Appendix A: Simon Fraser University (SFU) Trade Control Guidelines

**SIMON FRASER UNIVERSITY**  
**Policies and Procedures**

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**Parent Policy:** GP 45 Trade Control Policy

**Introduction**

These guidelines are intended to assist SFU personnel manage risks associated with certain trade controls, particularly in relation to the following activities: i) financial transactions, including foreign transactions with vendors, or occurring because of transactions involving student fees and grants, and ii) research activities, including international research projects and collaborations or technology/information exchanges with persons abroad.

The government of Canada has instituted controls governing trade with specified countries, organizations and individuals. Controls may be:

(a) aimed at particular countries,

(b) imposed against a specific organization, entity or individual listed in the relevant regulations (“Designated Persons”)

(c) based on a particular product, service or technology being exported/imported, or

(d) imposed to bar certain specified uses of a product or service.

As these controls reflect evolving governmental priorities, they are subject to frequent change. Violation can result in serious civil/criminal penalties and potential imprisonment.

Any dealings with sanctioned individuals, organizations, or countries raise serious compliance concerns. It is the responsibility of SFU, its personnel, students, and others, to ensure that their activities comply with the applicable trade controls. Any questions should be directed to SFU’s General Counsel’s office at gcasst@sfu.ca.
Frequently Asked Questions

How are trade controls applied in Canada?

Trade controls enacted by Canada can restrict or prohibit persons in Canada or Canadians abroad from dealing in the property of a foreign state or a Designated Person, and undertaking certain activities with the foreign state or Designated Person.

When made in relation to a state, such trade controls can include restrictions against: exporting, selling or shipping goods to a specified state; transferring Technical Data to that state; importing or acquiring goods from that state; or providing or acquiring any financial or other services to or from that state. Entities owned or controlled by the state are treated for the purposes of trade controls as the state. In particular in the case of financial services, any institution owned by the state is also regarded as the state.

When the trade restriction is made in regard to a person (whether an entity or an individual) by listing that individual or entity as a Designated Person, such trade controls can prohibit engaging in any form of dealing with that person.

Trade controls can also be imposed through the creation of “lists” of products, services or technology, which restrict the import and export of specified goods, technology, data and information. These goods and technology generally relate to the defence, chemical or nuclear industries, but may also include “dual-use” goods and technology such as those related to information security.

Additional information on export controlled goods and technologies can be found at “A Guide to Canada’s Export Controls”, and on economic sanctions imposed by Canada can be found on the Sanctions Website of Global Affairs.

Why would trade controls imposed by the U.S. apply in certain situations in addition to the Canadian trade controls??

The U.S. generally has more onerous and comprehensive trade controls than Canada. U.S. trade controls cover the activities of persons in the U.S., U.S. citizens, permanent residents, and entities organized under U.S. law, even if they or their activities are outside the U.S. Some U.S. trade controls also apply extra-territorially based on the activities of non-U.S. Persons outside the U.S., in relation to U.S. origin goods and technology. SFU and its employees are potentially subject to U.S. trade sanctions given the broad scope of such trade controls. Information on U.S. sanctions is available on the website of the Office of Foreign Assets Control. If you are a U.S. citizen concerned about contravening U.S. sanctions, seek advice from U.S. counsel. Similar laws concerning trade controls may be in force in other countries, and so nationals of those other countries should consult appropriate legal experts.

Importantly, Canadian export controls do not permit companies to trans-ship or re-export U.S. manufactured goods and technology (which can, in some cases, include goods with as low as 10 percent U.S. content) into countries where the U.S. has imposed trade sanctions. When dealing in goods or technology of U.S. origin, or containing U.S. content, appropriate due diligence has to be applied to ensure that there is no violation of U.S. trade controls.
In many cases, research grants obtained from U.S. entities and the U.S. government will most likely contain requirements concerning compliance with U.S. trade controls.

