

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



**Top Ten Things you
(*REALLY*) Should Know -
Before Taking your Laptop
Overseas**

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Goals



Share a framework for understanding the rules which apply to traveling with a laptop

Update on potential changes to those rules

Share available resources and best practices

Which of the following constitutes an “Export”?



1. A researcher takes their laptop abroad to aid in their research.
2. A researcher allows a foreign national to access their laptop within the U.S.
3. A researcher allows a foreign national to access their laptop overseas.
4. A researcher returns an Inertial Navigation Instrument to his foreign colleagues by stowing it in his carry-on luggage.

All examples are exports!



“Export’ means an actual shipment or transmission of items subject to the EAR* out of the United States, or release of technology or software subject to the EAR to a foreign national in the United States”

- *Export Administration Regulations (EAR)

All examples are exports!



An export of a laptop is an export of the computer, the software and technical information loaded on the laptop.

Exports are regulated by a set of federal laws, policies and regulations known as export controls.

Export controls may require an export license for the export of certain software, technologies and commodities.



The U.S. federal government agencies responsible for implementing export control regulations are:

- Department of Commerce
 - ✦ **Export Administration Regulations (EAR)**
 - ✦ Applies to “dual-use” technologies; technical data and commodities that have both commercial and military/security applications
- Department of State
 - ✦ **International Traffic in Arms Regulations (ITAR)**
 - ✦ Applies to inherently military/satellite technologies or items that can be used in a defense/military application
- Department of Treasury
 - ✦ **Office of Foreign Assets Control (OFAC)**
 - ✦ Prohibits transactions with countries subject to boycotts, trade sanctions, embargoes, and/or restricted persons

Areas Subject to Export Controls



- Direct export of a controlled item
- Foreign national access/use of controlled item
- Foreign travel to a restricted country
- International and domestic collaborations
- Publications (that are not generally accessible to public)
- International and domestic presentations at conferences
- Conversations involving controlled technology
- Taking or shipping a controlled item out of the U.S.



YOU... Are an Exporter!

- Carry-On items apply
- The requirements for an export license vary according to the general characteristics of the item or technology, the destination country and the intended use of the export.



Your travel destination matters

Federal agencies maintain numerous lists
with rules which vary by country

Are some countries of greater concern than others?



Sanctioned countries

Cuba, North Korea, Iran, Syria, Sudan

**Secondary lists... based on the controls
applicable to individual exports...**

Import Restrictions?



Countries with encryption import and use restrictions

- ◆ Burma (you must apply for a license)
- ◆ Belarus (import and export of cryptography is restricted; you must apply for a license from the Ministry of Foreign Affairs or the State Centre for Information Security or the State Security Agency before entry)
- ◆ China (you must apply for a permit from the Beijing Office of State Encryption Administrative Bureau)
- ◆ Hungary (import controls)
- ◆ Iran (strict domestic controls)
- ◆ Israel (personal-use exemption – must present the password when requested to prove the encrypted data is personal)
- ◆ Morocco (stringent import, export and domestic controls enacted)
- ◆ Russia (you must apply for a license)
- ◆ Saudi Arabia (encryption is generally banned)
- ◆ Tunisia (import of cryptography is restricted)
- ◆ Ukraine (stringent import, export and domestic controls)



Technology specifics are critical

Transporting a computer that has encryption software installed is subject to a number of controls.

The U.S. Department of Commerce and the Department of the Treasury both have rules designed to control the movement of encryption technology out of the United States. The Department of Commerce's Bureau of Industry and Security and the Office of Foreign Assets Control (OFAC) within the Department of the Treasury accept applications for licenses to export encryption products and technologies.

The Departments of Defense, Justice and State also have the right to review license applications. The review can take about 90 days and in some cases longer



- **Difference between Commercial Off the Shelf Software (COTS) and proprietary or unreleased software**
- **Unpublished Research Data if not covered under the FRE**
- **Adjusted Peak Performance (APP) is a metric introduced by the U.S. Department of Commerce's Bureau of Industry and Security (BIS) to more accurately predict the suitability of a computing system to complex computational problems, specifically those used in simulating nuclear weapons. This is used to determine the export limitations placed on certain computer systems under the Export Administration Regulations**



Know that ownership matters...

Exceptions vary based on whether an item is personally owned or owned by the University



...as does the dollar value

\$2,500 threshold triggers AES Census filings

**Could become an issue if a “Temporary
Export” extends past one year.**



Know which exemptions and exceptions apply

- The requirements for an export license vary according to the general characteristics of the item or technology, the destination country and the intended use of the export.
- Even if an export license is required, a license exception may apply to an export of a laptop, GPS and the loaded software and technical information.
- If a license exception applies, the equipment and technology may be taken abroad without an export license.



