



## DEFENCE TRADE CONTROLS GUIDELINE

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<b>Supporting documents, procedures &amp; forms:</b>	<a href="#">Academic Integrity Policy</a> <a href="#">Academic Misconduct (Coursework) Procedures</a> <a href="#">Autonomous Sanctions Procedure</a> <a href="#">Code of Practice – Responsible Conduct of Research</a> <a href="#">Cyber Security Policy</a> <a href="#">International Alliances Policy</a> <a href="#">Research Data Management Policy</a> <a href="#">Research Data Management Guidelines</a> <a href="#">Research Integrity and Conduct Policy: Breaches Concerns and Complaints</a> <a href="#">Research Misconduct and Complaints Management Procedure</a> <a href="#">Risk Management Policy</a> <a href="#">Travelling Overseas with Devices Procedure</a> <a href="#">Workplace Health and Safety Policy</a>		
<b>Relevant Legislation &amp; External Documents:</b>	<a href="#">ARC Research Integrity and Research Misconduct Policy 2021</a> <a href="#">Australia's Foreign Relations (State and Territory Arrangements) Act 2020</a> <a href="#">Autonomous Sanctions Act (2011)</a> <a href="#">Australian Autonomous Sanctions Regulations 2011</a> <a href="#">Biological Control Act 1984</a> <a href="#">Customs Act 1901</a> <a href="#">Customs (Prohibited Exports) Regulations 1958</a> <a href="#">Defence and Strategic Goods List</a> <a href="#">Defence and Strategic Goods List 2021</a> <a href="#">Defence Trade Control Act 2012</a> <a href="#">Defence Trade Controls Amendment Bill 2015</a> <a href="#">Defence Trade Controls Regulations 2013</a> <a href="#">Export Control Act 1982</a> <a href="#">Guidelines to Counter Foreign Interference in the Australian University Sector</a> <a href="#">Independent Review of the Defence Trade Controls Act 2012 (2018)</a>		



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	<a href="#">The Australian Code for Responsible Conduct of Research,2018)</a> <a href="#">Weapons of Mass Destruction (Prevention of Proliferation) Act 1995</a> <a href="#">Weapons of Mass Destruction Regulations 1995</a>
<b>Audience:</b>	Public

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## 1 Introduction/Background

1. The University of Wollongong (the “University”) has an obligation to comply with all Commonwealth legislative controls regarding Research including the Customs Act 1901 and Defence Trade Controls Act 2012 (“DTCA”), as amended from time to time.
2. The DTCA is designed to strengthen Australia’s export controls by regulating the export, supply, publication and brokering of goods, software, technology, materials, equipment or activity as listed on the Defence and Strategic Goods List (“DSGL”) and encourage the export of defence and dual-use goods in a manner that is consistent with Australia’s broad national interests, international obligations and commitments.
3. The purpose of this Guideline is to:
  - 3.1. Outline the principles and procedures that support the University’s commitment to comply with the requirements of the DTCA; and
  - 3.2. Detail the responsibilities of the University, Researchers for compliance with the provisions of the DTCA; and
  - 3.3. Assist Researchers with understanding that the DTCA is a mechanism to provide transparency and regulation for the Department of Foreign Affairs and Trade (“DFAT”) through the permit system and is not in place to prevent research and collaboration.

## 2 Scope

1. This Guideline applies to all University Researchers (as defined below).
2. The penalty provisions in the DTCA apply to individuals and body corporates meaning Researchers, as individuals, could be prosecuted under the DTCA if they do not comply with the stipulated provisions.

## 3 Definitions

Word/Term	Definition (with examples if required)
Brokering	When a person or company arranges, as an agent or intermediary, the supply of certain controlled goods, software or technology between two locations outside of Australia and benefits from arranging the supply in some manner.
DECO	Defence Export Control Office.
DFAT	Department of Foreign Affairs and Trade
DSGL	Defence and Strategic Goods List that specifies the goods, software or technology that is subject to regulation when exported, supplied, brokered or published.
DTCA	Defence Trade Controls Act.
Export	Tangible items sent overseas from Australia by ship, aircraft, post, courier, or as checked-in or hand-held luggage. Exports can be permanent (e.g. for sale to a foreign buyer), or temporary (e.g. for demonstration, exhibition, use at a conference or workshop, repair by the original equipment manufacturer, or for



