

ADDENDUM CHECKLIST FOR EXPORT CONTROL ISSUES RELATED TO LAPTOPS or GPS EQUIPMENT

This addendum addresses U.S. export controls for laptop computers, global positioning system equipment (“GPS”) and their associated software.¹ Researchers effectively export their laptops or GPS when they:

- Take equipment abroad to aid them with their research;
- Allow a person in a foreign country to use their laptops or GPS; or
- Allow a foreign national access to their laptops or GPS *in the United States* (a so-called “deemed export”).

All of these activities qualify as exports under U.S. export control regulations and may trigger licensing requirements under U.S. export control laws.

Researchers should review this checklist each time they consider exporting a laptop or GPS. Laptops and GPS, and their underlying software, are covered by the Export Administration Regulations (“EAR”) and, in some cases, the International Traffic in Arms Regulations (“ITAR”). Export regulations vary based on which country you are traveling to and for what purpose you intend to use your laptop or GPS. In addition, a licensing exception may apply to the export of the laptop or GPS in question, and if so, a researcher potentially could take that equipment abroad without violating the EAR or ITAR.

If the checklist below suggests that transferring your laptop or GPS might trigger U.S. export control regulations, you must contact Beth H. Israel at the Office of Projects and Grants for an analysis of whether an export license is required. This analysis must occur before the laptop or GPS is exported. Please contact the Office of Projects and Grants as early as possible. Licensing takes time and the Office can assist you to avoid undue delays in your research. You can reach us at: 254 Engineering Terrace; MC 2205, 212-854-6851 (phone); 212-854-2738 (fax).

Please note that the *information* contained in your laptop’s files is subject to the original checklist for Export Controls found in the Memorandum on Export Controls, available at: <<http://www.columbia.edu/cu/opg/policies/checklist.pdf>>. You still must review that checklist to make sure any research you plan to conduct does not violate U.S. export control laws. This addendum builds on that checklist by addressing whether *laptops, GPS, or their associated software* is subject to export regulations.

¹ Please note that U.S. law other than export control law discussed in this Addendum may restrict the use of a laptop or GPS equipment in some cases. For example, interactions with sanctioned countries such as Cuba, Iran, Iraq, Libya and Sudan may be prohibited by U.S. sanctions law unless a license is obtained. Please contact Beth Israel at 212/854-6851; <bhi1@columbia.edu>for more information:

DOES AN EXCLUSION OR EXEMPTION FROM U.S. EXPORT CONTROL REGULATIONS APPLY TO MY LAPTOP, GPS, OR ITS OPERATING SOFTWARE?

A. Yes, an exclusion from U.S. export control regulations applies to my laptop, GPS and its operating software if:

1. My software or technology falls under the PUBLIC DOMAIN EXCLUSION because:
 - a. _____ It does not contain source code for 64-bit encryption software or mass market encryption products (see <http://www.bis.doc.gov/Encryption/Default.htm>), AND
 - b. _____ There is no reason to believe that the software or technology will be used in the development of a weapon of mass destruction, AND
 - c. _____ The underlying sourcecode for the software or the schematics of the technology is already published via one or more of the following:
 - Books, print, electronic or other media available for general distribution to any member of public;
 - Libraries open to the public, unrestricted subscriptions, news-stands or book stores;
 - Published patents;
 - Conferences, meetings, seminars or trade shows in the U.S. that are generally accessible to the public (even for a fee) and where attendees may take notes;
 - Websites available to the public free of charge or at a cost that does not exceed the cost of reproduction and distribution; AND/OR
 - General science, math or engineering courses commonly taught at a university and offered in course catalogues.

Items a-c must be checked in order for the PUBLIC DOMAIN exclusion to apply.

