

## I. Purpose

The effectiveness of the Smithsonian Institution's Export Compliance Program depends on having an organization staffed with qualified employees well versed in export regulations and processes and a clearly defined review process. The purpose of this procedure is to:

- Define the roles and responsibilities for those Smithsonian staff involved in the ITAR authorization process, including the Senior Empowered Official (Sr. EO), the Export Compliance Officer (ECO), alternate EOs, and the Export Compliance Coordinators (ECC) at the Unit level
- Establish the process by which the Senior Empowered Official (EO) approves ITAR applications for the Smithsonian including how potential ITAR license actions are assessed, developed and reviewed
- Establish the process by which Smithsonian identifies Empowered Officials

## II. Procedure

1. The Office of General Counsel drafts the Empowered Official letter of delegation for each designated EO for signature by the Secretary of the Smithsonian. The signed letter (on letterhead) is held on file by OGC with a copy to the ECO. See Exhibit A for letter. Empowered Official is a term related to persons who are trained in the ITAR and have authority to sign ITAR licenses.
2. The EOs complete annual training in the ITAR. This training can be provided internally by the ECO, and/or through ECO-recommended venues such as an on-line class, movie on the ITAR, or attendance at external training provide by a qualified ITAR consulting firm, trade organization or government agency. EOs should attend eight hours of training per year. As the EAR and ITAR are interrelated, the EOs also attend training in the EAR. ECCs attend four hours of training annually in export compliance and export clearance and receive export compliance advisories.
3. Each EO must obtain a digital certificate to access the D-Trade2 system, as arranged by the DDTC, U.S. Department of State. The signature must be installed and visible to the DDTC on the D-Trade2 portal.
4. The D-Trade account administrator, called the Super User (currently the ECO) on the D-Trade2 system prepares the required letter to D-Trade2 Help Desk, that indicates the Smithsonian's registration code, address, and description of privileges to be assigned to the new user, including signature authority for ITAR licenses.

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5. The flow of communication between the ECO and the Senior EO for ITAR licenses is depicted in the Flow Chart: Figure 1.

### III. References

- SD 611 Export Compliance and Trade Sanctions Related to Research, Export and Museum Activities
- Explanation of EO Roles is below:

ROLE	RESPONSIBILITY
Senior Institutional Empowered Official (Sr. EO)	The <b>Sr. EO</b> is a high-level authority who regularly communicates the importance of export compliance to the Smithsonian community. The <b>Sr. EO</b> reviews and approves license applications prepared by the <b>ECO</b> that obligate the Smithsonian to comply with the ITAR , receives quarterly license activity reports, approves resources for export compliance (EC) training and assessments, reviews EC audit findings, and is consulted about any potential export violations.
Export Compliance Officer (ECO)	The <b>ECO</b> is the primary <b>EO</b> who is trained in the ITAR to make export-compliance decisions at the operational level. The <b>ECO</b> acts as the focal point for export compliance for Smithsonian employees. This position reports to the <b>Manager of Sponsored Programs and Procurement for SAO</b> and the <b>Director of Sponsored Projects</b> for the Smithsonian. The <b>ECO</b> completes ITAR compliance functions, such as preparing and submitting jurisdictional rulings, classifications, export licenses and amendments. The <b>ECO</b> also is responsible for crafting and finalizing of export compliance procedures, communicating with government agencies, conducting training and internal assessments and ensuring complete records are maintained. (Refer to Procedures # TBD Communication with Government Agencies.)
Alternate Empowered Officials (Alternate EOs)	The <b>Alternate EOs</b> are persons who have received ITAR training, are registered on the D-Trade export license portal, and have authorization to sign ITAR licenses, file license applications and amendments, check status and download approved export licenses. They are available to act as a back up to the <b>ECO</b> in his/her absence. SAO and NASM units have on-going activities related to space, ITAR-controlled instruments and NASA, therefore one <b>Alternate EO</b> is situated at <b>SAO</b> in Massachusetts and one is situated in DC at <b>NASM</b> .
Export Compliance Coordinators (ECCs)	ECCs are a team of export-compliance-related persons and support personnel who, because of the nature of the office the hold at Smithsonian, may regularly come into contact with non-U.S. persons or export situations. They are trained by the ECO to complete basic export compliance tasks and alert the <b>ECO</b> , as needed. ECCs assist and support the EOs but they do not deal directly with export licensing agencies or act as EOs. These positions are identified in Exhibit D to this procedure.

