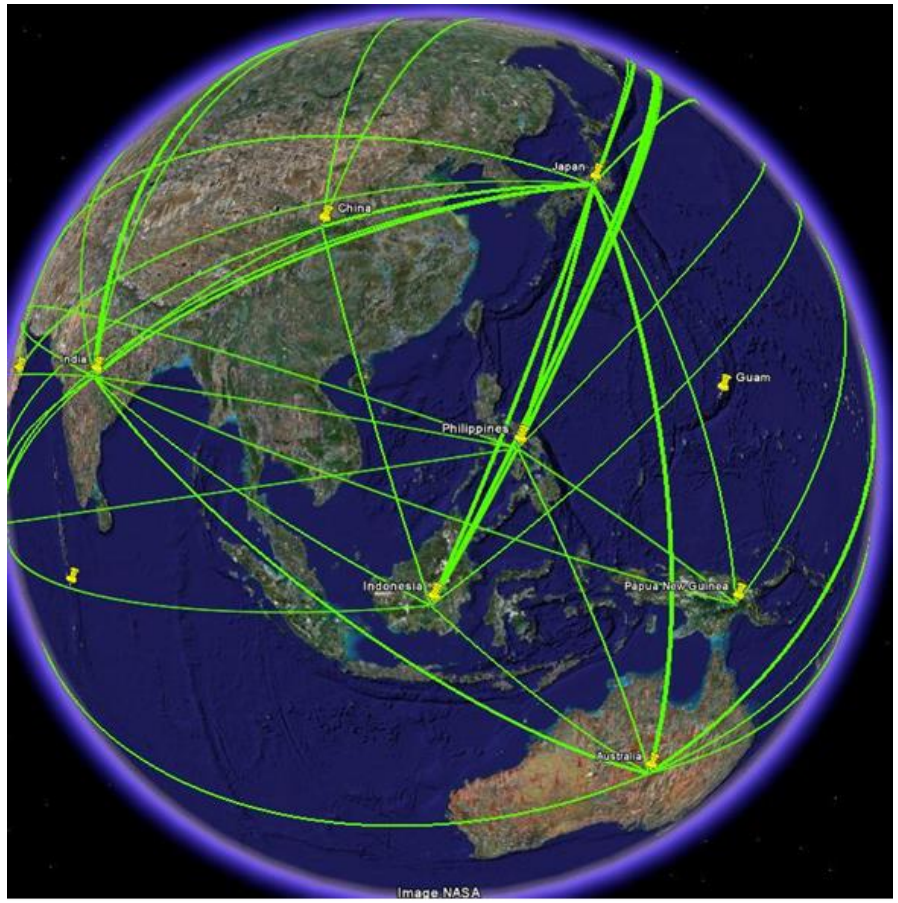
Export Controls & International Travel

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What is an Export?

- Actual: shipment or transmission of items out of the U.S.
  - Physical Shipments
  - Hand carry of physical items overseas (ex. International travel)
- Deemed: release of technology or software subject to the export regulations to a foreign person/entity (EAR 734.2(b))
  - Release is deemed to be an export to the home country of the foreign person/entity.
    - Email of technology to a foreign national
    - Foreign national accessing export controlled information
    - File sharing with a foreign person
    - Telephone or Fax
    - Visual inspection by a foreign person of ITAR controlled technical data
    - Foreign nationals working on export restricted research



US Person vs. Foreign Person vs. Foreign Entity

U.S. Person	Foreign Person	Foreign Entity
• Citizens of the United States • Resident Aliens (green card holders) • Protected Individuals (i.e. asylees) • Corporations registered to do business in the United States	• Any person not a U.S. citizen or legal permanent resident (green card holder) • Any person not granted political asylum	• Any corporation, partnership or group not incorporated or organized to do business in the U.S. • Any foreign government or agency/subdivision of a foreign government



Regulatory Agencies

Exports and Temporary Imports:

- Directorate of Defense Trade Controls (DDTC)
  - Within the Department of State (DoS)
- Bureau of Industry and Security (BIS)
  - Within the Department of Commerce(DoC)

Actual Movement of Goods / Enforcement:

- Customs and Border Protection (CBP)
  - Within the Department of Homeland Security

Economic and Trade Sanctions

- Office of Foreign Assets Control (OFAC)
  - Within the Department of the Treasury (DoT)









EAR vs. ITAR

- **Export Administration Regulations**
- Regulates commercial & dual use items
  - And related software & technology
- Most items fall under the EAR
  - Some items will require licenses to export abroad, depending on the country/recipient
- Examples
  - Laptops/computers
  - Lab equipment
  - Chemicals
- How can you tell if it's EAR controlled?
  - Procurement language
  - Classification requests from manufacturer

