

CHECKLIST FOR EXPORT CONTROL ISSUES¹

Please note that the exclusions from U.S. export controls covered by this checklist are available only for *information* associated with research, such as experimental results or academic publications, not for equipment or services *per se*. Thus, the results of fundamental research may be exportable, but the equipment used to conduct it may be controlled.

If an exclusion applies, Columbia researchers may communicate information to persons abroad (“exports”) or to foreign persons in the United States (“deemed exports”) without violating the export control regulations. Nonetheless, U.S. law other than export control law may restrict exports and deemed exports in some cases. For example, interactions with embargoed countries, such as Cuba, Iran, Iraq, Sudan, Libya, Myanmar and North Korea, may be prohibited by U.S. sanctions law unless a license is obtained. In other cases, working with nuclear materials may trigger trade restrictions other than export control regulations. Please contact Beth H. Israel for more information.

If your research might trigger U.S. export control regulations because part B or C of the checklist applies, you must contact Beth H. Israel for an analysis of whether an export license is required. This analysis must occur before any foreign national becomes involved in your research and before any transfer of information out of the United States occurs. 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.

DOES AN EXCLUSION FROM U.S. EXPORT CONTROL REGULATIONS APPLY TO MY RESEARCH?

- A. Yes, an exclusion from U.S. export control regulations applies to my research, if:**
1. My research falls under the PUBLIC DOMAIN EXCLUSION because:
 - a. It is not research containing source code for 64-bit encryption software or mass market encryption products (see <http://www.bxa.doc.gov/Encryption/Default.htm>), AND

¹ Portions of this checklist are based on Stanford University’s Openness in Research Checklist of May 2001 and export control summaries prepared by the Massachusetts Institute of Technology.

- b. There is no reason to believe that information or software released by my research will be used in the development of a weapon of mass destruction, AND
- c. 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/prepublication review), AND
- d. Any information or software released by my research 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-d must be checked in order for the PUBLIC DOMAIN exclusion to apply.

OR

2. My research falls under the FUNDAMENTAL RESEARCH EXCLUSION because:
 - a. It is not research containing source code for 64-bit encryption software or mass market encryption products (see <http://www.bxa.doc.gov/Encryption/Default.htm>), AND
 - b. There is no reason to believe that information or software released by my research will be used in the development of a weapon of mass destruction, AND,

- c. It is 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/prepublication review), AND
- e. No other restriction applies to the publication of the information resulting from the research, 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 results of such research are ordinarily published and shared broadly in the scientific community, have been published, or are about to be published (please see part A.1.d 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. Maybe — If neither exclusion described above in part A is clearly available, U.S. export control regulations may apply to my research if:

- 1. My research contains source code for 64-bit encryption software or mass market encryption products (see <http://www.bxa.doc.gov/Encryption/Default.htm>), OR
- 2. My research activities involve exposure to foreign nationals within the United States, transfers of goods, services, information or technology abroad, or travel outside of the United States, AND
 - a. Equipment, software or technology involved in my research is on the United States Munitions List (“USML”) under the International Traffic in Arms Regulations (“ITAR”; see <http://pmdtc.org/>); OR

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.

- b. Equipment, software or technology involved in my research is on the Commerce Control List (“CCL”) under the Export Administration Regulations (“EAR”; see <http://www.bis.doc.gov/>),³ OR
- c. My research involves providing technical information or instructions concerning equipment, software or technology on the USML or the CCL, as referred to in part B.3.a or b above.

If item 1 is checked, or if item 2 plus either a, b or c is checked, please contact the Office of Projects and Grants immediately for an analysis of whether an export license is required.

C. No, an exclusion from U.S. export control regulations does not apply to my research, and I likely must seek an export control license for my research activities, if the equipment, software, or technology involved in my research 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 Researchers will generally not need a license if goods, services, technology or information involved with their research is classified as “EAR 99,” a “catch-all” category under the Commerce Department’s regulations. Even EAR 99 exports may require licenses, however, if the destination is China, India, Israel, Pakistan, Russia or another country with restricted entities on the EAR “entity chart” at 15 C.F.R. § 744, Supp. 4. In addition, an export license may be necessary for EAR 99 items, services, technology or data if the end user (ultimate recipient) is on the EAR “denied persons” or “unverified” lists, available at: <http://www.bxa.doc.gov/complianceandenforcement/index.htm#lrc>.