



March 21, 2022

Office of Defense Trade Controls Policy  
U.S. Department of State  
Washington, D.C.

Via e-mail: [DDTCPublicComments@state.gov](mailto:DDTCPublicComments@state.gov)

RE: RIN 1400-AF39 – *International Traffic in Arms Regulations: Corrections and Clarifications for Export and Reexport; Canadian Exemptions; Exemptions Regarding Intra-Company, Intra-Organization, and Intra-Governmental Transfers to Employees Who Are Dual Nationals or Third-Country Nationals; and Voluntary Disclosures*

Dear Under Secretary Jenkins:

The Association of University Export Control Officers (AUECO) respectfully submits this letter in response to the call for comments on the U.S. Department of State, Directorate of Defense Trade Controls (DDTC), for the proposed Rule mentioned above (RIN 1400-AF39, 87 FR 5759, 02/02/2022).

AUECO was formed in 2008 with 17 individuals representing 17 institutions of higher education, but it has since grown to include membership of over 415 export control professionals with compliance responsibilities at 239 institutions of higher education within the United States. AUECO is committed to monitoring guidance and changes in the administration of export control laws and regulations that may affect the unique nature of higher education and academia.

AUECO writes to express full support of the aforementioned rule, which harmonizes and clarifies language in the ITAR, and in particular the proposal to revise the definitions of export (ITAR § 120.17) and reexport (ITAR § 120.19). Per the rule, these revised definitions are meant to clarify that any release of technical data to a foreign person described within the respective definitions is a release *only* to any countries in which that foreign person *currently* holds citizenship or permanent residency. We are in full support with the proposal's suggestion that a foreign person's *former or past* citizenship or permanent residency status in a country should not be deemed to automatically result in an export or reexport to that country.

Our support is broadly three-fold. First, AUECO supports this rule in that it better harmonizes the ITAR with the Department of Commerce's Export Administration Regulations (EAR), moreover, it better harmonizes internally with policies and guidance in ITAR §126.18. The EAR defines "export" per 15 CFR §734.13(b) as a "Any release in the United States of "technology" or source code to a foreign person is a deemed export to the foreign person's most recent country of citizenship or permanent residency." Thus, the proposed revision to the ITAR's definitions of "export" and "reexport" harmonizes the use of these terms with the EAR's definition on the matter of a foreign person's previous citizenship or permanent residency. We believe this is beneficial on all accounts, particularly in the realm of educating and training our researchers, colleagues, and faculty on U.S. export regulations. Where there once was a differentiation on this matter between the EAR and ITAR, after this proposed change there no longer will be.



Second, AUECO believes that the proposed changes make it simpler and more efficient for universities to remain compliant with the regulations. University admissions and human resource departments all run at different capacities, due to the sheer size of a university's student, staff, and/or faculty populations. Due to the amount of individuals university export control officials have to oversee regarding export compliance, ensuring that we would only require visibility of a foreign person's current or most recent country of citizenship or permanent residence simplifies our compliance needs. It is not always simple or efficient or possible, especially at large universities, to maintain detailed records of a foreign persons' *past* citizenships or permanent residencies. For instance, we may only be able to rely on a foreign person's word as they may have no concrete record of their past residencies. Allowing for the current or most recent citizenship or residency of a foreign person to be solely relevant for matters of export control simplifies our processes, helps to alleviate our concerns for possible missing or hard-to-find information on students or employees, and ensures an easier route toward compliance.

Third, AUECO believes that this proposed change will further the opportunities for foreign persons to participate in ITAR-controlled research, a justification that is also attested within the language of the rule itself. It is in the best interest of the United States for American universities to be as internationally diverse, engaged, and competitive as possible. In the areas most likely to be affected by the ITAR, e.g. science, technology and engineering, there are a large percentage of foreign national students, faculty, and researchers providing excellent intellectual contributions. These proposed edits are therefore heartily supported in that they better help universities engage foreign nationals in ITAR-adjacent work, as well as better align with the universities' approach to global diversity, equity, and inclusion.

AUECO appreciates the opportunity to provide these comments of support to the Department of State on the proposed ITAR harmonizations and clarifications. We would be glad to provide further comments if it would be helpful.

Respectfully,

Marci Copeland  
Chair  
Association of University Export Control Officers  
<http://aueco.org>