Commerce Export License Requirements

• Series of Six Modules
  • Module 1 – “The Big Picture”
    – Module 2 – Classifying your Item and Determining if you need a license
    – Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
    – Module 4 – Using License Exceptions
    – Module 5 – License Application and Supporting Documentation
    – Module 6 – Export Clearance and Recordkeeping
What you Need to Know to Determine Your Export License Requirements

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

• **Export** - an actual shipment or transmission of items out of the United States or certain releases

• **Reexport** - an actual shipment or transmission of items subject to the EAR from one foreign country to another foreign country or certain releases

• **Item** – Commodities, software or technology
The Big Picture

- Determine jurisdiction for your item
- Determine if your item is “subject to EAR”
- Classify your item
- Identify the Reasons for Control
- Cross-reference the controls against the Country Chart
- Determine License Requirement or License Exception
- Eligibility
- Screen all parties to the transaction
- Ensure no prohibited end-uses or activities
- Export using appropriate ECCN and authorization
Agency Jurisdiction

• **Commerce - Bureau of Industry and Security (BIS)**
  - Controls commercial items including “dual-use” items (items that may have both commercial and military applications)
  - Export Administration Regulations - EAR

• **State - Directorate of Defense Trade Controls (DDTC)**
  - Controls items specifically designed, developed, configured, modified or adapted for a military application
  - International Traffic in Arms Regulations (ITAR)

• **Other regulatory agencies – such as Dept. of Treasury, Dept. of Energy, Nuclear Regulatory Commission**

Go to [www.bis.doc.gov](http://www.bis.doc.gov) and click “Resource Links”
Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR?
Part 734

Is your item classified under an Export Control Classification Number on the Commerce Control List?
Supplement 1 to Part 774

ECCN

Do General Prohibitions 4-10 apply?
Part 736

No

Yes

Export under “No License Required” NLR Part 758

Export using License issued by BIS Part 758

Yes

Submit export license Application Part 748

No

Export Using License Exception Part 758

Is there an “X” in the box on the Commerce Country Chart?
Supplement 1 to Part 738

No

Yes

Is a License Exception Available?
Part 740

No

Yes

Do General Prohibitions 4-10 apply?
Part 736

Exit the EAR
What is Subject to the EAR?
Scope of Commerce Controls

• Items in the U.S.

• Certain items located outside the U.S.

• Activities of U.S. persons

• Releases of source code or technology to foreign nationals in the United States or abroad ("Deemed" exports and reexports)
Deemed Export/Reexport

• Release of technology or source code subject to the EAR to a foreign national in the U.S. or abroad
  – Considered to be an export or reexport to that person’s home country
  – Does not apply to U.S. Citizens, individuals granted permanent resident status, protected individuals
What is Not Subject to the EAR

• Items under the exclusive jurisdiction of another Federal Agency
• Literary publications, such as newspapers or literary works (non-technical in nature)
• Publicly available technology and software (excluding encryption)
• Foreign made items with less that *de minimis* percentage of controlled U.S. content
Subject to the EAR

Most items inside and certain items outside the U.S.

- Items subject to the sole jurisdiction of another agency
- Foreign made items below de minimis
- Publications that are artistic or non-technical in nature
- Publicly available technology and software excluding encryption
Next Consideration…
Determine your License Requirements

What is my item?  
ECCN and Destination

Where is it going?  

Who is involved?  
End-user and End-use

What are they doing with it?
Commerce Control List (CCL)

(Part 738 and Part 774, Supplement No. 1)

- Each entry has an Export Control Classification Number (ECCN)
  - (e.g. 3A001, 3A994)
- Items generally listed in terms of technical parameters
- ECCN identifies “Reason For Control” – e.g. national security (NS), nuclear nonproliferation (NP), Anti-terrorism (AT), etc.
- If not on CCL, EAR99
3A981 Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.

LICENSE REQUIREMENTS

*Reason for Control: CC*

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Commerce Country Chart
Supplement No. 1 to Part 738

• Used with the ECCN to determine if you need a license based on item & destination

• Compare destination and item’s reason for control - e.g. national security (NS), nuclear proliferation (NP), regional stability (RS), crime control (CC)
# Where is It Going?

## Destination

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**Destination**

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**Commerce Control List Overview and the Country Chart**

**Supplement No. 1 to Part 738—page 1**

**Export Administration Regulations**

January 26, 2007
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**Export Administration Regulations**

January 26, 2007

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Is an Export License Required?

• “X” in the box
  – License
  – License Exception

• No “X” in the box
  – NLR - No License Required
License Exceptions

Part 740

• An authorization that takes the place of a license

• In most instances exporter does not require anything in writing from BIS

• Identified by symbol (e.g. GBS, TSR, BAG)
Not on the Commerce Control List? EAR99!

- Items not specified on the CCL are designated EAR99
- Most commercial items are designated EAR99
- EAR99 items can usually be shipped NLR (No License Required)
- *But, remember to check all parties to the transaction, the end-use of the item and restricted destinations!!*
EAR99: Items subject to the EAR that are not controlled by any CCL category
First Step
Determining your License Requirements

What is my item?
Where is it going?

ECCN and Destination
Next Step
Determining your License Requirements

Who is involved?
What are they doing with it?
End-user and End-use
End Use/User Controls
Part 744 of the EAR

- Any item subject to the EAR
- If you -- “know” or are “informed”
- Proliferation end-users/uses – nuclear, missile technology, chemical and biological
- Limited military end-use restrictions
Who is Involved?
“Lists to Check”

- Denied Persons List
- Entity List
- Unverified List
- General Order No. 3 of Supp. No. 1 to part 736
- Specially Designated Nationals List - Treasury Department, Office of Foreign Assets Control
- Nonproliferation Sanctions List - State Department
- Debarred Parties List - State Department

These lists may be found on the BIS website (www.bis.doc.gov). Click on “Lists to Check”
“Know Your Customer” Guidance
Supplement 3 to Part 732

• Look for “Red Flags”
  – abnormal or suspicious circumstances
  – Unverified List

• If found, inquire and reevaluate transaction

• Otherwise, no affirmative duty to “go behind” customer’s representations

• Do not “self-blind”
Activities of U.S. Persons
(sections 744.6 and 744.9)

- A license is required by U.S. person to export, reexport or transfer any item if that person knows the items will be used in proliferation activity in certain countries
  - Applies to U.S. and foreign-origin items
- U.S. person cannot knowingly support an unlicensed export, reexport or transfer related to such activity
- U.S. person cannot perform a contract, service or employment that it knows will directly assist in proliferation activity
- A license is required for encryption technical assistance provided by U.S. person
Embargoes & special destinations
Parts 742 and 746 of the EAR

- Cuba
- Iran
- Sudan
- Syria
- North Korea
Finally…
What To Do with This Information

