Export 201: Export Controls
The Updated Government Regulations You Need to Know

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Bureau of Industry & Security

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Advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership.
How Do We Control Exports?

- Export Administration Act (EAA) of 1979, as amended
- International Emergency Economic Powers Act, as amended
- BIS is responsible for implementing and enforcing these laws which regulate the export and reexport of most commercial items.
Why Do We Control Exports?

- National Security
- Foreign Policy
- Anti–Terrorism
- Crime Control
- Regional Stability
- Nonproliferation
- Nuclear Weapons
- Chemical/Biological Weapons
- Missiles/Rocket Systems and Unmanned Air Vehicles
What Types of Transactions Does BIS Control?

BIS regulates exports, reexports and certain transfers of items “subject to the EAR” in addition to certain activities of U.S. persons.
Export Administration Regulations (EAR)

- Implement the Export Administration Act

- Broad jurisdiction BUT… narrow license requirements
Where can you find the Export Administration Regulations?

- Code of Federal Regulations
  - 15 CFR 730–774

- Available on-line:
  - www.bis.doc.gov
  - http://ecfr.gpoaccess.gov

- Order from Government Printing Office
  - 866–512–1800 (toll-free)
  - http://www.access.gpo.gov/bis/earorder.htm
Commerce Secretary Pritzker addresses 1100 attendees at the BIS Update Conference in Washington, D.C. on July 23.
SUBCHAPTER C--EXPORT ADMINISTRATION REGULATIONS

730  730.1 to 730.10  GENERAL INFORMATION

732  732.1 to 732.6  STEPS FOR USING THE EAR

734  734.1 to 734.12  SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

736  736.1 to 736.2  GENERAL PROHIBITIONS

738  738.1 to 738.4  COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

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742  742.1 to 742.19  CONTROL POLICY: CCL BASED CONTROLS

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744  744.1 to 744.22  CONTROL POLICY: END-USER AND END-USE BASED

745  745.1 to 745.2  CHEMICAL WEAPONS CONVENTION REQUIREMENTS

746  746.1 to 746.9  EMBARGOES AND OTHER SPECIAL CONTROLS

747  747.1 to 747.5  SPECIAL IRAQ RECONSTRUCTION LICENSE
Important EAR Terms
Part 734.2

- Subject to the EAR
- Export
- Reexport
- Item
- Commerce Control List (CCL)
- Export Control Classification Number (ECCN)
What is an export?

- An export is an actual shipment or transmission of items out of the United States.
What is a reexport?

- A reexport is an actual shipment or transmission of items subject to the EAR from one foreign country to another.
What is an Item?

Commodity  Software  Technology
What is a Release of Technology?

- Release of technology can occur through visual inspection, oral exchange, or application of knowledge.

- A Deemed Export is a release of technology or software source code to a foreign national in the United States.

- Considered an export to the home country of the foreign national.

- Does not apply to:
  - permanent resident aliens
  - Protected individuals
What does “subject to the EAR” mean? §734.2(a)

- Items and activities under the regulatory jurisdiction of the EAR

- Remember there are other government agencies that administer export controls

“Subject to EAR” does not mean that a license is automatically required
What is the Commerce Control List? (CCL)
(§738 and 774, Supplement No. 1)

- The list of items subject to BIS licensing authority
- Used to determine Export Control Classification Numbers
- Used to determine license requirements
What is an Export Control Classification Number (ECCN)?

