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## Guidelines for export control at Luleå University of Technology

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## 1. Introduction

Dual-use items are items, including software and technology, that can be used for civil purposes but also have properties that can be used for military purposes.<sup>1</sup> Examples are specific chemicals, IR-cameras, advanced computers, high-tech equipment, measuring instruments and software.<sup>2</sup> Furthermore, knowledge in production or use of technology can constitute dual-use items. Military equipment includes equipment specifically designed for military purposes and technical support associated therewith, in accordance with the Swedish Government provisions.<sup>3</sup>

In general, dual-use items may be disseminated within the EU without authorisation. However, dual-use items must not, under rules and regulations in force, be made available, transported, transferred or in any other way exported outside the EU without export authorisation.<sup>4</sup> An application for export authorisation is made to the Swedish Inspectorate of Strategic Products (ISP). The ambition is that authorisation will be granted.<sup>5</sup> Military equipment is more tightly controlled. Organisations intending to provide military equipment must always obtain an export authorisation to be reviewed by the Swedish Radiation Safety Authority.

Luleå University of Technology conducts research and education within several domains and with a research infrastructure that in certain cases constitutes dual-use items or military equipment. The University has a strong international profile and conducts active and strategic internationalisation work. In all its activities, the University must therefore secure that it handles export-controlled products, services, technical assistance and information in accordance with legislation in force and international agreements within the relevant field.

### 1.1 The purpose of the document

This document rests on the European Commission recommendations regarding internal compliance programmes for control of trade in dual-use items<sup>6</sup>, and aims at securing the compliance by Luleå University of Technology with rules and regulations in force or international agreements related to export control.

The document includes a summary of responsibilities and describes how to handle products that are subject to export control. It also includes a description of the work on training, documentation, reporting, revision and corrective measures to ensure the compliance with rules and regulations.

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<sup>1</sup> The legal definition of dual-use items is available in Council Regulation (EC) No 428/2009, article 2.1.

<sup>2</sup> Regulation (EU) 2021/821 of the European Parliament and of the Council, Annex I.

<sup>3</sup> The Military Equipment Act (1992:1300), section 1. (Lag (1992:1300) om krigsmateriel)

<sup>4</sup> Regulation (EU) 2021/821 of the European Parliament and of the Council, Annex I.

<sup>5</sup> Act (2000:1064) concerning Control of Dual-Use Products and of Technical Assistance, section 4 (Lag 2000:1064 om kontroll av produkter med dubbla användningsområden och av tekniskt bistånd).

<sup>6</sup> The Official Journal of the European Union, L338/1, Commission Recommendation (EU) 2021/1700 of 15 September 2021.

The document is addressed to everyone involved in activities at Luleå University of Technology.

## 2. General responsibility

The Vice-Chancellor holds the final responsibility for the units at the University that deal with dual-use items, military equipment and export control. The Vice-Chancellor has delegated certain responsibilities, decisions and powers related to export control in accordance with the Vice-Chancellor's Decision and Delegation Procedures in force at any time.

### 2.1 Individual responsibility of researchers, staff, contractors and other persons involved in the University activities

Each individual researcher/member of staff/contractor or other person participating in the University activities, is responsible for complying with rules and regulations in force and for remaining fully informed about how to handle export control matters. A person who in any way involves students, in education programmes, project participation or otherwise is responsible for ensuring that the students are well informed about provisions in force within the field.

Each person is also responsible for reporting possible changes or new needs regarding export control, and any changes resulting therefrom, with regard to collaboration, work/projects, supervision or tasks that the person carries out or handles. If other persons are involved in the same export, the person responsible for the research project or the work task is also responsible for contacting and assisting the coordinator of export control.

