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PROCEDURES FOR STRATEGIC PRODUCTS

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¹ This document has been translated from Swedish into English. If the English version differs from the original, the Swedish version takes precedence.



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1. Description

This procedure describes roles and responsibilities and the manner in which the University's organisation is to work with non-proliferation and export controls on military equipment and dual-use products (hereafter referred to jointly as "strategic products").

While the procedure mainly affects researchers and administrative staff who may be involved in the export of products or technology regulated by export control legislation, it is also of relevance to managers who may be required to have knowledge of and take responsibility for compliance with the legislation.

2. Background

The ultimate purpose of legislation on strategic products is to protect the security and foreign policy interests of Sweden and the European Union. This procedure is intended to ensure that Umeå University handles strategic products in accordance with applicable laws, ordinances and conventions:

- Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items
- The Swedish Act (SFS 2000:1064) concerning Control of Dual-Use Products and of Technical Assistance
- The Swedish Ordinance (SFS 2000:1217) concerning Control of Dual-Use Products and of Technical Assistance
- The Swedish Military Equipment Act (SFS 1992:1300)
- The Swedish Military Equipment Ordinance (SFS 1992:1303)

World-class research is conducted at Umeå University. Some of this research may result in products or technologies that are classified as military equipment or dual-use products, also known as *strategic products*. It is therefore vital that the University ensures compliance with export control rules concerning such products.

There are actors who invite universities to participate in research collaborations, conferences or informal exchanges of results with the sole purpose of gaining access to strategic products. It is therefore important that the University is alert to the warning signs (Appendix 1) and does not unwittingly breach statutory requirements. Dual-use products have established civilian functions, meaning that the risk of misuse is not always obvious.

As the purpose of this procedure is to ensure the University's compliance with statutory requirements concerning military equipment and dual-use products, it has not been deemed necessary to integrate work environment, sustainability, internationalisation, collaboration, gender-equality or accessibility perspectives, other than the potential impact of legislation on internationalisation and collaboration.



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3. Definitions

Dual-use product

The term dual-use product refers to products with an established civilian function that can also be used for military purposes. These include software and technology with potential applications in the design, development, production or use of nuclear, chemical or biological weapons (weapons of mass destruction) or the means for delivering such weapons.^{2 3} This includes all products that can be used for nonexplosive purposes and to in some way contribute to the manufacture of nuclear weapons or other nuclear charges.

Dual-use products are classified in ten categories, each with five subgroups. See Table 1. The table also shows the control regimes for products. A complete list of products covered by the legislation can be found in Annex I to Regulation (EU) 2021/821. Each product on the list has an export control classification number (ECCN).⁴ Each ECCN describes the category to which the product belongs and the reason (control regime) it is controlled. The first digit of the ECCN shows the category, the second the function (the subgroups in Table 1) and the third the control regime (regulations) for export.

See Table 1: Categories and subgroups of dual-use products

Categories	Subgroups	Regime
0. Nuclear materials, facilities and equipment	A. Systems, equipment and components	0. Wassenaar Arrangement (WA) and Nuclear Supplier Group (NSG)
1. Special materials and related equipment	B. Test, inspection and production equipment	1. Missile Technology Control Regime (MTCR)
2. Materials processing	C. Materials	2. Nuclear technology
3. Electronics	D. Software	3. Australia Group
4. Computers	E. Technology	4. Chemical Weapons Convention
5. Telecommunications and "information security"		5. Additional Member State controls
6. Sensors and lasers		
7. Navigation and avionics		
8. Marine		
9. Aerospace and propulsion		

Technical assistance

Regulation (EU) 2021/821 defines the term technical assistance as "any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including by electronic means as well as by telephone or any other verbal forms of assistance".

² Technology also includes technical assistance and information such as drawings, plans, diagrams, models, formulas, tables, manuals and instructions.

³ Technology resulting from basic research or that is already "generally available", or technology that constitutes a minimum of necessary information for a patent application is however generally exempt from export control declaration.

⁴ Example ECCNs: 1C350 is the code for chemicals that can potentially be used as precursors for toxic chemical agents. The number 1 shows that the product is in the category "special materials and related equipment", the letter C that the product is in the subgroup "materials" and the first number in 350 (3) that it is regulated by the export control forum the Australia Group. The final two numbers (50) are a serial number.



