

International Regulations Policy and Guidance

Policy Category:	General
Subject:	International Regulations (Export Controls, National Security, Sanctions, Extraterritorial Controls)
Approving Authority:	University Executive
Responsible Officer:	Senior Vice-President (Operations)
Responsible Office:	Research Governance, Ethics and Integrity (International Regulations Office)
Related Procedures:	
Related College Policies:	Health & safety policy statement Travel policy Risk management policy Financial Regulations Policy and Procedures on External Funding & Collaboration Policy and Procedures on Consultancy, Fee for Service, Non-Standard Teaching Programmes and Outside Work Policy & Procedures on Administration of Research Grants and Contracts Disclosure of Interest Policy and Procedure
Effective Date:	9 February 2023
Supersedes:	New
Next Review:	February 2026

1. **Purpose & Scope**

- 1.1. The purpose of this policy is to set the College's approach to compliance with regulations related to export controls and national security in carrying out research and other activities with international aspects or in partnership with entities outside the UK.
- 1.2. This policy and guidance applies to all King's staff, researchers, students, emeritus, adjunct and visiting staff, legal entities and commercialisation entities in which King's personnel hold directorships.
- 1.3. The College is required to ensure that its employees and students are compliant with the Export Control Order 2008, the National Security and Investment Act 2021 and sanctions.
- 1.4. There are very heavy civil and criminal penalties that may be applied for violation of these regulations, even when such violations might be unintentional. The cost in terms of management time and legal fees arising from non-compliance issues can be considerable, even if the underlying engagement is relatively non-contentious.
- 1.5. Penalties for non-compliance can be imposed on individuals as well as organisations.
- 1.6. International regulations affect a wide range of activities where King's staff, students or affiliates might engage internationally, including but not limited to:
 - Funded research
 - Consultancy
 - Unfunded research collaborations
 - Licensing
 - Exchanges of material

- Attendance at conferences/symposia
- Some teaching activity
- Student/staff exchanges and placements
- Academic publications

1.7. International regulations may also apply to UK organisations where the UK entity has an overseas affiliate, subsidiary or parent.

2. **Definitions**

Export	<p>In the context of export controls, export can be broadly defined by the list below, though this is not an exhaustive list:</p> <ul style="list-style-type: none"> • Any Shipment, transfer or release of items or information (technology/technical data) from a UK entity or UK person to another country • Accessing technology posted on a UK server from abroad • Shipment of controlled goods in transit through the UK • Trafficking and brokering of military goods outside the UK • Provision of technical assistance outside the UK • Categories of items that may be controlled include hardware, software, technology and technical data, electronic data, telephone calls and data shared on business communications platforms (e.g., Teams, Zoom, Skype, Webex etc)
Export Control Order 2008	<p>https://www.legislation.gov.uk/uksi/2008/3231/contents/made</p> <p>Establishes the legal framework for the application of export controls in the UK, administrative procedures, licensing, offences, enforcement and penalties. Penalties can be assessed on both a civil and criminal basis against both corporate entities and individual persons. There are very heavy penalties for wilful, reckless or negligent non-compliance</p>
National Security and Investment Act 2021 or NSAI	<p>https://www.legislation.gov.uk/ukpga/2021/25/contents/enacted</p> <p>Establishes the legal framework for controls of the acquisition of UK entities operating in sectors that are sensitive from a national security perspective and regulation of technology collaboration</p>
Export Administration Regulations or EAR	<p>Export Administration Regulations (U.S. Department of Commerce)</p> <p>https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear</p>
International Traffic in Arms Regulations or ITAR	<p>International Traffic in Arms Regulations (U.S. Department of State)</p> <p>https://www.pmdtdc.state.gov/ddtc_public</p>
ECJU	<p>Export Control Joint Unit (part of the UK Department for International Trade)</p> <p>https://www.gov.uk/government/organisations/export-control-joint-unit</p>
RCAT	<p>Research Collaboration Advice Team (part of the UK Department for Business, Energy and Industrial Strategy)</p>