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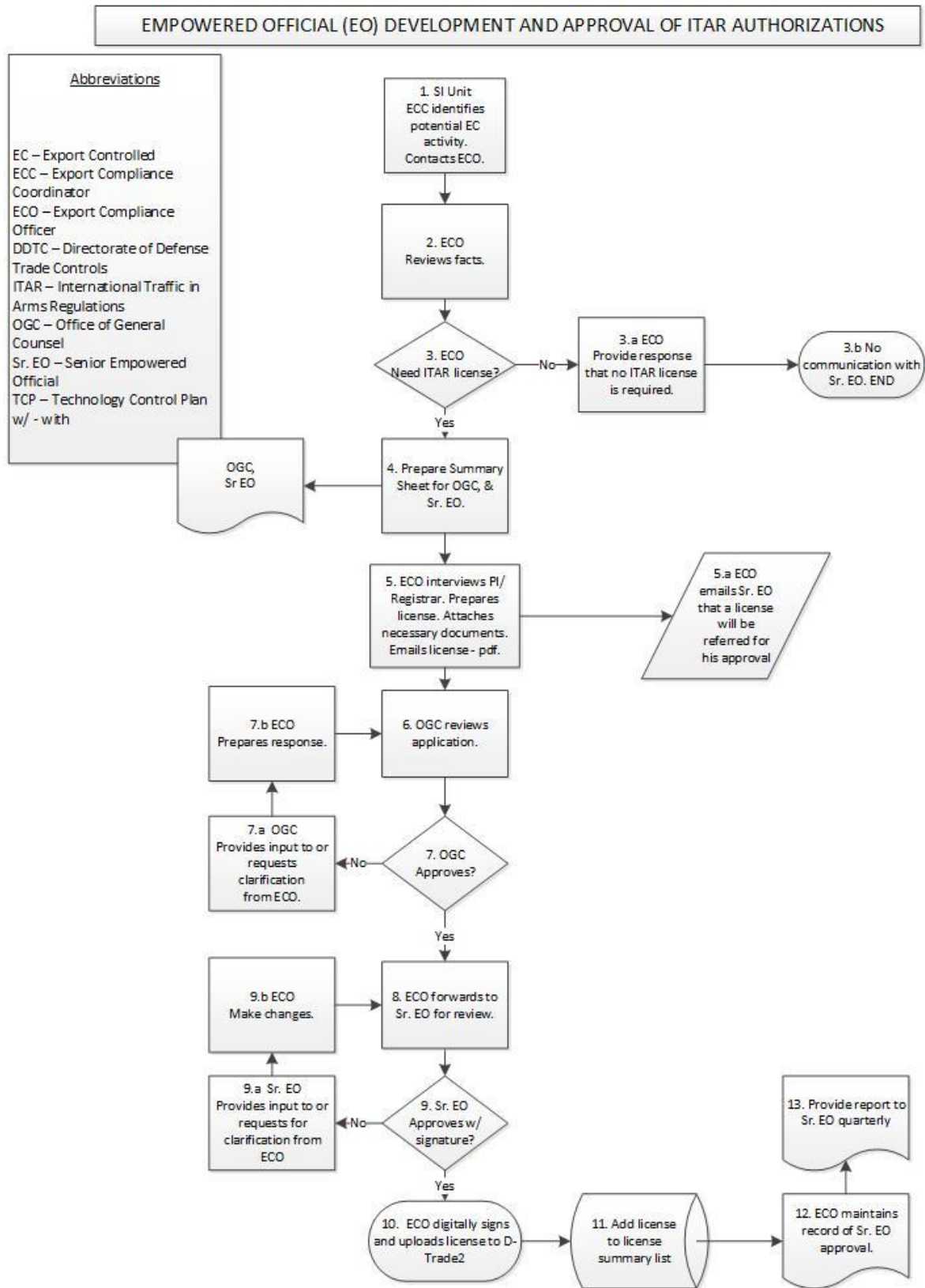
Persons currently in these positions	<p>Senior EO: John Lapiana, Acting Under Secretary, Finance and Administration, Tel: 202-633-5230, Email: <a href="mailto:lapianaj@si.edu">lapianaj@si.edu</a></p> <p>ECO: Natascha Finnerty Tel: 617-496-7557, Email: <a href="mailto:export@si.edu">export@si.edu</a>,</p> <p>Alternate EOs –</p> <ul style="list-style-type: none"><li>• Hunter Hollins, Museum Specialist, NASM Space History Department, Tel: 202-633-2420, Email: <a href="mailto:Hollinsh@si.edu">Hollinsh@si.edu</a>,</li><li>• Thomas Bonnenfant, SAO, Supervisor of Sponsored Programs Tel: 617-495-7317, Email: <a href="mailto:tbonnenfant@cfa.harvard.edu">tbonnenfant@cfa.harvard.edu</a></li></ul>
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- Contact: Natascha Finnerty, Export Compliance Officer about questions related to this procedure at [export@si.edu](mailto:export@si.edu) and telephone is (617) 496-7557.
- Records:
  - Empowered Official Letter (Exhibit A)
  - D-Trade User Letter (Exhibit B)
  - ITAR Summary Sheet for ITAR license Applications (Exhibit C)
  - ITAR authorizations
  - ITAR Database
  - Emails of approval from Senior EO, OGC to ECO

