

EXPORT CONTROL PROCEDURE (ECP) # 2.6:

IMPORT PROCEDURE FOR FOREIGN VENDOR PROCUREMENT AND RETURNING SCIENTIFIC EQUIPMENT FROM ABROAD

I. Purpose

The purpose of this import procedure is to provide instructions and standardize the method of importing goods. These items are either purchased from abroad, imported temporarily or returning from research facilities overseas for repair/calibration.

These procedures are created to best assure that SI/SAO supports its researchers and museum community while remaining in compliance with federal trade regulations. These imports may or may not be subject to ITAR-license restrictions.

Imports involve the U.S. Treasury collecting taxes in the form of duties, taxes and fees. Therefore, the Customs official can be very demanding in requiring complete documentation. Any inaccuracies can be construed by officials as providing false statements to the government. Only certified Customs Brokers should assist SAO with such activities. If the item is coming to the US on loan, a temporary import bond might be a good idea if the harmonized code requires duty payment. The owner can also obtain a carnet. Duty free treatment of loans are generally for 1 year to be renewed for another year.

II. Procedure

1. Imports are arranged one of three ways:

a. Items Purchased and Imported from a Foreign Vendor: Preparing the RFQ

NOTE: Purchases are either initiated by the Scientist/Engineer, where they find several sources and prepare the RFQ and ask the Buyer (B) to take over, when the bids are returned or directly by the buyer.

b. The scientist/engineer requests the Buyer to search for possible sources, prepare the RFQs and source the equipment.

In either case, the person placing the RFQ needs to be aware that technical data for an ITAR- or EAR- controlled item may need an export license before any drawings can be exported to a foreign vendor. To prevent violations, Buyers and Scientists are informed to contact the ECO

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The **Buyer** contacts the **Export Compliance Officer (ECO)**.

c. Scientific equipment is being returned and the PI/PM informs the ECO.

d. Loans of exhibition objects are entering the U.S. and will be returned.

2. The **ECO** sends the **Buyer/PI/PM** the import checklist which defines the transaction – what is it, from what country is it being imported, how heavy is it (will a freight forwarder be needed), are the goods export controlled (ITAR or EAR?), (for purchases - will SAO need to provide specifications to build or design the item, what is the harmonized tariff number, has a Customs Broker been selected, what is the International Chamber of Commerce Term (Incoterm) (See checklist) Will the item be going back? If so, will a temporary import bond/carnet be arranged?
3. The **Requestor** completes the checklist based on the information available or has been obtained from the Seller, as applicable and sends it back to the **ECO**.
4. The **ECO** reviews the transaction and identifies federal regulations that need to be complied with: export/import licensing, duties, taxes, regulatory requirements (FDA, FCC, hazardous materials) and completes the checklist with available information.
 - i. If an export license is required to transmit the technical data (ITAR §124.13 or EAR) to the vendor, or an ITAR import license is required (ITAR §123.4) or return the equipment, the **ECO** advises the **Requestor** of the required actions. The **ECO** estimates time requirements for obtaining the export license on the checklist.
5. If the following are not immediately available, the **Buyer/Requestor** obtains the following information from the foreign party:
 - a certificate of origin, and ownership, if a loan,
 - the harmonized tariff number they use when exporting,
 - the Incoterm,
 - if the item is export controlled, and
 - if it is hazardous or subject to any health and safety requirements.

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The Purchase Order to the vendor should include the Incoterm [named place] and indicate the sales term related to transportation, duties, taxes, insurance, etc. The **Buyer** should request assistance from the ECO or the **Accountable Property Officer (APO)** to obtain quotes from several freight forwarders if the Incoterm selected puts the responsibility for freight on SAO and the weight/volume is large.

6. **Logistics:** If SAO is arranging the shipment, the **APO** ensures that freight quotes must be in 'rate per kilo' based on either actual or dimensional weight, and he/she compares the **cost and quality** to a named port. The quote must indicate if the following fees will be billed separately or are included with the freight costs: disbursement fees, importer security filing fee, handling, extra invoice pages (if applicable) and the transfer fee if a different company is selected to clear the goods. Ocean freight must file an Importer Security Filing (ISF) three days before arrival.

