

Export Control Procedures

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Table of Contents

1.	Introduction	4
2.	Background	4
3.	Top level Management Commitment to Compliance.....	5
4.	Export screening process and procedures.....	5
5.	Procedure.....	6
6.	Organisational Structure, Roles and Responsibilities	8
7.	Training and Awareness Raising	11
8.	Performance Review, Internal Audits, Reporting, and Corrective Actions.....	11
9.	Recordkeeping and Documentation	12
10.	Physical and Information Security	12

1. Introduction

Export controls are legal obligations that govern the transfer of specific goods, technologies, software and services, particularly those with potential military or dual-use applications, to prevent unauthorised use, proliferation of Weapons of Mass Destruction or human rights abuses. These controls extend beyond tangible items and goods and apply equally to intangible transfers, including the physical, electronic, or verbal transmission of technology, such as, software, data, designs, or know-how.

To support institutional compliance in this context, SETU has established an Internal Compliance Programme (“ICP”) for controls of research involving dual-use items which comprises both the University’s Export Control Policy, and the supporting procedures set out in this document (“Procedures”).

The Procedures have been developed to give practical effect to the policy by providing a structured framework to identify, assess and manage potential export control risks across research and academic activity. This document is designed to complement the existing policy by clarifying the responsibilities of relevant role-holders and ensuring appropriate oversight of activities involving items and information that are subject to export controls. It forms an integral part of SETU’s ICP by detailing the procedures and guidelines adopted under the export control policy framework in accordance with EU and national export control regulations and sanctions legislation¹ and the EU Commission Recommendation (EU) 2021/1700².

These Procedures are designed to support that obligation by offering guidance and providing access to resources and relevant support structures to assist all SETU personnel and students in identifying and meeting applicable export control obligations.

2. Background

Universities such as SETU are subject to export control regulations in the same manner as other organisations and export controls may apply irrespective of the context in which the export occurs, including international collaborations and research activities. In the research context this creates a requirement to carefully balance national and global security considerations with the fundamental right to academic freedom and the imperative for Open Access to research results.

However, neither academic freedom nor Open Access objectives exempt researchers or research organisations from complying with export control regulations that are established to safeguard the security interests of the EU and of its Member States. This includes the responsibility to screen proposed publications, research collaborations and international travel by SETU academic and research staff to ensure compliance with the EU Dual Use Regulation.

¹ Regulation (EU) 2021/821 (the EU Dual-Use Regulation) and the national implementing legislation, the Control of Exports Act 2024

² Commission Recommendation (EU) 2021/1700 of 15 September 2021 on internal compliance programmes for controls of research involving dual-use items under Regulation (EU) 2021/821 of the European Parliament and of the Council setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

However, certain exemptions are recognised under the EU Dual Use Regulation. Export controls do not apply to software, technology or know-how that qualifies as basic scientific research³. Export controls also do not apply to technology, software or know-how that is already in the public domain or to patent applications that include only the minimal required information.

In cases where exemptions do not apply, and the university, or individual researcher exports a controlled item, which includes any listed physical good, or the transfer of technical assistance or knowledge relating to such an item, to a country outside the EU an appropriate export licence must be obtained or a relevant general export authorisation must be relied upon, and its use properly notified.

These Procedures provide guidance on these requirements, and it applies to all current staff and students at SETU and all visiting students, academics and researchers and/or any individual engaged in research activities at SETU. These Procedures should be read alongside SETU's Export Control policy, SETU's Intellectual Property Policy and SETU's Code of Conduct for Responsible Research Practice. These Procedures will be reviewed and updated periodically in accordance with relevant legislative requirements and best practice.

3. Top level Management Commitment to Compliance

SETU recognises the critical importance of Export Controls and is committed to supporting all staff and students in complying with applicable Export Control laws and regulations. To support our research and academic community in meeting these obligations, SETU has adopted an Export Control policy, which forms the foundation for the Internal Compliance Programme in conjunction with these Procedures. Together, they outline the specific procedures, responsibilities and oversight mechanisms that support SETU's compliance framework. This is further supported by a dedicated webpage, access to training and coordinated support from SETU's research, legal, compliance and risk functions. SETU remains dedicated to promoting export control awareness and compliance across SETU.