- An alpha-numeric code used in the Commerce Control List to classify items for determination of export licensing requirements

- Consists of a set of digits and a letter, e.g., 3A001
Export Control

Decision Tree

(Supp. No. 1 to Part 732)

Subject to the EAR?
(See 734.2 - 3)

Yes

Is your item classified under an ECCN on the CCL?
(General Prohibitions 1, 2, & 3)
(See Supp. No. 1 to Part 774)

No

EAR99

ECCN

Yes

Do General Prohibitions 4-10 apply?
(See 735.2(b)(4-10))

No

Is there an "X" in the box?
(Using the Commerce Country Chart and the CCL)
(Supp. No. 1 to Part 738 & Supp. No. 1 to Part 774)

Yes

"No License Required" (NLR)
(See 735.25(a)(1)(ii) & 735.8(a)(3))

No

Do General Prohibitions 4-10 apply?
(See 735.2(b)(4-10))

Yes

Is a License Exception Available?
(See Part 740, including 740.2 "restrictions that apply to all license exceptions")

No

Use License Exception
(See 740.1)

Yes

Submit an application for license
(See Part 748)
Order of Review

For items “subject to the EAR” …

- Review the general characteristics of the item.
- Determine the Product group, i.e., A, B, C, D, or E.

As of October 15, 2013

*Supplement No. 4 to part 774*
CCL Order of Review
(See Supp. No. 4 to part 774)

Prerequisite – Determine Jurisdiction

Is item subject to jurisdiction of another USG agency?

no

Is the item described in the USML?

no

** See EAR for other U.S. Government agencies with export control responsibilities.

no

*WARNING Notes:
(1) Items described in the USML are subject to the ITAR. Contact DDTC for ALL ITAR questions.

(2) Certain other items are subject to the exclusive jurisdiction of other U.S. Government agencies. See Supplement 3 of Part 730

(3) EAR includes controls that extend to items not ordinarily subject to the EAR and to certain activities. See section 734.5 (Activities of U.S. and foreign persons subject to the EAR).

yes

Is item subject to the EAR?

no

*The item is not subject to the EAR. EXIT here, but first review the three WARNING Notes.

yes

The item is subject to ITAR. Contact DDTC for all ITAR questions.
**Guidance Note for Steps 3–6:** You will determine if the item is described on the CCL by conducting:

(A) a “600 series” ECCNs analysis, followed by (B) a Non-“600 series” ECCNs analysis. If subject to the EAR, but not described, see Step 6.

**(B) Non-”600 series” ECCNs analysis – Step 5 (including 4.a and 4.b, if needed)** If entry uses “specially designed,” determine whether the item is “specially designed” by reviewing the definition in section 772.1. See 4.a (‘catch’) and 4.b (‘release’) or the “Specially Designed” decision tool.
Determining Changes in Jurisdiction
As of October 15, 2013:

- Is my item(s) still subject to the ITAR?
  - Review the relevant revised and existing USML categories

- What if I have a prior commodity jurisdiction (CJ) determination?
  - CJs that determined item was subject to the ITAR
    - If item is moving from the USML to the CCL, then CJ superseded.
  - CJs that determined item was subject to EAR
Facts in Hand
Must know for every export transaction

- What is my item?
- Where is it going?
- Who will receive it?
- What will be the end use?

ECCN and Destination (General Prohibitions 1–3)

Other License Requirements (General Prohibitions 4–10)
“Subject to the EAR”
§734.3–734.5

- Items in the United States
- Some items located outside of the United States
- Activities of U.S. and Foreign Persons
“Subject to the EAR”

*Items in the United States*

§734.3(a)(1)

- **ALL** Items in the United States, except:
  - Publicly available technology & software (excluding encryption)
  - Items subject to the exclusive jurisdiction of another federal department or agency
  - Literary publications, such as newspapers or literary works (non-technical in nature)
Publicly Available

- Published Information and Software (Section 734.7)
- Fundamental Research (Section 734.8)
- Educational Information (Section 734.9)
- Patent Information (Section 734.10)
“Subject to the EAR”

Some items outside the United States

- Items located outside the United States:
  - U.S.-origin items wherever located
  - Certain foreign-made items, if:
    - The value of the U.S. content exceeds the de minimis percentage
    - The foreign-product item is the direct product of U.S. technology or software
De minimis: when foreign-made items incorporating below de minimis levels of controlled U.S. content are not subject:
- 0% de minimis amount for 600 series items destined for Country Group D: 5 countries (maintains ITAR status quo for 126.1 countries such as China)
- 25% de minimis for 600 series items destined for all other countries (more liberalized treatment than ITAR)