• Export using:
  – Export License authorization issued by BIS,
  – License Exception authorization, or
  – No License Required designation (NLR)

• Include (when required) on clearance documents
SED or AES Record
Shipper’s Export Declaration or Automated Export System

• Includes:

  • *BIS* export license number, *License Exception symbol*, or *NLR*

  • *ECCN* (when required)

• Your signature certifies that the information is accurate and true
Recordkeeping  
Part 762 of the EAR

• **Who keeps records:**  
  – Principal or agent who participates in transaction

• **What to keep:**  
  – Export control documents and related documents listed in §762.2 and part 772

• **Format:**  
  – Original, or reproductions that meet standards of legibility and readability requirements in §762.5

• **Retention Period:**  
  – 5 years
Commerce Contact Information

- **Website:** www.bis.doc.gov
- **Exporter Services Offices:**
  - Washington, D.C. (202) 482-4811
  - Southern California (949) 660-0144
  - Northern California (408) 291-4212
- **Export Enforcement Offices**
  - Nationwide (800) 424-2980
- **AES Support Lines:** 800-549-0595
  - 301-763-3539
- **E-mail:** ASKAES@census.gov
Summary of Topics of Discussion

• Determine jurisdiction for your item and if “subject to EAR”
• Classify your item
• Identify the Reasons for Control
• Cross-reference the controls against the Country Chart
• Determine License Requirement or License Exception Eligibility
• Screen all parties to the transaction
• Ensure no prohibited end-uses or activities
• Export using appropriate ECCN and authorization
Module 2

• Item Classification
• Determining if you Need a License
Classifying Your Item and Determining if You Need a License

Module 1 – “The Big Picture”

• Module 2 – Classifying Your Item and Determining if You Need a License

Module 3 – General Prohibitions Including Prohibited End-users and End-uses & Activities

Module 4 – Using License Exceptions

Module 5 – License Application and Supporting Documentation

Module 6 – Export Clearance and Recordkeeping
What We Will Cover

• Commerce Control List (CCL)
• Export Control Classification Numbers (ECCNs)
• Reasons for Control
• Using the Commerce Country Chart to Determine License Requirements
• EAR99
• Approaches to Classifying Items
Determining Your License Requirements Under the Export Administration Regulations (EAR)

1. Is your item Subject to the EAR?  
   *Part 734*
   
   - **Yes**
     - Is your item classified under an Export Control Classification Number on the Commerce Control List?  
       *Supplement 1 to Part 774*
       
       - **Yes**
         - **No**
           - **Exit the EAR**
           
       - **No**
         - **Yes**
           - Do General Prohibitions 4-10 apply?  
             *Part 736*
             
             - **Yes**
               - Submit export license Application  
                 *Part 748*
                 
               - **No**
                 
             - **No**
               - Is a License Exception Available?  
                 *Part 740*
                 
               - **Yes**
                 
               - **No**
                 
             - Do General Prohibitions 4-10 apply?  
               *Part 736*
               
               - **Yes**
                 
               - **No**
                 
             - Submit export license Application  
               *Part 748*
               
             - **Exit the EAR**
             
         - **Exit the EAR**
         
   - **No**
     
     - Is there an “X” in the box on the Commerce Country Chart?  
       *Supplement 1 to Part 738*
       
       - **Yes**
         - **Exit the EAR**
         
       - **No**
         - Is a License Exception Available?  
           *Part 740*
           
           - **Yes**
             - Submit export license Application  
               *Part 748*
               
           - **No**
             - Do General Prohibitions 4-10 apply?  
               *Part 736*
               
             - **Yes**
               
             - **No**
               
             - Submit export license Application  
               *Part 748*
               
             - **Exit the EAR**
         
         - **Exit the EAR**
         
     - **Exit the EAR**

Module 2 – Item Classification and License Determination
Commerce Control List

- Includes items subject to BIS licensing authority

- With the Commerce Country Chart, used to determine whether a license is required for items to any country in the world.

- Found in Part 774, Supplement 1 of the EAR

- http://www.access.gpo.gov/bis/ear/ear_data.html

- www.bis.doc.gov (below Exporter Resources)
Module 2 – Item Classification and License Determination

“Item”

Commodities

Software

Technology
Structure of the Commerce Control List

Part 774, Supplement 1

• 10 Categories (0-9)
• 5 Product Groups (A-E)
• Entries (ECCN)
• Alphabetical Index
• Numerical Index
CATEGORIES 0-4

Category 0 - Miscellaneous / Nuclear
Category 1 - Materials
Category 2 - Materials Processing
Category 3 - Electronics
Category 4 - Computers
CATEGORIES 5-9

Category 5 - Telecommunications and Information Security
   Part 1 – Telecommunications
   Part 2 – Information Security

Category 6 - Sensors/Lasers

Category 7 - Navigation & Avionics

Category 8 - Marine

Category 9 - Propulsion
CATEGORIES 0-4

example: 3A001

Category 0 - Miscellaneous / Nuclear
Category 1 - Materials
Category 2 - Materials Processing
Category 3 - Electronics
Category 4 - Computers
CATEGORIES 5-9

example: 6C992

Category 5 - Telecommunications and Information Security
  Part 1 – Telecommunications
  Part 2 – Information Security

Category 6 - Sensors/Lasers

Category 7 - Navigation & Avionics

Category 8 - Marine

Category 9 - Propulsion
Product Groups A-E

• A – Equipment, Assemblies and Components
• B – Test, Inspection and Production Equipment
• C – Materials
• D – Software
• E - Technology
Product Groups A-E
example: 4B994

- A – Equipment, Assemblies and Components
- B – Test, Inspection and Production Equipment
- C – Materials
- D – Software
- E – Technology
Product Groups A-E

example: 6C992

- A – Equipment, Assemblies and Components
- B – Test, Inspection and Production Equipment
- C – Materials
- D – Software
- E - Technology
Module 2 – Item Classification and License Determination

Product Groups

- 3A001: Equipment, assemblies and components
- 3B001: Test, inspection and production equipment
- 3C001: Materials
- 3D001: Software
- 3E001: Technology
How Product Groups Relate

• 3A001 – includes electronic components
How Product Groups Relate

• 3A001 – includes electronic components
• 3B001 – includes equipment for manufacturing of certain semiconductor devices or materials
How Product Groups Relate

• **3A001** – includes electronic components

• **3B001** – includes equipment for manufacturing of certain semiconductor devices or materials

• **3C001** – includes hetero-epitaxial materials used in semiconductor manufacturing
How Product Groups Relate

• 3A001 – includes electronic components
• 3B001 – includes equipment for manufacturing of certain semiconductor devices or materials
• 3C001 – includes hetero-epitaxial materials used in semiconductor manufacturing
• 3D001 – includes software designed for the development or production of certain electronic components
How Product Groups Relate