4. Export screening process and procedures

All individuals engaged in activities that may trigger export controls, including researchers, supervisors, lecturers, students, technical staff and administrative personnel, must assess potential export control implications at the earliest opportunity. Although all staff must follow and adhere to export control laws and compliance procedures, **the primary responsibility for the assessment of whether an export control licence is required lies with a project leader / principal investigator / supervisor given their proximity to the research**, and technical knowledge. SETU has established the following procedures to support researchers and other members of the SETU community to conduct their assessment and fulfil their compliance responsibilities.

³ Under Regulation (EU) 2021/821 "*basic scientific research*" is defined as experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective

5. Procedure

- a. All individuals engaged in activities that may trigger export controls must review the Export Control Policy and complete the Export Control training available on SETU's export control webpage to ensure awareness of what constitutes a controlled product or activity.
- b. From the outset of any project, researchers, academic staff, supervisors and students must screen their activities for export control implications and remain vigilant throughout the project lifecycle.
- c. Those involved in research activities (or teaching, consulting or presenting activities that may trigger export controls) should check:
 - Annex 1 of Regulation (EU) 2021/821 ("Dual-Use" List) to determine whether any goods, equipment, data or know-how used in the project have potential dual-use.
 - The EU Common Military list of the European Union ("Military List") to assess whether any items used in the project are specifically designed for military use.
- d. Export Control requirements must also be assessed in the context of visiting and/or adjunct researchers, staff or students in addition to the recruitment or admission of staff or students for a role that will involve access to controlled items, equipment, software or technology within a specific project or programme. In accordance with the EU Commission Recommendation (EU) 2021/1700, access by a non-EU national to controlled items within the EU does not in itself, constitute an export. However, if the individual subsequently transfers controlled items or materials to a third country, this constitutes an export, which would require an approved and valid licence in advance.

Accordingly, it is important to assess the risk of potential subsequent transmission of controlled items or technology outside the customs territory of the EU during the admission or recruitment process. Where such access is foreseeable, those involved should inform the relevant Head of Faculty / School / Unit and consult with Human Resources, the Registrar, and/or the Graduate Studies Office (as appropriate) to determine whether additional requirements need to be put in place. All assessments should be undertaken on a case-by-case basis, taking into account the specific nature of the access, and associated regulatory risks.

- e. Researchers must also assess whether US Export Controls, specifically the Export Administration Regulations ("EAR") and the International Traffic in Arms Regulations ("ITAR"), apply. These controls are 'extraterritorial' and follow the product regardless of location, meaning that if an item with US-origin controlled technology or equipment is imported by a SETU researcher and used in a project, it remains subject to US export rules. It should be evident from the

supplier's end-user certificate whether the imported technology or equipment is controlled under applicable US Export Control Laws. Researchers must ensure that any equipment, technology or software used in projects are properly screened, and, if necessary, authorised in accordance with US export controls, and these Procedures.

- f. The following screening questions should be considered by researchers from the outset of the research lifecycle to enable early identification of any potential export control requirements. The identification of such risks as early as possible in the process can help mitigate delays later in the project and support more efficient planning particularly where a licence or other form or regulatory approval may be required to meet a milestone or deliverable. These questions must be answered as part of the research contracts due diligence process; however early consideration at the research proposal stage, will also assist in ensuring compliance and avoiding inadvertent breaches from the outset:
- Will the Project involve the export, transfer, shipping, transmission (including email) of controlled items, software, equipment, technology, technical assistance or know how to persons or entities located **outside the EU**?
 - Are any collaborators, funders or other project participants located in or affiliated with countries subject to EU, UN or Irish Sanctions, arms embargoes or trade restrictions and do you intend to export any controlled items, software, equipment, technology, technical assistance or know how to recipients located in or affiliated with such embargoed or sanctioned countries?
 - Will the project involve the use, transfer or re-export of items, software, or technical data that have been imported from the United States and if so, did documentation (end user certificate) from the exporter state that the item would be subject to US export control laws?
- g. If the answer to any of the foregoing is yes, researchers must notify their Head of School and contact exportcontrols@setu.ie, copying their Head of School in their correspondence. The export control team (“**SETU Export Control Team**”) will be able to respond to your query and assist with the assessment, including consideration of available exemptions (e.g., basic scientific research, information that is available in the public domain) on consultation with the researcher who should be available to provide as much information as possible about the nature and level of their research activities.
- h. The SETU Export Control Team in conjunction with the researcher / staff member will make a decision on whether an export control licence is required or not. This process may take several weeks to complete.
- i. If a licence is not required, this decision will be documented, and no further action will be required.
- j. If required, the SETU Export Control Team will consult with colleagues from other units (legal, research, risk) for further guidance.