OR

2. My software or technology falls under the FUNDAMENTAL RESEARCH EXCLUSION because:
- a. _____ It does not contain source code for 64-bit encryption software or mass market encryption products (see <http://www.bis.doc.gov/Encryption/Default.htm>), AND
 - b. _____ There is no reason to believe that that the software or technology will be used in the development of a weapon of mass destruction, AND,
 - c. _____ The software or technology is the subject of basic or applied research in science and/or engineering at an accredited institution of higher learning in the United States, AND
 - d. _____ If my research is funded by the U.S. government, I have complied with specific national security controls agreed to, which may include prepublication review (Note: Columbia university policy generally prohibits such national security controls), AND
 - e. _____ No other restriction applies to the publication of underlying sourcecode or technology schematics, other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information or to insure that publication will not compromise patent rights of the sponsor, AND
 - f. _____ The underlying sourcecode or technology are ordinarily published and shared broadly in the scientific community, have been published, or are about to be published (please see part A.1.c above for list of the accepted means of publication).²

Items a-f must be checked in order for the FUNDAMENTAL RESEARCH exclusion to apply.

B. Yes, an exemption from U.S. export control licensing requirements applies to my laptop, GPS and their operating software if:

² If your fundamental research activity concerns information or software on the United States Munitions List (“USML”), it *already must be published* in order for the exclusion to apply. The fact that such information is ordinarily published or about to be published is not sufficient. See <http://pmdtc.org/> for more information about the USML, or contact Beth Israel at 212/854-6851; <bhi1@columbia.edu>.

1. _____ My software does not contain source code for 64-bit encryption software or mass market encryption products (see <http://www.bis.doc.gov/Encryption/Default.htm>), AND
2. _____ The equipment, software and technology is not on the United States Munitions List (“USML”) under the International Traffic in Arms Regulations (See http://pmdtc.org/docs/ITAR/22cfr121_Part_121.pdf for a list of items on the USML – please carefully review Category XV if you are exporting GPS equipment.), AND
3. _____ The equipment, software and technology will not be put to a military use OR used in outer space, AND
4. _____ There is no reason to believe that my research could be used in the development of weapons of mass destruction, AND
5. _____ **Either 5.a or 5.b below applies:**
 - a. _____ Transfer of my laptop, GPS and its operating software to a foreign country or person falls under the BAGGAGE EXCEPTION because:
 - (i) _____ I am leaving the United States temporarily (i.e., traveling) or longer-term (i.e., moving), AND
 - (ii) _____ I, or a member of my immediate family, will use the item for personal use, AND
 - (iii) _____ I plan to return to the United States with the item, AND
 - (iv) _____ The item is a usual and reasonable kind and quantity of tool, instrument, or equipment for use in my trade, occupation, employment or vocation, AND
 - (v) _____ I own the item.
 - Items 1-4 plus all items in 5.a must be checked in order for the BAGGAGE EXCEPTION to apply.**
 - b. _____ Transfer of my laptop or GPS to a foreign country or person falls under the TEMPORARY EXPORT EXCEPTION because:

- (i) _____ It will be returned to the U.S. within one year of its export date,³ AND
- (ii) _____ It is a “tool of the trade” because it is a usual and reasonable type of tool of trade for use in lawful research, AND
- (iii) _____ I will retain effective control over the laptop or GPS while abroad by retaining physical possession of the item or securing the item in an environment such as a hotel safe, AND
- (iv) _____ I will accompany the item abroad, or it will be shipped within one month before my departure, or at any time after my departure, AND
- (v) _____ I am not exporting the item to Cuba, Libya, Sudan, Iran or Iraq, AND
- (vi) _____ I am not using this item in relation with any nuclear research.

Items 1-4 plus all items in 5.b must be checked in order for the TEMPORARY EXPORT EXCEPTION to apply.

C. Maybe, U.S. export control licensing requirements may apply to export of my laptop, GPS or their operating software if neither part A nor part B above applies. I should contact the Office of Projects and Grants for more information.

D. No, I likely must seek an export control license if the laptop, GPS or their associated software is designed or modified for:

- 1. A military use, OR
- 2. Use in outer space, OR
- 3. There is reason to believe that my research could be used in the development of weapons of mass destruction.

If any of these statements applies, please contact the Office of Projects and Grants immediately for an analysis of whether an export license is required.

³ Please contact Beth Israel if you would like to retain the item abroad for more than one year. Special authorization may be obtained if this is the case. (15 CFR § 740.9(a)(4)(iii))