• 3A001 – includes electronic components
• 3B001 – includes equipment for manufacturing of certain semiconductor devices or materials
• 3C001 – includes hetero-epitaxial materials used in semiconductor manufacturing
• 3D001 – includes software designed for the development or production of certain electronic components
• 3E001 – includes technology for development or production of certain Category 3 equipment or materials
Second **Number in ECCN**

“Reasons for Control”

3A001

0: National Security (NS) reasons
1: Missile Technology (MT) reasons
2: Nuclear Nonproliferation (NP) reasons
3: Chemical & Biological (CB) reasons
9: Anti-terrorism (AT), Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.
Second Number in ECCN
“Reasons for Control”

3A001

0: National Security (NS) reasons
1: Missile Technology (MT) reasons
2: Nuclear Nonproliferation (NP) reasons
3: Chemical & Biological (CB) reasons
9: Anti-terrorism (AT), Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.
Reasons for Control
Not Mutually Exclusive -
Many ECCNs are controlled for more than one reason

- AT  = Anti-Terrorism
- CB  = Chemical & Biological Weapons
- CC  = Crime Control
- CW  = Chemical Weapons Convention
- EI  = Encryption Item
- FC  = Firearms Convention
- MT  = Missile Technology
- NP  = Nuclear Nonproliferation
- NS  = National Security
- RS  = Regional Stability
- SI  = Significant Item
- SL  = Surreptitious Licensing
- SS  = Short Supply
- UN  = United Nations
- XP  = Computers
How “Reasons for Control” are reflected in ECCNs

- 3A001 – includes electronic components (NS, MT, NP, AT)
How “Reasons for Control” are reflected in ECCNs

- 3A001 – includes electronic components (NS, MT, NP, AT)
- 3A002 – includes general purpose electronic equipment (NS, AT)
How “Reasons for Control” are reflected in ECCNs

- 3A001 – includes electronic components (NS, MT, NP, AT)
- 3A002 – includes general purpose electronic equipment (NS, AT)
- 3A101 – includes certain converters usable in “missiles” (MT, AT)
How “Reasons for Control” are reflected in ECCNs

- **3A001** – includes electronic components (NS, MT, NP, AT)
- **3A002** – includes general purpose electronic equipment (NS, AT)
- **3A101** – includes certain converters usable in “missiles” (MT, AT)
- **3A201** – includes certain flash x-ray generators (NP, AT)
How “Reasons for Control” are reflected in ECCNs

- **3A001** – includes electronic components (NS, MT, NP, AT)
- **3A002** – includes general purpose electronic equipment (NS, AT)
- **3A101** – includes certain converters usable in “missiles” (MT, AT)
- **3A201** – includes certain flash x-ray generators (NP, AT)
- **3A980** – includes voice print ID equipment (CC)
How “Reasons for Control” are reflected in ECCNs

- **3A001** – includes electronic components (NS, MT, NP, AT)
- **3A002** – includes general purpose electronic equipment (NS, AT)
- **3A101** – includes certain converters usable in “missiles” (MT, AT)
- **3A201** – includes certain flash x-ray generators (NP, AT)
- **3A980** – includes voice print ID equipment (CC)
- **3A991** – includes electronic devices not in 3A001 (AT)
Composition of ECCN Entries

- ECCN and Entry Heading
Composition of ECCN Entries

• ECCN and Entry Heading
• License Requirements
  – Reasons For Control (e.g. NS, CB, AT)
  – Country Chart (e.g. NS Column 2, CB Column 1)
Composition of ECCN Entries

• ECCN and Entry Heading
• License Requirements
  – Reasons For Control (e.g. NS, CB, AT)
  – Country Chart (e.g. NS Column 2, CB Column 1)
• License Exceptions
Composition of ECCN Entries

- ECCN and Entry Heading
- License Requirements
  - Reasons For Control (e.g. NS, CB, AT)
  - Country Chart (e.g. NS Column 2, CB Column 1)
- License Exceptions
- List of Items Controlled
Composition of ECCN Entries

- ECCN and Entry Heading
- License Requirements
  - Reasons For Control (e.g. NS, CB, AT)
  - Country Chart (e.g. NS Column 2, CB Column 1)
- License Exceptions
- List of Items Controlled
  - Units
Composition of ECCN Entries

• ECCN and Entry Heading
• License Requirements
  – Reasons For Control (e.g. NS, CB, AT)
  – Country Chart (e.g. NS Column 2, CB Column 1)
• License Exceptions
• List of Items Controlled
  – Units
  – Related Controls
Composition of ECCN Entries

• ECCN and Entry Heading
• License Requirements
  – Reasons For Control (e.g. NS, CB, AT)
  – Country Chart (e.g. NS Column 2, CB Column 1)
• License Exceptions
• List of Items Controlled
  – Units
  – Related Controls
  – Related Definitions
Composition of ECCN Entries

• ECCN and Entry Heading
• License Requirements
  – Reasons For Control
• License Exceptions
• List of Items Controlled
  – Units
  – Related Controls
  – Related Definitions
  – Items
Other Useful Guidance found in ECCNs

• Technical Notes and Advisory Notes in items list
• N.E.S – not elsewhere specified
• Part 772 Definitions
  – those that apply to more than one ECCN entry
  – identified by “quotes”
Module 2 – Item Classification and License Determination

List of Items Controlled
Unit: Equipment in Number
Related Controls: N/A
Related Definitions: N/A
The list of items controlled is contained in the ECCN heading.

3A980 Voice print identification and analysis equipment and parts, n.e.s.

License Requirements
Reasons 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
3A980 Voice print identification and analysis equipment and parts, n.e.s.

License Requirements

*Reasons 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: Equipment in Number*
*Related Controls: N/A*
*Related Definitions: N/A*

The list of items controlled is contained in the ECCN heading.
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

Reasons for Control: NS, AT

Control(s)           Country Chart
NS applies to entire entry   NS Column 2
AT applies to entire entry   AT 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: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

Items:

a. Designed for marine depths exceeding 1,000 m; and

b. A density less than 561 kg/m3
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

Reasons for Control: NS, AT

Control(s)       Country Chart
NS applies to entire entry  NS Column 2
AT applies to entire entry  AT 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: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

Items:

a. Designed for marine depths exceeding 1,000 m; and
b. A density less than 561 kg/m3
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

**Reasons for Control:** NS, AT

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country Chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>NS applies to entire entry</td>
<td>NS Column 2</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

*Unit: $ value*

*Related Controls: N/A*

*Related Definitions: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix*

*Items:*

a. Designed for marine depths exceeding 1,000 m; *and*

b. A density less than 561 kg/m3
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