- k. If a licence is required, the SETU Export Control Team, in collaboration with the researcher / staff member, will complete and submit the licence application to the Department of Enterprise, Trade and Employment (“DETE”).
- l. Once a licence is issued, its conditions will be reviewed with the researcher. Exports are unable to proceed until the licence is obtained and all licence conditions are satisfied.

6. Organisational Structure, Roles and Responsibilities

All SETU personnel and students must ensure full compliance with these Procedures. The following outlines the respective responsibilities of specific functions in supporting export control compliance across SETU in line with SETU’s export control policy.

<p><u>VP for Research, Innovation and Impact (VPRII)</u></p>	<p>Overall responsibility for implementing SETU’s export screening process and procedural compliance policies. This includes:</p> <ul style="list-style-type: none"> • approval of licence applications; • oversight that adequate resources are allocated to compliance; • ensuring that there are regular reviews, audits, reporting, risk assessments, corrective actions and updates of the compliance measures in place; • reviewing and updating of export control policy and procedures as necessary; • provision of an annual report to the Executive Management Team; • Oversight of SETU Export Control Team (exportcontrols@setu.ie) that will have responsibility for the following: <ul style="list-style-type: none"> ➤ Provide advice and support on export control compliance on submission of any queries. ➤ Submit applications for export control applications once a need is identified by Heads of Faculty or Unit and/or researchers / research supervisors, subject to approval of VPRII. ➤ Maintain an incident log to record breaches, issues, and corrective actions. ➤ Maintain records of export control queries and responses, export control licence applications and internal audits. ➤ Provide compliance reports to the VPRII and Audit and Risk Committee. ➤ Periodically review and revise these Procedures on an ongoing basis in response to legal or operational developments.
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	<ul style="list-style-type: none"> ➤ Engage with SETU legal to ensure standard contractual clauses on export control compliance are included in SETU research related contracts. ➤ Engage with the Technology Transfer Office to assist in the evaluation of whether a licence application is relevant for knowledge transfer activity, and what mitigating measures are necessary. ➤ Engage with the Technology Transfer Office to assess whether any available exemptions apply. ➤ Promote adherence to the ICP within research and academic units.
<p><u>Head of Research</u></p>	<ul style="list-style-type: none"> • The Research Office will assist researchers in conducting export control screening and risk assessments for relevant research activities considering item classification pursuant to the Dual Use and Military lists, and end-use/end-user contracting entity or partner checks. • The Research Office will provide support to researchers in response to any queries on export control compliance and will refer matters to the SETU Export Control Team regarding the submission of applications for export control applications if a need is identified by Heads of School or Unit and/or researchers / research supervisors following such screening and risk assessment activities. • The Research Office will also help staff to understand licence conditions, apply due diligence checks, maintain appropriate records securely and provide access to training and raising awareness of the ICP.
<p><u>Head of Innovation and Commercialisation</u></p>	<p>The Technology Transfer Office is responsible for developing and/or implementing the compliance measures of SETU for knowledge transfer including:</p> <ul style="list-style-type: none"> • Responding to export control enquiries with onward referral to exportcontrols@setu.ie where relevant. • Engaging with SETU Export Control Team to assist in the evaluation of whether a licence application is relevant for knowledge transfer activity, and what mitigating measures are necessary. • Assisting the SETU Export Control Team and relevant researcher with the assessment of whether any applicable ‘de-controls’ or exemptions apply. • TTO will also help staff to understand licence conditions, apply due diligence checks, maintain appropriate records securely