- **International Traffic in Arms Regulations**
- Defense/military articles and services
  - Related technical data
- Limited list of heavily regulated items
  - Virtually ALL exports will require a license
  - Including foreign national access
- Examples
  - Lasers, infrared cameras, satellites
  - Items modified for military use
- How can you tell if it's ITAR controlled?
  - Markings
  - Agreement/procurement language

Office of Foreign Assets Control (OFAC)

- **Comprehensive Sanctioned Countries: Cuba, Iran, North Korea, Sudan, Syria and the Crimea, Luhansk and Donetsk Regions of the Ukraine**
- **Specially Designated Nationals and Blocked Persons List**
- **In some cases, licenses can allow for a certain activities**
  - **General Licenses –**Allow certain activities to occur without obtaining formal OFAC approval, however, these must be thoroughly documented
  - **Specific Licenses** – if your activities do not fall under the requirements contained in a General License, a Specific License can be applied for through OFAC (these licenses can take 6-12 months, so plan accordingly)
- **OFAC has a different sanctions program for each**



Criteria for Review

- Travel to any Sanctioned or Problematic Country
- Travel with university owned equipment (other than a laptop)
- Travel with controlled information

Questions to ask for International Travel (with equipment)

- **Location**
- **Names of collaborators –Restricted Party Screening**
- **List of items being taken –classification**
- **Permanent or temporary? 1 year rule**
- **Is there information contained under a Technology Control Plan (TCP) or export restricted information stored on your laptop?**
  - If so, recommend taking a clean laptop or removing said info before travel
  - Don't access protected info while abroad, keep laptop locked up or on you
- **Brief description of activity**

International Travel (non-sanctioned countries)

Licenses are generally not required for most EAR items	• Laptops, cell phones usually ok • Ask about export controlled or sensitive information that may be stored on laptops
Travel with university owned research equipment should be reviewed:	• Many potential exceptions can apply for research equipment when **temporarily** exported
Travel to China, Venezuela, & Russia	• Laptops will require EEI filing • University owned equipment should be reviewed

Process for Physical Export

- **RPS – who are you working with (collaborators)**
- **Classify the item**
- **License determination based on country of travel**
  - Leverage exceptions as needed https://documents.visualcompliance.com/vcpdfs/bis_ear/740.pdf
    - TMP – temporary exports 740.9
      - Returns to the US within 1 year
      - Items stays within you "effective control" (i.e. physically with you, or locked up)
    - BAG – baggage 740.14
      - Used for personal items
- **Travel Letter – this can be very helpful when dealing with customs**



Restricted Party Screening



A **restricted party** is any individual, company, or organization prohibited by federal law to receive export-controlled items, information, or technology.



Restricted Party Screening (RPS) should be done to ensure you are not doing business with restricted entities/persons



The CSU has a license with Descartes Visual Compliance for RPS screenings



RPS should be conducted for the following transactions:

New vendors/procurement/contracts

Foreign national visitors

International collaborations

Travel Letter Example

- This is a simple letter that can be used to when a PI is hand carrying equipment
- Some assumptions are made in this letter:
  - Temporary export
    - No EEI required per 15 CFR 30.37(q)
  - No license required and/or TMP exception available

On letterhead

DATE

To Whom It May Concern:

X is a researcher in X Field of Study at the University , and is traveling to COUNTRY to conduct scientific research using X tools for X purpose during Dates of Trip.

He is collaborating with X name of collaborating person and entity.

He is hand carrying University owned scientific research equipment that will be temporarily imported for his use as tools of the trade. These items will not be sold nor enter into commerce in COUNTRY. They will be exported out of COUNTRY as a hand carry when he return to the United States.

- List of items

These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited. No EEI required per 15 CFR 30.37(q).

Should you require any additional information, please contact me.

Sincerely,

Export Control Officer



License Exception TMP

- **Temporary (TMP) § 740.9**
  - Authorizes exports, reexports and transfers (in-country) of items for temporary use abroad (including use in or above international waters)
  - Not applicable to
    - 9x515 or 600 series items to destinations it Country Group D:5
    - ECCN 0A501 or 0A205
  - Tools of the trade for use by the exporter (except E:1 , D:4 or D:5 countries)
    - Must remain under "effective control"
    - Items are "usual and reasonable kinds and quantities of trade for use in lawful enterprise
  - Temporary – will return to the US within 1 year with the exporter

Travel to China, Russia, Venezuela

- **Non-sanctioned countries that present other challenges**
- **EEI filings are required for all exports to China, Russia and Venezuela of all ECCN items (any item that is not EAR99)**
  - This includes laptops
- **Security Issues**
  - IT Security –ensure security is up to date
    - Consider taking clear laptop
  - Foreign Influence Concerns



EEI/AES Filing

- **Go to the tutorial at https://thecsu.sharepoint.com/sites/CSU-RspExport/SitePages/International-Travel.aspx**
- **An EEI filing is required for:**
  - All shipments of a single item or merchandise valued at more than $2,500, even if an export license is not required
  - If TMP can be claimed, for EAR, it can be used as an exception for AES filing. Shipments, regardless of value or content, intended for military end-use.