**License Requirements**

*Reasons for Control: NS, AT*

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<td>NS Column 2</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>

**License Exceptions**

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

**List of Items Controlled**

*Unit: $ value*

*Related Controls: N/A*

*Related Definitions: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix*

*Items:*

a. Designed for marine depths exceeding 1,000 m; *and*

b. A density less than 561 kg/m3
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

*Reasons for Control*: NS, AT

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<tbody>
<tr>
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<td>NS Column 2</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>

License Exceptions

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

**List of Items Controlled**

*Unit*: $ value

*Related Controls*: N/A

*Related Definitions*: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

*Items*:

a. Designed for marine depths exceeding 1,000 m; *and*

b. A density less than 561 kg/m³
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

Reasons for Control: NS, AT

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<th>Country Chart</th>
</tr>
</thead>
<tbody>
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<td>NS Column 2</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>

License Exceptions

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

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

Items:

- Designed for marine depths exceeding 1,000 m; and
- A density less than 561 kg/m3
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

**License Requirements**

*Reasons for Control:* NS, AT

**Control(s)**                          **Country Chart**
NS applies to entire entry             NS Column 2
AT applies to entire entry             AT 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:* Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

**Items:**

a. Designed for marine depths exceeding 1,000 m, *and*

b. A density less than 561 kg/m³
8C001 Syntactic foam designed for underwater use having all of the following (see List of Items Controlled).

License Requirements

Reasons for Control: NS, AT

Control(s) Country Chart
NS applies to entire entry NS Column 2
AT applies to entire entry AT Column 1

License Exceptions

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

List of Items Controlled

Unit: $ value

Related Controls: N/A

Items:

Related Definitions: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix

a. Designed for marine depths exceeding 1,000 m; and
b. A density less than 561 kg/m3
Module 2 – Item Classification and License Determination

License Requirements

*Reasons for Control*: NS, NP, AT

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country Chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>NS applies to entire entry</td>
<td>NS Column 2</td>
</tr>
<tr>
<td>NP applies to 2B006.a and b, except 2B006.b.1.d</td>
<td>NP Column 1</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>
Software and Technology

• Note that most software and technology is controlled based on the hardware.
• If your item is "development," "production" or "use" data or software it will be necessary to classify the related end-item hardware.
• General Technology Note in supplement 2 to Part 774.
1D390 “Software” for process control that is specifically configured to control or initiate “production” of chemicals controlled by 1C350.

License Requirements

Reasons for Control: CB, AT

Control(s)                  Country Chart
CB applies to entire entry  CB Column 2
AT applies to entire entry  AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

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

The list of items controlled is contained in the ECCN heading.
Module 2 – Item Classification and License Determination

License Requirements

Reasons for Control: CB, AT

Control(s) Country Chart
CB applies to entire entry CB Column 2
AT applies to entire entry AT Column 1

License Exceptions
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
The list of items controlled is contained in the ECCN heading

1D390 “Software” for process control that is specifically configured to control or initiate “production” of chemicals controlled by 1C350.
1D390 “Software” for process control that is specifically configured to control or initiate “production” of chemicals controlled by 1C350.

License Requirements

Reasons for Control: CB, AT

Control(s)  Country Chart
CB applies to entire entry  CB Column 2
AT applies to entire entry  AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

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

The list of items controlled is contained in the ECCN heading
Commerce Country Chart
Supplement No. 1 to Part 738

• Used with the ECCN to determine if you need a license based on item & destination

• Compare destination and item’s reason for control - e.g. national security (NS), nuclear proliferation (NP), regional stability (RS), crime control (CC)
Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR? Part 734

Yes → Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774

No → Exit the EAR

Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774

Yes → ECCN

No → EAR99

ECCN

Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738

No → Do General Prohibitions 4-10 apply? Part 736

Yes → Is a License Exception Available? Part 740

No → Submit export license Application Part 748

Yes → Do General Prohibitions 4-10 apply? Part 736

No → Export using License issued by BIS Part 758

Yes → Export using License Exception Part 758

EAR99

Export under “No License Required” NLR Part 758

Module 2 – Item Classification and License Determination
## Where is It Going?

**Destination**

### Commerce Country Chart

<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>
<th>Crime Control</th>
<th>Anti-Terrorism</th>
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<tbody>
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<td>Afghanistan</td>
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*Export Administration Regulations*  
January 26, 2007
### Where is It Going?

**Destination**

#### Commerce Control List Overview and the Country Chart

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*Source: U.S. Department of Commerce, Export Administration Regulations, January 26, 2007*
## Where is It Going?

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# Where is It Going?

*Destination*

## Commerce Control List Overview and the Country Chart

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*Export Administration Regulations*  
January 26, 2007
Where is It Going?

*Destination*

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*Supplement No. 1 to Part 738—page 1*

*Export Administration Regulations*  
*January 26, 2007*
Is an Export License Required?

- “X” in the box
  - License
  - License Exception*

- No “X” in the box
  - NLR - No License Required *

* As long as end-user and end-use or other prohibitions do not apply
What if Not on CCL?

• CCL is a **Positive List** of items controlled
• Items not listed on the CCL are designated EAR99
• Most commercial items are designated EAR99
EAR99: Items subject to the EAR that are not controlled by any CCL category
Classifying Your Product

The Key To Export Control Requirements
Approaches to Classifying

1. Check with the Manufacturer – but keep in mind that ECCNs may change over time
Approaches to Classifying

1. Check with the Manufacturer— but keep in mind that ECCNs may change over time

2. Self Classify – involves a technical evaluation of item
Approaches to Classifying

1. Check with the Manufacturer— but keep in mind that ECCNs may change over time

2. Self Classify – involves a technical evaluation of item

3. Submit formal classification request to BIS
Self Classification of Item

• Review of general characteristics of the item to narrow down to appropriate Category

• Consider Index Comparison

• Read ECCN “Item” heading under “List of Items Controlled”
  – contains a positive list of all items controlled by entry.
  – for some ECCNs, the entry heading contains all items under that ECCN

• Match particular characteristics, functions and applications to a specific ECCN

• Pay attention to Related Controls and Related Definitions!
How to Request a Written Classification from BIS

• SNAP-R on-line submission
• “Best guess” ECCN
• Maximum of six items per request
• Item details
  – Manufacturer
  – Model/Part Number
  – Applications
  – Specifications
• Include detailed technical specifications which support classification
  – Pictorial illustration, e.g. sales brochures
Other Online Resources

www.bis.doc.gov

• Part 738 – Commerce Control List Overview and Country Chart

• BIS Brochure – “How to Request an ECCN”

