

Export Control & HPC

Guidelines for PIs and contact persons

Agenda

What is the plan for today?

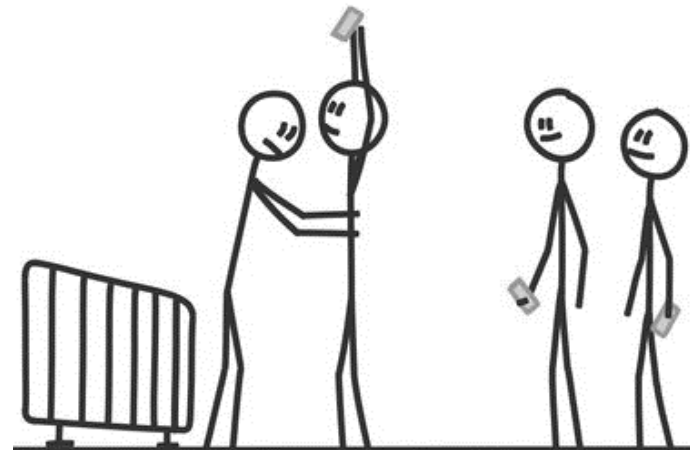
01 What is "Export Control"?

02 Framework and Current Legal Situation

03 Implementation in University Life

04 What if not? – Potential Consequences

05 Questions, Comments, and Concerns



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Objective of export control

To regulate uncontrolled deliveries of certain goods such as weapons, torture goods, dual-use goods (incl. technology & software) and certain chemicals and to prevent the proliferation of weapons of mass destruction.

Export control is for example relevant for ...

...research collaborations with external institutions,

...cooperation with visiting scientists at your own institute in Germany,

...the shipment of goods (equipment, emails, data carriers, etc.) abroad,

...business trips,

or also for

...technical support, i.e. knowledge transfer and publications.

HPC are Dual-Use-Goods

This means that their export or usage and any “technical assistance” are generally subject to the rules of export control!

There are also restrictions in relation to certain countries or persons (embargoes, Non-EU-Countries, etc.).

Laws in connection with proliferation or arms-related end uses:

War Weapons Control Act (KWKG),

EU Dual-Use Regulation 2021/821 Art.4 & 5 and

Foreign Trade and Payments Ordinance (AWV)

Critical Citizenship:

China, Russia, Belarus, Iran, Sudan, Syria, Afghanistan, North Korea, Myanmar

HPC are Dual-Use-Goods

[Link to the dual-use lists](#)

TEIL VI

Kategorie 4

KATEGORIE 4 — RECHNER

Anmerkung 1: Rechner, verwandte Geräte und "Software" für Telekommunikations- oder "Local Area Network"-Funktionen sind auch nach den Leistungsmerkmalen der Kategorie 5, Teil 1 (Telekommunikation) zu bewerten.

Anmerkung 2: Steuereinheiten, die Bussysteme oder Kanäle von Zentraleinheiten, 'Hauptspeicher' oder Plattensteuerungen gelten nicht als Telekommunikationsgeräte im Sinne der Kategorie 5, Teil 1 (Telekommunikation).

Anmerkung: Die Erfassung von "Software", besonders entwickelt für die Paketvermittlung, richtet sich nach dem Anhang 1.

Technische Anmerkung:

Im Sinne von Anmerkung 2 ist ein 'Hauptspeicher' ein Primärspeicher für Daten oder Befehle in einer Zentraleinheit. Er besteht aus dem internen Speicher eines 'Digitalrechners' und jeder Art Pufferspeicher (cache) oder zusätzliche Speicher mit nichtsequenziellem Direktzugriff.

4A Systeme, Ausrüstung und Bestandteile

4A001 Elektronische Rechner und verwandte Geräte mit einer der folgenden Eigenschaften sowie "Bestandteile" und besonders konstruierte Bestandteile hierfür:

Anmerkung: SIEHE AUCH NUMMER 4A101.

ELI: http://data.europa.eu/eli/del_reg/2023/2616/oj

141/243



License agreements (Ansys):

[...]

2.) Terms of use regarding export control

- a. [Master Agreement]

2. Grant (m) Licensee acknowledges and agrees that **the Program(s) are subject to U.S. laws and other applicable laws governing the export and/or re-export of Program(s)** including, but not limited to, the Export Administration Regulations,

[...]

