

Commerce Export License Requirements



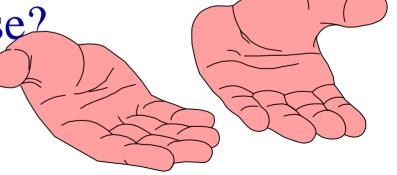
- Series of Six Modules
 - ➤ Module 1 "The Big Picture"
 - Module 2 Classifying your Item and Determining if you need a license
 - Module 3 General Prohibitions including Prohibited
 End-users and End-uses & Activities
 - Module 4 Using License Exceptions
 - Module 5 License Application and Supporting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



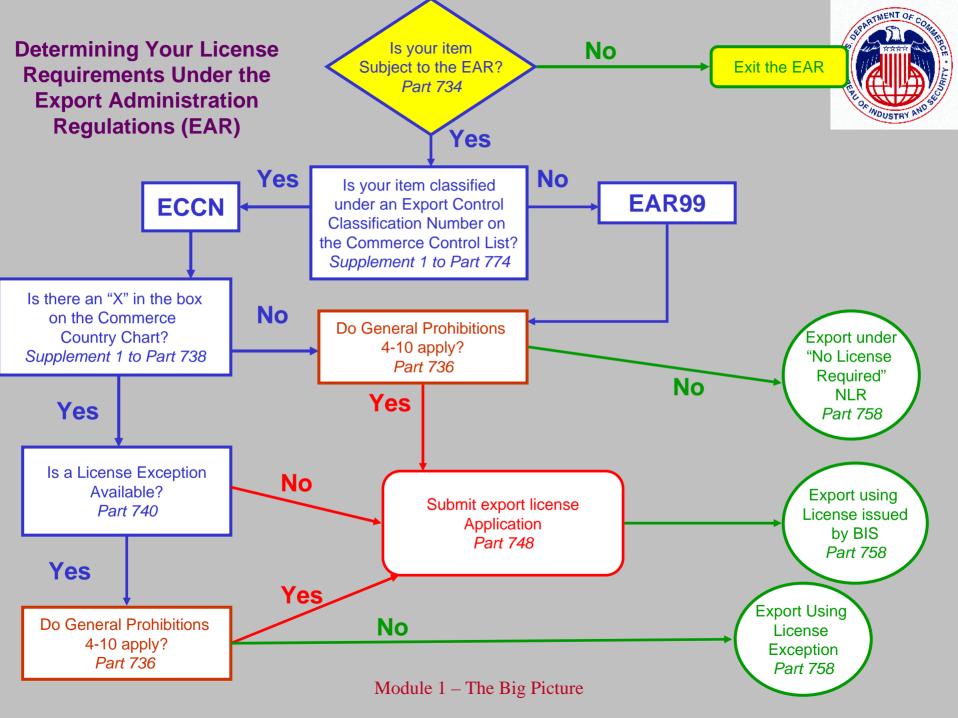
- Determine jurisdiction for your item
- Determine if your item is "subject to EAR"
- Classify your item
- Identify the Reasons for Control
- Cross-reference the controls against the Country Chart
- Determine License Requirement or License Exception Eligibility
- Screen all parties to the transaction
- 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 and click "Resource Links"



What is Subject to the EAR?

SARTMENT OF COMMENT OF

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

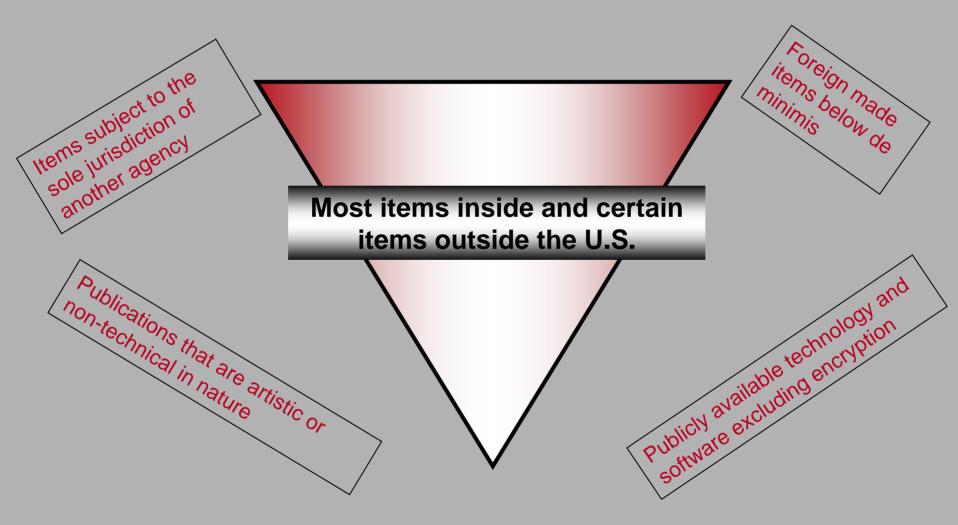


What is Not Subject to the EAR

- 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







What is my item?

Where is it going?



ECCN and Destination

Who is involved?

What are they doing with it?



End-user and End-use



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), Antiterrorism (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

Control Country Chart

CC applies to the entire entry CC Column 1



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

Control

Country Chart

CC applies to the entire entry

CC Column 1

Commerce Country Chart



Supplement No. 1 to Part 738

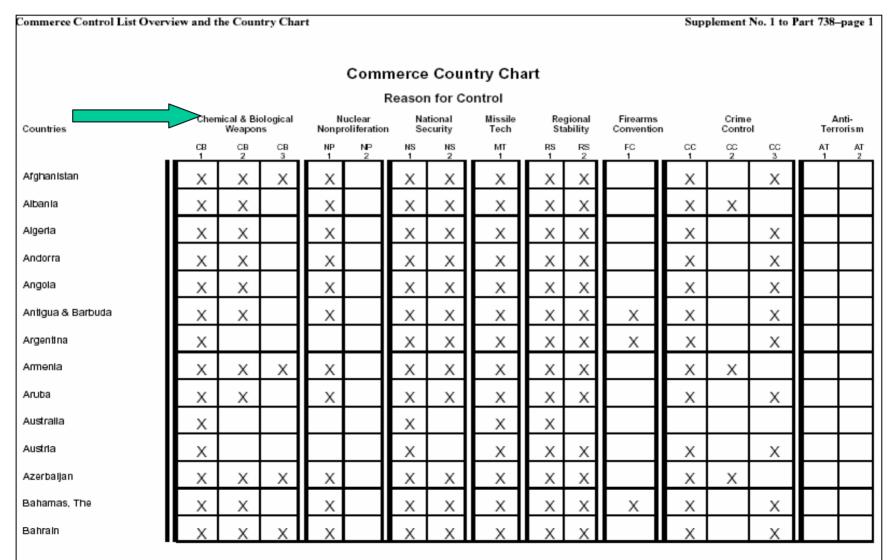
 Used with the ECCN to determine if you need a license based on item & destination

• Compare destination and item's reason for control - e.g. national security (NS), nuclear proliferation (NP), regional stability (RS), crime control (CC)