The broad trade controls applied by the U.S. can be a particularly relevant issue in international financial transactions, where a correspondent bank in the U.S. may be used to facilitate transactions. U.S. financial institutions are wary of entering into international transactions where sanctions violation risks are present and may require SFU to provide a representation that the transaction does not violate U.S. sanctions.

Additionally, Canadian and international financial institutions often block transactions that may contravene U.S. sanctions. This is due in part to the exposure most large financial institutions, regardless of where incorporated, have to the jurisdictional reach of the U.S. authorities (as they are frequently also listed on a U.S. stock exchanges). Punitive penalties (some over $1 billion) are often applied to international financial institutions for contravening U.S. sanctions. Therefore, as a matter of risk avoidance and risk management, all financial institutions are requiring their clients to implement trade control compliance policies that are consistent with U.S. trade control laws in addition to trade control laws of their own country.

In summary, while this policy does not discuss controls imposed by the United States governing trade with specific countries, organizations and individuals, it is important to be aware that in addition to Canadian trade controls, trade controls imposed by the U.S. government may apply within Canada due to the extra-territorial application of U.S. trade control laws. Examples of when U.S. trade controls can apply in addition to Canadian trade controls include:

- if the SFU member is a U.S. citizen, including a dual-national of Canada or another country and the U.S.;
- any dealings with U.S. origin goods or technology regardless of how sourced or obtained;
- receiving grants from U.S. persons which may have conditions related to compliance with U.S. trade controls;
- sharing the results of U.S. and Canadian generated research with, or transferring of technical data with U.S. commingled data to, persons of certain nationalities or individuals, entities and the government of U.S. sanctioned country; and
- dealing with any individual outside of Canada or the U.S. that is on a list of Specially Designated National (the equivalent in the U.S. of the Canadian Designated Nationals list) or with persons, entities or governments of countries subject to U.S. sanctions, as all these activities may result in the universities’ financial institutions blocking any financial transactions related to such dealings.

Any questions should be directed to SFU’s General Counsel’s office at gcasst@sfu.ca.
How will the Trade Controls Policy be applied to procurement that is not conducted by SFU Procurement Services?

When SFU personnel and students are engaging with any vendors in, or acting on behalf of Persons in, Yellow Light Countries, they should refer to Procurement Services. For transactions involving vendors in, or acting on behalf of Persons in, Red Light Countries, approval is required from SFU’s General Counsel’s office.

Though Procurement Services only directly reviews procurement valued at greater than $10,000, a system will be put in place that will automatically prevent payments from SFU to any Sanctioned Countries without approval from Procurement Services. This will ensure that those transactions that are below the $10,000 threshold are properly screened. Foreign contractors hired by SFU would also be considered vendors for the purposes of this policy.

Will students who are transferring from another Canadian educational institution be screened to determine if they are a Designated Person?

SFU will be screening applicants that are Foreign Citizens from Sanctioned Countries to determine if they are Designated Persons, regardless of whether they are transferring from another Canadian educational institution. To be clear, this screening would not apply to those individuals that are Canadian citizens or have permanent resident status in Canada.

Generally, proof of an existing bank account with a Canadian bank (i.e. one listed on Schedules I or II of the Bank Act) is sufficient evidence that an individual is not a Designated Person.

Why is SFU screening applicants that are Foreign Citizens from Sanctioned Countries if they will be applying for a student visa from the Canadian Government?

Although the Canadian Government is empowered to collect information relevant to determining if a Foreign Citizen applying for a student visa is not on a Designated Person, there is no clear legislative or regulatory requirement that the government undertake such searches. In addition, the student may be applying, and may engage in financial transactions with SFU before any review has taken place by the Canadian government. For these reasons, SFU will be screening these applicants directly.

How was the $10,000 threshold for the screening determined?

The $10,000 threshold is based on the Financial Transactions and Reports Analysis Centre of Canada (“FINTRAC”) requirement for review of cash transactions and international funds transfers to counter suspected money laundering and terrorist financing.

