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**Examples of University Problems - Handout from February 2001 Session**

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- **COGR SESSION ON ITAR AND EXPORT CONTROLS – FEBRUARY 8, 2001**

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**The University Position:  
Examples of How ITAR is a Problem**

- Government projects hampered when University researchers afraid to travel overseas to assist collaborating institutions: A major NASA-funded, international space exploration project included the participation of a foreign university, funded by the foreign government, to fabricate a piece of instrumentation that would be shipped to the US and integrated into the scientific payload. The European partner was falling behind schedule, which would cost NASA \$1 million per month for each month of delay. However, the NASA project officer hesitated to authorize the US scientist to go overseas and get the collaborator back on track, and the University was unable to assure the researcher that such travel did not require an export license.
- Government RFPs suggest that an ITAR license may be required before discussing a proposed project with foreign collaborators: While it is clear that international funding and contribution to space missions is necessary, the NASA SMEX Mission of Opportunity Q&A for Proposals that require such foreign support then advises that the University may need a license prior to even discussing the project with the intended collaborators.
- Inventions developed by foreign students cannot be developed or marketed: A Turkish national graduate student developed a new hybrid rocket fuel that the University is in the process of patenting. A commercial sponsor wanted to fund further testing of the fuel, but insisted that information that they relate to the student would need an ITAR license. It would be unrealistic to expect further work on the invention be limited to US citizens, or to seek ITAR licenses for such University work.
- Commercial defense contractor to issue Stop Work Order because a key personnel was a Canadian citizen: The University contract contained no restrictions on publication or foreign nationals; the project was to test devices to grow cells in space designed for the International Space Station. Last week, upon learning that one of the key personnel (for whom prior approval was required to replace) was not a citizen, the defense contractor informed the University that the person must stop work. The defense contractor has subsequently suggested that a Technology Transfer Control Plan can be developed to authorize the person to work; however, this is not acceptable to the University because it is impossible to anticipate what foreign nationals may participate, in a funded or unfunded capacity, in the future.

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- Expert project personnel precluded from further contribution: A Chinese national post-doc wrote software for the NASA funded Gravity Probe-B project, which was sent to NASA for their review. NASA stamped the report and software "ITAR-controlled" and insisted that the individual who wrote it now needed an ITAR license to read their comments on the work.
- Missed Funding Opportunities: The Egyptian government wanted to contract with a University to study the phases of the moon using satellite technology in order to properly gauge Moslem holy days. The University was to set up the ground station and take readings from the satellites, and would have meant about \$3 million in research funding. The University decided to pass on the agreement due to ITAR concerns. In another case, a Ph.D student built a small satellite as his thesis project, but could not get a company or NASA to launch it for him. Baumann Space Center at the University of Moscow offered to allow the student to put his satellite on their rocket launch without charge, but this did not seem to be permitted under ITAR. The information regarding the satellite's design is on the web, and all the parts were purchased at Fry's Electronics. The student has not yet secured a launch and therefore cannot test out his project. It would cost the university \$500,000 to \$2,000,000 to secure a private launch for the satellite. Finally, there are numerous cases of sub-contracts from commercial prime contractors have been rejected by Universities, due to EAR or ITAR clauses containing restrictive foreign national access provisions and requirements for prior approval of the government before dissemination or publication of research results.
- Misinformation Among Government Officials and in the Scientific Community: Government officials at NASA and the State department seem unaware of the ITAR public domain and fundamental research exemption. Statements are made that any publication or discussion of space satellite technology requires prior approval of the State Department. Further, some NASA personnel believe it is their responsibility to enforce the EAR and ITAR, even though they are unclear exactly what these regulations require. Closed scientific meetings are held; yet those attending such meetings report that nothing is discussed which isn't already widely known and reported in the literature and among non-citizen colleagues. Productive time of both scientists and university administrators is redirected toward reading regulations, negotiating EAR and ITAR provisions, reassuring personnel that violations of law are not occurring, and trying to structure relationships that preserve the necessary openness of a research university.