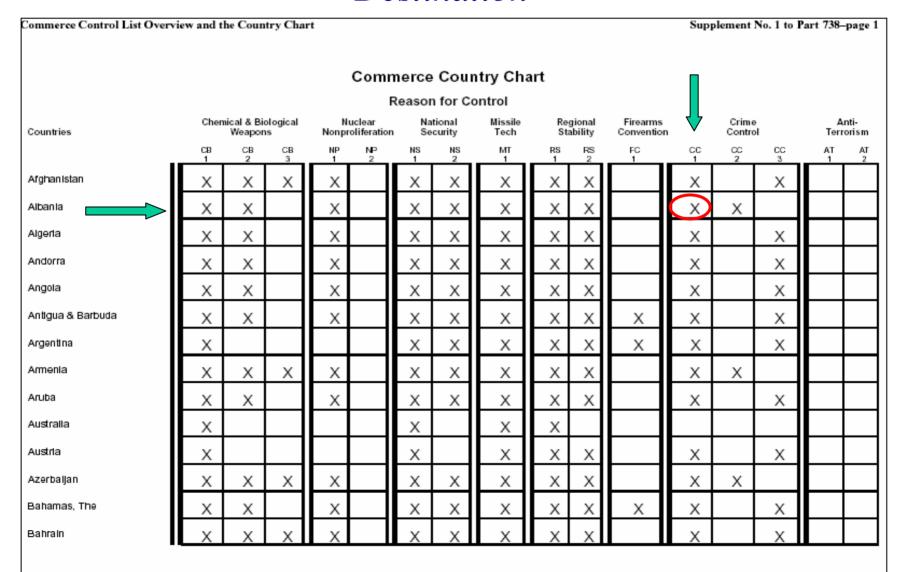


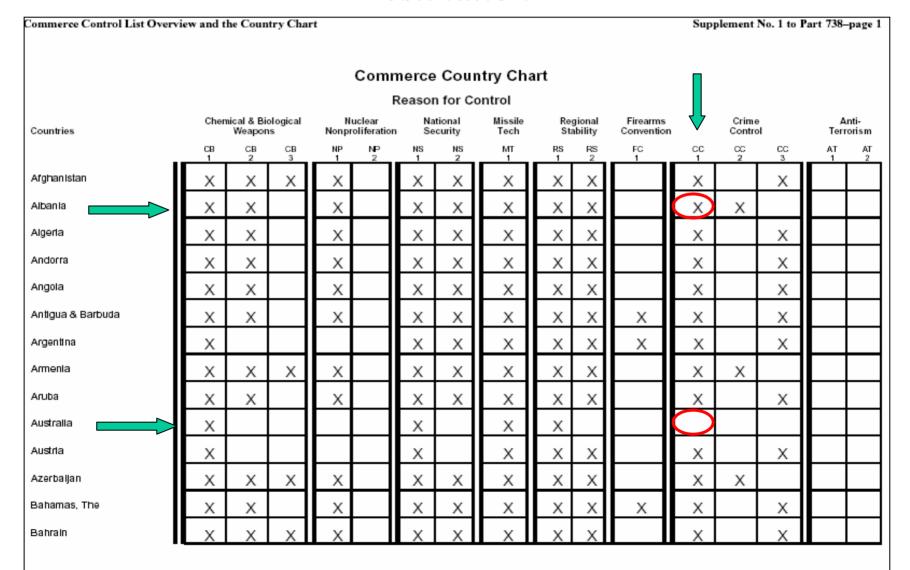
Commerce Control List Overview and the Country Chart												Supplement No. 1 to Part 738-page 1					
		Commerce Country Chart															
					F	Reasor	n for Co	ontrol									
Countries	Chen	Chemical & Biological Weapons			Nuclear Nonproliferation		tional curity	Missile Tech			Firearms Convention	Crime Control				Anti- Terrorism	
_	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	OC 2	CC 3	AT 1	AT 2	
Afghanistan	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х		Х			
Albania	Х	Х		Х		Х	Х	Х	Х	Х		Х	Х				
Algeria	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Andorra	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Angola	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Antigua & Barbuda	Х	Х		Х		Х	Х	Х	Х	Χ	X	Х		Х			
Argentina	Х					Х	Х	Х	Х	Χ	X	Х		Х			
Armenia	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х	Х				
Aruba	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Australia	Х					Х		Х	Х								
Austria	Х					Х		Х	Х	Χ		Х		Х			
Azerbaljan	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х	Х				
Bahamas, The	Х	Х		Х		Х	Х	Х	Х	Χ	X	Х		Х			
Bahrain	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х		Х			





BURNER AND OF COMMENT OF COMMENT









- "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!

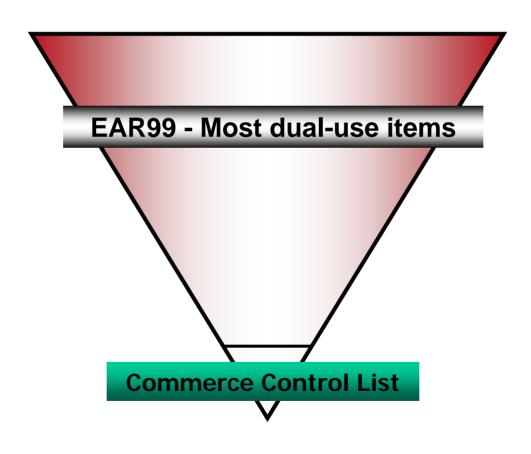


- Items not specified on the CCL are designated EAR99
- Most commercial items are designated EAR99
- EAR99 items can usually be shipped NLR (No License Required)
- But, remember to check all parties to the transaction, the end-use of the item and restricted destinations!!





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

SO MOUSTRY AND SO

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





"Lists to Check"

- Denied Persons List
- Entity List
- Unverified List

These lists may be found on the BIS website (www.bis.doc.gov).

Click on "Lists to Check"

- 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

"Know Your Customer" Guidance

BUNGE PULL OF NOUSTRY AND SELECTION ALLES

Supplement 3 to Part 732

- Look for "Red Flags"
 - abnormal or suspicious circumstances
 - Unverified List



- Otherwise, no affirmative duty to "go behind" customer's representations
- Do not "self-blind"

Activities of U.S. Persons

OCTOR MENT OF COMMING OF COMMING

(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





- 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

SUPPLIED OF COMMENT OF

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
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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







- 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)



"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





Category 0 - Miscellaneous / Nuclear

Category 1 - Materials

Category 2 - Materials Processing

Category 3 - Electronics

Category 4 - Computers





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: 4<u>B</u>994

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



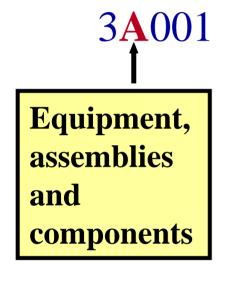
Product Groups A-E

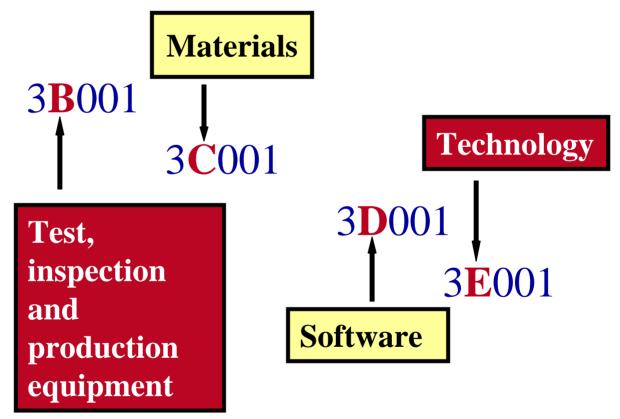
example: 6C992

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



Product Groups







• 3A001 – includes electronic components



- 3A001 includes electronic components
- 3B001 includes equipment for manufacturing of certain semiconductor devices or materials



