

What should I consider before sharing information with collaborators whether in the US or abroad?

Is the information you are sharing in the public domain/publically available?

Both the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR) exclude Public Domain (ITAR) and Publically Available Information (EAR) from the respective regulations – Fundamental Research is included in both exclusions.

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."

Public Domain (ITAR)

Information which is published and which is generally accessible or available to the public:

- Through sales at newsstands and bookstores;
- Through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;
- Through second class mailing privileges granted by the U.S. Government;
- At libraries open to the public or from which the public can obtain documents;
- Through patents available at any patent office;
- Through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States;
- Through public release (unlimited distribution) after approval by the cognizant U.S. government department or agency;
- Through **fundamental research** in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community.

Publically Available (EAR)

- Published Information and Software* (15 CFR 734.7)
- Information Resulting from **Fundamental Research** (15 CFR 734.8)
- Educational Information (15 CFR 734.9)
- Information included in certain patent applications (15 CFR 734.10)

**Excludes certain encryption software – see ECCN 5D002*

This Public Domain/Publically Available Exclusion may be void if the university or Principal Investigator accepts any of the following conditions, regardless of sponsor:

- prepublication reviews;
- sponsor approvals or conditions on publication or information;
- foreign national controls or approvals;
- access and dissemination controls on the research;
- national security controls.

❖ ***IF NOT, THEN THE INFORMATION SHOULD BE REVIEWED FOR A DETERMINATION OF WHETHER OR NOT A LICENSE WOULD BE REQUIRED TO SHARE AND/OR SEND THE INFORMATION.***

❖ ***REMEMBER: SHARING EXPORT CONTROLLED INFORMATION WITH A FOREIGN NATIONAL WITHIN THE US IS A DEEMED EXPORT AND MAY REQUIRE A LICENSE.***

❖ ***NOTE: THIS APPLIES TO INFORMATION ONLY AND NOT THE THINGS!!***