Direct product rule: certain foreign-made items that are the direct product of certain U.S. origin technology or software are subject:
- Foreign-made 600 series items that are the direct product of U.S.-origin 600 series technology or software require authorization under the EAR when reexported to certain country groups
“Subject to the EAR”

U.S. Persons and Foreign Persons

§734.5

- Certain activities of U.S. persons (§744.6)
  - Related to proliferation

- Activities of U.S. or foreign persons prohibited by any order issued under the EAR.
BIS regulates exports, reexports and certain transfers of items subject to the EAR in addition to certain activities of U.S. persons.

Important terms: “subject to the EAR”, items, export, reexport, CCL & ECCN

First order of business is to determine whether or not your transaction is subject to the EAR.
Contains lists of those items subject to the licensing authority of BIS
Each entry is called an Export Control Classification Number ("ECCN")
Most items are described in terms of their technical parameters
What does the Export Control Classification Number ("ECCN") tell us?

- What items are controlled?
- Why BIS controls the item?
- Which destinations will require a license?
  - Country Chart in Supp. 1 to part 738,
- What (if any) list-based license exceptions may apply?
The Structure of the ECCN

- **Category**: 1
- **Product Group**: C
- **Type of Control**: 350
## Categories of the Commerce Control List

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<tr>
<th>Category</th>
<th>Description</th>
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<tr>
<td>0</td>
<td>Miscellaneous &amp; Nuclear Materials</td>
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<tr>
<td>1</td>
<td>Materials, Chemicals, Microorganisms, and Toxins</td>
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<td>2</td>
<td>Materials Processing</td>
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<td>Electronics</td>
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<td>4</td>
<td>Computers</td>
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<td>Part 1 – Telecommunication</td>
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<tr>
<td>5</td>
<td>Part 2 – Information Security</td>
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<td>6</td>
<td>Sensors &amp; Lasers</td>
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<td>7</td>
<td>Navigation &amp; Avionics</td>
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<td>8</td>
<td>Marine</td>
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<td>9</td>
<td>Aerospace &amp; Propulsion</td>
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## Product Groups of the Commerce Control List

<table>
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<tr>
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<th>Description</th>
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<tr>
<td>A</td>
<td>Systems, Equipment &amp; Components</td>
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<td>B</td>
<td>Test, Inspection &amp; Production Equipment</td>
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<tr>
<td>C</td>
<td>Materials</td>
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<tr>
<td>D</td>
<td>Software</td>
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<tr>
<td>E</td>
<td>Technology</td>
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<td>Type of Controls Associated w/Entry</td>
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<td>Missile Technology Reasons</td>
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<td>COMING OCT. 15! Munitions Items from the ITAR</td>
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<td>Anti-terrorism</td>
<td>900-999</td>
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<td>Crime Control</td>
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<td>Regional Stability</td>
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<td>Short Supply</td>
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<tr>
<td>UN Sanctions</td>
<td></td>
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<tr>
<td>Surreptitious Listening</td>
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</tbody>
</table>
Reasons for Control

- AT = Anti-Terrorism
- CB = Chemical & Biological Weapons
- CC = Crime Control
- CW = Chemical Weapons Convention
- EI = Encryption Item
- FC = Firearms Control
- MT = Missile Technology
- NP = Nuclear Nonproliferation
- NS = National Security
- RS = Regional Stability
- SI = Significant Item
- SL = Surreptitious Listening
- SS = Short Supply
- UN = United Nations Embargo
Most of the time related items are grouped in series

- **3A001** Equipment, assemblies and components
- **3B001** Test, inspection and production equipment
- **3C001** Materials
- **3D001** Software
- **3E001** Technology
How to Read an ECCN entry

- Number and Heading
  - License Requirements
- Reasons For Control
- License Exceptions (List–based)
- List of Items Controlled
  - Units
  - Related Controls
  - Related Definitions
  - Items
How to Read an ECCN

0A979 Police helmets and shields; and parts, n.e.s.