- 3A001 includes electronic components
- 3B001 includes equipment for manufacturing of certain semiconductor devices or materials
- 3C001 includes hetero-epitaxial materials used in semiconductor manufacturing



- 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



- 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

SOLUTION OF COMMENT OF

"Reasons for Control"

3A<u>0</u>01

- 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



• 3A001 – includes electronic components (NS, MT, NP, AT)



- 3A001 includes electronic components (NS, MT, NP, AT)
- 3A002 includes general purpose electronic equipment (NS, AT)



- 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)



- 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)



- 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)



- 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)



ECCN and Entry Heading



- ECCN and Entry Heading
- License Requirements
 - Reasons For Control (e.g. NS, CB, AT)
 - Country Chart (e.g. NS Column 2, CB Column 1)



- 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



- 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



- 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



- 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



- 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





- 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"



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.



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.



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

- a. Designed for marine depths exceeding 1,000 m; and
- o. A density less than 561 kg/m3



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

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

- a. Designed for marine depths exceeding 1,000 m; and
- o. A density less than 561 kg/m3



8C001 Syntactic foam designed for having all underwater use 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

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

- a. Designed for marine depths exceeding 1,000 m; and
- o. A density less than 561 kg/m3



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

- a. Designed for marine depths exceeding 1,000 m; and
- o. A density less than 561 kg/m3



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

- a. Designed for marine depths exceeding 1,000 m(and)
- o. A density less than 561 kg/m3



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

- Designed for marine depths exceeding 1,000 m; and
- o. A density less than 561 kg/m3



2B006 Dimensional inspection measuring systems, equipment and "electronic assemblies", as follows (see List of Items Controlled)

License Requirements

Reasons for Control: NS, NP, AT

Control(s) Country Chart

NS applies to entire entry NS Column 2

NP applies to 2B006a and (b), except

2B006(b.1.d

NP Column 1

AT applies to entire entry AT Column 1



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



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



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

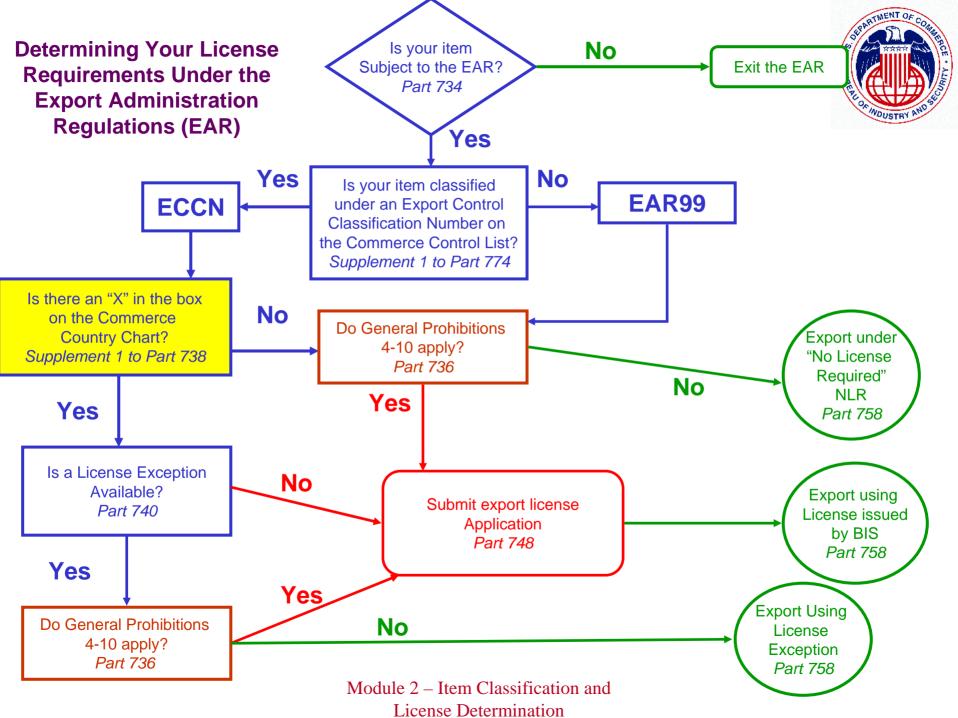
Commerce Country Chart

OR MOUSTRY IND SERVICE OF MOUSTRY IND SERVICE

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)



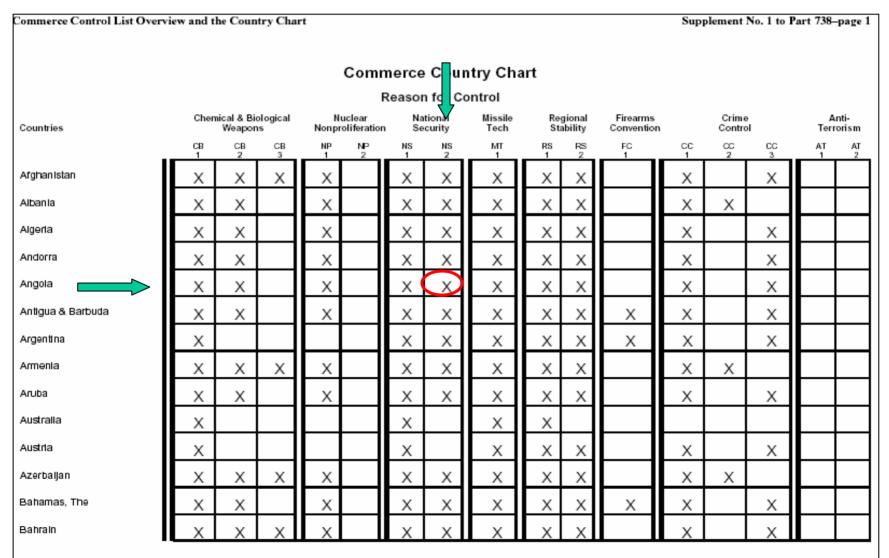


Commerce Control List Overview and the Country Chart													plement	No. 1 to I	Part 738-	-page 1	
					Comr	nerce	Cour	ntry Cha	art								
					F	Reasor	n for Co	ontrol									
Countries	Chemical & Biological Weapons			Nuclear Nonproliferation			tional curity	Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti- Terrorism		
_	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2	
Afghanistan	Х	Х	Х	X		Х	Х	Х	Х	Χ		Х		Х			
Albania	Х	Х		Х		Х	Х	Х	Х	Χ		Х	Х				
Algeria	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Andorra	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Angola	Х	Х		Х		Х	Х	Х	Х	Х		Х		Х			
Antigua & Barbuda	Х	Х		Х		Х	Х	Х	Х	Χ	X	Х		Х			
Argentina	Х					Х	Х	Х	Х	Χ	X	Х		Х			
Armenia	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х	Х				
Aruba	Х	Х		Х		Х	Х	Х	Х	Χ		Х		Х			
Australia	Х					Х		Х	Х								
Austria	Х					Х		Х	Х	Х		Х		Х			
Azerbaljan	Х	Х	Х	Х		Х	Х	Х	Х	Χ		Х	Х				
Bahamas, The	Х	Х		Χ		Χ	Х	Х	Х	Χ	×	Х		Х			
Bahrain	Х	Χ	Х	Х		Χ	Х	Х	Χ	Χ		Χ		Х			

