Export Controls and Sanctions Policy

Section 1 - Purpose

(1) This Policy sets out the University's commitment to comply with export controls and sanctions laws, and ensures that the University's (including its Controlled Entities') researchers, academics, other relevant personnel, and students comply with these obligations.

Background

(2) Macquarie University is committed to supporting impactful research through the exchange of academic ideas, and pursuing a program of transformative learning and teaching. In doing so, it seeks to protect academic freedom and encourage the dissemination of information resulting from research and other activities. Some of the University's activities may be subject to Australian, United States or United Kingdom export controls, sanctions laws, or other trade regulations (regulations). Activities that are subject to such regulations are known as "regulated activities" and if those activities comprise research activities they are known as "regulated research".

(3) Regulated activities comprise tangible and intangible exports from Australia to a place outside Australia, the transfer of controlled technology to a non-exempt person within Australia, and the provision of training related to arms and materiel. Regulated activities are identifiable based on the technologies, research, partners and individuals involved. Regulated activities include defence and strategic goods, software, and technology listed in the Defence Strategic Goods List (DSGL) (known as the "controlled items"), items listed on the United States Munitions List (the USML) and items regulated by the United States' International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR). The Defence Strategic Goods List contains a list of military items (Part 1 – Munitions List) and dual-use items (Part 2 – Dual-Use List). Dual-Use items are items used for commercial purposes but which can also be used in military, nuclear, chemical and biological programs. DSGL, USML and EAR goods, technology and software are not necessarily prohibited from being exported, transferred or published (a regulated transfer); rather a permit, licence or exemption is required prior to a regulated transfer occurring.

(4) Sanctions legislation prohibits the provision of training, technical advice, and assistance in relation to a range of goods and services (including the supply of training and technology) to specific individuals, organisations, and countries and their citizens. Australian organisations, including universities, can be held liable for a breach if they are unable to demonstrate that they have taken "reasonable precautions" and "exercised due diligence" in relation to sanctions laws. Contravention of an Australian sanction can be a serious criminal offence, including penalties of up to 10 years in prison and substantial fines, for both organisations and individuals.

Scope

(5) This Policy and its associated procedures apply to all staff, researchers, students, affiliates and other relevant personnel at all campuses and locations of the University and its Controlled Entities, including contractors, trainees, agents, visitors, associates, honorary appointees, conjoints and consultants of the University who work with Defence Strategic Goods List goods, technology and software.

(6) All staff, researchers, students, and other relevant personnel are responsible for complying with export control and sanctions laws in the conduct of the University-related activities, and must exercise due diligence and reasonable precaution when dealing with matters that may fall within the scope of this Policy.

Section 2 - Policy

(7) The University is committed to ensuring that its staff, researchers, students and other relevant personnel, along with those of its Controlled Entities, comply with domestic export control and sanctions laws and regulations. The Research Risk Review Committee exercises the University's responsibilities in ensuring compliance with regulated activities and has responsibility for relevant record keeping requirements.

(8) Taking a risk-based approach to compliance, the University will exercise due diligence by taking reasonable precautions to ensure that its staff, researchers, students, and other relevant personnel:

a. are made aware of their obligations under Australian export controls laws and regulations; and
b. comply with Australian sanctions laws and regulations.

Export Controls

(9) Export controls laws and regulations seek to prevent the misuse of sensitive technology in the interests of national security. Responsibility for compliance with export controls laws and regulations is a shared responsibility. This responsibility stems from the obligations imposed on the University and individuals by export controls legislation.

(10) Controlled technology compliance is the primary responsibility of the individual who develops, imports, exports or operates that technology, or whom is the chief investigator for the academic collective undertaking a regulated activity. This primary responsibility is based on the premise that researchers have the most relevant expertise in understanding the types and applications of products, data and technology that result from their research endeavours and academic activities, and that their local proximity to and responsibility for an item of controlled technology means that they must ensure compliance with relevant regulations.