License Requirements

Reason for Control: CC

Control(s)

CC applies to entire entry

Country Chart

CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A

Items:
The list of items controlled is contained in the ECCN heading.
0A979 Police helmets and shields; and parts, n.e.s.

License Requirements

Reason for Control: CC

Control(s) | Country Chart
--- | ---
CC applies to entire entry | CC Column 1

License Exceptions

LVS: N/A
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License Requirements
Reason for Control: CC

Control(s)                  Country Chart
CC applies to entire entry  CC Column 1

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LVS: N/A
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List of Items Controlled
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License Requirements

Reason for Control: CC

Control(s) Country Chart
CC applies to entire entry CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:
The list of items controlled is contained in the ECCN heading.
“Specially Designed”

- New definition of “specially designed” is based on a catch-and-release construct.
- Requires answering a series of yes/no questions that lead to an objective determination whether an item is “specially designed”.
- Definition is found in Part 772 and will be described in an online decision tree tool BIS will publish.
Items that are not specifically listed on the Commerce Control List yet subject to the EAR, use the designation EAR99 in place of an ECCN.

This designation may be found at the end of every category of the CCL:

“EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.”
Classification

Determining an ECCN

1) Check with the Manufacturer
   • Work with company engineer/someone who knows the item
   • CCL is organized in a logical manner

2) ECCN entries are based on the technical parameters of an item and contain important information regarding export controls

3) Submit classification request to BIS
You may **not** without a License or License Exception:

- **No. 1:** Export or reexport controlled items to listed countries.

- **No. 2:** Reexport foreign made items incorporating more than the allowed *de minimis* levels of controlled U.S. content

- **No. 3:** Reexport foreign produced direct product of U.S. technology or software
Reasons for Control/Country Chart

“X” marks the spot:
- An “X” in the box indicates a license requirement based on the ECCN and destination.
- No “X” in the box indicates no license requirement based on the ECCN and destination.
## Commerce Country Chart

### Reason for Control

<table>
<thead>
<tr>
<th>Countries</th>
<th>Chemical &amp; Biological Weapons</th>
<th>Nuclear Nonproliferation</th>
<th>National Security</th>
<th>Missile Tech</th>
<th>Regional Stability</th>
<th>Firearms Convention</th>
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<td>X</td>
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<td>X X</td>
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</table>
No License Required ("NLR")

- You may use **NLR** for:
  - ECCNs where there is no “X” on the Country Chart under reason(s) for control; or
  - EAR99 items, if

- the transaction does not require an export license based on any other licensing requirement (e.g., end-use/user requirements; restricted destinations)
Determining Licensing Requirements based on ECCN & Destination:

- An “X” in the box indicates a license requirement based on the ECCN and destination.

- No “X” in the box indicates no license requirement based on the ECCN and destination.
General Prohibitions 4–10
§736.2(b)

4. Denial Orders
5. Knowledge of end-use and end-user controls
6. Embargoed Countries
7. U.S. person support of proliferation
8. Transit through certain countries
9. Terms or conditions of licenses, etc.
10. Knowledge of a violation
What do we mean by “knowledge”?

- Includes:
  - Positive knowledge that a circumstance exists or is substantially certain to occur
  - An awareness of a high probability of its existence or future occurrence

Know = reason to know = reason to believe
License Requirement due to...
End-user/End-use Controls
Part 744

- Prohibits exports, reexports and transfers in-country of items for various reasons
- If you “know” or are informed
- “Knowledge” is defined in Part 772
- Entity List, Supplement No. 4 to Part 744
Make Sure to Check the Parties to the Transaction!

NEW Consolidated USG Screening List
http://export.gov/ecr/eg_main_023148.asp

- Includes the “Lists to Check”:
  - Denied Persons
  - Entity List
  - Unverified List
  - OFAC Lists
  - Nonproliferation Sanctions
  - Debarred List

Available at: www.bis.doc.gov
The Denied Persons List

Note: Where the Expiration Date is blank the denial order has no expiration.