### 2.2 Support functions in the export control process

Within the University, there must be a coordinator of export control having specific competence on matters relating to dual-use items, military equipment and export control. The coordinator of export control is to provide support to the management and to researchers/teachers at the departments regarding export controls related to their activities. Besides assisting the security manager in their work, the coordinator of export control is to provide support and advice regarding classification and handling of matters involving applications for/reports on export control authorisation, and to provide support and advice regarding the contact with ISP and other authorities.

### 3. Procedures for export control and precautionary measures

The departments' need of procedures for export control and precautionary measures to be taken should be analysed. On the basis of the above, the head of department decides on which export control procedures that need to be drawn up as well as which other measures that need to be taken. The procedures must be in accordance with rules and regulations in force and with the contents of the present guidelines.

The decision and other documentation must be registered in the information management system Platina and be notified to the coordinator of export control, the department staff and other persons involved.

The above applies to Professional Services as well.

## 4. Working practices for export control

### 4.1 Introduction

This chapter clarifies various terms and the steps to be taken within the export control process. This process also includes specific working practices for how this is to be carried out at the University. *Guidelines for handling matters at Luleå University of Technology* applies to the handling of matters regarding export control.

### 4.2 Definitions of terms

The terms below are normally defined in the statutes. The definitions below can be seen as additional descriptions to facilitate the export control work. The definitions as regulated in the statutes are the ones legally in force.

#### 4.2.1 Export/Transfer

Export means the physical or electronic delivery of products, software or technology from a country within the EU to a country outside the EU. Export also includes consult services, instructions, publications, lectures and courses and study programmes, etc. The term transfer is used for deliveries within the EU<sup>7</sup>.

#### 4.2.2 Exporter

The exporter can be a legal or a natural person. In the present context, the University is the legal person and hence the formally responsible exporter. Consequently, it is the University

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<sup>7</sup> Article 269 of the Union Customs Code

that owns, exports or transfers such tangible or intangible assets that are considered dual-use items or military equipment.

Normally, it is a natural person who in practice carries out the export activities, a head of department who takes decisions and a researcher/lecturer/a contractor who decides to transfer software or technology by means of electronic media. It can also be a natural person who carries dual-use items in their personal baggage upon a travel to a third country or a transit.

In the present document, ‘exporter’ means the person who intends to carry out or carries out an export activity.

#### 4.2.3 Dual-use items

The Annex I to Regulation (EU) 2021/821 of the European Parliament and of the Council<sup>8</sup> specifies the items classified as dual-use items.

The dual-use items are grouped as follows:

- *Category 0: Nuclear materials, facilities and equipment*
- *Category 1: Special materials and related equipment*
- *Category 2: Materials processing*
- *Category 3: Electronics*
- *Category 4: Computers*
- *Category 5: Telecommunications and "information security"*
- *Category 6: Sensors and lasers*
- *Category 7: Navigations and avionics*
- *Category 8: Marine*
- *Category 9: Aerospace and propulsion*

Certain less sensitive items are not included in Annex 1 to the Regulation (EU) 2021/821. Such items may require export authorisation if they are or may be intended, entirely or partly,

- for use in connection with weapons of mass destruction,
- for a military end-use (in a country subject to an arms embargo),
- for use as parts or components of military equipment that has been exported without authorisation.

To prevent exporters to wittingly try to circumvent the purpose of the law, there is a “Catch-all” provision stating that if the exporter suspects that the product/technology/etc. may be used as weapons of mass destruction, the item is subject to export control even if it is not included in any of the categories above.

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<sup>8</sup> Regulation (EU) 2021/821 of the European Parliament and of the Council, Annex I.

To determine whether a certain piece of information or certain items, for example, research results or an instrument, constitute a dual-use item, the information or the item must be “classified” in accordance with rules and regulations in force. A person who wishes to export an item must, together with the coordinator of export control, classify that item, see section 5.4.2 below.

#### 4.2.3.1 Exemptions

In Swedish, European and international rules and regulations, there are a number of exemptions from the rules for export control. The exemptions apply to information that consists of basic research, is generally available and must be specified in patent applications.