7. **Customs Broker:** Before a customs broker can clear the goods, a Power of Attorney (POA) must be on file with the freight forwarder and the customs broker (we use Masterpiece International for larger items as our broker), and these can only be executed by SI's **Office of General Counsel (OGC)**. If a POA does not exist, the **APO** should contact **OGC** by emailing legalhelp@si.edu. The **APO** can decide to use a different company for the customs broker than the freight company. (POAs should not be executed with too many companies. The customs broker should be a company we have a relationship with.) Do not consolidate the freight with other companies if the equipment is important and must be obtained in a timely manner as any inspection of their freight will incur delay on our freight. Check that the packaging complies with wood pallet and inspection requirements and ensure that SI is the importer of record, so that if there are customs issues, we will be aware of them.

Note that there are some duty exemptions for educational and scientific equipment under Chapter 98 of the HTSUS; so contact the **ECO** if you are not sure.

8. If an Individual Decides to Hand Carry Equipment:

ECO recommends that SAO arrange with a known Customs Broker located at the first U.S. airport of arrival to assist with clearance and payment of fees (duties and taxes.) If these are

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substantial and not covered by the seller, a P.O. should cover the fees. Prior to arrival, SAO needs to have a Power of Attorney with the Broker, and if we do not, the **OGC** (Sam Le) will need to prepare one, and this may require a few days.

For hand-carries of equipment that need to be cleared, the **Traveler** should schedule his/her travel to arrive in the U.S. on a **weekday during business hours**. **ECO/APO** prepares an invoice to the traveler or to the shipper: Information to have on an invoice (See Forms on Export Compliance webpage) (link to forms):

- Description, model number, serial number, and country of origin of the goods (not the manufacturer).
- Tariff Number/HTSUS (9801.00.xxxx if returning U.S. goods.) The last 4 digits depend on the tariff number of the item on the HTSUS. Refer to Chapter 98 of Harmonized Tariff Schedule.
(<http://www.usitc.gov/publications/docs/tata/hts/bychapter/1300C98.pdf>)
- Value (including value added overseas).

If the item is returning under an ITAR license or carnet, the **Traveler** should have the license and/or carnet in their possession and the original invoice indicating when the item left the U.S. and the export clearance document called the Electronic Export Information (EEI) filing. (See sample in this procedure.) For temporary shipments under the ITAR, the invoice and customs entry form should indicate that the item is returning under a DSP-73 license or the citation of the import exemption. The DSP-73 license must be signed by US Customs. The **Traveler** should schedule his/her flight to arrive in the U.S. on a **weekday during business hours**. **ECO/APO** prepares a commercial invoice for the **Traveler** or the shipper. The carnet needs to be signed by customs authorities and returned to the carnet service provider before expiration. See requirements above.

Traveler needs to be prepared to discuss the following with U.S. Customs Official and the Customs Broker clearing the goods:

- Whether item is staying in U.S.? If no, in how many months/years is it going back?
- Origin of the items? (You may have to look if there are any markings or check the

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invoice when it was purchased.)

- If returning U.S. goods, determine whether any other items or components were purchased abroad that were added.
- Check if the item has an import compliance regulation like health and safety rules of the Federal Drug Administration (FDA) or equipment emitting radiation rules of the Federal Communication Commission (FCC). Contact the manufacturer to determine this. If item requires a FCC certificate, you may need to present a manufacturing affidavit of origin and FCC compliance from the manufacturer.
- If traveling on a carnet, ensure the carnet is signed off by the U.S. Customs Official and keep all documents together to return to the **ECO** when you get to SAO.
- Name of Customs Broker at the airport/seaport and phone number.
- For ITAR temporary license – if the **airport city** noted on the license needs to be changed from what was approved on the license, the **ECO** needs to contact the designated airport Customs office in advance and inform them of what day and airline/flight the item is coming in, especially for hand-carries (preferably not during the weekend when brokers may not be working). Note it is not recommended to use couriers for ITAR shipments. If using Federal Express, use their Fedex Trade Network Services.

