

Southeast Missouri State University International Travel Support Advice for Avoiding Export Control and Sanction Program Violations

Are you traveling outside the U.S.? If you answer yes, you are about to become an "Exporter"

- Any tangible items that you are taking to a foreign country are considered "exports" by the United States Government, even if you are planning on bringing the items back upon your return.
- Technical information located on your laptop's hard drive or in a hard copy notebook is considered to be an export of "technology"/ "technical data" once the laptop or notebook leaves the U.S.
- Even technical know-how that is in your head, if shared with a foreign national, is considered to be a type of export.

Three noteworthy Federal agencies have jurisdiction over you and your exports:

- The Department of State's Directorate of Defense Trade Controls ([DDTC](#)), which implements and enforces strict controls upon tangible items and technical data that are determined to have been "specifically designed, developed, configured, adapted or modified for a military application." Such items and data can be found listed on the [U.S. Munitions List](#) in the DDTC's [International Traffic in Arms Regulations](#).
- The Department of Commerce's Bureau of Industry and Security ([BIS](#)), which implements and enforces regulations that prohibit the release of certain commodities and information to certain countries or to their citizens (regardless of their location), if it is believed that there is a potential for such items to be used to undermine U.S. security, policy, or other vital interests. Such items are often referred to as "dual-use" items and can be found on the Commerce Control List ([CCL](#)) in BIS's Export Administration Regulations ([EAR](#)). Note that many items on the CCL are commercially available in the U.S.
- The Department of the Treasury's Office of Foreign Assets Control ([OFAC](#)), which prohibits varying types of transactions (e.g., financial, commercial, and even academic) and activities with or in foreign countries (or with their citizens, regardless of location) through its sanction programs, which are designed to encourage other countries', entities', or individuals' cooperation with U.S. policies and interests worldwide.

I'm just a university employee. Why should I have to worry about these agencies and their regulations?

- Depending upon their areas of expertise, University employees may work with items and foreign countries covered by DDTC, BIS, and OFAC regulations.
- US Customs officials are authorized to search or retain electronic devices and other items leaving the U.S., even without probable cause, to look for violation of export control and sanction program regulations.
- Other universities and/or their employees have, by violating export control or sanction program regulations, exposed themselves to steep financial penalties and incarceration.

Here are some risk factors that may contribute to violations:

- **Sanctioned Countries**

Will you be traveling to a country subject to OFAC sanctions?

Each sanction program is different from the others. Some programs broadly prohibit imports and exports of goods, technology and services from / to certain countries. Other programs only prohibit transactions with certain listed entities and individuals. Sanction programs change over time, sometimes rapidly, as world events affect the U.S. Government's relationship with other countries and governments.

Before you travel, visit the [OFAC website](#) to determine whether you will be visiting a sanctioned country.

- **Restricted People and Entities**

Do you expect to enter into transactions with persons or entities that the federal government has determined must be excluded from such transactions? We recommend that you search a [Consolidated Screening List](#) for the foreign parties with whom you expect to interact professionally during your international travel.

- **Defense Articles and Data**

Will you be taking to any foreign country tangible items or information related to research or other activities that support defense-related projects or objectives? One should note that the DDTC presently considers not only things like missiles and fighter jets to be defense articles, but also spacecraft designed for scientific objectives. This includes scientific satellites and other space-related equipment, including support apparatus, such as launch platforms and telemetry stations.

- **Commerce Control List Commodities and Technical Information**

Will you be taking with you commodities, technical information, or software (especially source code) found on the Commerce Control List (CCL)? In order to determine for certain, you'll need to identify the Export Control Classification Number (ECCN) and then conduct a search by country(ies) of destination.

To find the ECCN, you can contact the manufacturer, producer, or developer of the item you are exporting to see if they have classified their product and can provide you with the ECCN. If they have exported the item in the past, it is likely they have the ECCN. Keep in mind that ECCNs may change over time, so please review the ECCN to be sure you are in agreement. Another option is to search the [Commerce Control List](#). Additional information on the process, including how to request a classification from the Bureau of Industry and Security, can be found [here](#).

With sufficient notice, University staff can help you with the search before your trip.

