GP 45 Trade Control Policy

SIMON FRASER UNIVERSITY Policies and Procedures

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1.0

Policy Authority: General Counsel

Associated Procedures: Schedule A: Consolidated List of Sanctioned Countries, Schedule B: Summary of Roles and Responsibilities Chart, Appendix A: SFU Trade Control Guidelines

1.0 PREAMBLE

1.1 Canada has instituted controls governing trade with specified countries, organizations and individuals. Controls may be imposed against:

1.1.1 particular countries;
1.1.2 specific organizations, entities or individuals (known as “Designated Persons”);
1.1.3 particular products, services or technology being exported/imported, or
1.1.4 certain specified uses of a product or service.

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

2.0 PURPOSE

2.1 This policy is intended to ensure compliance of SFU personnel and students with all applicable trade controls, as well as to inform SFU personnel about risks associated with failure to comply with trade controls and how to minimize these risks.

3.0 SCOPE

3.1 This policy applies to all university employees, students or others acting under the auspices of the university and is particularly aimed at those who are engaged in the following types of activities:

3.1.1 financial transactions, including foreign transactions with vendors, including payment of student fees and grants and donations; and
3.1.2 research activities, including international research projects and collaborations or technology/information exchanges with persons abroad.

4.0 DEFINITIONS

4.1 Designated Person: A foreign citizen that is included in the list of Designated Persons maintained by the government of Canada.

4.2 Foreign Citizen: A citizen of a country outside of Canada who is also not a Canadian citizen and does not have permanent resident status in Canada.

4.3 Person: An individual or an entity.

4.4 Red Light Country: A country with whom trade has been generally prohibited by Canada as listed in Schedule A.

4.5 Sanctioned Country: A Red Light Country or a Yellow Light Country, as listed in Schedule A.

4.6 Technical Data: All information of a technical nature, including blueprints, technical drawings, photographic imagery, certain types of computer software, models, formulas, engineering designs and specifications, technical and operating manuals and any technical information or know-how.

4.7 Yellow Light Country: A country with which trade is not generally prohibited by Canada, but that is the target of sanctions or trade controls in respect of certain activities, entities or sectors such that transactions or activities with persons or entities, particularly government entities, in that country should be undertaken after appropriate due diligence. These countries are listed in Schedule A.

5.0 POLICY

5.1 Financial Transactions

5.1.1 Transactions with Vendors: Transactions with importers, exporters and service providers in foreign countries can be restricted under Canadian trade control laws. Such restrictions can apply to the purchase or sale of goods, services or technology transfers from or to specified countries or Persons. This could include the use of foreign contractors for services. When engaging with any vendors in, or acting on behalf of Persons in, Yellow Light Countries, 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.

5.1.2 Provision of Goods and Services: The provision of goods and services to Persons in Sanctioned Countries, particularly Designated Persons, can be contrary to trade controls enforced by Canada. Where SFU is engaged to provide goods and services to a Foreign Citizen, the Foreign Citizen should be checked against the list of Designated Persons before proceeding with the transaction. Where SFU is engaged to provide goods and services to a Sanctioned Country, approval of SFU’s General Counsel is required.

5.1.3 Student Fees - Transactions from Abroad: These transactions could contravene Canadian sanctions laws and/or raise concerns at financial institutions. Therefore, applicants that are Foreign Citizens of the Sanctioned Countries should be reviewed
against the list of Designated Persons to ensure that the applicant is not identified on those lists.

5.1.4 **Hiring from Abroad:** Entering into an employment arrangement with a Designated Person would violate Canadian trade restrictions. Provided that an individual has a valid Canadian immigration permit that allows for employment and residence in Canada (work permit, study permit etc.) and a current Canadian bank account, no additional diligence is required to be undertaken to ensure compliance with trade control laws.

5.1.5 **Donors:** Accepting donations from Persons identified as Designated Persons would likely result in a contravention of the relevant regulations. Refer to the Donations Policy (GP-03) for additional information on how donations that raise concerns should be addressed.

5.2 **Research Activities**

5.2.1 When entering into any “cooperative arrangement” with Persons from one of the Sanctioned Countries:

a. Agreements (verbal or written), including grants (see 5.3 below), with Persons in or acting on behalf of a Red Light Country, require the approval from SFU’s General Counsel’s office.

b. Agreements (verbal or written), including grants (see 5.3 below), with Persons in or acting on behalf of a Yellow Light Country, require the approval of the VP Research’s office.

c. In the case of any other dealings with Persons located in any Sanctioned Countries, consult SFU’s General Counsel.