3. Policy

3.1 UK Export Controls (Export Control Order 2008 as amended)

- 3.1.1. UK strategic export controls apply to goods, software and technology appearing on control lists, when there are concerns about end-use and/or when destinations are subject to sanctions or other restrictions. They are designed to restrict the export and release of sensitive technology or strategic goods, with the aim of preventing weapons of mass destruction (WMD) proliferation and to counter international threats such as terrorism.
- 3.1.2. The [UK Strategic Export Control Lists](#) form the basis of determining whether any products, software or technology that anyone intends to export are ‘controlled’ and therefore require an export licence. A “catch all” clause also applies to any goods, whether or not specifically listed, where the exporter either individually or institutionally has knowledge, or reason to suspect, that the technology being developed is for use in a WMD application.
- 3.1.3. An application for an export licence could be denied and the process for government review in sensitive cases may take an indeterminate period of time for a decision to be issued.
- 3.1.4. Applied research in certain fields is deemed by the government to be particularly high risk with potential to be misused for military purposes. These areas are usually in the science, technology, engineering and mathematics (STEM) subjects. They include aeronautical and space technology, applied chemistry, biochemistry and chemical engineering, applied physics, biotechnology, electrical and mechanical engineering, instrumentation and sensors, materials technology, nuclear technologies, production and process technology, telecommunications and information technology.
- 3.1.5. King’s will not engage in any collaboration or strategic partnership prior to formally assessing whether an export licence is required, and if necessary, after an export licence has been obtained. Anyone planning to collaborate with overseas partners/funders undertaking research, teaching or any other activity under the auspices of King’s, in any of the high-risk fields noted in 3.1.4, must explore whether an export licence is needed as early as possible in the development of their plans. Further details about how the UK’s strategic export controls apply to academics, university researchers and their institutions, and when an export licence is needed are available [here](#). For further advice within King’s, please contact the [International Regulations Office](#).

3.2. National Security and Investment Act 2021 (NSIA)

- 3.2.1. The NSIA empowers the UK Government to scrutinise and intervene in certain acquisitions made by anyone, including businesses and investors, which could harm the UK’s national security. Subject to certain criteria, organisations are legally required to inform the government about acquisitions of certain entities or assets in 17 sensitive areas of the economy (called ‘notifiable acquisitions’). The 17, very broadly stated, sensitive areas are:
 - Advanced Materials
 - Advanced Robotics
 - Artificial Intelligence
 - Civil Nuclear
 - Communications
 - Computing Hardware
 - Critical Suppliers to Government

- Cryptographic Authentication
- Data Infrastructure
- Defence
- Energy
- Military and Dual-Use
- Quantum Technologies
- Satellite and Space Technologies
- Suppliers to the Emergency Services
- Synthetic Biology
- Transport

- 3.2.2. The NSIA also applies to transfers of technology/intellectual property (IP) where the UK government is empowered to review and subsequently block or unwind agreements in these sensitive areas (known as a “call in”) where a national security concern is identified. A formal voluntary notification process is available to assess whether government concerns exist prior to engaging in any agreement.
- 3.2.3. King’s will not engage in any collaboration prior to formally reviewing whether NSIA clearance is required and unless any required clearance has been granted.

3.3. **Sanctions**

- 3.3.1. Sanctions are typically imposed, externally, in response to unfavourable international political developments to leverage behavioural change or to increase the cost of the unfavourable activity on the sanctioned party. Sanctions can be partial (for example a travel ban on an individual, an arms embargo or a prohibition on investment in certain sectors) through to comprehensive measures involving a total ban on business, whether or not the goods, software or technology concerned are identified on a control list.
- 3.3.2. Sanctions can be applied to individual persons, legal entities such as corporations or government departments, banks and financial institutions, through to comprehensive country-level embargos.
- 3.3.3. King’s due diligence processes include screening against multiple sanctions lists published by various relevant governments, and international organisations such as the EU and the United Nations. Where a potential business or research collaborator is positively and definitively identified as a sanctioned party it is King’s policy not to engage with that party, unless subject to a formal policy waiver approved by the appropriate College committee, via the [International Regulations Office](#). The criteria for granting a policy waiver include a requirement that there must be a public welfare benefit for engaging with the collaborator, such as the pursuance of ethical medical research.
- 3.3.4. King’s policy is not to engage in any research projects or any transactions with any entities located in, or owned or controlled by, any of the countries listed by the UK Foreign Commonwealth & Development Office (FCDO), where the UK government advises against all travel, or all but essential travel. These countries, broadly, are those currently engaged in armed conflict, internal repression, countries that are subject to comprehensive sanctions, certain countries that have no functioning government and countries that are considered a national security risk. Exceptions to this will only be made if a formal policy waiver has been approved by the appropriate College committee, via the [International Regulations Office](#). The FCDO travel advice, by country, can be found on their [Foreign travel advice](#) webpage.