An assessment on whether an exemption is applicable is made as part of the preparation of the classification matter and is included in the documentation of that matter. The coordinator of export control assists the department in the above and has a dialogue with ISP when appropriate.

#### 4.2.4 Military equipment

Military equipment is defined as weapons, ammunition and other materials that are intended for, adjusted to or designed for military uses. Materials that are specifically designed for development, production or use of military equipment as well as associated documentation and software, for example, drawings, instructions, etc., are also considered military equipment.

*“Activities involving provision of military equipment, military equipment inventions and methods for producing such materials, and activities involving provision of technical assistance to someone in a foreign country, may not be undertaken in Sweden without authorisation.”<sup>9</sup>*

Thus, to be in possession of military equipment does not require export authorisation. On the other hand, an authorisation is required for import of materials subject to the Arms Act<sup>10</sup> and the Act on Flammable and Explosive Products<sup>11</sup>. The classification of military equipment is found in the annex to the Military Equipment Ordinance (1992:1303) (Förordning (1992:1303) om krigsmateriel).

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<sup>9</sup> The Military Equipment Act (1992:1300), section 4 (Swe: §4 Lag (1992:1300) om krigsmateriel).

<sup>10</sup> [The Arms Act 1996:67 \(Vapenlag \(1996:67\)\)](#), in Swedish).

<sup>11</sup> The Act on Flammable and Explosive Products 2010:1011 (Lag (2010:1011) om brandfarliga och explosiva varor, in Swedish).

## 4.3 The export control process



The document *Working practices for export control* specifies practices, roles and the decision-making procedure within the export control process.

### 4.3.1 Identify exports

The process is initiated by the exporter having identified a need or a request for exporting a product or a service. The exporter must therefore contact the coordinator of export control as soon as possible to initiate a classification process with the aim to assess whether the export must be notified to ISP and whether an export authorisation is required.

### 4.3.2 Classification and risk assessment

The exporter must classify and assess possible risks of the impending export in consultation with the coordinator of export control. The exporter is responsible for preparing documentation in the form of a classification and risk assessment report, with support from the coordinator of export control. The report is to result in an assessment of whether it is necessary to submit a notification or to apply for export authorisation.

The coordinator of export control may, in his role as contact person at the University and if necessary, contact ISP or the Swedish Radiation Safety Authority for advice about the classification.

### 4.3.3 Decide whether authorisation is required

The classification and risk report, together with an end-user statement, if any, forms the basis for the decision by the head of department regarding an export notification or an application for export authorisation to be sent to ISP, or a statement that such measures are not required.

It should thus be noted that “free classifications”, i.e., exports that do not involve dual-use items or military equipment, must also be established in a decision. Upon free classifications, the export may be carried out without further measures.

The management of documents and matters, including registration in Platina of reports, decisions, applications and other documents, is the responsibility of the department involved.



#### 4.3.4 Apply for authorisation or other measures

If the classification indicates that the export concerns dual-use items or military equipment, the University must apply for an export authorisation, notify ISP about the export and take other measures as required, for example, to draw up necessary agreements. When products and services are subject to American export control, American rules, regulations and conditions must be given special consideration before re-export can be carried out.

The exporter is responsible for preparing the application for authorisation and for it to be signed by the head of department. The same applies to other necessary documents.

For all kinds of collaboration and contract research, or equivalent, involving dual-use items or military equipment, the Legal Office must be contacted for advice and support as well as for drawing up necessary agreements.

#### 4.3.5 Carry out exports

The coordinator of export control is to decide which mode of delivery to use to secure that the authorisation requirements are fully implemented. Thereafter, the exporter hands over the item to the Mail and Goods unit. The coordinator of export control must ensure that the invoice and attached transport documents are marked in the required manner.

## 5. Registration, documentation and confidentiality

Export control matters must be registered in Platina and archived in accordance with the document management plan in force at any time.

