

EXPORT CONTROL & EMBARGO UPDATES

Spring 2018

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WHAT'S HAPPENING WITH CUBA?

If you follow popular news media you may have heard that the Trump Administration tightened travel restrictions to Cuba in late summer. What does this mean for University personnel or students traveling to Cuba? In general, it makes travel more difficult for unaffiliated individuals to go as tourists, which the prior regulations never allowed, but perhaps was occurring.

The President instructed Treasury to issue regulations that will end individual "people-to-people" travel. What is this? Individual people-to-people travel is educational travel that: (i) does not involve academic study pursuant to a degree program; and (ii) does not take place under the auspices of a U.S. organization that sponsors such exchanges. The announced changes did not take effect until the new regulations are issued, which occurred on November 9, 2017.

On the other hand **group people-to-people travel** will continue to be authorized. Quoting from the Treasury department guidance, "group people-to-people travel is educational travel (not involving academic study pursuant to a degree program) that takes place under the auspices of an organization that is subject to U.S. jurisdiction that sponsors such exchanges to promote people-to-people contact. Travelers utilizing the group people-to-people travel authorization **must**:

- (i) maintain a full-time schedule of educational exchange activities that are intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities, and that will result in meaningful interaction between the traveler and individuals in Cuba; and
- (ii) be accompanied by an employee, consultant, or agent of the sponsoring organization, who will ensure that each traveler maintains a full-time schedule of educational exchange activities. In addition, the predominant portion of the activities engaged in by individual travelers must not be with prohibited officials of the Government of Cuba or prohibited members of the Cuban Communist Party (as defined in the regulations).

This means that university faculty and staff are still able to work with U.S. based agencies that sponsor organized educational/cultural travel for our students, assuming those exchanges meet the definition of group people-to-people travel. Travel sponsors have the obligation to structure travel that meets those requirements, and do not need a specific license for each trip. The university should ensure that there is a full schedule of "educational" activities that enhance contact with the Cuban people.

WHAT ELSE IS CHANGING OR NOT?

The State Department published a list of 180 sanctioned Cuban businesses that we may not do business with, i.e. no direct transactions between us. The list includes many government officials and ministries but also hotels in Havana and shops in Old

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Havana, as well as businesses like rum producers and real estate firms that have connections to the government of Cuba. The organizations sponsoring your travel should be able to advise you of this list. If not, it is available from the System's Export Control Officer, Angela Smith-Aumen, asmith-aumen@passhe.edu

- The announced changes will *not* change the authorizations for sending remittances to Cuba.
- The new policy will *not* change the means by which people traveling to Cuba may purchase their airline tickets.

LESSONS LEARNED: SENDING PLANT MATERIAL TO CHINA

Recently a faculty member at one of our universities, who was doing joint research with a peer at a Chinese institution, wanted to send plant material, including live plant tissue to China. While sending plant material to foreign countries is allowed under U.S. export control and embargo laws and regulations, there was a concern about any restrictions that China may have against *importing* this material to their country. As it turns out this is a valid concern as China does have strict requirements for imports, including biological imports.

The planned shipment included fresh plant root tissue, preserved plant root and purified plant DNA. Through the export control consultant hired by the Office of the Chancellor, we were able to locate a sub-consultant co-located in China and the US, which provided detailed instructions on how to comply with China's requirements.

Each item in the shipment has a special code under Chinese import laws and therefore each had different shipping requirements. The live tissue would have been held in quarantine upon arriving in China for at least 30 days which surpassed the stable life of the samples, therefore it was not feasible to send the fresh plant tissue. The preserved plant root and the DNA were shipped in separate packages as the documentation and customs clearance time varied for the two items. The Chinese consultant provided detailed instructions on the type of documentation that our university had to provide for Chinese Customs, including a statement of value and a gifting agreement, and even advised on the best international shipper for this circumstance.

So although there are no U.S. exports restrictions or embargo limitations in this case, universities are advised to be concerned about the laws of receiving countries, particularly when live biologic material is involved. If you need information on such matters, please contact the System's export control officer: Angela Smith Aumen, asmith-aumen@passhe.edu. While foreign import laws are not our specialty we may be able to secure the expert guidance you need.