• http://bis.doc.gov/licensing/CCLRequestGuidance.html

• https://SNAPR.bis.doc.gov
What We Covered

- Commerce Control List (CCL)
- Export Control Classification Numbers (ECCNs)
- Reasons for Control
- Using the Commerce Country Chart to Determine License Requirements
- EAR99
- Approaches to Classifying Items
Module 3

• General Prohibitions
• Prohibited End-users and End-uses & Activities
Commerce Export License Requirements

• Series of Six Modules
  – Module 1 – “The Big Picture”
  – Module 2 – Classifying your Item and Determining if you need a license
  •Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
  – Module 4 – Using License Exceptions
  – Module 5 – License Application and Supporting Documentation
  – Module 6 – Export Clearance and Recordkeeping

Module 3 – General Prohibitions
What We Will Cover

• General Prohibitions 1-3
• General Prohibitions 4-10
• Definition of “Knowledge”
• Activities by “U.S. Persons”
General Prohibitions

• 10 General Prohibitions - Part 736
  – Describe certain prohibited exports, reexports, and other conduct

• General Prohibitions 1-3 generally apply to items having a specific ECCN

• General Prohibitions 4-10 apply to all items that are subject to the EAR (including EAR99)
Module 3 – General Prohibitions

Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR?  
Part 734

Yes  
No  

Exit the EAR

Is your item classified under an Export Control Classification Number on the Commerce Control List?  
Supplement 1 to Part 774

Yes  
No

ECCN  
EAR99

Is there an “X” in the box on the Commerce Country Chart?  
Supplement 1 to Part 738

Yes  
No

Do General Prohibitions 4-10 apply?  
Part 736

Yes  
No

Submit export license Application  
Part 748

Yes  
No

Do General Prohibitions 4-10 apply?  
Part 736

Yes  
No

Is a License Exception Available?  
Part 740

Yes  
No

Export under “No License Required” NLR  
Part 758

Export using License issued by BIS  
Part 758

Export Using License Exception  
Part 758
General Prohibitions 1-3

Is your item classified under an ECCN on the Commerce Control List?

What is my item?  ECCN &

Where is it going?  Destination
General Prohibitions (GP) 1-3

You may **not**, without a License or Applicable License Exception, engage in any of the following activities:

- **GP 1:** Export or reexport controlled items to countries for which a license is required

- **GP 2:** Reexport or export from abroad foreign-made items incorporating more than a *de minimis* amount of controlled U.S. content to countries for which a license is required

- **GP 3:** Reexport or export from abroad the foreign produced direct product of U.S. technology and software to countries for which a license is required

Further information on Reexports and General Prohibitions 2 & 3 is available at [http://www.bis.doc.gov/Licensing/ReExportGuidance.htm](http://www.bis.doc.gov/Licensing/ReExportGuidance.htm)
Determining your License Requirements based on General Prohibitions 4-10

Who is involved?
What are they doing with it?  -->  End-user/End-use/Conduct

For All Items Subject to the EAR
Determining Your License Requirements Under the Export Administration Regulations (EAR)

1. Is your item Subject to the EAR? Part 734
   - Yes
     - Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774
       - Yes
         - Do General Prohibitions 4-10 apply? Part 736
           - Yes
             - Submit export license Application Part 748
               - Yes
                 - Export Using License Exception Part 758
               - No
                 - Export using License issued by BIS Part 758
             - No
               - Export under “No License Required” NLR Part 758
       - No
         - Export under “No License Required” NLR Part 758
   - No
     - Exit the EAR

2. Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738
   - Yes
     - Is a License Exception Available? Part 740
       - Yes
         - Submit export license Application Part 748
           - Yes
             - Export Using License Exception Part 758
           - No
             - Export using License issued by BIS Part 758
       - No
         - Export using License issued by BIS Part 758
   - No
     - Submit export license Application Part 748

Module 3 – General Prohibitions
General Prohibitions 4-10

- **GP 4** – Denial Orders
- **GP 5** – Exports or reexports to prohibited end-users and end-uses
- **GP 6** – Exports or reexports to embargoed destinations
- **GP 7** – U.S. Person Support of Proliferation Activities
- **GP 8** – Intransit Shipments
- **GP 9** – Violations of any order, terms or conditions
- **GP 10** – Proceeding with transactions with knowledge that a violation has occurred or is about to occur
General Prohibition 5
End-use/End-user Controls

• General Prohibition 5 prohibits exports or reexports to end-users or end-uses described in Part 744
• All items “subject to the EAR”
• If you “know” – Definition of Knowledge
Knowledge

• Defined in Part 772

• 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
General Prohibition 5
Nonproliferation Control Policies

• Nuclear end-users and end-uses - section 744.2
• Missile end-users and end-uses – section 744.3
• Chemical and biological end-users and end-uses – section 744.4
• “Informed by BIS” – BIS may inform an export of concerns regarding proposed end-uses or end-users
Entity List
Supplement 4 to Part 744

- A way of “informing” public
- Parties for which there are concerns regarding proliferation and other foreign policy concerns
- May require license for any item subject to EAR – requirements vary
General Prohibition 5  
Other Control Policies  

- Military end-use in the People’s Republic of China – section 744.21  
- Microprocessors to Military Users and Uses – section 744.17  
- Maritime nuclear propulsion – section 744.5  
- Certain foreign aircraft or vessels – section 744.7  
- Sanctioned parties per the State Department – sections 744.19 – 744.20  
- Specially Designated Nationals - sections 744.12 – 744.14
General Prohibition 7
U.S. Person Activities

• U.S. person may not support an export, reexport or transfer related to a proliferation activity
  – Includes items that are not subject to the EAR
    • U.S. and Foreign-origin items
  – Support includes financing, transportation or forwarding

• Performance of contract, service or employment
“U.S. person” includes…

- Any person in the United States
- U.S. citizens, permanent resident aliens, or protected individuals wherever located
- U.S. organized firms and their foreign branches
General Prohibition 4
Denied Persons

- Persons denied export privileges under a denial order
- Most covered under a Standard Denial Order, but some have other terms
- To be informed of changes, subscribe to: BIS Email Notification Service
Red Flags

• Possible indicators that an unlawful diversion might be planned by 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
• Supplement 3 to Part 732
“Know Your Customer” Guidance

• 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 “go behind” customer’s representations
Unverified List

• Foreign parties to transactions, where BIS could not conduct a pre-license check or post-shipment verification

• Raises “Red Flag” - Supplement 3 to Part 732

• To be informed of changes, subscribe to: BIS Email Notification Service
General Prohibition 6
Embargoes under the EAR

• Prohibits certain exports or reexports to embargoed destinations without a license or license exception

• Licensing requirements found in Part 746 of the EAR
Selected Embargoes and Special Controls Under the EAR