TMP – temporary exports

- Form is good for one year

BAG – baggage - personally owned, NOT University owned

Laptop, equipment must stay under “effective control” for travel to certain countries



SED/AES process



Tools of the Trade Exception

Tools of the trade are commodities and software that are:

- (a) Owned by the individual exporter (U.S. principal party in interest) or exporting company.
- (b) Accompanying the individual exporter (U.S. principal party in interest), employee, or representative of the exporting company.
- (c) Necessary and appropriate and intended for the personal and/or business use of the individual exporter (U.S. principal party in interest), employee, or representative of the company or business.
- (d) Not for sale.
- (e) Returned to the United States no later than 1 year from the date of export.

Is there an exemption from the Census' AES process, for Tools of the Trade?

- Yes, as long as you do not need a validated license.

FAQs

<http://www.census.gov/foreign-trade/regulations/forms/qna.html#lowvalue>

Fundamental Research Exclusion



Basic or applied research in science and engineering at an accredited institution of higher learning in the U.S.

The resulting information is ordinarily published and shared broadly in the scientific community

Fundamental Research Exclusion



- However, the FRE does not apply if the situation involves:

Shipping controlled items to a sanctioned country and/or restricted person

- An export control license may be necessary



Stay informed

- Export Control Reform initiative
[Export.gov/ecr](https://www.export.gov/ecr)
- Presidential Election
- Current Events





Since laws can change at any time, please check with the US State Department before travelling internationally to ensure that you have the most up-to-date information.

http://travel.state.gov/travel/cis_pa_tw/cis_pa_tw_1168.html

UC Risk Services - iJet Registration



Additional information about international encryption controls can be found at the following websites:

<http://rechten.uvt.nl/koops/cryptolaw/index.htm>

<http://www.wassenaar.org/introduction/index.html>

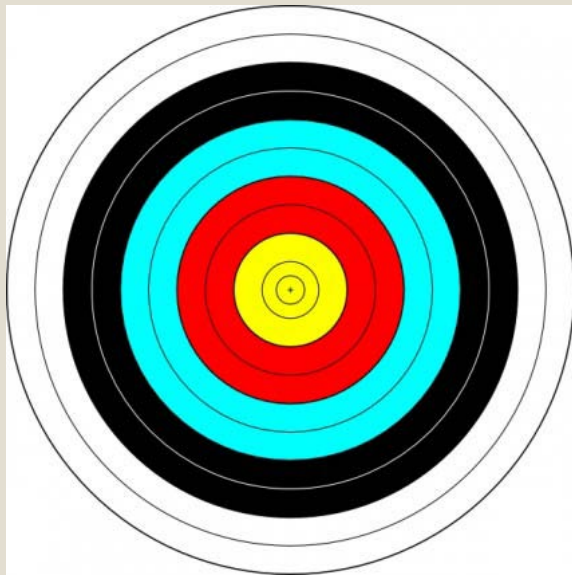


- **Taking your laptop computer overseas**
 - **Hardware - Specialty laptops and equipment may require a license, e.g.,**
 - ✦ Radiation hardened or protected from extreme elements
 - ✦ High performance computers
 - **Software and Encryption – may need a license**
 - ✦ Encryption software with symmetric key length of 64-bits or higher
 - ✦ Controlled Software
 - ✦ Military support applications
 - **Export-controlled technical data**
 - ✦ Best to back-up on a secure system and remove from laptop prior to travel



Be aware that YOUR Electronics...

May be vulnerable to Surveillance



The New York Times

Business Day
Technology

WORLD U.S. N.Y. / REGION BUSINESS TECHNOLOGY SCIENCE HEALTH SP

Traveling Light in a Time of Digital Thievery

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Both China and Russia prohibit travelers from entering the country with encrypted devices unless they have government permission. When officials from those countries visit the United States, they take extra precautions to prevent the hacking of their portable devices, according to security experts.

Readers' Comments

Readers shared their thoughts on this article.

[Read All Comments \(113\) »](#)

Now, United States companies, government agencies and organizations are doing the same by imposing do-not-carry rules.

Representative Mike Rogers, the Michigan Republican who is chairman of the House Intelligence Committee,

said its members could bring only “clean” devices to China and were forbidden from connecting to the government’s network while abroad. As for Rogers, he said he traveled “electronically naked.”

At the State Department, employees get specific instruction on how to secure devices in Russia and China, and are briefed annually on general principles of security. According to a report from the Brookings Institution, Mr. Lieberthal advises companies that do business in



Best Practices # 3



- A laptop computer may be an exception to the EAR and ITAR lists of controlled items/equipment
- Exercise reasonable care when hand-carrying a laptop computer to a foreign country
- The laptop:
 - MUST remain in reasonable control of the person(s) responsible for it at all times
 - MUST not be used by anyone in the foreign country
 - MUST not be left behind*, given away, or out of the US more than 1 year.

