

Export Control ~~ Quick Reference Guide

International Traffic in Arms Regulations (ITAR)

Public Domain	Subject to ITAR	*Definition and Website(s)
<p>Information in the public domain is not subject to ITAR. The public domain is defined as information that is published and is generally accessible or available to the public through:</p> <ul style="list-style-type: none"> ➤ sales at newsstands and bookstores ➤ subscriptions that are available without restrictions ➤ libraries open to the public or from which the public can obtain documents ➤ second class mailings privileges ➤ patents available at any patent office ➤ unlimited distribution at a conference, meeting, seminar, trade show or exhibition, which is generally accessible to the public ➤ public release with unlimited distribution after approval from the cognizant U.S. Government department or agency ➤ 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. 	<p>ITAR applies when university research is not fundamental. Research is not fundamental if:</p> <ul style="list-style-type: none"> ➤ the University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity ➤ the research is funded by the U.S. Government and specific access and dissemination controls protecting information are applicable. <p>ITAR regulations apply when information and research involving defense articles and services is not in the public domain. ITAR specifies the requirement for export/re-export licenses for both unclassified technical data and classified technical data.</p> <p>University exemptions for foreign persons who are bona fide and full time regular employees DO NOT apply to foreign persons from Afghanistan, Belarus, Cuba, Iran, Iraq, Libya, North Korea, Syria, and Vietnam or from countries where the United States maintains an arms embargo such as Burma, China, Haiti, Iran, Iraq, Liberia, Pakistan, Rwanda, Somalia, Sudan and Democratic Republic of the Congo (formerly Zaire).</p> <p>U.S. Department of State – Office of Defense Trade Controls -Embargo Reference Chart web address:</p> <p>http://pmdtc.org/country.htm</p>	<p>Fundamental research in ITAR is defined as *basic and **applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. Contact with foreign nations is subject to export control when the information to be shared is not in the public domain and the information concerns items on the U.S. Munitions List and the Military Critical Technologies List.</p> <p><u>U.S. Department of State</u></p> <p>http://pmdtc.org/reference.htm</p> <p>**Basic Research” means a systemic study directed toward greater knowledge or understanding of the fundamental aspects of phenomena and observable facts without specific applications towards processes or products in mind.</p> <p>**Applied Research is a systemic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met. It is a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.</p>

Export Administration Regulations (EAR)

Public Domain	Subject to EAR	**Definition & Website(s)
<p>The same concept of public domain as defined by ITAR applies to the Export Administration Regulations (EAR) which are issued by the U.S. Department of Commerce. Basically, any information that is in the open literature or is to be published in the open literature and presented at open meetings without restrictions and which is generally accessible to the public is in the public domain and not subject to EAR. Fundamental research** whose results are published in the open literature is excluded from EAR. The EAR specifically states that educational information is not subject to EAR if it is released by institutions in catalog courses and associated teaching laboratories of academic institutions.</p>	<p>Information exchange with foreign nationals either as visitors, students or employees may be subject to export control if the information is not in the public domain and is on the U.S. Commerce List. Visits of faculty to laboratories in foreign countries and sabbaticals in those laboratories may be subject to export controls if the information to be shared and the research to be performed is not in the public domain and is on the U.S. Commerce List.</p>	<p>Fundamental research in EAR is defined as basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community.</p> <p><u>U.S. Department of Commerce – Bureau of Industry and Security</u> (formerly Bureau of Export Administration)</p> <p>http://w3.access.gpo.gov/bis/index.html</p> <p><u>U.S. Department of Commerce National Technical Information Service</u></p> <p>http://www.ntis.gov/index.asp</p>