9. New Purchase of ITAR-Controlled Equipment that will be later reexported or Imported for Repair

SAO must have approval for ITAR-controlled items that will be imported and then reexported via a DSP-61 for temporary imports. There is an exemption to the import license if foreign items that are imported are to be incorporated into a U.S. item that has been authorized under an ITAR license (see §123.4.a.3 of the ITAR). (For further instruction, see Item 5 below.) If it is an EAR-controlled item, the vendor needs to obtain an export license from its government, and SAO may need to provide some end-use statement.

If the equipment is ITAR-controlled and is imported for repair or alteration and will be returned, the **PI/PM/DPA** must determine if the work on the unit is an enhancement to the equipment before it can be returned. This is to determine if

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the repair qualifies for the repair exemption (§123.4 of the ITAR) when the item is returned or if SAO must obtain an export license. The repair exemption is both an import and export exemption:

- If the repair does not enhance the equipment, the ITAR item can be returned to the end-user under the exemption. To qualify the item needs to be brought in as a defense article and the invoice must have the following statement “These items are imported under ITAR exemption §123.4 a - not to be enhanced. They were previously exported under license XXXXXXX.”
- If the item will be enhanced during the repair, the item description must state on the invoice: “These items are imported under ITAR exemption §123.4 b - to be enhanced. They were previously exported under license XXXXXXX.” (A new export license DSP-5 [permanent] or DSP-73 [temporary license] will be required for subsequent export.)

10. Equipment returning on a temporary export license

The **PI** or **PM** informs the **ECO** that equipment, that was previously exported under a temporary export license, will be returning. The **PI** or **PM** provides: a description, value, origin, indicates if the equipment was enhanced with a description and value, indicates when it was exported and by whom (SAO or a collaborator). The **ECO** verifies that the license is still valid and whether it is an EAR license or ITAR license.

The **ECO** prepared the pro forma invoice with the export license number and expiration date is noted and when the item was exported. For EAR licenses, there are no special requirements for Customs and Border Protection. The shipment is recorded on the shipment log and the APO is copied on correspondence.

For ITAR licenses, the citation will be different depending on whether there was an enhancement and the returning US goods number will be different. The export filing number called the EEI is cited, when possible.

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The **ECO** cites the temporary export DSP-73 license number and expiration date on the invoice, packing list, and advises the customs broker in advance that ITAR-controlled equipment is returning and provides a hard copy of the temporary export license so that the license can be incremented when the equipment returns. The Customs Broker then notifies CBP in their entry that it is ITAR-controlled equipment and brings the hard-copy license to the CBP Exodus Team to be incremented. The Broker then mails the hard copy license back to the **ECO**.

11. **Payment of U.S. Duties, Taxes and Fees:**

If the item(s) is (are) not U.S. manufactured goods, there may be a duty that needs to be paid. All items are charged as a merchandise processing fee of 0.03464%. The Customs Broker can pay the fees upfront and bill SAO. The **PI/PM/DPA** should work with the **APO** and the **Financial Management Department** to determine to which account these fees should be billed.

12. **Record Keeping:**

The **PI/PM/DPA** or **Traveler** should provide the import documents by email to the **APO** - Michael Mclsaac - shipping@cfa.harvard.edu and the **ECO** –Natascha Finnerty export@cfa.harvard.edu

The **APO** should maintain records for five years or five years beyond the validity of the license.

II. **References**

- SD 611 Export Compliance and Trade Sanctions Related to Research, Export and Museum Activities
- Contact: Natascha Finnerty, Export Compliance Officer about questions related to this procedure at export@si.edu and telephone is (617) 496-7557.
- **Record Keeping:**

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- Definitions

Authorized Agent: An individual or legal entity physically located in or otherwise under the jurisdiction of the United States that has obtained power of attorney or written authorization from a U.S. Principal Party in Interest (USPPI) or Foreign Principal Party in Interest (FPPI) to act on its behalf, and who will complete and file the Customs Entry.

Bond: A deposit paid by the importer in advance to ensure payment of duties and taxes.