Sanctioned Country Travel

- **Comprehensive Sanctioned Countries: Cuba, Iran, North Korea, Sudan, Syria and the Crimea, Luhansk and Donetsk Regions of the Ukraine**
- **Date and purpose of travel**
  - Most travel to a sanctioned country, including simple conference attendance will require a license
  - **General Licenses** – if activity qualifies under a GL, can be documented and move forward without permission from OFAC
    - Examples – some research projects, student exchange trips
    - Must be properly documented
  - **Specific licenses require submission to OFAC & can** take MONTHS to obtain
- **Each sanctioned country program has its own set of regulations**

Office of Foreign Assets Control (OFAC)

Outside the US	In the US
Collaborating with PIs in sanctioned countries & providing education services to students in a sanctioned countries should be reviewed	Students/Faculty/Staff are generally allowed to do whatever their visa allows
Travel to sanctioned countries must be reviewed – any university equipment will likely require a license	Visitors from sanctioned countries are only allowed to participate in fundamental research (no NDA access)
Shipping to sanctioned countries often prohibited without a license	Visitors from restricted entities – should be limited to fundamental research only (if you are willing to take on this risk)



Case Studies – Traveling with a University Owned Laptop

- **To Italy**
  - RPS on collaborators - CLEAR
  - Classification
    - 5A992 (for most commercial laptops – classified by the encryption used)
  - License determination – No license required for Italy, no license exception needed
  - Temporary or Permanent Export? Laptop will be going with PI and coming back within 1 year? No EEI required



Case Studies – Traveling with a University Owned Laptop

- **To China**
  - RPS, classification and license determination– same as above
  - Temporary or Permanent Export? Laptop will be going with PI and coming back within 1 year?
    - EEI STILL REQUIRED for China, Russia and Venezuela
  - Additional security measures
    - Contact IT security, ensure security precautions are up to date
    - Consider advising on taking a clean laptop



Case Studies – Traveling with a University Owned Laptop

- **To Iran to attend a conference**
  - Is this a university owned laptop?
    - If yes, a license is required. These licenses can take months
- **Conference attendance requires a specific license from OFAC**
- **Any physical export of university owned items will require a license from BIS**



Case Study – University Equipment

- **Scuba Gear**
  - Location – Curacao
  - Classification – 8A992.h
  - Temporary Export – No EEI Required, returning to the US within 1 year with PI
  - Is a license required? No
  - Consider writing a travel letter – this may be interesting for Customs agents



Case Study – Laptop Donation

- **PI wants to donate 3 laptops to a school in Tanzania**
  - RPS on the school – CLEAR
  - ECCN – 5A992
  - Permanent export – donation
  - EEI required?
    - Under $2500 – NO
    - Over $2500 – YES
  - Letter recommended



Case Study – Thermal Imaging Equipment in Nepal

- **PI taking thermal imaging equipment for research purposes**
- **RPS on the collaborator - CLEAR**
- **ECCN 6A003**
  - License determination – license required for Nepal
- **Temporary or Permanent**
  - How long will it be gone? We determined that the PI will be returning with the equipment within 1 year of export
- **License exception TMP – must meet all criteria for TMP**
- **Letter is recommended, EEI filing also recommended**



Resources

CSU Export Control Officers Forum

Association of University Export Control Officers (AUECO)

- List Serve of Export Control Officers all over the country
- Annual Conference

Export Compliance Training Institute (ECTI)

- Training/Conferences

Government Sources

- CUI Training
- Bureau of Industry Security and Department of Justice will often provide free training



CSU Export Control Officers Forum

- **Chair: Zena Hovda, Vice Chair: Leah Vargas**
- **https://thecsu.sharepoint.com/sites/CSU-RspExport/SitePages/CollabHome.aspx**



Need Extra Help?

- **Consulting services available**
  - Export control training
  - Policy review/best practice guidance
  - Classification, licenses, travel & shipping consultation
  - Contract review
  - Technology control plans
  - Foreign visitor review
  - OFAC/Sanctions review and guidance
- **Feel free to reach out to me for more information**
  - zhovda@sdsu.edu

Thank You

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