Procurement Services only directly reviews procurement valued at greater than $10,000. However, a system has been put in place that will automatically prevent payments from SFU to any of the Sanctioned Countries without approval from Procurement Services. This will ensure that those transactions that are below the $10,000 threshold are properly screened.

All donations are subject to the Donations Policy (GP-03). Pursuant to this policy, SFU may screen the source of any gifts or donations to ensure they are not being made by or on behalf of a
Designated Person, regardless of the value of the gift or donation. For donations in excess of $10,000 from, or on behalf of, a Foreign Citizen from a Sanctioned Country, SFU’s General Counsel’s office should be consulted. Additionally, it is recommended that agreements with donors for donations in excess of $10,000 include a representation that the donation is not being made by, or on behalf of, someone on the list of Designated Persons.

**How will the Trade Controls Policy impact any investments made by or on behalf of SFU?**

The vast majority of SFU’s investment activity is managed by third parties. These investment managers employ sanctions screening tools to ensure that SFU’s funds are not being invested in a manner that contravenes Canadian trade controls.

Any investments made directly by SFU will be screened prior to the investment being made to ensure that the investment does not contravene Canadian trade controls.

**What other policies at SFU could be relevant to Trade Controls?**

There are several policies at SFU which may also address Trade Controls.

The [University Policy on International Activities (GP-23)](https://example.com) governs the international activities of SFU, and sets out when approval is required prior to an international activity taking place. It instructs the Senate Committee on International Activities (SCIA) to, among other responsibilities, advise the President with respect to the desirability of engaging in international activities that are proposed to be undertaken by the University. Although these activities generally would not be the subject of trade controls, if they involve financial transactions or involve the transfer of technical data with Sanctioned Countries, trade controls may apply.

The [Donors Policy (GP-03)](https://example.com) allows SFU to decline any donation that arises in whole or in part from activities that appear to violate federal, provincial or municipal laws. This includes donations that may contravene Canadian trade controls.

The [Business and Travel Expenses Policy (AD 3.02)](https://example.com) governs how expenses incurred by faculty and staff of SFU are reimbursed. As part of this, expenses are reviewed to ensure they are consistent with statutory obligations. Caution should be exercised when faculty and staff travel to Sanctioned Countries to ensure that transactions are not such as to contravene trade controls.

The Student International Travel Safety Policy (in draft) governs how SFU may respond when students encounter difficulties abroad. These difficulties can be the result of contraventions of trade controls. Where students travel to Sanctioned Countries, additional precaution should be taken to ensure that trade controls are not violated.
Other relevant policies include:

- **Finances**
  - AD 3.03 Direct Acquisition of Goods and Services
  - AD 3.11 Employee/Independent Contractor
  - AD 3.13 Service Contracts
  - AD 3.14 Indemnity Approval
  - AD 3.16 Bond Funds Allocation
  - AD 11.01 Purchasing
  - AD 11.13 Purchase or Lease of Land
  - AD 11.21 Ethical Procurement
  - B 10.09 Investment Governance

- **Human Resources – Academic Personnel Appointments**
  - SFU/SFUFA Collective Agreement provisions related to faculty appointments (e.g., articles 30, 35, 36, 37, 38, 43)
  - A 12.04 Visiting Faculty
  - A 12.08 Adjunct Professors/Adjunct Professors of Clinical Practice
  - A 13.08 Terms of Appointment and Remuneration for Associate Dean of Libraries
  - A 13.09 Terms of Appointment and Remuneration for University Archivist and Coordinator of Information and Privacy
  - A 31.04 Faculty Exchanges

- **Human Resources – Staff Appointments**
  - TSSU Collective Agreement
  - AD 9.03 Filling of Positions
  - AD 10.03 Posting and Filling of Positions

- **Research**
  - R 10.01 External Research Funding Agreements
  - R 30.03 Intellectual Property Policy
  - R 50.01 University Research Associate
  - R 50.02 Personnel Funded from Research Grants
  - R 50.03 Postdoctoral Fellows Policy
  - R 50.04 University Research Assistant