Guidelines for Export Control

Definition: "export" in this context means a transfer of export-controlled items, information, or assistance out of the United States, or within the U.S. to a non-U.S. person (i.e., a person not a U.S. citizen or permanent resident - there are other exceptions, but they need to be reviewed before assuming they are OK).

"Export" is OK:

1. For information that is in the public domain **AND** if it does **NOT** involve (a.) controlled substances or restricted technologies, (b.) encryption except for exceptions in (2.e.) below, (c.) have any contractual restrictions on publication (beyond a brief review for patent protection or inadvertent release of confidential information), or (d) have any other contractual restrictions for export.

> a. the easiest demonstration of public domain is if the material is (1) published or (2) readily available on a non-password-protected web site

> b. However, **any information that has been labeled "ITAR sensitive" or the equivalent by the party supplying it must be assumed to be as-marked, regardless of your interpretation of the facts! Any ITAR-sensitive material must be handled in a secure fashion - it cannot be emailed and must be protected at all times from access by unauthorized persons, including foreign nationals.**

> c. and in general any information provided under a non-disclosure or confidentiality agreement must honor that agreement, of course

2. Export is also OK for information that is fundamental research and does **NOT**

> a. include exports of hardware or "software technology"

> b. involve financial dealings with prohibited parties or entities

> c. provide technical assistance relevant to export controlled activities (e.g., design of export-sensitive hardware such as weapons of any kind or weapon delivery systems, or of related software)

> d. involve embargoes or sanctioned parties or countries (seek advice for Afghanistan, Belarus, Cuba, Cyprus, Eritrea, Fiji, Iran, Iraq, Cote d'Ivoire, Lebanon, Libya, North Korea, Syria, Vietnam, Myanmar, China, Haiti, Liberia, Rwanda, Somalia, Sri Lanka, Republic of the Sudan (Northern Sudan), Yemen, Zimbabwe, Venezuela, Democratic Republic of the Congo.)

> e. include encryption software, unless it is either open source, e.g., LINUX, or if commercially available (e.g., PKWare) does not involve keywords longer than 64 bits. Even in these cases, from the Fedora web site, such software

"may not be exported, re-exported or transferred (a) to any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR (currently, Cuba, Iran, North Korea, Sudan & Syria [Libya is sometimes on this list also]); (b) to any prohibited destination or to any end user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government; or (c) for use in connection with the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, or sounding rockets, or unmanned air vehicle systems. You may not download Fedora software or technical information if you are located in one of these countries or otherwise subject to these restrictions. You may not provide Fedora software or technical information to individuals or entities located in one of these countries or otherwise subject to these restrictions."

3. Taking a laptop for personal use (presentations, research) and that you will bring back with you upon your return is OK if:

a. it has only an open source operating system (e.g. LINUX) and is being used as in the Fedora statement in (2.e.).

b. it has windows or MAC-OS, if the software under this operating system does not involve encryption or if the encryption is contained in commercial software and does not use keys of more than 64 bits

c. in any case, if the computer has export-controlled information the material must be encrypted. If the information is ITAR-controlled, a license is required before the computer can be taken outside the U.S. With EAR-controlled technology, it may be possible to obtain an exception through "BAG" or "TMP" procedures. In all cases, Victor Gasho and/or the University Export Control Office should be consulted to be sure the correct procedure is being followed.

d. you are NOT taking the laptop to one of the forbidden ("sponsors of terrorism") countries (currently Iran, Syria, Libya, North Korea, Cuba, Sudan)

All other cases should be brought to the attention of Victor Gasho for documentation and discussion.