



Cuba Frequently Asked Questions

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I. Private Sector Economic Activity	2
II. Direct Sales.....	5
III. State-Owned Enterprises	5
IV. Physical and Business Presence.....	7
V. Communications	7
VI. State Sponsor of Terrorism Rescission	10
VII. Vessels and Aircraft	13
VIII. Temporary Exports	15
IX. Civil Society.....	16
X. Agricultural Commodities, Medicines, and Medical Devices	17
XI. Environmental Protection.....	18
XII. Consolidated Shipments and Gift Parcels	18
XIII. License Exception Usage and Eligibility	19
XIV. Technology	20
XV. Foreign-Made Items	20

This document is provided for informational purposes only and does not have any force of law. Where specific questions arise, please consult the relevant legal authority, such as the underlying statutes, regulations, and Executive Orders, and, if appropriate, consult with legal counsel.

Only the license exceptions specified in 15 CFR § 746.2(a)(1) are available for Cuba. Please read 15 CFR §§ 740.1 and 740.2 for general information regarding the use of license exceptions and read the specific terms and conditions of the license exception that you want to use.



I. Private Sector Economic Activity

1. How do you define “private sector”?

For the purposes of § 740.21 of the Export Administration Regulations (EAR) (15 CFR Parts 730-774), the private sector in Cuba encompasses economic activity generated by private individuals and groups as enterprises for profit and also that which is generated by non-profit organizations and charities. Companies and corporations that are government owned, operated, or controlled are not considered private sector.

2. What general categories of items may I sell to the Cuban private sector without obtaining a license?

License Exception Support for the Cuban People (SCP) (15 CFR § 740.21), among other provisions, authorizes the export and reexport to Cuba, without a license, of certain items for use by the Cuban private sector for private sector economic activities, except for items that would be used to:

- primarily generate revenue for the state; or
- contribute to the operation of the state, including through the construction or renovation of state-owned buildings.

Items eligible for this provision must be designated as EAR99 or controlled on the Commerce Control List (CCL) (15 CFR Part 774, Supplement No. 1) only for anti-terrorism (AT) reasons.

3. May Cuban government import agencies and other government owned, operated, or controlled companies and corporations receive and deliver eligible items to the private sector?

Yes. Cuban government import agencies and other government owned, operated, or controlled companies and corporations may act as consignees to receive and effect delivery of eligible items to the private sector. With the exception of telecommunications discussed below, Cuban government owned, operated, or controlled companies and corporations may not be end users of the items exported or reexported to Cuba pursuant to License Exception Support for the Cuban People (SCP) (15 CFR § 740.21).

4. Can eligible items be leased or loaned to authorized end-users under License Exception Support for the Cuban People (SCP)?

Yes, if the items, end-uses, and end-users qualify for paragraph (b) or (d)(1) of License Exception SCP (15 CFR § 740.21). Paragraph (b) authorizes certain exports and reexports

to improve living conditions and support independent economic activity in Cuba. Paragraph (d)(1) authorizes certain exports and reexports to improve the free flow of information to, from, and among the Cuban people. On September 21, 2015, License Exception SCP was amended to remove a requirement that the items be sold or donated when exported or reexported pursuant to paragraph (b) or (d)(1). This change is intended to support other types of transactions, such as leases and loans of eligible items for use by eligible end-users.

5. May I sell items to Cuban state-owned enterprises under License Exception Support for the Cuban People (SCP)?

Items exported under paragraph (b) of License Exception SCP (15 CFR § 740.21) must be for use by the Cuban private sector for eligible private sector economic activities. However, they may be sold to Cuban government-owned, operated, or controlled companies and corporations, provided that such entities will resell or otherwise distribute the items to the private sector, *in accordance with the terms and conditions of the license exception*. Items exported to improve telecommunications infrastructure pursuant to paragraph (d)(1) of License Exception SCP may be sold to *and* used by Cuban government-owned, operated, or controlled companies and corporations, provided that all of the terms and conditions of the license exception are met.

6. May I export items that will enable or facilitate the exports of items produced by the Cuban private sector?

Section 746.2(b)(3)(i) of the Export Administration Regulations (EAR) (15 CFR Parts 730-774) contains a case-by-case review policy for items that will enable or facilitate export from Cuba of items produced by the private sector. However, the Bureau of Industry and Security (BIS) generally will deny applications to export or reexport items for use by state-owned enterprises, agencies, and other organizations that primarily generate revenue for the state, including those engaged in tourism and those engaged in the extraction or production of minerals or other raw materials. Applications for export or reexport of items destined to the Cuban military, police, intelligence or security services also generally will be denied. Additionally, pursuant to section 3(a) of the National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (NSPM-5), dated June 16, 2017, BIS generally will deny applications to export or reexport items for use by entities or subentities identified by the Department of State in the *Federal Register* or at <https://www.state.gov/cuba-sanctions/>, unless such transactions are determined to be consistent with sections 2 and 3(a)(iii) of the Cuba NSPM.