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Figure 1:



*Process steps for Flow Chart: Figure 1*

1. The SI Unit with a potential export activity communicates to the **Export Compliance Coordinator (ECC)** or directly to the **ECO** about the potential need for an export license.
2. The **ECO** reviews the facts, researches the possible export license requirements, license exemptions under the ITAR and the license requirements and license exceptions per the Export Administration Regulations (EAR) .
3. The **ECO** determines if an ITAR license may be required.
  - a. The **ECO** may determine that the activity requires an ITAR license approval from DDTC, via a new export license or an amendment to an existing ITAR license; or
  - b. The activity may not require an ITAR license authorization for a number of reasons, including that the activity:
    - Is not subject to export regulations due to the fact that the transfer involves information in the public domain or fundamental research;
    - Is eligible for a license exemption under the ITAR; or
    - Is eligible for a license or license exceptions under the EAR.
4. If an ITAR license is required, the **ECO** prepares a License Summary Sheet (See Exhibit C) and forwards the document to the **OGC** and the **Sr. EO**. No action by **OGC** or the **Sr. EO** is required at this time.
5. The **ECO** interviews the **PI** or **Registrar** about the licenseable activity. The **ECO** determines the ITAR license type, if any, and prepares the necessary documents. The **ECO** informs the **Sr. EO** that a license is close to completion. The **ECO** completes the license application and the D-Trade2 file is saved as an electronic readable file.
6. The **ECO** sends the ITAR license document and attachments to **OGC** who reviews the application.
7. **OGC** approves the application, or
  - 7.a. **OGC** provides input for further information to include on the license and/or asks for clarification from the **ECO**.
  - 7.b. The **ECO** responds to **OGC's** comments until **OGC** provides approval.
8. The **ECO** provides the ITAR license application (form DSP-5 plus documentation or agreement documents) to the **Sr. EO** for review and approval.

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9. The **Sr. EO** reviews the license application for information about obligations and assurances made by the **Smithsonian Institution**. If there are no further questions, the **Sr. EO** approves the license by electronic communication. If the **Sr. EO** has questions or comments:
  - 9.a The **Sr. EO** provides input about further information to include on the license and/or asks for clarification about the activity.
  - 9.b The **ECO** responds to the **Sr. EO's** comments until the **Sr. EO** provides approval.
10. The **ECO** digitally signs the D-Trade application and uploads it into D-Trade2 and checks status regularly.
11. The **ECO** enters the export license details into the license database
12. The **ECO** converts the **Senior EO's** email to a document and saves it in the V:7: export compliance/export license/SAO or /SI in a folder named with the unit/program as an export compliance record.
13. The **ECO** provides the **Export Compliance Management Team** with a quarterly export license update.

EXPORT CONTROL PROCEDURE (ECP) #3:  
EXHIBITS

Last Updated: March 9, 2015

Exhibit A

EO Letter - Template

John Lapiana  
Deputy Under Secretary for Finance and Administration  
Smithsonian Institution  
1000 Jefferson Avenue, SW  
Washington DC 20560-0016

March 4, 2015

Subject:        Delegation of Authority for Empowered Official per 22 CFR 122

Pursuant to the power vested in me as the Secretary of the Smithsonian Institution, by 20 U.S.C. §46 and by the bylaws and policies of the Smithsonian Institution Board of Regents, I hereby designate you, as the Senior Empowered Official for the Smithsonian Institution, to sign license applications or other requests for approval on behalf of the Smithsonian Institution for the export and import of defense articles and services controlled by the International Traffic in Arms Regulations. This grant of authority supersedes any previous export control authority you may have been granted and includes the authority to:

- (1)     Inquire into any aspect of a proposed export or temporary import by the Smithsonian Institution;
- (2)     Verify the legality of the transaction and the accuracy of information submitted; and
- (3)     Refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

As of the date of this letter, neither the Smithsonian Institution, its Secretary, Under Secretary for Finance and Administration, nor any member of its Board of Regents is: (a) the subject of an indictment for or has been convicted of violating any of the U.S. criminal statutes enumerated in 22 CFR §120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976); or (b) ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from any agency of the U.S. Government. In the event this information changes, you will be so informed.