	competition and sporting activities). This includes items such as diagrams, notes sent by CD, DVD, USB, computer hard drive or paper.
Foreign Arrangement	A foreign arrangement is a written agreement, contract, understanding or undertaking between an Australian State/Territory Entity (including the University) and a foreign entity (foreign governments and agencies, including certain universities), whether or not there are any other parties to the arrangement and whether it is legally binding or not.
Foreign Interference	As described in the Guidelines to Counter Foreign Interference in the Australian University Sector, foreign interference occurs when activities are carried out by, or on behalf of a foreign actor which are coercive, covert, deceptive or corrupting and are contrary to Australia's sovereignty, values and national interests.
Intangible Means	Means of transfer other than physical transfer, such as email, phone, video conferencing, electronic files or presentations.
Person	An individual or an organisation [Section 2C Acts Interpretation Act 1901 (Cwlth)].
Publication	Publication is the act of placing certain Defence and Strategic Goods List (DSGL) technology in the public domain and making it publically available. This includes publishing on the internet, publishing an article in a journal and publication of conference proceedings. Publication controls apply to anyone in 'Australia', and also to Australian citizens, residents or Australian companies outside Australia.
Research	The creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative.
Researcher	For the purposes of this guideline, a Researcher is defined as person who is involved in conducting research under the auspices of UOW. This includes Staff members, occupational trainees, visiting student, visiting fellow, volunteer, industry fellow, honorary and adjunct title holders, Emeritus Professors, professional staff and all students registered for any course at the University who conduct research at or on behalf of the University.
RIO	Research Integrity Officer.
RI&E Unit	Research Integrity and Ethics Unit
Sanctions	As described on the DFAT Sanctions website, Sanctions are measures taken in relation to matters of international concern not involving the use of armed force, including a complete or partial interruption of economic relations. Sanctions impose restrictions on activities that relate to particular countries, themes of conduct, goods and services, or persons and entities.  <a href="https://www.dfat.gov.au/international-relations/security/sanctions/about-sanctions#intro">https://www.dfat.gov.au/international-relations/security/sanctions/about-sanctions#intro</a>



Staff Member	All persons appointed as an academic or professional staff member of the University, whether they hold full-time, part-time, casual, contract or conjoint appointments.
Student	A person registered for a Course at the University including HDR Candidates, postgraduates and undergraduates
Supply	Occurs when technology is provided, or access is provided, from a person in Australia to a person outside of Australia. Supply occurs electronically, including via email, facsimile, uploading to a server, or by providing passwords to access technology stored electronically.
Technology	<p>Specific information necessary for the development, production or use of controlled goods. Technology can take the form of: ‘technical data’, such as blue-prints, plans, diagrams, models, formulae, tables, designs and specifications, manuals and instructions written or recorded on other media or devices, or ‘technical assistance’, such as instructions, skills, training, working knowledge and consulting services that involve the transfer of technology.</p> <p>Technology can also exist in physical goods such as laptops, paper documents and mobile phones.</p>
The University	University of Wollongong.
Visiting Fellow	Honorary and visiting fellows appointed by UOW to non-salaried, full-time or fractional positions titled “Associate Fellow”, “Fellow”, “Senior Fellow”, “Principal Fellow”, “Professorial Fellow”, “Visiting Fellow”, or “Research Fellow” who are not Visiting Students or Volunteers.
Visiting Student	A student who undertakes part of their research or training at UOW but who is not registered at UOW.
Volunteer	A person who is not a Fellow, Visiting Student, Staff Member or Student of UOW but is working on a UOW project in a voluntary capacity. An example of a volunteer is someone who is undertaking unpaid work experience at UOW or is doing an internship at UOW. A collaborating colleague from another University or research institution is not a Volunteer.

## 4 Guiding Principles

1. Any University research activity that contains DSGL technology may not be able to progress without obtaining a permit from the DECO.
2. Researchers should consult the University’s Defence Export Controls website (<https://www.uow.edu.au/research-and-innovation/researcher-support/ethics/dec/>) for information on determining whether a permit is required for their research project. Researchers can contact the University Research Integrity Officer (RIO) to assist with identifying if their work requires a permit.