(11) The University will educate its staff, researchers, students, and other relevant personnel on their obligations under export controls laws and regulations, i.e. that they must not, without a permit or licence from the Department of Defence, undertake the following activities in relation to controlled goods (defence and dual-use goods on the DSGL):

a. intangible supply – a person in Australia providing controlled technology in a non-physical form (e.g. electronically) to another person outside Australia, or a non-exempt person in Australia;
b. tangible supply – the physical export of goods outside Australia;
c. publication – in relation to military technology, placing this in the public domain by publishing it on the internet, to the public or to a section of the public; or
d. brokering – anyone located in Australia, or an Australian citizen or resident located outside Australia, acting as an agent or intermediary to arrange the transfer of controlled goods or technology between two places located outside Australia, and receiving money or non-cash benefit, or advancing a political, religious or ideological cause for arranging the supply.

Sanctions

(12) Australian sanction laws and regulations are comprised of Australian Autonomous Sanctions and United Nations Security Council (UNSC) Sanctions Regimes. These place restrictions on the University's interaction with persons and organisations associated with countries on the Department of Foreign Affairs and Trade sanctions list.

Autonomous Sanctions

(13) The University will take reasonable measures to ensure that Australia's Autonomous Sanctions laws and regulations are not contravened. Specifically, the University will take reasonable measures to ensure that it does not, without a valid permit from the Minister for Foreign Affairs (or delegate), undertake activities detailed in the

Department of Foreign Affairs and Trade Sanctions Regimes listings. Generally, sanctioned activities are as follows:

a. supply, sell or transfer arms or related material, including software, to countries on the Department of Foreign Affairs and Trade sanctions list;
b. provide technical advice, assistance (including financial assistance or a financial service) or training in relation to a military activity or an activity involving the supply, sale, transfer, manufacture, maintenance or use of arms and related material to a person from a country on the Department of Foreign Affairs and Trade sanctions list;
c. make available particular assets such as funds, financial assets and economic resources to, or for the benefit of, sanctioned countries or Designated Persons or Entities;
d. use or deal with assets such as funds, financial assets and economic resources that are owned or controlled by sanctioned countries or Designated Persons or Entities; or
e. provide training or technical advice in relation to specific industrial sectors to prohibited countries.

> NB: Sanctions apply both to activities in Australia, and to activities by Australian citizens and Australian-registered bodies corporate overseas.

UNSC Sanctions

(14) In addition to Australia's Autonomous Sanctions, the University will comply with sanctions imposed by the United Nations Security Council (UNSC) and translated into Australian law through the enactment of regulations relevant to each sanctioned country. A current list of UNSC sanctions is available at the Department of Foreign Affairs and Trade website (see Sanctions Regimes).

Compliance

(15) University personnel have an obligation to internally notify concerns that a potential breach of export control or sanctions regulations may have occurred. The University maintains international notification pathways available for personnel, as detailed in the Export Controls Procedure.

(16) The University will promptly investigate concerns of potential breaches, implement necessary corrective and remedial actions immediately, and undertake the required voluntary notifications to the relevant regulatory bodies and third-parties at the earliest opportunity available.

Section 3 - Procedure

(17) Refer to the Export Controls Procedure.

Section 4 - Guidelines

(18) Nil.

Section 5 - Definitions

(19) The following definitions apply for the purpose of this Policy:

a. Controlled Entity means a person, group of persons or body of which the University or the Council has control within the meaning of Section 39 (IA) or 45A (IA) of the Government Sector Audit Act 1983 (NSW).
b. Designated Person or Entity means a person or entity named on the Department of Foreign Affairs and Trade Consolidated List of Designated Persons and Entities.

c. DSGL means the Defence Strategic Goods List, which specifies controlled goods, technology, and software.
d. Autonomous Sanctions means punitive measures not involving the use of armed force that the Australian Government chooses to take as a foreign policy response. In Australia, sanctions obligations are found primarily in the following: Autonomous Sanctions Act 2011, Defence Trade Controls Act 2012, Charter of the United Nations Act 1945, Weapons of Mass Destruction (Prevention of Proliferation) Act 1995.
e. Sanctions Permit means an authorisation given by the Minister for Foreign Affairs to undertake an activity that would otherwise contravene an Australian sanctions law.
f. DFAT means the Department of Foreign Affairs and Trade.

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