3.4. Extraterritorial controls

- 3.4.1. Most countries that implement export controls do so based upon jurisdiction applying on their domestic territory. The United States of America (U.S.), however, broadly asserts jurisdiction on an extraterritorial basis, most notably under the International Traffic in Arms Regulations (ITAR) of the U.S. Department of State, and the Export Administration Regulations (EAR) of the U.S. Department of Commerce. Non-compliance with these regulations can trigger severe consequences even for non-U.S. domiciled entities, and the cost of applying required compliance measures can be considerable, including segregated IT networks, strict access controls, potential limitations on sharing technology with individuals within institutions based upon citizenship, potentially indefinite document retention and the commercialisation of derived IP being subject to U.S. jurisdiction.
- 3.4.2. King's policy is not to engage in research projects or any transactions that are subject to ITAR or EAR jurisdiction (unless subject to a formal policy waiver that implements all required compliance measures).
- 3.4.3. In some cases, supplies from U.S. vendors of products that King's use in internal testing or analysis (such as test equipment or software) will be subject to U.S. re-export controls. Subject to case-by-case analysis this may be acceptable but the acceptance of an order by the U.S. vendor will most likely be conditional upon the signature of an end user certificate by King's. It is King's policy that such certificates are formally retained and documented and can only be signed by the [International Regulations Office](#).

3.5. Exemptions

- 3.5.1. Not all technology is subject to export controls and not all technology is subject to national security considerations, including:
 - Fundamental scientific research: research undertaken solely to obtain new knowledge of the fundamental principles of phenomena or observable facts. It is not directed towards a specific practical aim or goal. This exemption does not apply to military technology which, by definition, is goal-directed.
 - Technology that is in the public domain (note that export controls may still apply to technology that is intended to be released into the public domain but has not yet been released).
 - Technology that does not meet the definition of "required" for the "development", "production" or "use" of the technologies enumerated in the UK regulations' [control list](#). For example, a general engineering description of system capabilities or performance indicators or a sales brochure is not subject to export controls. Technology that could be subject to export controls would most likely comprise "crown jewels" information that would typically be protected by an NDA (non-disclosure agreement) in exchanges with potential research partners.
 - There are also specific technical exemptions in the UK regulations for certain specified medical equipment which extends exemption to technology for the "development" "production" or "use" of such equipment.
 - Information necessary for the submission of a patent application overseas.
- 3.5.2. These concepts are complicated as is the language in the UK regulations describing the technology. Any decision taken by King's personnel that the technology or research is exempt from export controls must be documented and copied by email to the shared email box - International Regulations international-regulations@kcl.ac.uk. Any decision that an exemption applies should be peer reviewed by a technical expert.
- 3.5.3. These exemptions do not apply to sanctioned parties described in paragraph 3.3.

4. Responsibilities

4.1. Responsibilities of staff, researchers, line managers

- 4.1.1. Read and understand this International Regulations Policy and Guidance published by King's and consult with the [International Regulations Office](#) when required.
- 4.1.2. Take responsibility to apply for export licences where required, in consultation with the International Regulations Manager.
- 4.1.3. Refrain from accessing export-controlled content located on King's servers whilst engaged in foreign business travel, whilst located overseas under King's Global Mobility program or whilst checking email during a vacation.

4.2. Responsibilities of International Regulations Office

- 4.2.1. Publish policies, procedures, guidance and advice on King's internet and intranet.
- 4.2.2. Provide specific support as necessary, to researchers working in disciplines most likely to be affected by export controls.
- 4.2.3. Register with the ECJU web service so that export control queries and licence applications can be submitted.
- 4.2.4. Manage communications with regulators and act as King's central point of contact for any regulatory audits or enquiries.
- 4.2.5. Act as King's point of contact with the UK Government RCAT Team (this Team was recently formed to support HE (higher education) institutions navigate the NSIA implementation).

5. Useful contacts

International Regulations Team shared mailbox: international-regulations@kcl.ac.uk

6. Reporting

The International Regulations Manager shall contribute an annual report to the Compliance Assurance Report which is considered by the Audit, Risk & Compliance Committee. Exceptional matters will be reported to the appropriate management committee by the International Regulations Manager, and the Senior Vice-President (Operations) and the Chief Compliance Officer will be notified of any potential breaches of law or regulations which might lead to enforcement or legal action being taken against the university.

7. Enforcement

Non-compliance with this policy or associated policies, procedures and guidance, is an infringement of King's regulations and will be investigated in accordance with the appropriate university regulations.

8. Review

This policy will normally be reviewed every three years.