* Left behind while remaining in your secure control



- **The laptop computer exception is NOT automatically allowed**
 - A license is required when a laptop with controlled research data or encrypted/proprietary software is hand-carried or shipped abroad to a restricted country and/or to a denied person/entity
 - For example: A laptop being hand-carried to any country with research data on a “genetically modified organism” will currently require a license
 - “Genetically modified organisms” are controlled items for chemical, biological and anti-terrorism reasons and there are no applicable license exceptions

Before Traveling with Your Laptop



- Consider backing up your data and leave a copy of your files in a safe and secure location such as your office or a departmental shared drive.
- Password-protect, encrypt, or remove all student, personal, and proprietary information stored on your laptop.
- Ensure that your operating system has a strong password or passphrase when it boots up.
- Turn off file-sharing and print-sharing.
- Make sure your system's security patches are up to date and your firewall is turned on.
- Ensure that anti-virus, anti-spyware, and personal firewall software is installed on your laptop.
- Use secure VPN for secure remote access
- Consider purchasing a tracking application for your laptop in case it is lost or stolen.



STEPS TO TAKE:



**Classify the technology or goods involved
(ITAR, EAR, OFAC, other?)**

**Determine if license is needed for the
technology/end user/end use**

Determine if license exception is available

Document the use of the exception



STEPS TO TAKE:



If you must travel to one of the five embargoed countries, you may be able to obtain the appropriate export license, but the process can take, on average, a ninety days for review.

The Department of Commerce's Bureau of Industry and Security and the Office of Foreign Assets Control (OFAC) within Dept. of Treasury accept applications for licenses to export encryption products and technologies.

Why Should You be Concerned?

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- Increasing government scrutiny post 9/11
 - Growing intersection of science, technology and engineering research with national security, foreign policy and homeland security
 - Roles of universities and shifting research projects
- Severe criminal and civil noncompliance penalties and sanctions for individuals as well as institutions/corporations
 - Up to \$1M for institutions/corporations and up to \$250,000 for individuals
 - Up to 10 years in prison
 - Termination of export privileges
 - Suspension and/or debarment from federal government contracting
 - Loss of federal funds



Traveling with your laptop with encryption software installed on it to certain countries could lead to your imprisonment or cause your laptop to be confiscated. If you are not able to meet the import or export requirements, you should remove (uninstall) the encryption software. It may be safer to remove the software and all sensitive data from your laptop or mobile device than to risk violating compliance requirements in these countries.



Remember:



Exporting is a privilege—not a right

Determine if an export license applies or if an exception applies

Every situation is unique

Ignorance is not a defense



**WHO
Can You Call
With
Questions?**

Systemwide Contacts



- LBNL Nancy M Ware NMWare@lbl.gov
- UARC Nasa Ames: Scott Fong scott.fong@uarc.ucsc.edu
- UCB Patrick Schlesinger pschlesinger@berkeley.edu
- UCD Cindy Kiel cmkiel@ucdavis.edu
- UCI Marci Copeland marci.copeland@rgs.uci.edu
- UCLA: Claudia Modlin cmodlin@research.ucla.edu
- UCM Deb Motton dmotton@ucmerced.edu
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- UCSD Marianne Generales mgenerales@AD.UCSD.EDU
- UCSF Elizabeth A Boyd ElizabethA.Boyd@ucsf.edu

Useful Links



- <http://www.wassenaar.org> - Wassenaar Arrangement
- <http://www.wassenaar.org/controllists/index.html> - Wassenaar Arrangement Control Lists (see Category 5-Part 2, Information Security and Note 3, Cryptography Note)
- <http://www.bis.doc.gov/encryption/lechart1.htm> - Encryption License Exemption Chart (view the BAG category)
- <http://www.bis.doc.gov/encryption/740supp1.pdf> - Country Groups lists as viewed by the US Government
- http://www.gpo.gov/bis/ear/ear_data.html - Export Administration Regulations Database (see part 740, License Exemptions, then 740.14 BAGGAGE, (BAG))



Who are we?



- Office of Audit Services, which pre-existed, was combined with the new Regental office of Ethics and Compliance in October, 2007
 - Regental resolution and approval of Ethics and Compliance Program and Structure in July, 2008
- Provides structure of accountability and transparency around compliance and audit
 - Facilitates system-wide ethics, compliance and audit
 - Provides assurance to the President and the Regents that mechanisms are in place to appropriately manage business controls and minimize compliance and audit related risks



Questions?



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