- Cuba – section 746.2
- Iran – sections 746.7 & 742.8
- Sudan – section 742.10
- Syria – section 746.9 & Supp. No. 1 to Part 736
- N. Korea – sections 746.4 & 742.19
- Iraq – section 746.3
- Rwanda – section 746.8
## Summary of Licensing Jurisdiction

<table>
<thead>
<tr>
<th>Country</th>
<th>Description</th>
<th>Agency</th>
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<tr>
<td><strong>Cuba</strong></td>
<td>Exports and reexports to Cuba</td>
<td>BIS</td>
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<td></td>
<td>Financial transactions and personal travel to Cuba</td>
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</tr>
<tr>
<td><strong>Sudan</strong></td>
<td>Exports and reexports of CCL items to Sudan</td>
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</tr>
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<td></td>
<td>Exports and reexports of EAR99 items to Sudan</td>
<td>OFAC</td>
</tr>
<tr>
<td></td>
<td>Exports and reexports of EAR99 items to prohibited end-uses in Sudan</td>
<td>BIS</td>
</tr>
<tr>
<td><strong>Syria</strong></td>
<td>Exports and reexports to Syria</td>
<td>BIS</td>
</tr>
<tr>
<td><strong>North Korea</strong></td>
<td>Exports and reexports to North Korea</td>
<td>BIS</td>
</tr>
</tbody>
</table>

**OFAC Website:** [http://www.treas.gov/ofac](http://www.treas.gov/ofac)
General Prohibition 8
In Transit Shipments

• In transit shipment and items to be unladed from vessels or aircraft

• No export, reexport, transit through Albania, Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam
General Prohibition 9
Orders, Terms, and Conditions

• May not violate
  – Terms or conditions of a license or license exception
  – Any order under the EAR
  – Supplements No. 1 & 2 to Part 736 contain certain General and Administrative Orders (e.g. General Order 2 relating to Syria)
General Prohibition 10
Acting with Knowledge

• You may not proceed with transactions with knowledge that a violation has occurred or is about to occur.
• Relates to any item subject to the EAR – on the CCL or EAR99
• Exports, reexports, activities (e.g., financing, transferring, transporting, forwarding)
Summary of “Lists to Check”

• Denied Persons List
• Entity List
• Unverified List
• General Order No. 3 of Supp. No. 1 to part 736
• Specially Designated Nationals List - Treasury Department, Office of Foreign Assets Control
• Nonproliferation Sanctions List - State Department
• Debarred Parties List - State Department

These lists may be found on the BIS website www.bis.doc.gov. Click on “Lists to Check”
What We Covered

- General Prohibitions 1-3
- General Prohibitions 4-10
- Knowledge Definition
- U.S. Persons Definition
Module 4

• Using License Exceptions
Commerce Export License Requirements

• Series of Six Modules
  – Module 1 – “The Big Picture”
  – Module 2 – Classifying your Item and Determining if you need a license
  – Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
  • Module 4 – Using License Exceptions
  – Module 5 – License Application and Supporting Documentation
  – Module 6 – Export Clearance and Recordkeeping
What We Will Cover

• When to consider License Exception availability for your transaction
• Restrictions on all License Exceptions
• Country Group designations
• List-based License Exceptions
• Transaction-based License Exceptions
• General Prohibitions 4-10
Determining Your License Requirements Under the Export Administration Regulations (EAR)

- Is your item Subject to the EAR? Part 734
  - Yes
    - Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774
      - Yes
        - Do General Prohibitions 4-10 apply? Part 736
          - Yes
            - Export Using License Exception Part 758
          - No
            - Submit export license Application Part 748
              - No
                - Export using License issued by BIS Part 758
          - No
            - Export under “No License Required” NLR Part 758
      - No
        - Export under “No License Required” NLR Part 758
  - No
    - Exit the EAR

- Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738
  - Yes
    - Is a License Exception Available? Part 740
      - Yes
        - Submit export license Application Part 748
          - No
            - Export using License issued by BIS Part 758
          - Yes
            - Export Using License Exception Part 758
    - No
      - Submit export license Application Part 748
        - No
          - Export using License issued by BIS Part 758

- Do General Prohibitions 4-10 apply? Part 736
  - Yes
    - Export Using License Exception Part 758
  - No
    - Submit export license Application Part 748

Module 4 – Using License Exceptions
Determining Your License Requirements Under the Export Administration Regulations (EAR)

1. Is your item Subject to the EAR?  
   Part 734
   - Yes
   - No → Exit the EAR

2. Is your item classified under an Export Control Classification Number on the Commerce Control List?  
   Supplement 1 to Part 774
   - Yes → ECCN
   - No → EAR99

3. Is there an “X” in the box on the Commerce Country Chart?  
   Supplement 1 to Part 738
   - No → Do General Prohibitions 4-10 apply?  
     Part 736
     - Yes → Submit export license Application  
       Part 748
     - No → Export under “No License Required” NLR  
       Part 758
   - Yes → Is a License Exception Available?  
     Part 740
     - No → Submit export license Application  
       Part 748
     - Yes → Export Using License issued by BIS  
       Part 758

Module 4 – Using License Exceptions
Module 4 – Using License Exceptions

Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR? Part 734

Yes

Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774

Yes

ECCN

No

EAR99

Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738

Yes

Do General Prohibitions 4-10 apply? Part 736

No

Submit export license Application Part 748

Yes

Export using License issued by BIS Part 758

No

Export under “No License Required” NLR Part 758

Is a License Exception Available? Part 740

Yes

No

Do General Prohibitions 4-10 apply? Part 736

Yes

Export Using License Exception Part 758
What is a License Exception?
Part 740 of the EAR

- Authorization to export or reexport without a license
- Most exceptions have a three letter symbol used for export clearance purposes (e.g. BAG, CIV, TSR)
- Some require notification, review, and/or supporting documentation prior to use
General Restrictions on the Use of Any License Exception – Section 740.2

License Exception eligibility is generally restricted if your item . . .

• Is classified under ECCNs 5A980 and 5D980
• Is controlled to its destination for Crime Control and detection (CC) reasons.
• Is controlled for Missile Technology (MT) reasons
• Is a “space qualified” item
• Is an explosive or detonator detection item classified under ECCNs 2A983, 2D983, 2E983
• Is a QRS11 sensor under ECCN 7A994
Scope of License Exceptions

Country Groups - Supplement 1, Part 740

Group A: Regime Members

Group B: Less Restricted

Group D: Countries of Concern

Group E: Terrorist Supporting
“List-Based” License Exceptions

Availability Based on ECCN in CCL

- LVS/Limited Value Shipments (section 740.3)
- GBS/Shipments to B Countries (section 740.4)
- CIV/Civil End Users (section 740.5)
- TSR/Technology and Software Restricted (section 740.6)
- APP/Computers (section 740.7)
3B002 Test equipment, specially designed for testing finished or unfinished semiconductor devices, as follows (see List of Items Controlled) and specially designed components and accessories therefor.