Last Modified: Monday, April 15, 2013

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Type of Denial</th>
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<td>08/08/1997</td>
<td>08/08/2017</td>
<td>standard</td>
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<tr>
<td>P.O. BOX 44198, 65 7TH STREET, DENMYR BUILDING, LINDEN, ZA</td>
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<td>Appropriate Federal Register Citations: 50 F.R. 29245 7/18/85</td>
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<td>505 TRAIL LAKE DRIVE, RICHARDSON, US</td>
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</tbody>
</table>
What is the Entity List?
Part 744, Supplement 4

- Foreign persons for which there are concerns regarding
  - proliferation of weapons of mass destruction
  - acting contrary to the national security or foreign policy interests of the United States

- May require license for all items subject to EAR – requirements vary

- To be informed of changes, subscribe to: BIS Email Notification Service
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ENTITY</th>
<th>LICENSE REQUIREMENT</th>
<th>LICENSE REVIEW POLICY</th>
<th>FEDERAL REGISTER CITATION</th>
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<tr>
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<td>33 Institute, a.k.a., the following three aliases:</td>
<td>For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are “999”, e.g., XX999.</td>
<td>See §744.3(d) of this part.</td>
<td>66 FR 24266, 5/14/01.</td>
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<td></td>
<td>- Beijing Automation Control Equipment Institute (BACEI);</td>
<td></td>
<td>75 FR 78883, 12/17/10.</td>
<td>77 FR 58006, 9/19/12.</td>
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<td></td>
<td>- Beijing Institute of Automatic Control Equipment, China Haiying Electromechanical Technology Academy; and</td>
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<td>- No. 33 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).</td>
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<td>35 Institute, a.k.a., the following four aliases:</td>
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<td>See §744.3(d) of this part.</td>
<td>66 FR 24266, 5/14/01.</td>
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<td>- Beijing Hangxing Machine Building Corporation;</td>
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<td>- Beijing Huahang Radio Measurements Research Institute, China Haiying Electronic Mechanical Technical Research Academy;</td>
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<td></td>
<td>- Huahang Institute of Radio Measurement; and</td>
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<td>- No. 35 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).</td>
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<td>54th Research Institute of China, a.k.a., the following three aliases:</td>
<td>For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are “999”, e.g., XX999.</td>
<td>See §744.3(d) of this part.</td>
<td>66 FR 24266, 5/14/01.</td>
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<td>- China Electronics Technology Group Corp. (CETC) 54th Research Institute;</td>
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<td>77 FR 58006, 9/19/12.</td>
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<td>- Communication, Telemetry and Telecontrol Research Institute (CTI); and</td>
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<td>- Shijiazhuang Communication Observation and Control Technology Institute.</td>
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<td></td>
<td>A.C. International, Room 1104, North Tower Yuenin City.</td>
<td>For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are “999”, e.g., XX999.</td>
<td>Presumption of</td>
<td>73 FR 54604.</td>
</tr>
</tbody>
</table>
What are Red Flags?
Part 732, Supplement 3

- Possible indicators that an unlawful diversion might be planned by the customer

- Abnormal or suspicious circumstances
  - Product capabilities do not fit buyer’s business
  - Buyer evasive about destination or use
  - Routine on-site service is declined
Know Your Customer Guidance
Part 732, Supplement 3

- Decide whether there are red flags
- If there are red flags – inquire
- Do not self blind
- Reevaluate transaction
- Absent red flags or special EAR provision, there is no affirmative duty to investigate customer’s representations
License Requirement due to...
a Country Sanction under the EAR

- Comprehensive Embargo
  - Iran – §746.7 & §742.8
  - Cuba – §746.2
  - Sudan – §742.10
- Sanctioned
  - Syria – §746.9 & Supp. No. 1 to part 736
  - N. Korea – §746.4 & §742.19
- UN Arms Embargo
- Iraq – §746.3