Sincerely,

Albert Horvath  
Acting Secretary of the Smithsonian Institution

cc:     Judith E. Leonard, General Counsel  
       Natascha Finnerty, ECO

Exhibit B

D-Trade User Letter - Template

U.S. Department of State  
Bureau of Political-Military Affairs  
Directorate of Defense Trade Controls  
Office of Defense Trade Controls Compliance  
Compliance and Registration Division  
Washington, D.C. 20522-0112

March [9], 2015

Ref: **Registration G-7000,**

**Re: Smithsonian Institution, Addition of Empowered Official to D-Trade 2**

This letter updates the designation and addition of a new “empowered official” for the Smithsonian Institution (“Smithsonian”) to be provided with privileges on D-Trade 2. The following fulltime employee has been designated as the “Senior Institutional Empowered Official” for the Smithsonian.

New D-Trade Trade User

John Lapiana  
Deputy Under Secretary for Finance and Administration  
Tel: 202 633- 5230 Email: [lapiana@si.edu](mailto:lapiana@si.edu)  
SI Castle, Independence Avenue, SW Washington, DC 20560

His privileges shall be **User** – signer and status retriever.

Other EOs on the D-Trade 2 account are:

1. **Super User** with all privileges: signer, submitter, status retriever

Natascha Finnerty  
Export Compliance Officer, Smithsonian Institution  
Tel: 617 496-7557 Email: [nfinnerty@cfa.harvard.edu](mailto:nfinnerty@cfa.harvard.edu) or [export@si.edu](mailto:export@si.edu)  
60 Garden Street, MS 23, Cambridge, MA 02138

2. **Existing Users** – signer, submitter and status retriever.

Thomas Bonnenfant  
Supervisor of Contracts, Smithsonian Astrophysics Observatory, Smithsonian Institution  
Tel: 617 496-7313 Email: [tbonnenfant@cfa.harvard.edu](mailto:tbonnenfant@cfa.harvard.edu)  
60 Garden Street, MS 23, Cambridge, MA 02138



**3. User**– signer, submitter and status retriever.

Hunter Hollins  
Curator, National Air and Space Museum, Smithsonian Institution  
Tel: 202 633- 2420 Email: [hollinsh@si.edu](mailto:hollinsh@si.edu)

601 Independence Avenue, SW Washington, DC 20560

Ms. Finnerty, Mr. Bonnenfant and Mr. Hollins have already been identified to the State Department as empowered officials for the Smithsonian. Feel free to contact me at the contact information above if there are any questions.

Best regards,

Natascha Finnerty

Export Compliance Officer, Smithsonian Institution

EXPORT CONTROL PROCEDURE (ECP) #3:  
EXHIBITS

Last Updated: March 9, 2015

Exhibit C

**SUMMARY SHEET FOR ITAR LICENSE APPLICATIONS**

<p>UNIT SUBMITTING REQUEST: SAO</p> <p>PROJECT: Wide-field Imaging Surveyor for High-redshifts - WISH</p> <p>CONTRACT NO /DESIGNATED CODE: N/A</p> <p>SPONSOR: SAO – IR&amp; D</p> <p>TECHNICAL CONTACT NAME AND EMAIL Stuart McMuldloch smcmuldloch@cfa.harvard.edu</p> <p>PHONE NO 626-497-0906</p>
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<b>Response</b>	
1. Description of licenseable activity	<p>WISH, the Wide-field Imaging Surveyor for High-redshifts, is an infrared Japanese (JAXA/ISAS) space mission concept to conduct very deep and wide-field infrared cosmological surveys at wavelengths from 1-5 micron</p> <p>wavelength to study the properties of galaxies in the early Universe. Our group at SAO has proposed to the NASA SALMON-2 Mission of Opportunity to provide the characterized the infrared array focal plane for WISH, building on our experience with the Spitzer Space Telescope. The WISH mission concept has been developed and studied since 2008, and will be proposed for the upcoming JAXA/ISAS flight opportunity.</p>
2. Name of foreign party	Japanese (JAXA/ISAS) space mission
3. Country	Japan
4. Nature of the export: <ul style="list-style-type: none"> <li>• Hardware</li> <li>• Technical Data</li> <li>• Foreign national employment</li> <li>• Defense Service</li> </ul>	Exchange information about the electrical and thermal environments of the spacecraft with JAXA.
5. Previous licensing history	None – that is why we would like to submit the license now.
6. Required documents	Description of program and sample data.
7. Anticipated issues/risks	No contract has been signed.

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Last Updated: March 9, 2015

Date sent to Sr. EO	
Date sent to OGC	