3. Researchers will be required to provide detailed information including, but not limited to, their proposal document, to the RIO so they have the necessary information on the research project to lodge a permit application on behalf of the Researcher for assessment with the DECO.
4. Permits are issued by the DECO and will specify the names of the recipients of the goods or technology ('authorised recipients') and Researchers must ensure that they only supply to those named in the permit. In the event this needs to be amended they will need to contact the RIO to submit an amendment for processing.
5. Permits may include conditions that impose additional requirements and record keeping. Researchers must read and comply with all permit conditions.
6. Researchers and any person undertaking research with or on behalf of the University must not supply, publish, export or broker DSGL technology unless they have the appropriate authorisation to do so.
7. DECO can provide an in-principle assessment for Researchers which will provide an indication of whether a permit is likely to be granted. This is particularly useful for Researchers applying for grants and/or with projected international collaborative agreements. It is important to note that a successful in-principle assessment is not a guarantee of a permit and cannot be used as a replacement for a permit.
8. Researchers must ensure they comply with other foreign legislation as outlined in [Section 9 - Other Foreign Engagement Obligations](#)

## 5 Export and Supply Principles

1. When considering the export or supply of DSGL technology, the following criteria are to be taken into account in relation to the recipient and/or recipient destination:
  - a. International Obligations: is the country subject to United Nations Security Council Sanctions or a location which may use the technology in a manner contrary to Australia's international commitments or obligations? Researchers should consider the information available on the University's Sanctions website (<https://www.uow.edu.au/research-and-innovation/researcher-support/ethics/sanctions/>)
  - b. Human Rights: is the country likely to commit or facilitate serious human rights abuses?
  - c. Regional Security: is there a threat to international or regional peace and security or could the export/supply aggravate the situation in a region; could it be used in internal or external conflict or could the technology further militarise the situation in the destination country?
  - d. National Security: does the country compromise Australia's wider security interests or may adversely affect or substantially compromise Australia's military capability? Researchers should consider the information available on the University's Foreign Engagements website (<https://www.uow.edu.au/about/governance/legislation/foreign-engagements/>)
  - e. Foreign Policy: is the country known for or suspected of developing weapons of mass destruction or might propose a risk to global or regional stability?
2. Researchers must complete the appropriate due diligence before exporting or supplying technology (tangibly or intangibly) to a person or destination outside Australia. If the technology is listed on the DSGL then further assessment to determine if a permit is required must be undertaken. If a permit is required then the permit must be obtained prior to export or supply.



## 6 Publishing Principles

1. A permit is required for Publication of DSGL technology included in Part 1 of the DSGL, which includes all goods, software and technology designed or that can be adapted for military purposes (as opposed to items with both military and non-military applications). The policy rationale underpinning this requirement is that, once published in the public domain, it is not possible to control or regulate access to technology. Pay to view is not considered restricting access.
2. No approval is required for publication of dual-use technology, specified in Part 2 of the DSGL, however the Minister for Defence retains the ability to prohibit publication in certain circumstances. Further, even where a permit is not required for the Publication itself, Researchers need to be mindful that actions taken prior to the publishing of research (e.g. sharing of DSGL technology with international collaborators) may require a permit.
3. Researchers should refer to the Research Data Management Policy for further information on data security, classifications and publishing of data.

## 7 Breaches

1. All Researchers are required to immediately report any suspected or actual breaches of the DCTA to the RIO who will investigate the matter and notify the DECO. The RIO will liaise with the DECO to identify the requirements to rectify the breach and regain compliance.
2. Breaches of this guideline by researchers constitute non-compliance with the University's Code of Practice – Responsible Conduct of Research and will be dealt with in accordance with the University's Research Integrity and Conduct Policy: Breaches, Concerns and Complaints.