5.3 **Research Grants**

5.3.1 Accepting research grants, providing research grants, or collaborating on research grants with Persons in Sanctioned Countries can result in violation of Canadian controls.

5.3.2 Additionally, the Canadian government has trade controls which apply to specific Designated Persons. SFU Research Services shall conduct a review of each Person to whom SFU is providing, or from whom it is accepting, a research grant when the person involved is a Foreign Citizen from a Sanctioned Country.

a. The approval of SFU’s General Counsel’s office is required prior to grants being accepted from or distributed to Persons in or acting on behalf of Red Light Countries.

b. The approval of the VP Research’s office is required prior to grants being accepted from or distributed to Persons in or acting on behalf of Yellow Light Countries.

5.3.3 All grant agreements shall include a representation that the other party is not, and is not acting on behalf of, a Designated Person.

5.4 **Sharing of Information**

5.4.1 Canada has in place legislation, which restricts the transfer of Technical Data outside the country, which includes access from outside Canada to servers located within Canada. Prior to engaging in information sharing with a Person in any Red Light Country, consult
SFU’s General Counsel. Prior to making any such dissemination to a Person in a Yellow Light Country, consult the Office of the VP Research to consider whether such information sharing contravenes any trade controls.

5.4.2 Contact SFU’s General Counsel if you are unsure of whether such an exchange will violate Canadian sanctions. Careful consideration must be given when providing data, information and technologies that could be related to national security. Additional information-sharing restrictions may also apply to Sanctioned Countries and Designated Persons.

5.4.3 Canada generally permits the transfer of technology in the public domain, if it is made available without restrictions on further dissemination. Exceptions exist for basic scientific research. However, any reliance on any exceptions with regards to Sanctioned Countries should be undertaken only after consultation with the SFU’s General Counsel’s office.

6.0 ROLES AND RESPONSIBILITIES

6.1 General Counsel

6.2 Procurement Services: Director, Financial Operations

6.3 Student Services: Senior Director, International Services for Students

6.4 Persons concluding employment arrangements: Director, Financial Operations

6.5 Advancement: Executive Director, University Development

6.6 Office of the Vice-President Research: Associate Vice-President, Research and International

6.7 See Appendix B: Summary of Roles and Responsibilities Chart

7.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

7.1 Advancement

7.1.1 GP 3 Donations

7.2 Finances

7.2.1 AD 3.03 Direct Acquisition of Goods and Services

7.2.2 AD 3.11 Employee/Independent Contractor

7.2.3 AD 3.13 Service Contracts

7.2.4 AD 3.14 Indemnity Approval

7.2.5 AD 3.16 Bond Funds Allocation

7.2.6 AD 11.01 Purchasing

7.2.7 AD 11.13 Purchase or Lease of Land

7.2.8 AD 11.21 Ethical Procurement

7.2.9 B 10.09 Investment Governance

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

7.4 Human Resources – Staff Appointments
7.4.1 TSSU Collective Agreement
7.4.2 AD 9.03 Filling of Positions
7.4.3 AD 10.03 Posting and Filling of Positions

7.5 Liaison and Cooperation
7.5.1 GP 23 University Policy on International Activities

7.6 Research
7.6.1 R 10.01 External Research Funding Agreements
7.6.2 R 30.03 Intellectual Property Policy
7.6.3 R 50.01 University Research Associate
7.6.4 R 50.02 Personnel Funded from Research Grants
7.6.5 R 50.03 Postdoctoral Fellows Policy
7.6.6 R 50.04 University Research Assistant

8.0 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

8.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia’s Freedom of Information and Protection of Privacy Act and the University’s Information Policy series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University policies.

9.0 RETENTION AND DISPOSAL OF RECORDS

9.1 Information and records made and received to administer this policy are evidence of the University’s actions to respond to government instituted controls governing trade with specified countries, organizations and individuals. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist.

10.0 POLICY REVIEW

10.1 This policy will be reviewed every five years.
11.0 AUTHORITY AND INTERPRETATION

11.1 SFU’s General Counsel is the responsible officer for the administration of this policy. Questions of interpretation or application of the policy and its procedures should be directed to SFU’s General Counsel, whose decisions on interpretations of the policy are final.

12.0 ASSOCIATED PROCEDURES

12.1 Schedule A: Consolidated List of Sanctioned Countries

12.2 Schedule B: List of Persons Who Perform Roles and Responsibilities

12.3 Appendix A: SFU Trade Control Guidelines