

## Export Control Regulations – Procedures and Questionnaires

**Please review the following information to determine if your activity is subject to export control regulations. After reviewing the information, complete the Export Control Questionnaire Part I.**

### **A. Activities Subject to Export Controls at American University:**

- 1) when shipping controlled items such as equipment, components, technical data, or related information abroad;
- 2) when faculty, staff, or students travel abroad and take such items along, whether for transfer to the foreign location or for the traveling individual's own personal use while traveling abroad; or,
- 3) when “deemed exports” occur in this country when controlled items are transferred to foreign persons on U.S. soil, including on the AU campus.

### **B. Exclusions and Exceptions**

Exclusions from EAR and ITAR regulatory provisions include 1) **“fundamental research” being conducted at a college or university and, 2) “educational information” exchanged within a publically published course catalogue of the institution.** Due to these exclusions, most of the information exchanged on campus at AU is not subject to these regulations. Limits to these exclusions may exist, however, for confidential or proprietary information received from third parties for need-to-know use in AU research programs or for certain encryption technology.

- 1) The fundamental research exclusion (FRE) of an accredited institution of higher learning applies to all published information already in the public domain and to all information ordinarily published and shared broadly in the scientific community resulting from basic and applied research in science and engineering. It does not apply to research, the results of which are restricted for confidential or proprietary reasons, or where specific U.S. government access or distribution controls exist.

**It is important to note that the fundamental research exclusion does not apply to private consulting activities undertaken by University faculty solely on behalf of external companies or organizations, or to activities not conducted on the campus of an accredited institution of higher learning.**

- 2) Information commonly taught in courses of the institution or already in the public domain is excluded from export control regulations.

- 3) Other exceptions contained in the regulations, beyond the exclusions noted above, also exist. Of note, a temporary exception exists to provide a license exception for tools of the trade being used by researchers for short-term, limited personal use while abroad (e.g., laptops or other hand-held devices for short-term limited use). These exceptions may be voided for a particular country of interest, or for one of the following reasons:
- For the use or user of the export or re-export (e.g., the use may be for military or defense related purposes or the user may be debarred or suspended);
  - Because it is subject to one or more of the General Prohibitions contained in the EAR;
  - Because the authorization to use the license exception has been suspended or revoked;
  - Because the country is otherwise subject to a comprehensive embargo; or,
  - For other reasons as noted in the regulations.

**Export Control Questionnaire**  
**American University**  
**Part I**

The following will walk you through a series of “Yes” or “No” questions, leading to a determination of whether or not an export control license is applicable to any particular situation. Remember that export controls may apply when an item, information or software is being sent outside U.S. borders, OR when it is being shared with “foreign individuals” in the U.S. **Please be aware that procuring a license may take several months.** Questions should be directed to the export control reviewer in the Office of Risk Management.

Question	Yes	No
1. Are you sharing, shipping, transmitting or transferring AU-developed, non-commercial encryption software in source code or object code?		
2. Do you know or have any reason to believe that the item, information or software to be shared, shipped, transmitted will support the design, development, production, stockpiling or use of a nuclear explosive device, chemical or biological weapons or missiles?		
3. Was the item, information or software to be shared, shipped, transmitted or transferred developed under a sponsored agreement imposing publication restrictions beyond a brief review (up to 90 days) for patent protection and/or inadvertent release of confidential/proprietary information?		
4. Did an external sponsor, vendor, collaborator or other third party provide, under a Non-Disclosure Agreement or a Confidentiality Agreement, the item, information or software to be shared, shipped, transmitted or transferred?		
5. Is the item being shared, shipped, transmitted or transferred a defense article other than information or software on the ITAR’s US Munitions List (USML)? <a href="http://www.pmdetc.state.gov/regulations_laws/itar_official.html">http://www.pmdetc.state.gov/regulations_laws/itar_official.html</a>		
6. Is the information or software being shared, shipped, transmitted or transferred technical data on the ITAR’s U.S. Munitions List (USML)?		
7. Are you shipping or transferring items on the Commerce Control List (CCL) of the Export Administration Regulations (EAR)? <a href="http://www.gpo.gov/bis/ear/ear_data.html">http://www.gpo.gov/bis/ear/ear_data.html</a>		
8. Are you sharing, transmitting or transferring technology (information) or software code on the Commerce Control List (CCL)?		
9. Is the disclosure, shipment, transmission, or transfer to an entity or person in a country subject to U.S. economic or trade sanctions or identified by the U.S. Department of State as a “State Sponsor of Terrorism.” <a href="http://www.treas.gov/offices/enforcement/ofac/">http://www.treas.gov/offices/enforcement/ofac/</a>		

If you answered “No” to all of the questions above, no Export Control License is needed. Stop here.

If you answered “Yes” to any of the questions above, a license may be needed. Please complete the Export Control Questionnaire Part II and contact the Risk Management Office at x2706 for further instructions.

**Export Control Questionnaire  
American University  
Part II**

Purpose of Travel: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Activity Type (choose one):     Basic research  
     Clinical research  
     Training  
     Clinical services  
     Conference  
     Other (Explain) \_\_\_\_\_

Name, Title and Phone of person completing this form: \_\_\_\_\_

If you answer “yes” to any question below, attach a separate sheet to describe the item or activity, how and where the item will be used, where activities will take place and the names, titles and affiliations of persons involved.

Question	Yes	No
1. This project involves shipping equipment, chemicals, biological materials, encrypted software, or other materials internationally. If YES, list all items and locations to which they will be shipped.		
2. I plan to collaborate with researchers or organizations from outside the United States. If YES, list the organizations and/or researchers and countries.		
3. I expect to have foreign national(s) participate in the project.		
4. I expect to host visiting scientists who are or may be foreign nationals.		
5. AU faculty, staff, or student will perform this project, or part of this project, at a non-U.S. site. If YES, describe the project activities, faculty, staff or student involved, and location of site(s).		
6. AU faculty, staff, or student will travel internationally as part of this project, such as for a professional meeting or for training. If YES, describe the planned travel (personnel, location and purpose).		
7. AU faculty, staff, or student will take abroad <u>equipment</u> including, but not limited to, a computer, camera, PDA, global positioning device, distiller, fermenter, incubator, centrifuge or oscilloscope. If YES, specify.		

8. AU faculty, staff, or student will take abroad <u>encryption software</u> in electronic or hard copy form, or information that describes encryption software. If YES, describe circumstances.		
9. AU faculty, staff, or student will take abroad a <u>computer</u> that will not be under the exclusive use and control of a full-time AU employee. If YES, describe circumstances.		
10. AU faculty, staff, or student will take abroad a <u>select agent or toxicological agent</u> , including a chemical, biological, virus, toxin or associated equipment. If YES, specify.		
11. This project involves research on or testing of an item for military use (or dual use).		

Number of separate sheets attached: \_\_\_\_\_

I have read this form and the responses, including all attached sheets, and I understand and agree the information provided is accurate and complete.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date