General Prohibition 6
## Where to go...for Guidance

<table>
<thead>
<tr>
<th>Country</th>
<th>Exports and reexports to</th>
<th>BIS</th>
<th>OFAC</th>
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</thead>
<tbody>
<tr>
<td>Cuba</td>
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<td></td>
<td>Exports and reexports to Cuba</td>
<td>BIS</td>
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<td>Financial transactions and personal travel to Cuba</td>
<td>OFAC</td>
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<td>Iran</td>
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<td>Exports of CCL and EAR99 items to Iran</td>
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<td>Reexports of CCL items to Iran</td>
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<td>Reexports of EAR99 items to Iran by U.S. Person</td>
<td>OFAC</td>
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<td>Reexports of EAR99 items to Iran by non-U.S. persons</td>
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<td>Sudan</td>
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<td>Exports and reexports of CCL items to Sudan</td>
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<td>Exports and reexports of EAR99 items to Sudan for most end-uses and end-users</td>
<td>OFAC</td>
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<td>Exports and reexports of EAR99 items to Part 744 end-uses and end-users in Sudan</td>
<td>BIS &amp; OFAC</td>
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<td>Syria</td>
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<td>Exports and reexports to Syria</td>
<td>BIS</td>
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<td>North Korea</td>
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<tr>
<td></td>
<td>Exports and reexports to North Korea</td>
<td>BIS</td>
<td></td>
</tr>
</tbody>
</table>
Some In–Transit Shipments are prohibited

- In transit shipment and items to be unladed from vessels or aircraft
- No export, reexport, transit through Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam
  - Unless such export (reexport) is eligible to such country of transit without a license or with a license exception.
What is a License Exception?
Part 740

- An authorization that allows you to export or reexport, under stated conditions, items subject to the EAR that would otherwise require a license.

- The ITAR has “exemptions”. The EAR exception mechanism is different.

- Effective Oct. 15, license exceptions also cover in-country transfers.
When can’t you use a License Exception? §740.2

- Authorization has been suspended or revoked
- Export subject to a General Prohibition that is not eligible for License Exceptions.
- Surreptitious Interception Devices
- Crime Control items to most destinations
- Most Missile Technology control items
- Embargoed destinations, in most instances
The way the EAR sees the world... Country Groups

Supplement 1 to Part 740

- Group A: Regimes and Allies
- Group B: Less Restricted
- Group D: Countries of Concern
- Group E: Terrorist Supporting
Commerce Control List–Based License Exceptions

Availability Based on ECCN

- Shipments to B Countries (GBS)
- Limited Value Shipments (LVS)
Group B Shipments
§740.4

- Shipments to Country Group B

- Commodities requiring a license to the ultimate destination for national security reasons only
2B007 “Robots” having any of the following characteristics described in the List of Items Controlled and specially designed controllers and “end–effectors” therefor.

License Requirements
Reason for Control: NS, NP, AT

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country Chart</th>
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<tr>
<td>NS applies to entire entry</td>
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<tr>
<td>NP applies to equipment that meets or exceeds the criteria in ECCNs 2B207</td>
<td>NP Column 1</td>
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<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
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</tbody>
</table>

License Exceptions
LVS: $5000, except 2B007.b and .c
GBS: N/A
CIV: N/A

List of Items Controlled
Unit: $ value
Limited Value Shipment §740.3

- Country Group B
- Commodities
- Net value cannot exceed LVS value limit
- Annual value restriction
  - $12 \times \text{LVS value of same ECCN to same consignee}
- Single shipment

NO splitting orders!
2B007 “Robots” having any of the following characteristics described in the List of Items Controlled and specially designed controllers and “end–effectors” therefor.