License Requirements

*Reasons for Control:* NS, AT

**Control(s)**:  
NS applies to entire entry NS Column 2  
AT applies to entire entry AT Column 1

List of Items Controlled

*Unit:* Number  

*Related Controls:* See also 3B992  

*Related Definitions:* N/A

**Items:**

a. For testing S-parameters of transistor devices at frequencies exceeding 31.9 GHz;  
b. [RESERVED]  
c. For testing microwave integrated circuits controlled by 3A001.b.2.

License Exceptions

LVS: $500  
GBS: Yes  
CIV: N/A
Examples of “Transaction-Based” License Exceptions

- **TMP**/Temporary Imports, Exports and Reexports (section 740.9)
- **RPL**/Service & Replacement of Parts & Equipment (section 740.10)
- **GOV**/Governments, Intl. Organizations and Intl. Inspections (section 740.11)
- **TSU**/Technology and Software unrestricted (section 740.13)
Module 4 – Using License Exceptions

Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR?  
Part 734

Yes

Is your item classified under an Export Control Classification Number on the Commerce Control List?  
Supplement 1 to Part 774

ECCN

Yes

Is there an “X” in the box on the Commerce Country Chart?  
Supplement 1 to Part 738

No

No

Do General Prohibitions 4-10 apply?  
Part 736

Yes

Submit export license Application  
Part 748

No

No

Export using License issued by BIS  
Part 758

Yes

Export Using License Exception  
Part 758

No

No

Export under “No License Required” NLR  
Part 758

No

Yes

Do General Prohibitions 4-10 apply?  
Part 736

Part 740

Yes

Is a License Exception Available?  
Part 740

No

Exit the EAR
Determining Your License Requirements Under the Export Administration Regulations (EAR)

1. Is your item Subject to the EAR? (Part 734)
   - Yes
   - No → Exit the EAR

2. Is your item classified under an Export Control Classification Number on the Commerce Control List? (Supplement 1 to Part 774)
   - Yes → ECCN
   - No → EAR99

   a. ECCN
      - Is there an “X” in the box on the Commerce Country Chart? (Supplement 1 to Part 738)
        - Yes
        - No → Do General Prohibitions 4-10 apply? (Part 736)
          - Yes → Submit export license Application (Part 748)
          - No → Submit export license Application (Part 748)
        - No → Export under “No License Required” NLR (Part 758)

   b. EAR99
      - Export using License issued by BIS (Part 758)

3. Do General Prohibitions 4-10 apply? (Part 736)
   - Yes → Submit export license Application (Part 748)
   - No
     - Yes → Export Using License Exception (Part 758)
     - No → Submit export license Application (Part 748)
Determining Your License Requirements Under the Export Administration Regulations (EAR)

1. Is your item Subject to the EAR? *Part 734*
   - Yes
     - Is your item classified under an Export Control Classification Number on the Commerce Control List? *Supplement 1 to Part 774*
       - Yes
         - Do General Prohibitions 4-10 apply? *Part 736*
           - Yes
             - Submit export license Application *Part 748*
             - No
           - No
             - Submit export license Application *Part 748*
       - No
         - Export under “No License Required” NLR *Part 758*
     - No
     - Export using License issued by BIS *Part 758*
   - No
     - Exit the EAR

2. Is there an “X” in the box on the Commerce Country Chart? *Supplement 1 to Part 738*
   - Yes
     - Is a License Exception Available? *Part 740*
       - Yes
         - Export Using License Exception *Part 758*
       - No
         - Submit export license Application *Part 748*
     - No
   - No
     - Exit the EAR

Module 4 – Using License Exceptions
Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR? Part 734

- Yes
  - Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774
    - Yes
      - Do General Prohibitions 4-10 apply? Part 736
        - Yes
          - Submit export license Application Part 748
        - No
          - Is a License Exception Available? Part 740
            - Yes
              - Do General Prohibitions 4-10 apply? Part 736
            - No
              - Submit export license Application Part 748
    - No
      - Export under “No License Required” NLR Part 758
      - Export using License issued by BIS Part 758

- No
  - Exit the EAR

ECCN

Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738

- Yes
  - Is a License Exception Available? Part 740
    - Yes
      - Do General Prohibitions 4-10 apply? Part 736
    - No
      - Submit export license Application Part 748
- No
  - Export using License issued by BIS Part 758
  - Export Using License Exception Part 758
General Prohibitions 4-10 and License Exceptions – Section 740.1

- GP 8 – Intransit Shipments
- GP 5 – Exports or reexports to prohibited end-users and end-uses
- GP 6 – Exports or reexports to embargoed destinations
- GP 4 – Denial Orders
- GP 7 – U.S. Person Support of Proliferation Activities
- GP 9 – Violations of any order, terms or conditions
- GP 10 – Proceeding with transactions with knowledge that a violation has occurred or is about to occur
Things to Remember

• Consider License Exception only after determining that a license is required for your transaction.

• Review General Restrictions in Section 740.2 and be sure use of License Exception is not precluded by General Prohibitions 4 through 10.

• Understand and comply with all the terms and conditions that apply to the specific License Exception.

• Sometimes more than one License Exception may apply – use least restrictive!

• A summary of all License Exceptions is available on the BIS website at www.bis.doc under the (Note - to be identified) link.
Module 5

• License Application
• Supporting Documentation
Commerce Export License Requirements

• Series of Six Modules
  – Module 1 – “The Big Picture”
  – Module 2 – Classifying your Item and Determining if you need a license
  – Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
  – Module 4 – Using License Exceptions
• Module 5 – License Application and Supporting Documentation
  – Module 6 – Export Clearance and Recordkeeping
Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR? Part 734

Yes

Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774

No

ECCN

Yes

No

EAR99

Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738

No

Do General Prohibitions 4-10 apply? Part 736

No

Submit export license Application Part 748

Yes

No

Yes

Do General Prohibitions 4-10 apply? Part 736

No

Export under “No License Required” NLR Part 758

Yes

Export using License issued by BIS Part 758

No

Export Using License Exception Part 758

Module 5 – License Application and Supporting Documentation

Exit the EAR
What We Will Cover

• The on-line application submission system – SNAP-R (Simplified Network Application Process Redesign)

• Key Information on Application

• Required Support Documentation

• Snapshot of license process
On-Line Application Submission – SNAP-R

- SNAP-R is BIS’s on-line electronic application submission system available at no-cost.

- Features include:
  - Built-in system edits
  - Direct submission via the internet
  - Attachment of support documents
  - Messaging between Licensing Officer and exporter
  - Printable copy of export license once issued

- BIS published a proposed rule in October 2007 to make SNAP-R mandatory.
How to Get Started with SNAP-R

Request Your Company ID number (CIN) & Personal Identification (PIN) number from BIS:


2) Cut and paste the “Company PIN Certification letter” onto your company letterhead.