- **The risk of finding your items restricted for export by the CCL increases when:**

- Your travel will take you to one or more of the "T5" Countries, which consist of Cuba, Iran, North Korea, Syria and Sudan. Some or all of these countries are subject to not only heightened BIS export restrictions, but also to heightened export and transaction restrictions imposed by OFAC and DDTC.
- You will be taking items related to your work at University, including: a) tangible items, such as samples, prototypes, and equipment; and/or b) unpublished research technical data; AND you work in one of the following areas:

- Chemical, Biotechnology and Biomedical
- Engineering Materials Technology
- Remote Sensing, Imaging and
- Reconnaissance Navigation, Avionics and
- Flight Control Robotics
- Propulsion System and Unmanned Air Vehicle
- Subsystems Telecommunications/Networking
- Nuclear Technology
- Sensors and Sensor Technology
- Advanced Computer/Microelectronic Technology
- Information Security/Encryption
- Laser and Directed Energy Systems
- Rocket Systems
- Marine Technology

- **The risk of finding your items restricted for export by the CCL decreases when:**

- You will be traveling to countries sharing a relatively friendly, cooperative

relationship with the U.S., such as with the countries that belong to [NATO](#) and other treaty-based groups.

- Your work is in a field that is not fundamentally "technical," such as a discipline traditionally included in the humanities. However, beware of electronic and medical equipment exported in support of your overseas work, and don't forget that OFAC sanction regulations may still apply to your destination and your activities there.
- The tangible items that you are taking
 - are considered personal effects that most people need and use when they travel outside the U.S., and/or
 - will be kept under your effective control throughout your travel and will return to the U.S. with you within one year or less.
- The work-related information that you take with you (e.g., on your laptop or other media)
 - is already published and generally accessible to the interested public
 - is available to anyone wishing to take a university catalog course
 - was generated by basic or applied science and engineering and is the type of information that is ordinarily published and shared broadly within the scientific community (often referred to as the results of "fundamental research").
- *A Common Question: What about my laptop, smart phone, or data storage device?*
 - **Short answer:** It depends upon the device's features, the software or data that you have loaded on it, who owns it, the purposes for which you are taking it, and where you want to take it.
 - Fortunately, smartphones are listed on the CCL under Export Control Classification Number (ECCN) 5A992 and can be taken to most countries, except for those subject to embargoes and other heightened export controls. The same allowance may also apply to laptops and data storage devices, such as flash drives, which fall under ECCNs 4A994, and EAR99, respectively.
 - The software that operates or is used on these items, including mass-market and open-source products, can also be found on the CCL (ECCN 5D992) and is controlled separately from the hardware that it is used on. If possible, we recommend traveling internationally with personally owned laptops containing only software, technical data, and personal information considered essential for the trip.
 - Newer, more advanced computing and communication devices (as well as associated software), especially those that provide exceptionally strong levels of encryption,

may be difficult to take to other countries, especially the T5 countries. If you know or suspect that your electronic devices are more advanced than the average, you can determine what the items' ECCNs are by asking the manufacturer and working with University staff members who have knowledge of export controls.

- Even though the CCL may indicate that a license is required to export your laptop to a particular country, a license exception can often be found that will allow you to export it on a temporary basis. For example:
 - Depending upon the country, you may be allowed to travel with a University-owned laptop under a temporary export (TMP) license exception, if the laptop and your use of it qualify under BIS's definition of a "tool of the trade."
 - In other instances, you may only be able to take a laptop to another country if it qualifies for a baggage (BAG) license exception which, among other things, requires that the laptop be owned by the traveler (not the University).
 - When taking equipment and other export-controlled items to other countries under a license exception, you should understand the conditions under which the exception can be used. It is also a good idea to take with you a letter from your export control staff indicating that the license exception is being invoked for your temporary export.

Plan ahead to avoid violations - work with the appropriate University staff.

Just because an item is listed on the CCL does not mean that you cannot take it with you to your destination country. Export restrictions on CCL items vary, depending upon your destination country, those to whom you expect to release such items, and how you expect they will use them. Even if a license is indicated for your export, it may be possible to find a documented reason why technical information can be excluded from regulation or a license exception for exported tangible items. Similar exclusions may also apply to the regulations of other agencies, such as sanction programs. By working with the appropriate University personnel well in advance of your trip, you may be able to safely travel with the items and information you need.

Working with the necessary University offices well ahead of your international journey is the best way to ensure that your exported goods and information can be taken / sent without a license or violation of the export control and sanction program regulations. Additionally, if a license is required, planning ahead will allow the time needed (sometimes several months) to apply for and receive the license.

If any of the risk factors above are present in your planned travel, please contact Pam Vargas at 573-651-2196 or pvargas@semo.edu as soon as possible.