Carnet: commonly known as a “Merchandise Passport”, is an international customs document that simplifies customs procedures for the temporary importation of various types of goods. In the U.S., two types are issued: ATA and TECRO/AIT Carnets; the latter is for Taiwan. A carnet DOES NOT replace the need for a temporary import license.

- **ATA Carnets** ease the temporary importation of commercial samples, professional equipment such as cameras for the media group, optical bench for engineers who support astronomers, and goods for exhibitions and fairs. They facilitate international business by avoiding extensive customs procedures, eliminating payment of duties and value-added taxes (minimum 20% in Europe, 27% in China), and replacing the purchase of temporary import bonds.
- **TECHRO/AIT Carnets** are carnets for Taiwan.

Customs Broker: Company that SAO or our vendor selects at the destination airport or seaport that has a license and authority to clear the goods through U.S. and international customs, filing with the appropriate customs forms, tariff number, duty rate and taxes. They are either our or the vendors’ authorized agent and must have a one-time or durable Power of Attorney with SAO or the vendor.

Export: the transfer of items, software or technical data in the form of an actual shipment, or by electronic, oral or visual means. Emailing technical specifications to a foreign vendor is an export.

Federal Communication Commission (FCC) Certificate: Some items emitting electromagnetic radiation require an FCC certificate that should be obtained from the

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manufacturer of the item. Depending on the equipment, FCC testing is needed to show compliance, e.g., wireless devices, etc.

Freight Forwarder: Agent who is hired (i.e., TNT, Expeditors, Schenkers) to coordinate the pickup, transport, and delivery of goods. They often can also arrange clearance of our goods through Customs or we or the vendor can contract a separate company. (Freight forwarders tend to deal with freight that is more than 100 lbs or is regulated. Couriers, such as Federal Express and DHL are used for small packages that are not regulated.)

Harmonized Tariff Schedule (HTSUS): Internationally recognized number (10 digits XXXX.XX.XXXX format) that identifies the item and is the category for determining duty. See website [HTSUS](#).

Hazardous Materials: items that are flammable, explosive, corrosive, radioactive, irritant, poisonous, etc. that have special export and import requirements. Managed by the US Department of Transportation.

Import: the entry of goods from a foreign country into the U.S. by air, sea or hand carry.

Importer of Record: Company/entity whose Employer Identification Number (EIN) or Tax ID is used to import products. Typically, it will be SAO as the buyer, but a foreign vendor with a U.S. presence may be the Importer of Record or their assigned agent.

Incoterms: International Chamber of Commerce sales terms to define who is responsible for the shipping, insurance, duty, taxes, storage, inland freight, etc. Examples are Ex Works (named place), CPI, DAP, etc. (The term “FOB” should only be used for domestic or sea freight.)

International Trade Commission (ITC): Agency that administers the Harmonized Tariff Schedule.

International Trade Administration (ITA): Agency that administers the U.S. position on World Trade Organization Agreements.

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International Traffic in Arms Agreement (ITAR): The U.S. Department of State's regulations controlling the permanent and temporary export and temporary import of defense articles and services.

Merchandise Processing Fee: The Trade Adjustment Assistance Extension Act of 2011 (TAA) charges a merchandise processing fee (MPF) rate for formal entries ranging from 0.2100% (.0021) to 0.3464% (.003464), effective October 1, 2011. The minimum and maximum fees are \$25 and \$485 respectively.

Power of Attorney (POA): document that an importer signs to permit an agent to act on their behalf for specified responsibilities. All POA's must be executed by SI General Counsel.

U.S. Munitions List (USML): Articles, services and related technical data designated as defense articles and defense services. The [USML](#) is in Part 121 of the International Traffic in Arms Regulations. To read the USML go to:

Value Added Tax (VAT) – a tax in addition to duty that a country imposes on foreign goods to protect the supply or competitiveness in their domestic market.

Government website about [exporting](#):

List of dual use items that may require an export license from [BIS](#).