	and provide access to training and raising awareness of the ICP in relation to commercial contracts.
Registrar/Head of Faculty (formally known, and referred to in the policy as HOS)	Responsible for developing and/or implementing the compliance measures of SETU for academic staff. The tasks of this function include: <ul style="list-style-type: none"> • Responding to export control enquiries, deciding whether a licence application is relevant in consultation with, or on referral to, SETU's Export Control Team, and determining what mitigating measures are necessary for a teaching activity. • Assist staff in understanding licence conditions, apply due diligence checks, maintain appropriate records securely.
<u>Heads of Faculty / Schools / Directors of Research Institutes, Gateways and/or Centres</u>	<ul style="list-style-type: none"> • Assist staff to understand licence conditions, apply due diligence checks, maintain appropriate records securely. • Monitor local compliance with export control requirements at pre and post-award stage. • Manage export control responsibilities for any equipment, goods, software, products or technologies within the school / unit / research centre if not specifically assigned to a researcher and ensure appropriate controls are in place to safeguard the security of the foregoing. • Promote export control training and disseminate export control guidelines within their departments and facilitate adherence to the ICP.
<u>All Personnel (Researchers and Research Supervisors) and Students</u>	Individual staff and student responsibilities under the ICP include the following: <ul style="list-style-type: none"> • To integrate export control requirements into project planning and management. • Identify and report any potential export control issues to exportcontrols@setu.ie during the course of their research, academic or related activities, copying in Head of School to any correspondence. • Support the licence process, specifically providing all necessary technical or project information, checking the relevant dual use and/or military list to clarify applicability and obtaining a signed end-user undertaking where required. • To await the issuance of a valid export control licence before proceeding with an export and thereafter comply fully with all specified licence conditions and restrictions. • Engage with the SETU Export Control Team and/or the Research Office, Technology Transfer Office, or Head of School

	<p>to review the terms of the licence and understand record keeping and reporting obligations.</p> <ul style="list-style-type: none"> • To ensure the use of a reputable freight forwarding agent when exporting physical items, providing written instructions that include full details of the export licence, any routing or handling requests and the agent’s responsibility for completing and returning customs documentation for university record-keeping.
<p><u>Human Resources in consultation with Heads of Faculty / School / Unit and Registrar</u></p>	<ul style="list-style-type: none"> • Assess the need for additional measures prior to the recruitment of any non-EU staff where controlled items or technologies may be involved.
<p><u>Graduate Studies office in consultation with the Vice President for Student Experience, Vice President for Academic Affairs and Vice President for Global Partnerships</u></p>	<ul style="list-style-type: none"> • Assess additional requirements for non-EU students engaging in programmes or projects involving controlled items or technologies.

7. Training and Awareness Raising

SETU provides a dedicated training webinar on export controls, suitable for all research and academic personnel and students. This, together with other additional resources are available on the SETU export control website and on a dedicated Export Controls page on SETU’s Virtual Learning Environments. Targeted training is provided to staff and students in those areas with heightened export control exposure. Participation in training is expected of all relevant personnel.

8. Performance Review, Internal Audits, Reporting, and Corrective Actions

Export licenses issued by DETE’s Trade Licensing & Control Unit are subject to inspection. When an inspection occurs, the SETU Export Control Team, and the exporting researcher will participate as required and will consult with SETU Legal as needed.

The implementation of the ICP will be subject to internal audit⁴ review in line with Commission Recommendation (EU) 2021/1700. The objective of a review of the ICP is to test the design, adequacy and efficiency of the ICP. A review of the ICP may include recommendations on corrective actions to inform export control process improvements and ICP updates.

⁴ Section 3.2.5 of Commission Recommendation (EU) 2021/1700

An incident log will capture any breaches, issues or corrective actions and any suspected non-compliance must be reported to the SETU Export Control Team without delay. Any identified non-compliance will prompt a review with corrective actions implemented as required. This may incorporate additional training, procedural changes, or management under relevant internal staff and student disciplinary procedures. As outlined in SETU's Code of Conduct for Responsible Research Practice, SETU researchers are expected to comply with the SETU Export Control policy. Non-compliance with the export control policy by an SETU researcher could be considered a form of research misconduct and investigated under the relevant disciplinary policy and procedures.

Notwithstanding the foregoing, SETU also reserves the right to notify DETE and An Garda Síochána when necessary.

9. Recordkeeping and Documentation

SETU's export control team maintains a digital file management system for all export control documentation, hosted on SharePoint. This includes:

- Export control training logs.
- Internal and external communications on export control queries.
- Individual assessments.
- Ancillary documentation (eg. description of item, end-use information).
- Export licence applications and decisions.

These records will be retained for a minimum of five years or longer if required by the licence, in accordance with EU Commission Recommendation (EU) 2021/1700, and SETU's Data Retention Policy.

10. Physical and Information Security

SETU is committed to preventing unauthorised access to or removal of dual-use items by employees, researchers, contractors, suppliers, or visitors. SETU implements a range of information security measures to protect SETU's IT infrastructure, including malware protection, account and access controls, network intrusion detection, and security protocols. Responsibility for upholding standards on information security, as well as ensuring the physical security of controlled items or information with all staff and students who have access to, or responsibility for, controlled items or information. SETU regularly reviews and updates these measures to ensure continued resilience against emerging security threats.