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Export controls is a multi-faceted body of law and regulations governing the export of sensitive items, including equipment and technology used in research, which can affect a research institution in many different and unexpected ways.

Export control issues may arise on many fronts, and non-compliance with the statutory and regulatory requirements carry heavy penalties, both civil and criminal. It is important for everyone within MIT to learn how to recognize export control issues when they arise in our daily work and to understand the resources available within MIT to deal with them.

<p>Export Controls Boot Camp</p> <p>Basic information about export controls</p>	<p>Export Controls for Researchers</p> <p>Specific information about issues that affect researchers</p>
<p>News, Resources and Links</p> <p>Documents posted on the previous OSP Export Controls page</p>	<p>FAQs</p> <p>Quick reference to the answers of some of the most common questions regarding export controls</p>
<p>MIT Policy Statements on Export Controls</p> <p>A summary of MIT's policies regarding export controls</p>	<p>Glossary</p> <p>An aid to understanding the language of export controls</p>

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http://web.mit.edu/osp/www/Export_Controls/index.htm

Fundamental Research Exclusion

The term ***Fundamental Research*** means basic and applied research in science and engineering, ***the results of which ordinarily are published and shared broadly within the scientific community***, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

The Fundamental Research Exclusion *applies only to the dissemination of research data and information, not to the transmission of material goods.*

The Fundamental Research Exclusion is DESTROYED IF:

The university accepts any contract clause that

- Forbids the participation of foreign persons
- Gives the sponsor a right to approve publications resulting from the research; or
- Otherwise operates to restrict participation in research and/or access to and disclosure of research results.

“Side deals” between a PI and Sponsor to comply with such requirements even though not stated in the research contract may destroy the fundamental research exclusion and expose both the PI and the Institute to penalties for export control violations and may also violate university policies on openness in research.

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The disclosure or transfer of export controlled software, technologies or technical data to a foreign entity or individual *inside* the US is “deemed” to be an export to the home country of the foreign entity or individual.

The term “deemed export” applies to technology transfers under the EAR and the provision of ITAR technical data and defense services under the policies of most research institutions, foreign faculty, students, staff, and scholars may not be singled out for restrictions in their access to educational and research activities. Nor will the institution agree to restrictions on publication of research results, other than a short period (generally 30-60 days) for sponsor review (but not approval) of proposed publications to remove inadvertently included proprietary information provided by the sponsor or to seek patent protection.

Failure to follow such a policy will destroy the institution’s fundamental research exclusion, and without this protection, EAR or ITAR will then apply to information (technology or technical data) concerning controlled materials or items. Unless a license exception applies, a “deemed export” license will be required before the information is conveyed (even visually through observation) to foreign students, researchers, staff, or visitors on campus, and an actual export license will be required before the information is conveyed abroad to anyone. Unless the fundamental research exclusion applies, a university’s transfer of controlled technology to a non-permanent resident foreign national who is not a full-time university employee in the U.S. may be controlled and/or prohibited.

Who, What, When, Where and How

Steps for Analyzing Export Control Issue

I. While we often discuss export controls in general terms, the actual determination is based solidly on the facts. When an inquiry comes in regarding a potential export, first assess what element of the issue involves an export, using the basic queries:

A. Who?

Who wants to travel outside the US?

Who is the intended recipient of a piece of equipment or technology? In what country are they located?

B. What?

What piece(s) of equipment are intended for export?

What technology? (For both of these, refer to the list of Project Resources for both EAR and ITAR to cover all possibilities.)

C. When?

What is the time frame for export?

If it will be returned, when?

Has it been sent already?

D. Where?

Where are the individuals traveling?

What is the intended destination(s) of the equipment or technology?

For a deemed export, what is the nationality of the intended recipient who is a foreign national?

E. How?

How is the export going to be used once it has reached its destination? (Confirm that it is an MIT and not a personal export.)

What is the research program involved? Is there a Statement of Work?

Is it the subject of an agreement? (If so, review the agreement for further information about the intended export.)



PROPOSAL/PROJECT ANALYSIS