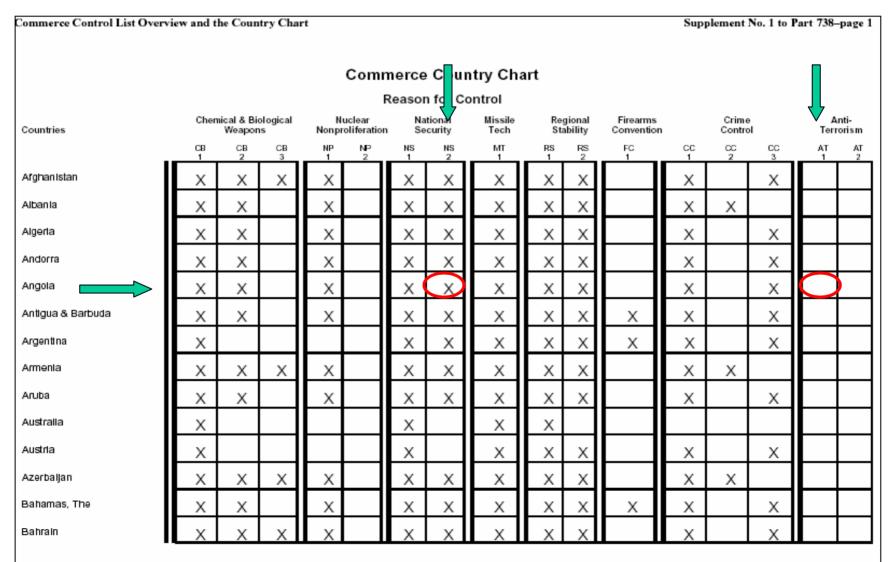


Commerce Control List Ov	mmerce Control List Overview and the Country Chart														Supplement No. 1 to Part 738-page 1						
					Comr	nerce	Cour	ntry Cha	art												
	_				F	Reasor	n for Co	ontrol													
Chemical & Weap			ological	Nuclear Nonproliferation			tional curity	Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti- Terrorism						
	CB 1	•		NP NP 1 2		NS 1	NS 2	MT 1	RS RS		FC 1	CC CC CC			AT 1	AT AT 1 2					
Afghanistan	Х	Х	Х	Х		Х	Х	Х	Х	Х		Х		Х							
Albania	X	Х		Х		Х	Х	Х	Х	Χ		Х	Х								
Algeria	X	Х		Х		Х	Х	Х	Х	Х		Х		Х							
Andorra	X	Х		Х		Х	Х	Х	Х	Χ		Х		Х							
Angola	X	Х		Х		Х	Х	Х	Х	Х		Х		Х							
Antigua & Barbuda	X	Х		Х		Х	Х	Х	Х	Х	X	Х		Х							
Argentina	X					Х	Х	Χ	Х	Х	Х	Х		Х							
Amenia	X	Х	Х	Х		Х	Х	Χ	Х	Х		Х	Х								
Aruba	X	Х		X		Х	Х	Х	Х	Х		Х		Х							
Australia	X					Х		Х	Х												
Austria	Х					Χ		Х	Х	Χ		Х		Х							
Azerbaljan	Х	Х	Х	Х		Χ	Х	Х	Х	Χ		Х	Х								
Bahamas, The	Х	Х		Х		Χ	Х	Х	Х	Χ	X	Х		Х							
Bahrain	X	Х	Х	Х		Х	Х	Х	Х	Х		Х		Х							

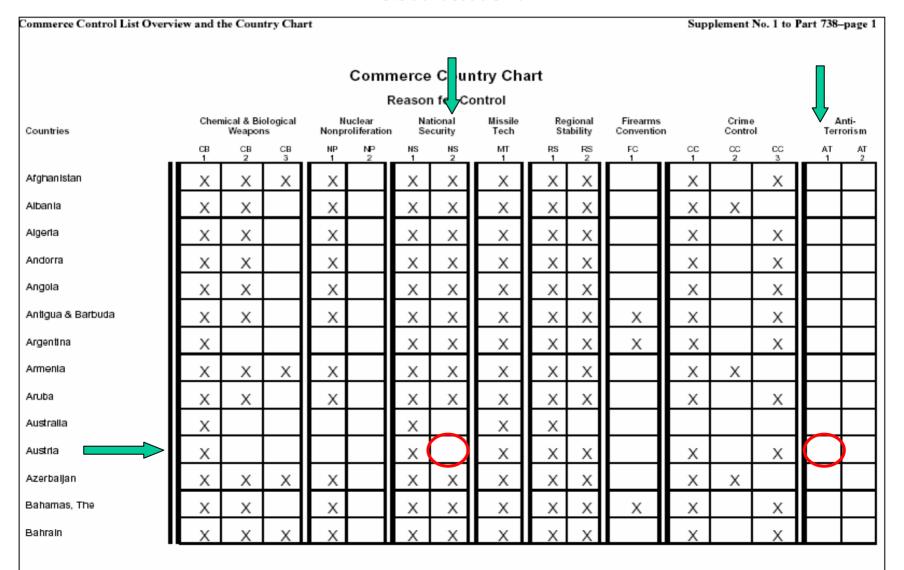








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- "X" in the box
 - License
 - License Exception*
- No "X" in the box
 - NLR No License Required *
- * As long as end-user and end-use or other prohibitions do not apply

What if Not on CCL?

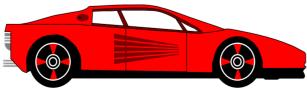


- CCL is a <u>Positive List</u> of items controlled
- Items not listed on the CCL are designated EAR99
- Most commercial items are designated EAR99



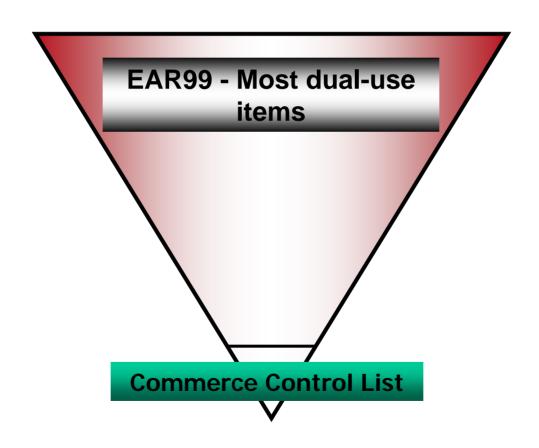
EAR99







EAR99: Items subject to the EAR that are not controlled by any CCL category



Module 2 – Item Classification and License Determination



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



Pictorial illustration, e.g. sales brochures







 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

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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



