

This is an unofficial translation of "Precautions regarding research activities overseas". Only the original Japanese text has legal effect, and this translation is to be used solely as reference material to aid in understanding the original Japanese version.

Research Environment and Industrial Cooperation Division, Research Promotion Bureau  
International Science and Technology Affairs Division, Science and Technology Policy Bureau

- To those engaged in research at overseas research institutions

### **Precautions regarding research activities overseas**

When participating in research activities overseas, you should be aware that rules and procedures related to research activities often differ widely from research practices in Japan. For this reason, if you are planning on engaging in research activities at overseas institutions, you are advised to familiarize yourself with and develop a sufficient understanding of the rules imposed by the institution you will be affiliated with, as well as the domestic laws, rules, regulations, etc. of the country in which you are to reside, so as not to violate these laws, rules, and regulations or give the wrong impression to those around you when you are there.

Furthermore, persons already engaged in research overseas are likewise advised to again familiarize themselves with and develop an understanding of rules of the institutions they are affiliated with and the domestic laws, rules, regulations, etc. of the countries in which they reside.

You should, for example, pay ample attention to the following matters.

- **Things to be mindful of**

#### **No. 1 on the checklist: How the products of research are treated**

For example, the following practices are common regarding the products of research and/or development at universities and research institutions in the United States.

- (1) The products of research (patents, specimens, software, etc.) are all the property of the research institute to which the researcher is affiliated.
- (2) There are instances in which it is mandatory to record the content of research in 'notebooks' provided by the institution. In such cases, in addition to the 'notebooks', all media containing experimental data or research products may be included among the products of research mentioned above.
- (3) The transfer and publication of information on research products that belong to a

research institution require the approval of the research institution to which you are affiliated.

- (4) When a researcher leaves the research institution to which he or she was affiliated, he or she may be forbidden from leaving with the products of research mentioned above without permission. In addition, one may be required to obtain approval to leave with copies thereof as well.

Rules of this nature are documented as guidelines provided by the respective research institutions. When beginning research activities, please familiarize yourself with such rules of the research institution to which you belong and sufficiently heed them. (When changing affiliations or returning to Japan after completing your research activities overseas, please pay particular heed to (3) and (4) above and check the pertinent rules before you attempt to transfer research products.)

**No. 2 on the checklist: Make sure you understand an agreement before signing it**

Before accepting them, research institutions may require researchers to sign agreements regarding the treatment of research products of the kind mentioned above. If you have questions regarding what an agreement entails, ask questions about it, peruse it, and make sure you understand the agreement before signing it.

**No. 3 on the checklist: Pay sufficient attention to the domestic laws, rules, and regulations pertinent to research activities, etc.**

In the United States, for example, when the products of research are the property of a research institution, if a researcher leaves with or publishes information without permission, that researcher may not only be held liable for violating the terms of his or her contract with the research institution, which is a civil matter, he or she may also be accused of criminal violations of industrial espionage laws. This is just one example of how the provisions of laws and regulations differ from Japan depending on the country. Please familiarize yourself with and develop a sufficient understanding of the domestic laws, rules, regulations, etc. of the country in which you are to reside.

The above are mere examples. Depending on the circumstances of the place and where you reside and your institution of affiliation, there may be matters you should be

aware of that are not mentioned above. For these reasons, when engaging in research activities overseas, do not try to rely exclusively on your own judgment. Instead, you should make inquiries at the offices of your institution, consult with your supervisors, and otherwise make efforts to ascertain information relevant to research activities.

(Additional information)

- Guide to the Ownership, Distribution and Commercial Development of M.I.T. Technology  
<http://web.mit.edu/tlo/www/guide1.html> (through [/guide.6.html](http://web.mit.edu/tlo/www/guide6.html))
- Inventions and Proprietary Information Agreements (M.I.T.)  
<http://web.mit.edu/tlo/www/propinfo.html>
- Industrial espionage laws of the United States (see the addendum)

(Additional information)

### The United States Economic Espionage Act

- Date enacted: October 11, 1996
- Purpose: To provide penalties for acts of espionage associated with agencies of foreign governments and for the violation of trade secrets to benefit individuals or companies.

Note: Definition of a “trade secret”

A trade secret is any scientific, technological, or economic information that is secret and has economic value.

- It is the subject of reasonable efforts to maintain its secrecy.
- It is not generally known to or readily ascertainable through appropriate means.

(Examples: Knowhow, things in development with the intent of obtaining a patent, the scheduled contract price in a competitive bid, etc.)

Structure: The law consists of provisions for two types of trade secret violations: espionage associated with agencies of foreign governments (Section 1831), and the theft of trade secrets to benefit individuals or companies (Section 1832).

	Economic espionage (Section 1831)	Theft of trade secrets (Section 1832)
Information protected by law (legally protected interests)	Trade secrets	The same, but applied to products manufactured for or distributed in interstate or foreign commerce.
Objective acts that violate the law	<ul style="list-style-type: none"><li>• Stealing, copying, sketching, duplicating, photographing, downloading, uploading, etc.</li><li>• Knowingly accepting or purchasing</li></ul>	Same

	<p>information that has been obtained, transferred, etc. without authorization</p> <ul style="list-style-type: none"> <li>• Planning, conspiring, or preparing to commit the above offenses</li> </ul>	
Subjectivity of the offender	<ul style="list-style-type: none"> <li>• Knowing that the offense will benefit a foreign government, foreign instrumentality, or foreign agent</li> <li>• Intending to do so</li> </ul>	<ul style="list-style-type: none"> <li>• Appropriating trade secrets for the economic benefit of anyone but the owner and knowing that it will harm the owner</li> <li>• Intending to do so</li> </ul>
Statutory penalties	<p>Individuals: To be fined not more than \$500,000 or imprisoned not more than 15 years, or both</p> <p>Organizations: To be fined not more than \$10 million</p> <p>Offenders may be required to pay a fine corresponding to the benefit they obtained or to twice the value of the loss suffered by the offended party.</p>	<p>Individuals: To be fined not more than \$250,000 or imprisoned not more than 10 years, or both</p> <p>Organizations: To be fined not more than \$5 million</p> <p>Same</p>

There are also provisions for forfeiture (Section 1834), orders to preserve confidentiality (Section 1835), civil proceedings to enjoin violations (Section 1836), and provisions applicable to conduct outside the United States (Section 1837).