License Requirements

*Reason for Control*: NS, NP, AT

*Control(s)*  
NS applies to entire entry  
NP applies to equipment that meets or exceeds the criteria in ECCNs 2B207  
AT applies to entire entry

*Country Chart*

NS Column 2  
NP Column 1  
AT Column 1

License Exceptions

*LVS*: $5000, except 2B007.b and .c

GBS: N/A  
CIV: N/A

List of Items Controlled

*Unit*: $ value
Transaction Based License Exceptions

- TMP – Temporary Imports, Exports & Reexports
- RPL – Service & Replacement of Parts & Equipment
Temporary Imports, Exports and Reexports
§740.9

- Temporary Exports and Reexports
  - §740.9(a)

- Items temporarily in the U.S.
  - § 740.9(b)

- Beta Test Software
  - § 740.9(c)
Servicing & Replacement of Parts & Equipment §740.10

Exports and Reexports for:
(a) One–for–one Replacement of Parts
(b) Servicing & Replacement of Commodities and Software
   ◦ Servicing of commodities and software sent to US or foreign party
   ◦ Replacements for defective or unacceptable US–origin equipment

NO Enhancements!
Part 740 (Changes as of Oct. 15)

- Allows in-country transfers if they meet the terms and conditions of reexports.
- New Country Groups:
  - A:5 – STA–36 (Only A:5 useful for “600 series.”)
  - A:6 – STA–8
  - D:5 – U.S. arms embargoed countries (§ 126.1 of the ITAR destinations)
- Comprehensive streamline of GOV and TMP
Part 740 (Changes as of Oct. 15)

- LVS (§ 740.3): $1500 for most 600 series commodity ECCNs
- TMP (§ 740.9): streamlined; expanded scope for exports to U.S. person’s subsidiary, affiliate, or facility abroad
- RPL (§ 740.10): allows 600 series parts to repair EAR or ITAR items under certain conditions
- GOV (§ 740.11): streamlined; expanded to authorize contractor support personnel and to provide for certain shipments for or on behalf of USG and DoD–directed shipments
- TSU (§ 740.13): expanded to allow releases of technology and source code in the U.S. to bona fide, full time regular employees of U.S. universities.
# ITAR Exemption to EAR License Exception

<table>
<thead>
<tr>
<th>ITAR Exemption</th>
<th>EAR License Exception</th>
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<tbody>
<tr>
<td>§ 123.4</td>
<td>RPL, TMP</td>
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<td>§ 123.16(b)(2)</td>
<td>LVS</td>
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<td>§ 123.16(b)(5)</td>
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<td>§ 123.16(b)(9)</td>
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<td>§ 123.19</td>
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<td>§ 125.4(b)(1)</td>
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<td>GOV</td>
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<tr>
<td>§ 126.6(a)</td>
<td>GOV</td>
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</table>
License Exceptions

- Make sure your transaction requires a license (i.e., there is an “X” in the box, or some other licensing requirement) before reviewing the License Exceptions.

- Before going to a specific license exception, make sure there are no general restrictions.

- Each exception is unique, make sure you meet all of the criteria.
How to Submit an Application: How to Get Started in SNAP–R
SNAP–R Online Registration at
https://snapr.bis.doc.gov/registration

Respond to the confirmation email

A Company Identification Number (CIN) will be assigned, and your account with administrator’s privilege will be created
SNAP-R Company Registration

Company Information

Country: *
Company Name: *
Address Line 1: *
Address Line 2: *
City: *
State (U.S. only): *
Zip/Postal Code: *

Administrator Information

First Name: *
Last Name: *
Phone: *
Fax: *
Email Address: *
Confirm Email Address: *

Certifications

1. COMPANY CERTIFICATION

The applicant company (herein “company”) hereby requests authorization for the company to submit export license applications, reexport authorization requests, AGR license exception notifications, and classification requests for export licenses using BIS’s Simplified Network Application Processing (SNAP-R) system. The company understands that an electronic submission has the same legal force and effect as a written submission. The company agrees that each submission made via SNAP-R shall constitute a certification that:

a. To the best of its knowledge and belief, all information submitted to BIS, including the description of the items and their end-users or end-users, and any documents in support of such submissions, are correct and accurately disclose all material facts;
b. Submissions will conform to the Export Administration Regulations (EAR) (15 CFR parts 730 through 774);

The company will maintain, ensure, and provide all necessary documentation required by BIS within 120 days of the EAR (15 CFR part 30).