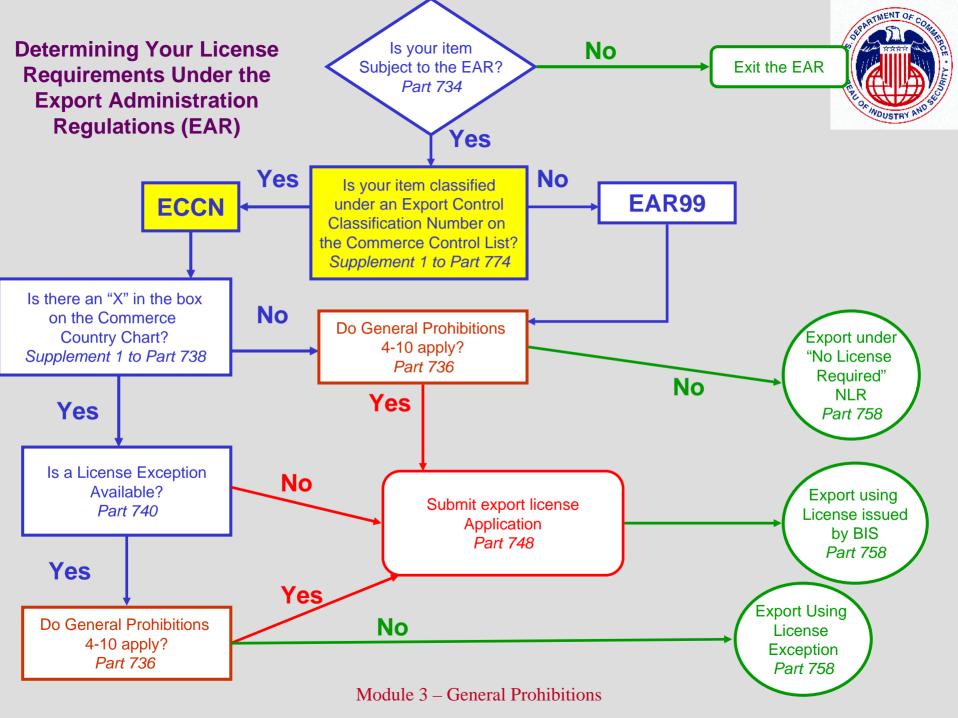
What We Will Cover

- 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)





General Prohibitions 1-3

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

What is my item?

Where is it going?



ECCN &

Destination

General Prohibitions (GP) 1-3



You may <u>not</u>, 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

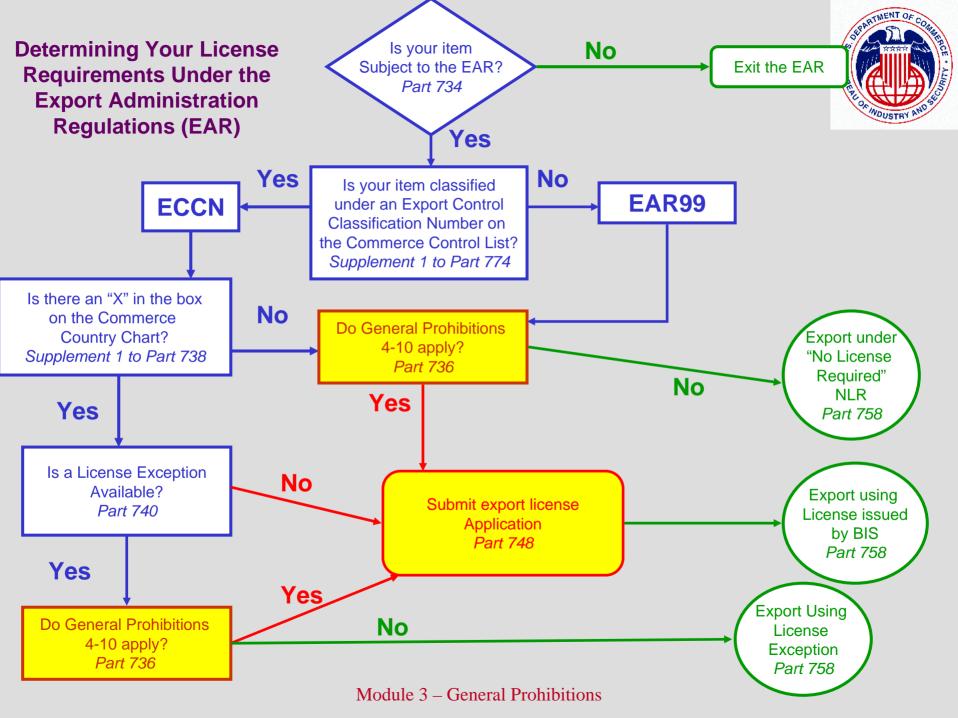


Determining your License Requirements based on General Prohibitions 4-10

Who is involved?
What are they doing with it?



For All Items Subject to the EAR



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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
- ➤ GP10 Proceeding with transactions with knowledge that a violation has occurred or is about to occur





- 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





- 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





- 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 Definition section 744.6

"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





 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



Cuba	
Exports and reexports to Cuba	BIS
Financial transactions and personal travel to Cuba	OFAC
Iran	
Exports of CCL and EAR99 items to Iran	OFAC
Reexports of CCL items to Iran	OFAC
Reexports of EAR99 items to Iran by U.S. Person	OFAC
Exports and reexports of EAR99 items to prohibited end-uses in Iran	BIS
Sudan	
Exports and reexports of CCL items to Sudan	OFAC & BIS
Exports and reexports of EAR99 items to Sudan	OFAC
Exports and reexports of EAR99 items to prohibited end-uses in Sudan	BIS
Syria	
Exports and reexports to Syria	BIS
North Korea	
Exports and reexports to North Korea	BIS

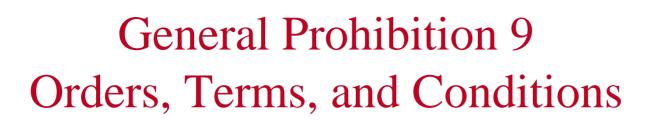
OFAC Website: http://www.treas.gov/ofac

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





- 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)





- 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

These lists may be found on the BIS website www.bis.doc.gov.
Click on "Lists to Check"