3) Fill out the required information and fax to BIS at (202) 219-9179 or (202) 219-9182.
How to Get Started with SNAP-R (continued)

4) Wait for BIS will contact you by phone with your CIN and PIN (approximately five business days).

5) Log into SNAP-R at https://snapr.bis.doc.gov/ using your CIN and PIN

6) Set up your SNAP-R account.

7) Fill out and submit a License Application (or Commodity Classification request) online.
Assistance with SNAP-R

• SNAP-R Users manual:  

• SNAP-R Webinar video:  
  http://www.bis.doc.gov/snap/index.htm
Key Information on the Application

• Who are the Parties to Transaction?

• What is being exported or reexported?

• What is the end-use?

• Is all Support Documentation provided?
Parties to the Transaction
(Section 748.5 of the EAR)

• Applicant
• Purchaser
• Intermediate Consignee
• Ultimate Consignee
• End-user(s)
What is Being Exported?

• Provide a Complete Description of Item(s)

• Describe in terms of the ECCN parameters

• Provide Technical Specifications
What is the End-Use?

• Be Specific

• Anticipate questions and concerns
Unique License Application Requirements

• Additional Requirements for certain items or types of transactions

• Found in Supplement No. 2 to Part 748
Support Documentation

• Documentation that may be required to support the export license application

• International Import Certificate/End-User Statement (Section 748.10)
  – or

• BIS-711, Statement by Ultimate Consignee and Purchaser (Section 748.11)
Exemptions for Support Document
(Section 748.9(a) of EAR)

• Not required:
  – For many destinations in the Western Hemisphere (except for ECCNs 0A984, 0A986, 0A987)
  – In most cases when ultimate consignee or purchaser is government or government agency
  – Applications submitted by relief agency
  – Temporary exports
  – Short supply items
  – Software or technology
  – Encryption items
Import Certificates/End-User Statements
(Sections 748.9 & 748.10 of the EAR)

• Required for:
  – National Security (NS) controlled commodities (except 5A002, 5B002)
  – For all controlled items to the PRC, not just NS controlled items

• Issued by importing country’s government
  – Part 748, supplement 4

• The threshold dollar amount is $50,000 in most cases.
BIS 711: Statement by Ultimate Consignee and Purchaser
(Section 748.11 of the EAR)

• Use when an Import Certificate or End-User Statement is NOT required
• Form BIS 711 (available on line) or letter
• Completed by ultimate consignee and/or purchaser
• Not required for application value $5000 or under
• Copy submitted with application for certain countries, otherwise kept on file by applicant
License Application Review

- Review by BIS
- Review by Other Agencies
- Approval with Conditions, Return Without Action, Denial
- Validity Period two years
- Check the status of your pending license application by calling 202-482-2752.
Module 6

- Export Clearance
- Destination Control Statements
- Responsibilities of Parties
- Recordkeeping Requirements
Commerce Export License Requirements

• Series of Six Modules
  – Module 1 – “The Big Picture”
  – Module 2 – Classifying your Item and Determining if you need a license
  – Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
  – Module 4 – Using License Exceptions
  – Module 5 – License Application and Supporting Documentation

• Module 6 – Export Clearance and Recordkeeping
Topics of Discussion

- Automated Export System (AES) Record
- Destination Control Statement
- Responsibilities of Parties
- Recordkeeping
Determining Your License Requirements Under the Export Administration Regulations (EAR)

Is your item Subject to the EAR? Part 734

Yes

Is your item classified under an Export Control Classification Number on the Commerce Control List? Supplement 1 to Part 774

ECCN

Yes

No

ECCN

No

EAR99

No

Export under “No License Required” NLR Part 758

Yes

Do General Prohibitions 4-10 apply? Part 736

Yes

Submit export license Application Part 748

Yes

Export using License issued by BIS Part 758

No

Export Using License Exception Part 758

No

Submit export license Application Part 748

Do General Prohibitions 4-10 apply? Part 736

Yes

No

Part 734

Exit the EAR

No

Yes

Is there an “X” in the box on the Commerce Country Chart? Supplement 1 to Part 738

Is a License Exception Available? Part 740

Yes

No

Yes

No

Part 748

Part 736

Part 738

Part 736
Automated Export System (AES) Record
Part 758

• **What is it?**
  – Statement to U.S. Government

• **What is it used for?**
  – Export Control Document (BIS)
  – Statistics (Census)
AES Record
When is it required?

• Required for:
  – All shipments requiring an export license
  – All Validated End-user (VEU) shipments
  – All shipments to Cuba, Iran, N. Korea, Sudan, Syria
  – All commodities and mass market software shipped under NLR or a License Exception, when valued over $2,500 per Schedule B number
  – Certain transshipments through Canada
Module 6 – Export Clearance and Recordkeeping

License Type Codes:
- Export Licenses: C30 or C31
- License Exceptions: C35 – C57
- NLR: C32 or C33
Export License Number
License Exception Symbol or NLR
Module 6 – Export Clearance and Recordkeeping

**Required for:**
- BIS licenses (C30 and C31)
- License Exceptions, except TMP
- NLR controlled for other than AT (C32)

**Optional for:**
- NLR (C33) and TMP (C40)
Automated Export System (AES) and Foreign Trade Statistics Regulations (FTSR)

www.census.gov/AES

AES Support Line: 800-549-0595 x1

E-mail: ASKAES@census.gov

Foreign Trade Statistics Regulations: 800-549-0595 x3

E-mail: FTDREGs@census.gov
Destination Control Statement
§758.6

“These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited”.

• What should it be on?
  – Invoice and Air Waybill, Bill of Lading or Other export control document that accompanies shipment

• When is it required?
  – Generally required for all exports of all items on the Commerce Control List
Responsibilities of Parties

§758.3

– All parties that participate in transactions subject to the EAR must comply with the EAR.
Recordkeeping
Part 762

• Retention Period
  – 5 years

• Who keeps records
  – Principal or agent who participates in transaction

• What to keep
  – Export control documents and related documents listed in §762.2 and part 772

• Format
  – Original, or reproductions that meet standards of legibility and readability requirements in §762.5
Export Clearance Summary

- AES record
- Destination Control Statements
- Responsibilities of parties
- Recordkeeping requirements.
Commerce Export License Requirements

• Series of Six Modules
  – Module 1 – “The Big Picture”
  – Module 2 – Classifying your Item and Determining if you need a license
  – Module 3 – General Prohibitions including Prohibited End-users and End-uses & Activities
  – Module 4 – Using License Exceptions
  – Module 5 – License Application and Supporting Documentation
  – Module 6 – Export Clearance and Recordkeeping