I have read, understand, and agree to the terms and conditions of the company certification and I have authority to do so on behalf of the company.

I have read, understand, and agree to the terms and conditions of the account administrator certification and I have authority to act as account administrator on behalf of the company.

Submit My Registration
How to use SNAP–R?

Access SNAP–R at:
- https://snapr.bis.doc.gov

Create and submit a new license application
- Export License
- Reexport License
- Agriculture License Exception Notice
- Commodity Classification including Encryption Review
- Encryption Registration
- Special Comprehensive License (For approved companies only)

Manage license applications within company
- Receive/Respond requests from BIS licensing officers
- Receiving final license validations
Who may submit a commodity classification?
§ 748.3

- Any person, wherever located, may submit a request for a commodity classification.
Who can apply for an export license? §748.4(a)(1)

- Only a person in the U.S. can apply for a license to export from the United States.

- Types of export transactions:
  - Standard export transaction
  - Routed export transaction
Standard Export Transactions §748.4(a)(1)

- **Exporter – U.S. principal party in interest (USPPI)**
  - Determines authority to export
  - Obtains license or other export authorization
  - Complies with terms and conditions of the authorization

- **Forwarder or other agent**
  - May be hired to perform the first two tasks listed above
  - Does not relieve exporter of compliance for those tasks
  - Is responsible for compliance with the EAR
Exporter

- USPPI or

- U.S. agent of foreign principal party in interest (FPPI)
  
  - USPPI must obtain from the FPPI a writing if the FPPI takes responsibility for determining the license requirements for the export

  - agent must obtain written authorization from FPPI
Who can apply for a reexport license?
§748.4(a)(3)

- U.S. or foreign principal party in interest
- Other duly authorized U.S. agent of FPPI
  - agent must usually obtain written authorization from FPPI
What support documentation do I need for my license application?

§748.9

If you do not meet any of the exemptions under the EAR, your license application may need to be supported by various documents such as:

- Import Certificate
- End-User Statement
- Statement by Ultimate Consignee and Purchaser
When are support documents not required?
§748.9(a)

- For most South and Central American countries (except for ECCNs 0A984, 0A986, 0A987)
- When ultimate consignee or purchaser is government or government agency, other than the PRC
- Software or technology
- Encryption items
What is the status of my license application?...

- Accepted
- Held Without Action (HWA)
- Pending
  - with one of the agencies: DoD, DoE, State
- Returned Without Action (RWA)
- Approved/Denied
Track Your Application (STELA)

To better serve the exporting community, BIS has launched an on-line version of its System for Tracking Export Licenses (STELA). You may now check the status of your export/reexport license applications, classification requests, and other actions online at https://snapr.bis.doc.gov/stela. Applicants must input their BIS assigned application control number(s) (ACN) to access this site.
Initial Review and Technical Analysis §750.4(c)

- Contact applicant for additional information
- Verify classification of items
- RWA – Return application if license not required
- Refer to other agencies if required
- HWA – Hold without action
- Approve or notify of intent to deny
Interagency Review
§750.4(d)

- Review by other agencies or interagency groups
  - State, DoD, DOE
  - MTEC, SNEC, Shield

- Recommendation by reviewing agencies
  - Must provide regulatory basis for denials
  - If no response within 30 days, agency deemed to have no objection to BIS decision
Escalation Procedure
§750.4(f)

- Operating Committee (OC)
- Advisory Committee on Export Policy (ACEP)
- Export Administration Review Board (EARB)
Final Decision

Possible Outcomes
- Return Without Action
- Approval with Conditions
- License approval found in SNAP–R
- Denial

Issuance §750.7
- Validity period – 4 years
REMEMBER!!! We are all on this journey together......

Thank you for coming!
Karen.DiBenedetto@bis.doc.gov
202-482-4524