- 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



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

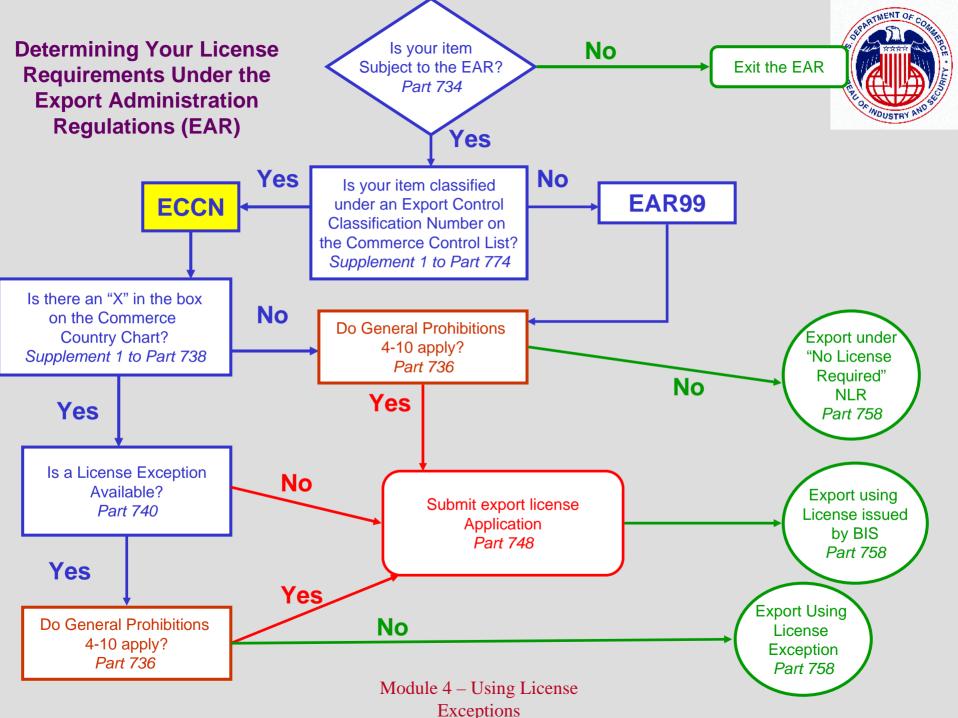


- Series of Six Modules
 - Module 1 "The Big Picture"
 - Module 2 Classifying your Item and Determining if you need a license
 - Module 3 General Prohibitions including Prohibited
 End-users and End-uses & Activities
 - ➤ Module 4 Using License Exceptions
 - Module 5 License Application and Supporting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







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 <u>Any License Exception – Section 740.2</u>

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) Country Chart

NS applies to entire entry NS Column 2

AT applies to entire entry AT Column 1

License Exceptions

LVS: \$500

GBS: Yes

CIV: N/A



List of Items Controlled

Unit: Number

Related Controls: See also 3B992

Related Definitions: N/A

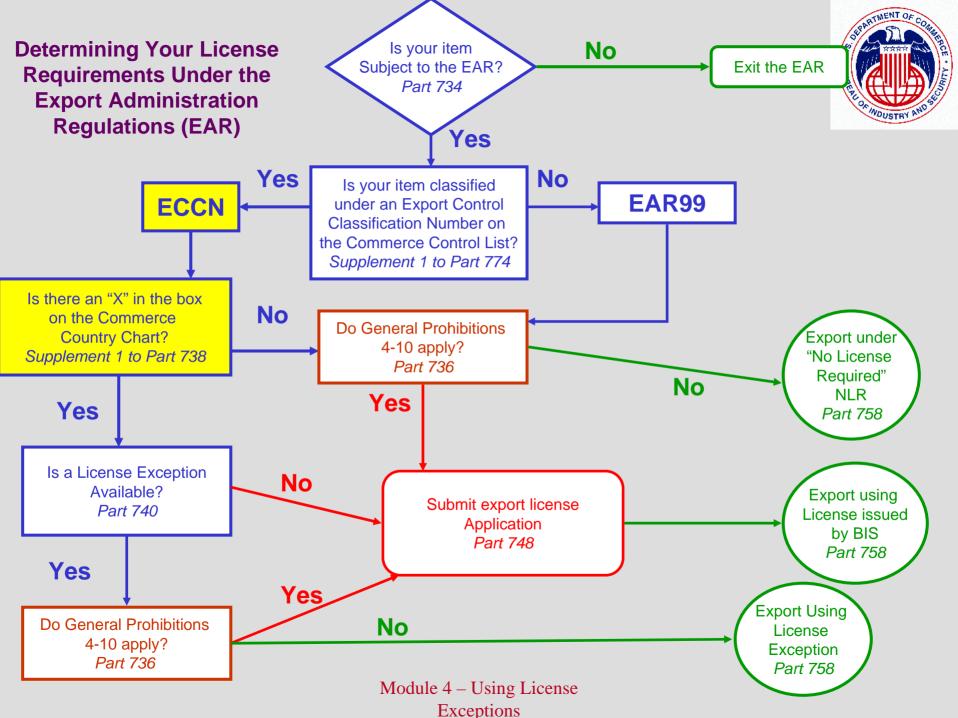
Items:

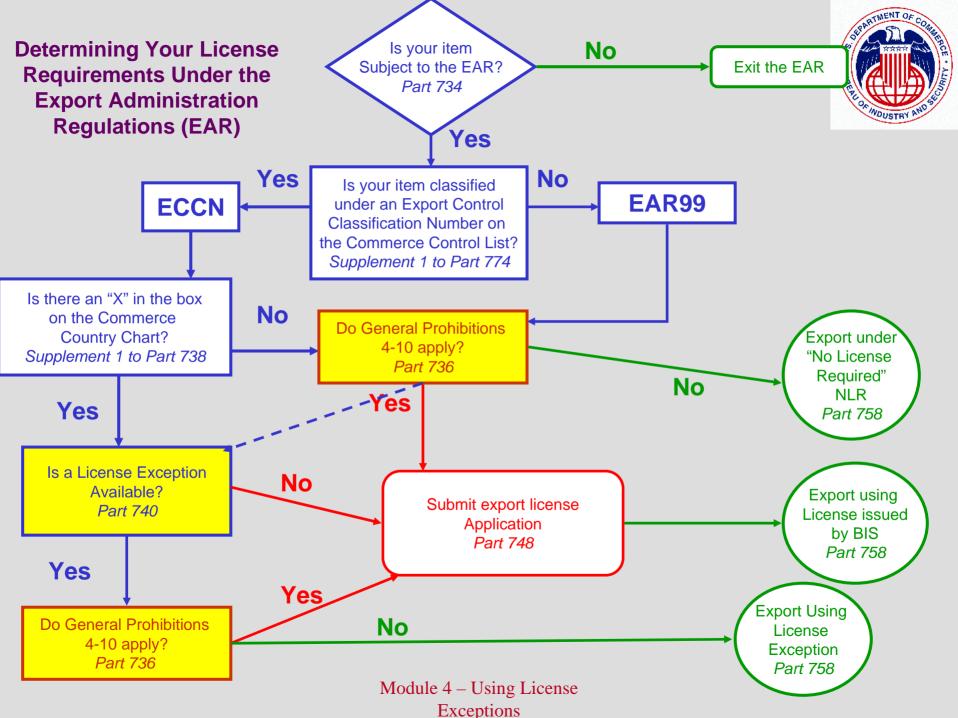
- a. For testing S-parameters of transistor devices at frequencies exceeding 31.9 GHz;
- b. [RESERVED]
- c. For testing microwave integrated circuits controlled by 3A001.b.2.

