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

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Introduction

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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**
  - Hand-carried vs. shipped = **NO Difference!**

- **“Deemed” Export**
  - Giving items to a F/N = export to that country! This includes giving items (technology, software) to non-US entity or individual even when in the US and even when on campus

- **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, 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) 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 TMP or BAG exceptions. Must be brought back to the US in a year for TMP. **BAG must be under your direct control.**

• Prototypes or other tangible research products are controlled, can use TMP or BAG exceptions.

• US persons can take EAR information (technology) but cannot transfer it if a license would be required. –Non-US persons cannot take EAR technology

**US Persons include:** US Citizens; Green card holders; Bona fide, full-time regular employee, authorized to work full-time in the US under a non-immigrant visa; Not from a proscribed country; Protected individual as defined by 8 U.S.C. 1324b(a)(3)
#7. Restricted Destinations and Parties

- Cuba, Iran, the Crimea area, North Korea, Syria are subject to strict export controls and some are under comprehensive sanctions. Other countries to a lesser degree: Russia, China, India, etc.

- 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_023148.asp](http://export.gov/ecr/eg_main_023148.asp)

- 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)
#8. Beware when conducting research abroad

- **EAR and ITAR** exclude fundamental research (FR) from control
  - **Must have no restrictions on publication**
  - **must have no restrictions 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

1. Don’t take anything controlled with you
2. Take a “clean” laptop
3. Do not download export controlled material on your mobile phones in a foreign country
4. If you are going to collaborate, check out the person and institution with the ECO before you go
5. Stick to published information in your presentations
6. Check any import requirements in the country you are visiting
7. Remember:
   - ITAR-controlled items or technical data (including software) cannot be taken out of the country without a license from the State Department
   - EAR-controlled items can be taken using TMP or BAG exceptions must be brought back to the US in a year
   - US persons can take EAR technology but cannot transfer it if a license would be required
   - 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
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