Top 10 Things You Need to Know
Export Control

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Top Ten Things You Need to Know When Traveling Abroad: Export Control Compliance

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Introduction

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- BS - MIT Physics
- BS - MIT Earth and Planetary Sciences
- MS - MIT Earth and Planetary Sciences
- MS - MIT Civil Engineering

- 33 years with Air Force
  --Senior astrophysicist
  --Foreign Military sales
  --Research Lab Management – The Pentagon
  --European Office of Aerospace Research and Development—London/Moscow

- Started as MIT ECO September 2015
Top Ten

#1. What is an export?
#2. What is controlled?
#3. Who determines what is export controlled?
#4. How do the regulations differ?
#5. What determines which exports are prohibited?
#6. What can you take abroad?
#7. Restricted Destinations and Parties
#8. Collaborations and Conducting research abroad
#9. E.C. Advice for International Travel
#10. If you have any questions
#1. What is an export?

• Export
  -- Anything that crosses the boarder
  -- Hand-carried vs. shipped = **NO Difference!**

• "Deemed" Export
  – Giving items (technology, software) to non-US entity or individual even when in the US and even when on campus (deemed to be an export to their country)

• (Defense) Service
  -- Can be strictly interpreted by gov. to include giving a talk, accepting an award, giving a lecture in a class abroad, instructions on the use of a controlled item...
  -- If presenting at a conference, protect yourself by extracting it from a published paper
  -- Transfer of public domain information can be a defense service
#2. What is controlled?

- **Products**
- **Equipment** required to make controlled products
- **Materials** required to make controlled products
- **Software** required to develop, produce, or use products
- **Information** required to develop, produce, or use products

- Your laptop and other personal electronic devices
- **Information** stored in your laptop and in other devices—and in your brain

**International travel = export**
Everything that crosses the border is an export:
Even if it’s temporary, even if it is not sold, even if it will be used in research, even if it belonged to someone in that country to begin with.
#3. Who determines what is export controlled?

- **Department of State**: ITAR: USML (Defense items)
- **Department of Commerce (Bureau of Industry and Security)**: EAR: CCL (Dual-use) *(most MIT campus items)*
- **Nuclear Regulatory Commission**: Nuclear items, equipment and material
- **Department of Energy**: Foreign Nuclear Assistance
- **Department of the Treasury OFAC**: Sanctions programs (Cuba, Crimea, Iran, N. Korea, (Sudan), Syria...)
- **Homeland Security**: Protected Critical Infrastructure Information (PCII)
#4. How do the regulations differ?

- **Sanctions** on a country are usually to punish, coerce, or sometimes target a specific tech area.

- **Export Restrictions** (e.g., ITAR, EAR, DOE, NRC) are to prevent potentially dangerous material from getting into the wrong hands.

Pressure transducer (chokepoint tech for Nuclear Enrichment); source: “MKS, North Andover, MA”
#5. Exports can be prohibited based on:

1. What the item is
   – Is it on the CCL or USML? Nuclear?...

2. What country the item is going to
   – Does that item require a license to that country?
   – Is it an OFAC sanctioned country?

3. Who the item is going to
   – Is that person or institution/company on the Restricted Parties List?

4. Whether the end use of the item is prohibited
   - Is it going to be used to build a defense item or for prohibited activity?

5. If you suspect the item will be transferred to an illegal third party
   - It is illegal to send an item to a legal party if you suspect that the item will be transferred to an illegal party
#6. What can you take abroad?

- Your laptop and commercial software (EAR) can be taken using BAG exceptions. **BAG must be under your direct control**

- **Results** of fundamental research are not controlled **BUT prototypes or other tangible products** of fundamental research
#7. Restricted Destinations and Parties

• The US restricts transactions with some entities (businesses, schools, institutes, etc.) and individuals
  – Specially Designated Nationals list (Treasury)
  – Entity List (Commerce)
  – Check at [http://export.gov/ecr/eg_main_0231](http://export.gov/ecr/eg_main_0231)

• Example
  – Tsinghua University, Beijing is OK
  – Beijing University of Aeronautics and Astronautics cannot receive any items or non-public information
  – BARC India has a presumption of approval for EAR99 items but you still need to apply for a license

Check who (person and organization) you are dealing with before to go! (EC Office can run a check. Takes seconds)
Speaking of Service

• You may not perform a service for restricted parties or persons ordinarily resident in embargoed countries – this includes teaching

• To teach a course or give a seminar or workshop abroad you must check the names against restricted parties AND determine none of the learners are from the embargoed countries
#8. Beware when conducting research abroad

- EAR and ITAR exclude fundamental research (FR) from control

  Must have no restrictions on publication or on participation

  - ITAR: FR must be conducted at a US institution of higher learning (watch out for collaborations and visits to other countries, research can lose it’s FR umbrella!)

  - EAR: Fundamental Research can be conducted anywhere

- Some encryption technology does not qualify as fundamental
#9. E.C. Advice for International Travel

- Don’t take anything controlled with you
- Take a “clean” laptop
- Do not download export controlled material on your mobile phones in a foreign country
- If you are going to collaborate, check out the person and institution with the ECO before you go
- Stick to published information in in your presentations
- Check any import requirements in the country you are visiting
- Remember:
  --US Customs can inspect or retain your personal electronic device without probable cause
  --Your unattended laptop may be searched or modified in some countries
#10. Contact MIT Export Control if you have any questions

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Contact Information
Exportcontrolhelp@mit.edu
617-253-2762
http://osp.mit.edu/compliance/export-controls
Thank you!

Questions?

Contact us at: internationalhelp@mit.edu