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SMITHSONIAN ASTROPHYSICAL OBSERVATORY

IMPORT OF HARDWARE CHECKLIST

DATE: _____

COMPLETED BY: _____

HARDWARE IMPORTS AND DESCRIPTION	RESPONSE	COMMENTS
1. Name of Program/Project and Vendor address		
2. PI/PM PI/PM email and phone		
3. Date of Planned Import Delivery address		
Name and description of equipment and location of equipment now or indicate "new purchase"		
4. Temporary or permanent import? If temporary, when is it going back and to where? (if applicable – see APO)		
5. Has property transfer form been completed? (Not for purchases)		
6. Controlled under ITAR or EAR? 7. (Complete by ECO)		Buyer or requestor: Ask vendor if export license is required.
8. If export-controlled, is a license needed to import? (ECO)		
9. Does technical data (drawings, specs, statement of work) need to be furnished to the vendor? Do the export of drawings need a license?		

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10. HARDWARE IMPORTS AND DESCRIPTION	RESPONSE	COMMENTS
11. What is country of origin? (country of manufacture)		
12. If returning U.S. goods, are there markings or documentation that it is U.S. origin?		
13. Harmonized Tariff Number (HTSU.S.) (ECO) xxxx.xx.xxxx		Requester: Provide if known
14. Is anything hazardous? If yes, provide details known		
15. How will it be imported? Shipped or hand carried? Ocean/Air?		
16. What is weight? If under 100 lbs.		
17. Will title transfer title? See APO.		
18. Has a customs broker been selected? Do you have a broker for VAT, Duty, Material Processing Fee?		
19. Who is arranging the crating? , Shipping?		
20. Does SI have a Power of Attorney with the freight forwarder and broker?		
21. Insurance?		
22. Who is doing import filing?		
23. Forward Customs docs to ECO/Accountable Property Officer		
Sign off PM ECO		

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Sample EEI

Shipment Details

Filer ID: 042773397
B/L # / MAWB #:
DUSE B/L # / HAWB #: 014271
Shipment Reference: 1316631
Date/Time: 11/21/12 | 7:56AM
ITN: AES: X20121121003567
Departure Date: 11/25/12
Origin State: MA
Country of Dest: UNITED KINGDOM
Export Port: BOSTON-LOGAN INTL AIRP
Mode of Transport: Air
Carrier Scac/IATA: DL
Conveyance Name: DL
Routed Transaction? Yes No
Related Companies? Yes No
Hazardous? Yes No
Destination Port: LONDON HEATHROW
Entry Number:

USPPI
 SMITHSONIAN ASTROPHYSICAL OBSER
 V.
 60 GARDEN STREET
 CAMBRIDGE, MA 02138

~~Phone: 601-475-8000~~

Contact: JERRY AUSTIN

USPPI IRS #: 53-0206027

Cargo Origin: MA

Ultimate Consignee
 MULLARD SPACE SCIENCE CENTER
 (MSSL)
 HOLMBURY ST. MARY
 DORKING SURREY RH5 UNITED
 KINGDOM

Freight Forwarder
 OCEANAIR, INC.
 186A LEE BURBANK HIGHWAY
 REVERE, MA 02151-4000

Intermediate Consignee
 MULLARD SPACE SCIENCE CENTER
 (MSSL)
 HOLMBURY ST. MARY
 DORKING SURREY RH5 UNITED
 KINGDOM

Schedule B/HTS/Description	Gross Wt.	Net quantity in Schedule B	Value	DDTC Details (If Any)
8525.80.4000 DIGITAL STILL IMAGE VIDEO CAMERAS	12	1st. 1 2nd.	\$500,000	USML Cat. 12 Qty. ITAR. UOM. Sig. Equip. N Registrant: G-7000 Eligible Party. AES ITN : AES: X2012112100
License Details S73 730039743				
ECCN:				
License Expiration			Dom./For. Flag	
License Issued At			Domestic	

3UTLER

If gross weight is not available for each Schedule B item listed in column (4) included in one or more packages, insert the approximate gross weight for each Schedule B item. The total of these estimated weights should equal the actual weight of the entire package or packages. Insert the appropriate export license number on the line below the description of each item.