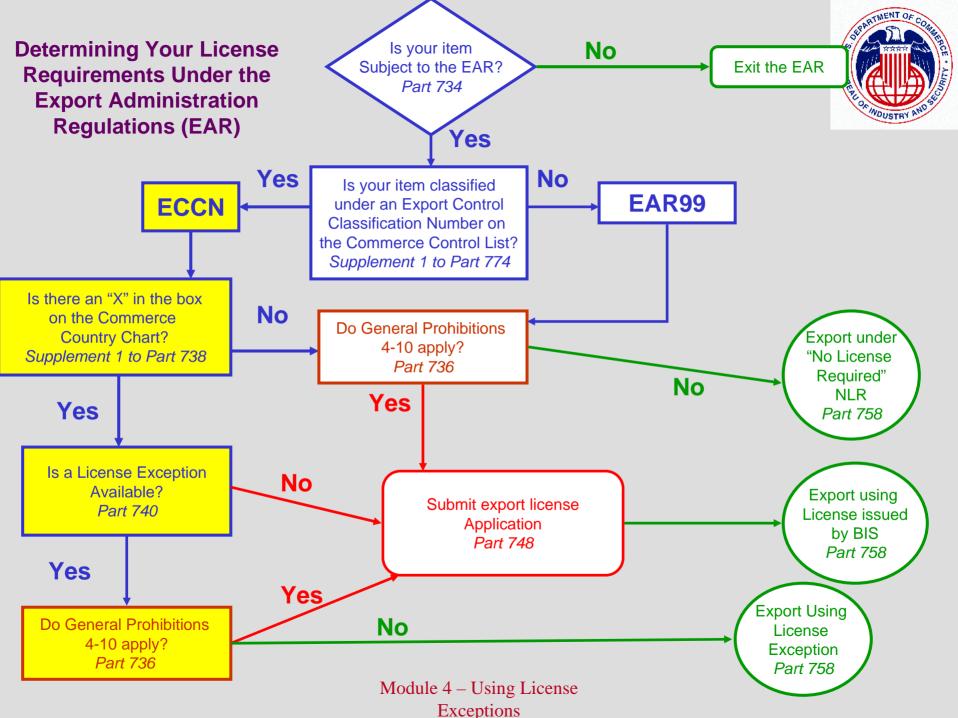
Examples of "Transaction-Based" License Exceptions



- ➤ 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)



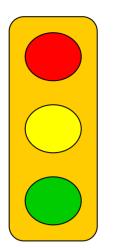






General Prohibitions 4-10 and License Exceptions – Section 740.1







- ⊕ 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
- ⊗ GP10 Proceeding with transactions with knowledge that a violation has occurred or is about to occur

SUBJECT OF COURT AND SERVICE ALLES OF THE PROPERTY AND SERVICE AND

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



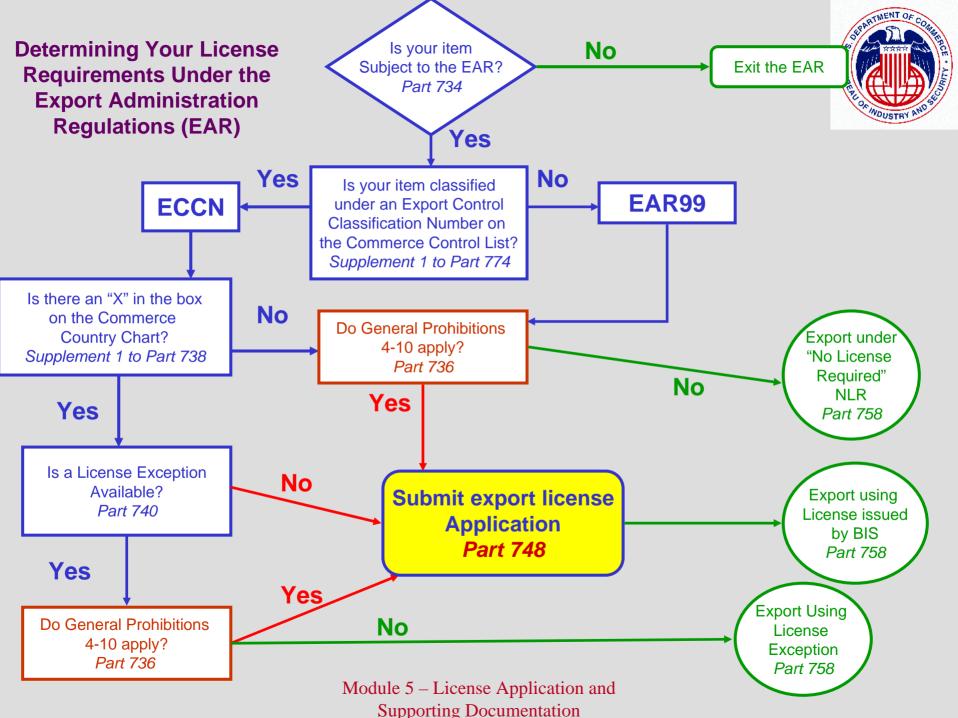
Module 5

- License Application
- Supporting Documentation

Commerce Export License Requirements



- Series of Six Modules
 - Module 1 "The Big Picture"
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 End-users and End-uses & Activities
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 - Module 6 Export Clearance and Recordkeeping







• 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:

- 1) Go to http://www.bis.doc.gov/SNAP/pinsnapr.htm.
- 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:

http://www.bis.doc.gov/snapr/snapr_exporter_us
er_manual.pdf

• 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?





- 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
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 Automated Export System (AES) Record

Destination Control Statement

Responsibilities of Parties









Automated Export System (AES) Record Part 758

- What is it?
 - Statement to U.S. Government

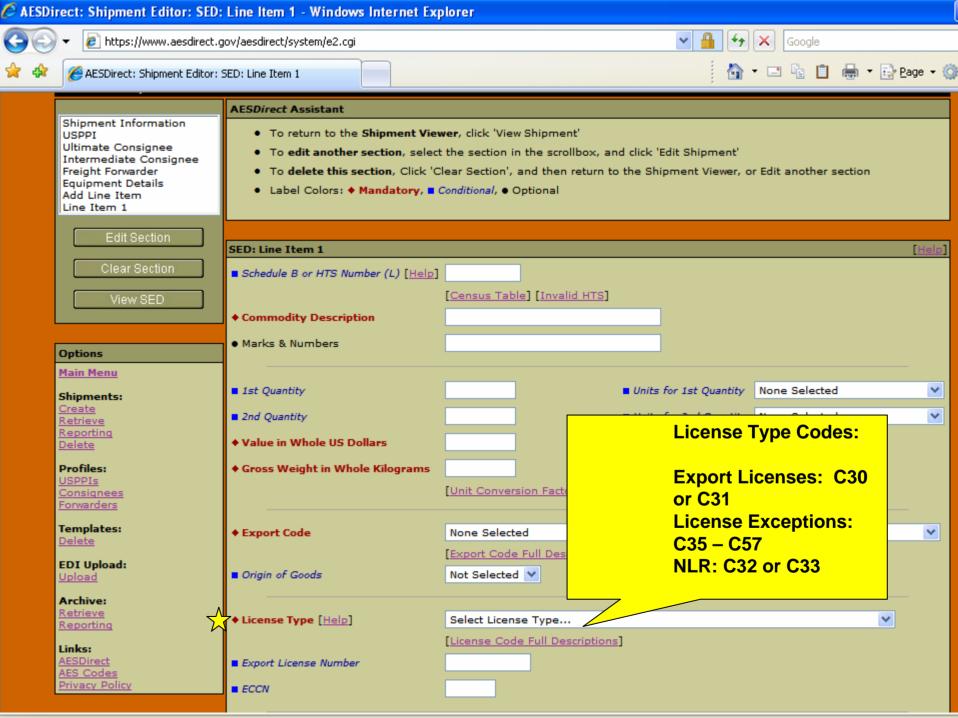
- What is it used for?
 - Export Control Document (BIS)
 - Statistics (Census)