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Military equipment

The Inspectorate of Strategic Products (ISP) defines military equipment as “equipment designed for military use” and technical assistance as “technical support concerning military equipment”. Legislation on military equipment is generally aimed at products and technology that are specifically adapted to military use. Research into the proliferation and the detection of chemical weapons or radiation from nuclear weapons may be classified as technical assistance for military applications and may therefore require an export license. This also applies to research into military equipment.

Strategic products

The term *strategic products* refers to dual-use products, technical assistance and military equipment. It is a collective term.

Export (transfer)

Regulation (EU) 2021/821 defines export as:

- an export procedure within the meaning of Article 269 of the Union Customs Code;⁵
- a re-export within the meaning of Article 270 of the Union Customs Code;
- an outward processing procedure within the meaning of Article 259 of the Union Customs Code; or
- transmission of software or technology by electronic media, including by fax, telephone, electronic mail or any other electronic means to a destination outside the customs territory of the Union; it includes making available in an electronic form such software and technology to natural or legal persons or to partnerships outside the customs territory of the Union; it also includes the oral transmission of technology when the technology is described over a voice transmission medium.

Exporter

Regulation (EU) 2021/821 defines an exporter as:

- a. any natural or legal person or any partnership that, at the time when the export declaration or the re-export declaration or an exit summary declaration is accepted, holds the contract with the consignee in the third country and has the power to determine the sending of the items out of the customs territory of the Union; where no export contract has been concluded or if the holder of the contract does not act on its own behalf, exporter means the person who has the power to determine the sending of the items out of the customs territory of the Union;
- b. any natural or legal person or any partnership that decides to transmit software or technology by electronic media, including by fax, telephone, electronic mail or by any other electronic means to a destination outside the customs territory of the Union or to make available in an electronic form such software and technology to natural or legal persons or to partnerships outside the customs territory of the Union. Where the benefit of a right to dispose of the dual-use item belongs to a person resident or established outside the customs territory of the Union pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party resident or established in the customs territory of the Union; or

⁵ <https://eur-lex.europa.eu/legal-content/SV/TXT/HTML/?uri=CELEX:02013R0952-20200101&from=EN>



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- c. where point (a) or (b) is not applicable, any natural person carrying the dual-use items to be exported where these dual-use items are contained in the person's personal baggage within the meaning of point (a) of Article 1(19) of Commission Delegated Regulation (EU) 2015/2446.⁶

Export authorisation

The term export authorisation refers to the necessary authorisation to export the dual-use products listed in Annex I to Regulation (EU) 2021/821. Even products not listed in Annex I may require export authorisation, cf. Articles 4, 5, 9 and 10 of Regulation (EU) 2021/821. Double-use products not listed in Annex I to Regulation (EU) 2021/821 may also require export authorisation if the product is destined for a military end user, for example, if the design or processing of the product is intended to facilitate its military use. Export authorisation applications are submitted to the Inspectorate of Strategic Products (ISP), with the exception of category O products (nuclear materials, facilities and equipment), authorisation for which is issued by the Swedish Radiation Safety Authority.

There are various types of export authorisation

- **Individual export authorisation:** an authorisation granted to one specific exporter for one end-user or consignee in a third country and covering one or more dual-use items.
- **Global export authorisation:** an authorisation granted to one specific exporter in respect of a type or category of dual-use items which may be valid for exports to one or more specified end-users and/or in one or more specified third countries.
- **Large project authorisation:** an individual export authorisation or a global export authorisation granted to one specific exporter, in respect of a type or category of dual-use items which may be valid for exports to one or more specified end-users in one or more specified third countries for the purpose of a specified large-scale project.
- **Union general export authorisation:** an export authorisation for exports to certain countries of destination that is available to all exporters who respect the conditions and requirements listed in Sections A to H of Annex II to Regulation (EU) 2021/821.
- **National general export authorisation:** an export authorisation defined by national legislation in accordance with Article 12(6) and Section C of Annex III to Regulation (EU) 2021/821.

Sanctions

The term *sanctions* refers to various coercive measures used to ensure peace and security and to promote democracy and human rights.⁷ While sanctions are not part of the regulatory framework for strategic products, they may be imposed in response to collaboration with or exports to certain countries that are subject to sanctions. Special rules may apply to exports of strategic projects to sanctioned countries. Examples of sanctions include weapons embargoes⁸, the prohibition of the export of products that may be used for domestic repression, economic sanctions and the prohibition of or licensing requirements for the export or import of certain goods and technologies. Sanctions that apply to Sweden are decided by the United Nations, the European Union or the Organization for Security and Co-operation in Europe (OSCE) in order to ensure peace and security and promote democracy. Restrictions and sanctions may also be imposed against

⁶ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

⁷ <https://www.regeringen.se/regeringens-politik/utrikes-och-sakerhetspolitik/sanktioner/>

⁸ When a given country is subject to a weapon embargo, a general export authorisation is not valid.