- a. [General Terms and Conditions]

- **Restricted Persons** means any Person that is (i) the target of Sanctions, including any Person identified on OFAC's Specially Designated Nationals and Blocked Persons List, Sectoral Sanctions Identifications List, or any other Sanctions-related list maintained by a Sanctions authority; (ii) a Person that is organized, located, or resident in a restricted territory; (iii) identified on a list administered under Export Laws; or (iv) any Person owned or controlled by any Person(s) described in clause(s) (i) – (iii). [...]
- **Restricted Territories** include, but are not limited to, Russia, Belarus, Iran, North Korea, Syria, or Cuba, Crimea, those portions of the Donetsk People's Republic, Luhansk People's Republic, Kherson or Zaporizhzhia regions (and such other regions) of Ukraine over which any Sanctions authority imposes comprehensive Sanctions.

[...]

US Export Control

[Data Visualization \(CSL\)](#)

[Code of Federal Regulations](#)

License agreements (Ansys):

[...]

a. **[Academic Usage]**

- iv. ... location within the same country as the Designated Site; provided, however, that (i) *such* access and use is and shall remain subject to Export Laws, (ii) Licensee is expressly prohibited from accessing or using the Academic Program(s) at or within any U.S. embargoed country or area; and (iii) access and use of the Academic Program(s) shall be limited to Licensee's employees and Contract Users (including students) who are based and/or registered to attend classes at the Designated Site. Such limitations apply to any access and/or use of the Academic Program(s), including, but not limited to, access via a VPN connection or through license borrowing.

[...]

<https://www.ansys.com/legal/export-control-compliance>

Important questions in advance:

1. Who uses the supercomputer resources (e.g. also from abroad)?
2. What will be done in the international project cooperation?
3. What access should our cooperation partners have?
4. What is permitted by the countries of manufacture or the license terms of the IT systems used?
5. What technical safeguards are in place? (Also: Investigations in an emergency!)



Grafic: FAU

Who are the user groups?

- Guest researchers

Self-financed persons without contractual ties to FAU. The duration of the stay or the origin of the researcher is not important!

-> will be checked during the admission process, in the case of critical citizenships, this may take longer due to consultation with the BAFA

- External project leaders

Must be checked by Export Control, in some cases at other institutions, but "sign" with the NHR.

- Internal FAU project leaders

Research area must be checked by Export Control. Who can access what?

- Students

The handling of HPC during studies with critical citizenships is still unclear.

-> Consultation with the BAFA

Declaration of compliance with export control regulations

"Please note that you as the applicant are responsible for your entire project and for the entire duration of the project for compliance with the currently applicable export control regulations in connection with dual-use goods, such as HPC systems.

Currently, computing time or consulting provided via NHR may not be used for projects in which Russian partners are involved, even if you as the applicant have German citizenship. A general ban on use of resources by Russian nationals does not exist, so that Russian nationals, for example, employees of German universities with Russian citizenship may continue to use the HPC systems as long as no specific sanctions apply to them."

How can export control regulations be complied with?

To date, there is no inspection process exclusively for HPCs

(dual-use -> subject to notification for all non-EU countries, e.g. also Norway, Switzerland, etc.)

Guest researcher: Active indication in the new process as to whether HPC use is intended or not

-> Internal project managers must agree (personal responsibility!) or seek advice from Export Control regarding notification to BAFA

Students: Project managers have to decide whether critical citizenships violate framework conditions and licenses

-> BUT: Work in progress. We are open to constructive suggestions!

External Applicants: the export control check must be carried out by the hosting institution

-> Transfer of our responsibility by signing the declaration

SO: Technical support to HPC may require an export license for non-EU citizens.

[Required Documents for Technical Support](#)



In general:

All researchers and research institutions must fulfil their respective responsibilities in the area of export control!

Anyone who enables use by persons/organizations from third countries despite the regulations may be liable to prosecution.

- Fines of up to € 500,000 & prison sentences of up to 5 years.

- Violations of license regulations also have consequences under civil law.

(USA in particular!)

**If you have any questions or uncertainties
simply contact us,
we will be happy to help you!**

exportkontrolle@fau.de



<https://www.istockphoto.com/de/foto/gl%C3%BChbirne-moment-gm176565702-26405045>

**Thank you
for your attention!**