universities, businesses or authorities.
- The inclusion in cooperation of individuals from the military sector or defence authorities, or individuals with known business contacts with the arms industry or nuclear power facilities.
- Potential (cooperation) partners maintain that the project constitutes basic research, even if this is not the case.
- Unusually favourable payment terms, such as excessive fees or cash payment in advance.
- Requests for top confidentiality regarding details of the content of the services and the contract.
- A guest professor or postdoctoral student visits a research team to learn methods or to gain access to specific materials or software linked to DUIs.

## Appendix 2. Information about the control list

The rules governing which items should be classified as DUIs can be found in Annex I of Regulation (EU) 2021/821 of 20 May 2021. The Export Control Classification Number (ECCN) for each item on the control list indicates the item's category and its properties and function.

The different categories are:

0. Nuclear materials, facilities and equipment
1. Materials, chemicals, microorganisms and toxins
2. Materials processing
3. Electronics
4. Computers
5. Telecommunications and information security
6. Sensors and lasers
7. Navigation and avionics
8. Marine
9. Aerospace and propulsion

The second position in the code describes the five different sub-categories:

- A. End items, equipment, accessories, attachments, parts, components and systems
- B. Test, inspection and production equipment
- C. Materials
- D. Software
- E. Technology

The last digit of the ECCN describes which control regime (regulations) the export control is subject to. The various regimes are:

- 0 The Wassenaar Arrangement (WA)
- 1 The Missile Technology Control Regime (MTCR)
- 2 The Nuclear Suppliers Group (NSG)
- 3 The Australia Group (AG)
- 4 The Chemical Weapons Convention (CWC)
- 9 National supplements

**Example:** 1C350 is the designation for chemicals that can be used as precursors for toxic chemical agents. The 1 shows that this relates to a material, the C shows that the item belongs to the materials sub-category, and the first digit in 350 (3) shows that export control for the item is governed by the Australia Group. The final digits are showing a serial number.

### Appendix 3. Export control for expeditions

During the planning stage of an expedition that will take place outside the EU (including international waters, the Arctic and the Antarctic), the Export Control Officer should be contacted and invited to a planning meeting. The purpose of this meeting is to provide information about export control, and to ensure that no unpermitted exports take place in connection with the expedition.

The following should be carried out before an expedition take place:

- Go through issues relating to export control at a planning meeting.
- Go through materials and equipment regarding export control, with assistance from the department's contact for export control. Are classified products or technology being taken on the expedition?
- If necessary, contact the Export Control Officer at the Property Management Office's Section for Security regarding DUI equipment.
- Draw up a register of chemicals that will be taken on the expedition, and go through the register with regard to export control.
- If necessary, seek assistance from the Chemicals Coordinator at the Property Management Office's Section for Security.

## Appendix 4. Flowchart of licence requirements for exporting DUIs

*The flowchart describes when a licence for exports must be applied for from the ISP or SSM. "Listed" means that the product is included in Annex I of Regulation (EU) 2021/821.*

*Annex IV of Regulation (EU) 2021/821 describes the most controlled products in Annex I. Products listed in Annex IV require a licence for transfer within the EU.*