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individuals and companies. The United States has its own sanctions that researchers should be aware of and understand the implications of before entering into collaboration with US companies or higher education institutions.

4. Roles and responsibilities

The Vice-Chancellor bears the ultimate responsibility for ensuring that the University complies with statutory requirements for dual-use products.

Deans have faculty-wide responsibility for strategic products within their faculty. Deans may appoint a coordinator for strategic products should they feel that the need exists in the faculty, see below.

Heads of department or directors are responsible for ensuring compliance with statutory requirements concerning strategic products and that staff have adequate knowledge in this regard. Heads of department or directors are also responsible for ensuring that the requisite authorisations are obtained and that the Building Office is informed that a strategic product is to be transferred within the EU or exported to a third country. Heads of department may appoint a coordinator for strategic products should they feel that the need exists in the department, see below.

The function that has been delegated responsibility in writing for precautions and applying for export authorisation from the Inspectorate of Strategic Products (ISP) or Swedish Radiation Safety Authority and ensuring that authorisation is obtained, such as a research group leader. This function is responsible for identifying and classifying strategic products pursuant to Regulation (EU) 2021/821 and that any contracts involving the export or import of strategic products comply with statutory requirements. The function is also responsible for informing the Building Office that authorisation has been granted and for submitting annual declaration information to the Building Office. This function is also responsible for ensuring that any customs declarations are correctly completed, including the export license number.

A coordinator for strategic products may be appointed at a faculty or department if the need arises. This function provides support to the function with delegated responsibility for strategic products. The person appointed to this position should have knowledge of both the administration of strategic products and export controls, as well as of the specific research projects being conducted at the department or faculty.

Staff who participate in projects involving strategic products must observe and comply with applicable legislation and regulation.

The Building Office is responsible for coordinating and developing the University's work on these issues. The Building Office develops and drafts governance and support documentation and, together with the Radiation Safety Expert, is the University's point of contact for licensing and supervisory authorities. The Building Office prepares and submits the annual export control declaration to ISP. The function also ensures that the relevant training is provided to research group leaders and/or any other support functions that may need it.



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The University's legal officers support the organisation on matters related to agreements to import or export strategic products.

Chemical, biosafety and radiation safety experts can provide specialist knowledge for identifying and classifying strategic products in their respective fields.

5. Procedures

Compliance with legislation concerning strategic products may be an issue in various contexts:

- In research or collaborative projects with foreign partners.
- When entering into an agreement with a foreign party.
- When employees who handle strategic products participate in international conferences or other contexts in which representatives of foreign states participate.
- When research data containing information about strategic products is shared, via a cloud service for example.
- When used equipment, surplus products, chemicals, biological agents, etc. are sold or donated (transferred) to foreign universities.
- When advanced instruments or chemicals are taken on expeditions.
- Handling strategic products in situations that present a risk for dissemination to foreign contacts.

The following measures must be taken by relevant organisations to ensure that the University complies with statutory requirements associated with strategic products:

1. The function with delegated responsibility for a research project involving strategic products must ensure that staff and students working on the project are aware of relevant statutory requirements and how these apply to the project.
2. The Building Office is responsible for ensuring that relevant information is available.
3. At the start of a research project involving a foreign party, or in which information or products will be transferred to a foreign party, the function with delegated responsibility for the project must assess whether the project or its materials include strategic products. At the start of a research project, the function with delegated responsibility must also assess whether information or products used in the project may be subject to sanctions or embargo.
4. At the start of a research project involving a foreign party, or in which information or products will be transferred to a foreign party, the function with delegated responsibility for a project in which strategic products are handled must also assess whether export authorisation is required. If export authorisation is required, this requirement must be included in the terms and conditions of the collaboration agreement. In cases where the University exports, transfers or participates in the transit of strategic products, the appropriate export authorisation or transit license must be applied for from ISP or the Swedish Radiation Safety Authority (SSM). The transfer or export of products subject to export control is not permitted without authorisation from the responsible government agency and all necessary measures being taken to ensure that the terms of authorisation are met in full. If a product or technology that is intended for export may be subject to export control, the head of department and the Building



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Office must be informed. If authorisation is required, this must be sought from the ISP or SSM. Irrespective of whether the strategic product is to be transferred within the EU or exported to a third country, the function with delegated authority for the research project must inform the recipient that the exported product is classified as a strategic product. The function with delegated responsibility for a research project must also declare the transfer to customs no later than 48 hours before the export is to take place.

