When Do Export Controls Apply?

Many factors go into determining whether export controls apply, including the type of research or activity, foreign national participation, acceptance of export-controlled information, foreign travel, and international collaborations. A benefit to working at a university is that certain releases of materials and information are not subject to the license requirements of export control regulations when they qualify for the fundamental research exclusion. To help you get an idea, below are a few basic questions that can help identify whether export controls may be triggered.  This is not an all-inclusive list but does cover some primary areas of risk.

### Does my research or activity involve:

* Sponsor pre-approval prior to publication of research?
* Sponsor placing any restrictions on foreign national participation?
* Foreign sponsors?
* Foreign travel, international research, or collaborating with colleagues in foreign countries?
* Hand carrying items to foreign countries, e.g., laptops, GPS, unpublished research technical data?
* Receipt of any sponsor provided information or software marked "Export Controlled"?
* Shipping any physical items to a foreign country?
* Electronically transmitting software and/or technical data internationally?
* Any agreements (NDA, RFP, award, contract, etc.) with export control language?
* Participation of a foreign person from Crimea, Cuba, North Korea, Syria, Sudan or Iran?
* Travel to or through Crimea, Cuba, Iran, North Korea, Syria or Sudan?
* Military-related research or research with the potential for military applications?
* Encryption source code or object code?
* Travel with an encrypted device (e.g. laptop, phone) to or through Burma (Myanmar), China, North Korea, Russia, Tunisia, Turkmenistan, or Uzbekistan?\* *This relates to foreign import restrictions.*

If you answer yes to one or more of the questions above, or you have any questions about these or other types of situations that may involve export controls, please contact export@iastate.edu or call Matt House at 515-294-0269 or Brooke Langlitz at 515-294-7793 for assistance and guidance.

### Do export controls only apply to sponsored research?

No.  Export controls are U.S. laws that apply to all research and activities conducted at ISU whether funded or not.  Export controls may cross all academic fields, including, but not limited to, engineering, psychology, biology, chemistry, veterinary medicine, and education.

### Does my research qualify for an exclusion to export control regulations?

Published information already in the public domain and information ordinarily published and shared broadly in the scientific community resulting from basic and applied research in science and engineering is excluded from export control regulations.

The exclusion does **not** apply to research which requires sponsor approval to publish, where specific U.S. Government access or distribution controls exist, or when foreign nationals are prohibited from participating. Researchers must not make “side deals” with the sponsor that may limit access and dissemination activities because it will void the fundamental research exclusion and subject the research to export control regulations.

Note: Prepublication review by a sponsor to remove the sponsor’s proprietary information, or to temporarily delay publication to ensure that publication would not compromise patent rights, does not change the status of the research as fundamental research.

Military Technology Case Study

U.S. Air Force wanted to develop advanced technology for unmanned aerial vehicles (UAV) for air dominance. The Air Force wanted to make smaller, more cost effective UAVs with fewer moving parts and sought to develop plasma actuator technology to advance flight controls for military UAVs. To do this, the Air Force contracted with a small business who subcontracted to a research university.

Both the contract to the small business and subcontract to the university contained language that the research project was subject to export control regulations and agreed not to disseminate data in violation of export control laws. The small business and university professor agreed to include a Chinese student on the research project, but that the student would be “walled off” from export controlled technology. In order to accelerate the project, the “wall” was torn down, and the Chinese student was allowed to access export controlled data. When the professor wanted to add an Iranian student to the project, the small business refused, and the professor complained to the university.

When the university found out about the arrangement, the export control officer told the professor that it was clear the research project is export controlled. She instructed the professor to stop disclosing export controlled technical data to foreign national graduate students and to not take export controlled technical data to China, where he planned to present his research.

In spite of the instructions, the professor continued to share controlled information with his foreign graduate students, instructed one of his foreign graduate students to send export controlled information to a foreign national in China where it would be delivered to him for his presentations, and transported three documents containing controlled technology with him to China.

The university professor was convicted of violating U.S. export laws and received four years in prison. Read more about the case at: <http://www.nature.com/nature/journal/v442/n7100/full/442232a.html>, <http://www.bloomberg.com/bw/articles/2012-11-01/why-the-professor-went-to-prison>

Research and Shipping Case Study

A university sent an atmospheric sensing device, antennae and cables to a collaborator in Pakistan. At the time of shipment, a federal export license would be needed to ship to Cuba, Iran, North Korea, Syria, Sudan, or any person or Entity on government lists of Parties of Concern. The collaborator, SUPARCO, was on the Entity List and had a presumption of approval for EAR99 items, so if the University had applied for a license, they would have likely received it. Instead, the university shipped the items without a license and received a penalty of $100,000 and two years’ probation. See more at: <http://www.williamsmullen.com/news/university-charged-export-violations>

 Sanctions Case Study

A postdoc at a university wanted to purchase a medical device (MRI coil) to send to Iran. The medical device company from which he tried to purchase the device contacted the FBI and an undercover agent posed as a medical device salesman. The agent told the postdoc he would need an export license to transfer the coil to Iran. Upon being told he would need a license, the postdoc suggested sending it instead to the Netherlands, and that he would apply for a license to send it to Iran. The agent stated that a license would still be needed to ship out of the United States because the end-user was in Iran, but that OFAC would issue the license for humanitarian purposes. The postdoc did not seek a license and was charged with conspiracy to export to an embargoed country and conspiracy to smuggle goods. The case is still pending. See more at: <http://www.bu.edu/orc/files/2012/07/Scientist-Charged-in-Iran-Export-Case.pdf>