## 8 Record Keeping

1. Researchers must maintain records of any supplies under a permit for a period of five (5) years from the date of project completion, unless otherwise specified on the applicable permit. These may need to be produced to or be inspected by the Department of Defence on written notice.
2. Researchers must record the following information:
  - a. A description of the DSGL technology supplied under the permit;
  - b. The permit number under which the DSGL technology has been supplied;
  - c. The name of any person the DSGL technology was supplied to;
  - d. The date(s) of supply or period(s) of time during which the DSGL technology was supplied; and
  - e. Any additional record keeping requirements that may be detailed in a permit.
3. Records relate only to the actual supplies of DSGL technology and not the associated communication which may relate to the supply but does not actually constitute supply itself.
4. The RI&E Unit maintains a central register to track approved permits and approvals.
5. In the case where it is deemed a permit is not required, it is recommended that Researchers keep a record of their due diligence with the project file and also provide a copy to the RI&E Unit.



## 9 Other Foreign Engagement Obligations

1. Researchers should also consider whether the activity proposed involves a Foreign Arrangement which must be notified to the Minister of Foreign Affairs, in accordance with the Australia's Foreign Relations (State and Territory Arrangements) Act 2020. Such notifications are coordinated by the Global Strategy Division, and are required both at the stage of negotiating a Foreign Arrangement and when finalised.
2. Researchers should also give due consideration to the risk of Foreign Interference in relation to the proposed activity, and how any such risks can be managed, in accordance with the University's Risk Management Policy.
3. Further information is available on the University's Foreign Engagements website (<https://www.uow.edu.au/about/governance/legislation/foreign-engagements/>).
4. Researchers should consider whether they will be exporting or supplying to an individual or organisation located in or from a country that is subject to UN Security Council or Australian Autonomous Sanctions and determine whether a sanctions permit may be required. Further information is available on the University's Sanctions website (<https://www.uow.edu.au/research-and-innovation/researcher-support/ethics/sanctions/>)

## 10 Roles & Responsibilities

1. The University has a responsibility to:
  - a. Maintain and promote this guideline;
  - b. Provide Researchers with training and awareness of the guideline and their responsibilities; and
  - c. Monitoring for compliance as required to address risks of non-compliance.
2. Researchers have a responsibility to:
  - a. Comply with this guideline and all applicable legislation and regulations;
  - b. Familiarise themselves with DECO requirements and how to seek further guidance if needed, including through accessing available training;
  - c. Maintain records of due diligence and activity related to their permit or details of an assessment deeming a permit is not required as outlined in Section 8 - [Record Keeping](#)
  - d. Ensure they are compliant with the requirements of the DTCA including obtaining any necessary permits and approvals; and
  - e. Understand that compliance is mandatory and an integral aspect of their role under the University's Code of Practice – Responsible Conduct of Research. It is not an optional process and the primary responsibility for compliance rests with the individual Researcher. This is especially important if a Researcher is knowingly working with DSGL goods, software or technology.
3. The Research Integrity Officer is responsible for:
  - a. Acting as the single point of contact for communications between the DECO and University Researchers;
  - b. The provision of informed advice to Researchers on all legislation and procedural obligations pertaining to this guideline;



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- c. The provision of administrative support for DEC permit applications and applications for in-principle assessments;
- d. Maintaining consistent and timely advice on the University's Defence Export Controls website (<https://www.uow.edu.au/research-and-innovation/researcher-support/ethics/dec/>)
- e. The development and provision of training programs to create awareness of the guideline, responsibilities and DECO requirements to Researchers;
- f. Reporting breaches of this guideline as per the Research Integrity and Conduct: Breaches, Concerns and Complaints policy; and
- g. Monitoring for compliance as required to address risks of non-compliance.
- h. Maintaining a record of Researcher due diligence in RI&E Unit files when determining a permit or in-principle assessment is not required; and
- i. Undertaking reporting requirements as required by the University and the DECO.



## 11 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	20 September 2017	Deputy Vice-Chancellor (Research & Innovation)	New document developed as a requirement to the need to comply with the Defence Trade Controls Act as applicable to University Institutions from April 2016.
2	14 December 2021	Deputy Vice-Chancellor (Research & Innovation)	Updated to refer to the Australia's Foreign Relations (State and Territory Arrangements) Act 2020 and the Guidelines to Counter Foreign Interference in the Australian University Sector, which may also be applicable to research activities subject to the DTCA.
3	9 May 2023	Deputy Vice-Chancellor (Research & Innovation)	Comprehensive review to ensure ongoing compliance with the Defence Trade Controls Act 2012, to align with current practice, and to provide clarity around procedures and responsibilities.