5. The function with delegated responsibility for a research project in which it is intended to conduct research into material for military use or to collaborate with a military organisation, such as the Swedish Defence Materiel Administration (FMV) or Swedish Defence Research Agency (FOI), must inform the head of department or equivalent and the Building Office. Please note that no agreement concerning military equipment may be entered into with a foreign party without permission from the ISP.
6. If a researcher or organisation plans to participate in an expedition involving strategic products outside the EU (including international waters, the Antarctic or the Arctic outside the EU/EEA), the function with delegated responsibility for the research project must invite any coordinator at the faculty or department, the University's chemical, biosafety and/or radiation safety expert(s) and the Building Office to a planning meeting. The purpose of such a meeting is to provide information about export controls and to ensure that no unauthorised exports take place.
7. When appointing foreign staff or entering into collaborations with foreign parties, background checks⁹ must be performed by the recruiting manager, or the function appointed by them, to assess whether the appointment or collaboration is within the fields of nuclear technology, missile development or the development of biological or chemical weapons, or whether the foreign appointee or collaborator is from a country or institution suspected of participating in the development of weapons of mass destruction.
8. When procuring products subject to US export controls, US regulations for re-export must be given special consideration.
9. Should any deviation from this procedure come to light, the Building Office is to inform the relevant supervisory authority on the University's behalf and the necessary measures must be implemented. Deviations are to be reported in accordance with the University's *Procedures for reporting between different organisational levels*.
10. The function with delegated responsibility for a project involving strategic products must ensure that all documents related to strategic products created within the project are processed in accordance with the University's retention and deletion plan. In cases involving export control, a copy of all export authorisation decisions must be sent to the Building Office. In cases where it is determined at an early stage that there is no requirement for export authorisation, simplified documentation of the case may be adequate. Simplified documentation can mean archiving emails together with the documents on which a decision was based.

⁹ The background checks must gather information relevant to the appointment/assignment, such as certificates, but may also consider information obtained from registry checks or during security assessment interviews. Personal references may also be obtained.



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11. The University must declare the financial value (even if it is SEK 0) of exported strategic products no later than 31 January each year. This declaration is submitted to ISP pursuant to Sections 12 and 13 of the Act concerning Control of Dual-Use Products and of Technical Assistance and Section 19 of the Military Equipment Act. The declaration is prepared and submitted by the Building Office with the assistance of the relevant organisational units. This may mean that the Building Office will request supplementary information about certain products that the University has a duty to declare.



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Appendix 1 Warning signs

It is crucial to remain alert to suspicions that a request to participate in an activity may risk proliferating weapons of mass destruction, the delivery systems for such weapons, or lead to the destabilising accumulation of conventional weapons. This also applies to additional Member State controls of dual-use products that are not listed in Annex I to Regulation (EU) 2021/821, but that may have a negative impact on the general security situation or human rights.

Everyone who conducts research that generates results and products that may have dual use must be alert to any warning signs, especially when asked to deliver items or technical assistance to or submit joint grant applications with previously unknown parties. Listed here are some of the warning signs that should lead you to proceed with caution. For further information about warning signs, see Commission Recommendation (EU) 2021/1700.¹⁰

- Individuals, higher education institutions or companies with uncertain identities and no clear, traceable references are part of the collaboration.
- Visiting research fellows are keen to participate in a project but can offer no explanation of the intended results of the collaboration or the ultimate use of the acquired technology and/or products.
- The partner has little or no previous record of collaboration with higher education institutions, companies or government agencies.
- The collaborators include individuals who work in the military sector or have known business contacts with the weapon industry or nuclear power plants.
- Potential partners claim that the project is basic research, even though this does not appear to be the case.
- Strikingly advantageous terms of payment such as excessive fees or cash payments in advance.
- Requests for the strictest confidentiality regarding the details of services or the contract.
- A visiting professor or postdoctoral fellow visits a research group but appears to have limited knowledge of the research group's project yet is extremely keen to learn about methods or gain access to specific materials or software.

¹⁰ <https://eur-lex.europa.eu/legal-content/SV/TEXT/PDF/?uri=CELEX:32021H1700&qid=1632396856481&from=EN.S.338.2021-09-30>.