Registration of documents are carried out in accordance with *Guidelines for handling matters at Luleå University of Technology (Swe: Riktlinjer för ärendehantering vid Luleå tekniska universitet)*. Management of documents and matters including registration of reports, decisions, applications and other documentation is the responsibility of the administrative officer involved, either at a department or at Professional Services, depending on the nature of the matter.

Note that export control matters may involve confidentiality and confidential information. Caution is required. The Information Management function assists in questions regarding document management plans, registration and archiving.

## 6. Dissemination of information

With support from the coordinator of export control, the security manager is to monitor the development of the area and provide the organisation with support and training material regarding dual-use items and export control.

The head of department must ensure that staff, contractors and other persons participating in the department activities are given training and have the level of competence in export control necessary for their work/activities. The same applies for the head of Professional Services regarding the staff, contractors and other persons participating in the activities at Professional Services.

The coordinator of export control is to disseminate information, improvement activities and news. Knowledge- and awareness-raising measures include, among others, digital notifications on the staff web, newsletters, training courses and information meetings.

## 7. Physical security and information security

Items subject to export restrictions, both physical items and information, must be protected by appropriate, efficient and proportional security measures to prevent unauthorised access or use.

The head of department must assess and draw up necessary security instructions and implement security measures at the department.

The security manager, the IT security manager and the information security coordinator assist the head of department when necessary. This is to be carried out in accordance with the *Information security policy (Swe: Informationssäkerhetspolicy)* at Luleå University of Technology.

## 8. Purchases and imports

Upon purchases and imports of dual-use items or military equipment, the process *Purchase products and services* must be complied with, in accordance with the *Purchasing policy (Swe: Inköpspolicy)*, *Purchase rules (Swe: Regler för inköp)* and *Guidelines for direct awards (Swe: Riktlinjer för direktupphandling)*. It may be necessary to sign an end-user statement, depending on the classification.

## 9. Reviews and follow-ups

The head of Professional Services must keep the Vice-Chancellor informed about the export controls situation at the University. A declaration on dual-use items sold must be submitted to ISP no later than 31 January each year. The declaration must also be presented to the Vice-Chancellor. Information about possession of certain chemicals must be declared annually, even if they are not to be exported.

When necessary and at least once a year, the security manager must conduct internal controls and evaluate the design and compliance of the present guidelines. The evaluation and

associated supporting documents, if any, must be documented and reported to the head of Professional Services. Possible proposals for amendments to the guidelines must be prepared in accordance with applicable rules for reviews of governing documents. The amendments must be approved by the Vice-Chancellor.

## 10. Reports

According to the Act (2000:1064) concerning Control of Dual-Use Products and of Technical Assistance (Swe: Lag (2000:1064) om kontroll av produkter med dubbla användningsområden och av tekniskt bistånd) and the Ordinance (2008:889) on the Financing of the Operations of the Inspectorate of Strategic Products (Swe: Förordning (2008:889) om finansiering av verksamheten vid Inspektionen för strategiska produkter), the University must annually send in to ISP a declaration regarding

- the activities carried out the past calendar year,
- the activities planned for the coming calendar year,
- the changes of the activities planned for the current calendar year, and
- declare the revenues originating from dual-use items sales.

The security manager is responsible for preparing the report and the declaration. Both the departments and Professional Services must provide supporting documents and necessary information to enable the University to fulfil its reporting obligations.

## 11. Violation or suspicions of infringements of rules and regulations for export control

The rules regarding export control are legally binding and may, if violated, entail sanctions of both civil law and criminal law nature for individuals as well as for the organisation, for example, financial penalty, imprisonment, fees, blacklisting in American lists of alerts (the latter preventing possible research collaboration).

The security manager must be notified about suspicions regarding violation of rules and regulations for export control or shortcomings in the handling of export control matters. The security manager must as soon as possible inform the Vice-Chancellor and the head of Professional Services of such incidents.