



TOPIC:

International Academic Travel and U.S. Export Controls

INTRODUCTION:

Many principal investigators, graduate students or research fellows, and even undergraduates travel internationally to attend or present at conferences and meetings, to collaborate with colleagues at other research institutions, and to perform their actual field research. But the academic traveler's failure to comply with U.S. export control laws can have grave consequences. A former professor at the University of Tennessee, for example, was recently convicted for conspiracy to violate the Arms Export Control Act (AECA), the parent statute to the International Traffic In Arms Regulations (ITAR), because of "deemed exports" made through disclosures to foreign graduate students from Iran and China and through carrying sensitive defense research-related reports on his laptop while traveling to China [1]. His laptop was seized and searched by federal agents on his return from that trip. The 72 year-old academic was sentenced to four years in prison for violating the AECA by exporting technical information related to a U.S. Air Force research and development contract [2]. This case clearly illustrates that both institutions and academic travelers must take the time to understand the applicable export control regulations and then to apply them properly, or else they may face equally stern treatment by the federal authorities with regard to their exports or deemed exports made in the course of their international travel.

This NACUANOTE discusses the impact of U.S. export control laws on academic travelers.

DISCUSSION:

In general, the most relevant U.S. export controls are grounded in three separate sets of federal regulations:

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to protect U.S. national foreign policy or national

____ et seq. The ITAR govern the production of "defense articles" and provision of "defense services" by U.S. persons as those terms are defined within the ITAR. A core part of the ITAR is the U.S. Munitions List (USML) (22 CFR Part 121), which defines a number of categories of such items [3]. The ITAR is administered by the U.S. Department of State's Directorate of Defense Trade Controls (DDTC); and

The U.S. Export Administration Regulations (EAR) are codified at 15 CFR Part [730](#) et seq. The EAR govern the export of “dual use” items [\[4\]](#) that are listed within the Commerce Control List (CCL) (15 CFR Part [774](#), Supplement No.1). The EAR are administered by the U.S. Department of Commerce’s Bureau of Industry and Security (BIS).

As a practical matter, there are two points in the academic traveler’s travel planning process where U.S. export control laws may apply to an international trip: when evaluating what may be taken along as personal baggage and when determining what may need to be sent or shipped separately to the foreign destination. For instance, if the traveler intends to perform some field research with a colleague in another country or to provide a technological demonstration at a conference, he or she may need to send to the site separately certain equipment (e.g., computers, sensors, measuring instruments, reagents, etc.), data or software.

Academic personnel must consider the potential effect of each set of U.S. export control regulations on the proposed international travel to assure that both the institution and the individual traveler are in compliance. U.S. export control laws are principally concerned with whether the academic traveler will take and then disclose any controlled technology or other controlled information to non-U.S. persons (e.g., in papers or on their laptop computers) or will export any controlled items (e.g., sensors, test instrumentation, reagents, biological materials or other similar tangible goods) to non-U.S. persons. Generally speaking, the EAR considers the shipment or delivery of a tangible good to a non-U.S. person an “export” and regards the disclosure of controlled information to a non-U.S. person a “deemed export [\[5\]](#).”

However, in the case of academic travel to Cuba, the current OFAC embargo against Cuba also regulates travel *per se* by U.S. nationals to Cuba, even if there is no planned disclosure of any controlled information or export of a controlled item. So, in the case of any proposed Cuban travel, the institution and the academic traveler need to take the additional steps outlined below in Step 4.

Here are the steps to consider in connection with international travel.

Step 1: Identify the Applicable Regulations

The essential first step in planning international academic travel is to determine which of the above regulations apply to the proposed trip. This requires the academic traveler to assess whether he plans to take any controlled information or materials, or to send or deliver any controlled goods, to non-U.S. persons outside the United States. If the academic traveler cannot make that determination, the traveler should consult the institution’s export control compliance officer and, if necessary, discuss the identified deemed export or export with the relevant U.S. regulatory agency.

Moreover, given the current wide-spread use of laptops and the expansion of laptop memory capacity via internal and external drives or portable “thumb” or flash drives, a traveler needs to consider whether his or her laptop or other separate storage device contains material that has nothing to do with the planned trip but one or more of the U.S. export regulations. The fact that the academic traveler merely carries certain information or software to another country on a laptop or other storage device may be sufficient for federal agencies to consider that the information or software was “exported” to that country, even if not actively used by the traveler in a presentation, discussion, or research in that country.

Step 2: Identify any Applicable Exclusions or Exemptions

If one or more of the regulations applies to a proposed trip, then the academic traveler must determine if those regulations provide an express exclusion or exemption for the type of disclosure or physical export that permits the proposed activity without getting an export license from the relevant agency. The OFAC

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Undergraduate or graduate students participating in a structured educational program lasting at least ten weeks in Cuba as part of a course offered at a U.S. undergraduate or graduate institution [\[7\]](#)

Additional Resources:

x [Checklist for License Exception-Baggage](#)

Source: Emory University

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