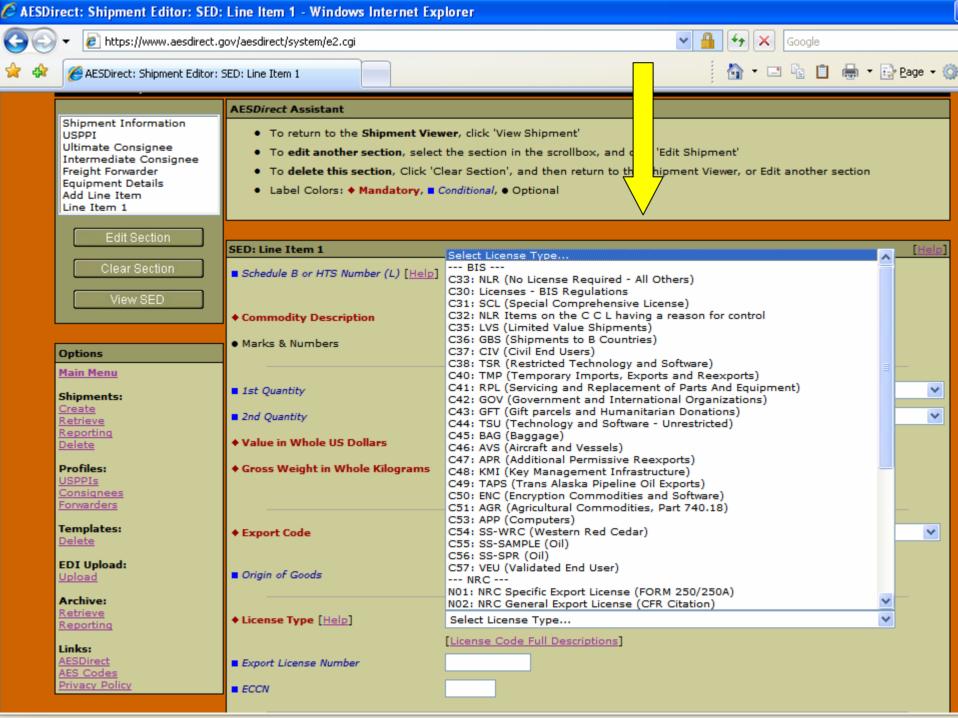


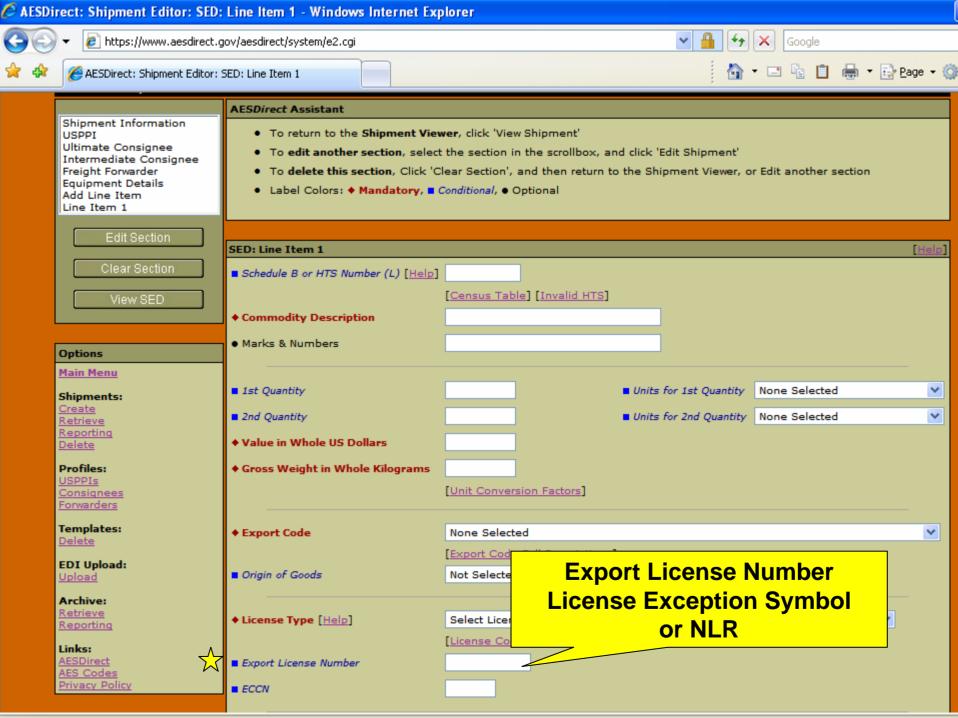
AES Record When is it required?

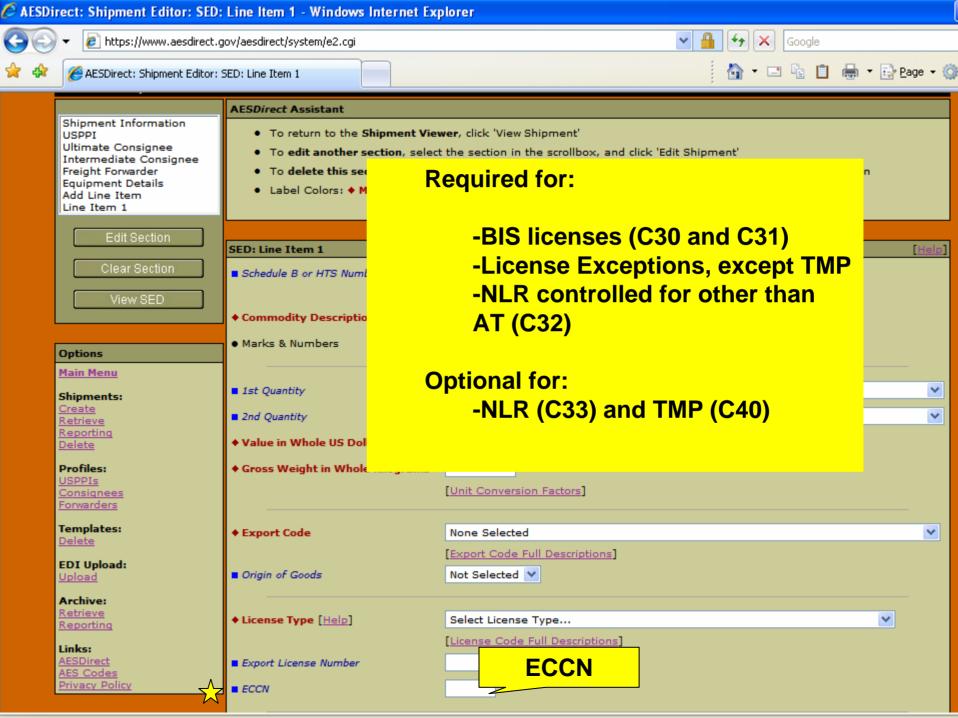
• Required for:

- 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













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