7. May I import products from Cuba?

The Department of the Treasury's Office of Foreign Assets Control (OFAC) has jurisdiction over imports from Cuba. For additional information, please review OFAC's Cuba sanctions webpage: <http://www.treasury.gov/cuba>. In addition, you may contact OFAC by calling its toll free hotline (1-800-540-6322), its local hotline (1-202-622-2490), or the Licensing Division (1-202-622-2480), or by sending a message to OFAC's email hotline account (ofac_feedback@treasury.gov).

8. May I export products to Cuban cooperatives?

If the cooperatives are in the private sector, then you may be able to export your products to Cuba pursuant to License Exception Support for the Cuban People (SCP) (15 CFR § 740.21), subject to its terms and conditions. If the cooperatives are not in the private sector or your transaction is not otherwise eligible for a license exception specified in § 746.2(a)(1), then you must apply for a license from the Bureau of Industry and Security.

9. May I export eligible items to private sector bed and breakfasts/*casas particulares* that provide lodging to tourists?

Yes. Paragraph (b) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes exports and reexports of eligible items to the Cuban private sector entrepreneurs in Cuba, including for use in operating private sector bed and breakfasts/*casas particulares*, for certain private sector economic activities. If a specific item is not eligible for License Exception SCP, you may submit a license application through the Bureau of Industry and Security's online portal, SNAP-R (<https://www.bis.doc.gov>).

10. Do I need a license to export parts for classic cars?

A license is required to export or reexport to Cuba any item subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) unless authorized by a license exception specified in § 746.2(a)(1). If the parts are intended for use by the Cuban private sector (*e.g.*, a private sector auto mechanic) for certain private sector economic activities or eligible individuals for personal use, the export or reexport of the parts may be eligible under License Exception Support for the Cuban People (15 CFR § 740.21). Additionally, paragraph (a) of License Exception Servicing and Replacement of Parts and Equipment (RPL) (15 CFR § 740.10) authorizes certain exports and reexports associated with one-on-one replacement of parts, components, accessories, and attachments. If your export is not eligible for an available license exception, then you must apply for a license from the Bureau of Industry and Security. Please note that the Department of the Treasury's Office

of Foreign Assets Control administers restrictions on the importation of items from Cuba, including cars and car parts.

II. Direct Sales

11. Can items be sold directly through the Internet to individuals in Cuba for their personal use?

Yes, paragraph (b)(2) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the export or reexport to Cuba of eligible items that are sold directly to eligible individuals in Cuba for their personal use or their immediate family's personal use. The eligible items may be sold by online retailers and others that sell consumer products directly to end users. To be eligible, the items must be designated as EAR99 or controlled on the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) only for anti-terrorism reasons. Additionally, the purchasers and end-users must not be listed in paragraphs (d)(4)(ii) or (iii) of License Exception SCP.

III. State-Owned Enterprises

12. What can I export to Cuban state-owned enterprises?

Section 746.2(b)(3)(i) of the Export Administration Regulations (EAR) (15 CFR Parts 730-774) contains a case-by-case review policy for exports and reexports of certain items to meet the needs of the Cuban people, including exports and reexports to state-owned enterprises, agencies, and other organizations of the Cuban government that provide goods and services for the use and benefit of the Cuban people. This case-by-case review policy includes exports and reexports of items for agricultural production; artistic endeavors (including the creation of public content, historic and cultural works and preservation); education; food processing; disaster preparedness, relief and response; public health and sanitation; residential construction and renovation; and public transportation. The policy also includes exports and reexports of items for use in construction of: facilities for treating public water supplies; facilities for supplying electricity or other energy to the Cuban people; sports and recreation facilities; and other infrastructure that directly benefits the Cuban people. Additionally, it includes exports and reexports to wholesalers and retailers of items for domestic consumption by the Cuban people. Licenses issued under this case-by-case review licensing policy generally will have a condition prohibiting both reexports from Cuba to any other destination and uses that enable or facilitate the export of goods or services from Cuba, that primarily generate revenue for the state.

The Bureau of Industry and Security (BIS) generally will deny applications to export or reexport items for use by state-owned enterprises, agencies, and other organizations that primarily generate revenue for the state, including those engaged in tourism and those

engaged in the extraction or production of minerals or other raw materials. Applications for export or reexport of items destined to the Cuban military, police, intelligence or security services also generally will be denied. Additionally, pursuant to section 3(a) of the National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (NSPM-5), dated June 16, 2017, BIS generally will deny applications to export or reexport items for use by entities or subentities identified by the Department of State in the *Federal Register* or at <https://www.state.gov/cuba-sanctions/>, unless such transactions are determined to be consistent with sections 2 and 3(a)(iii) of the Cuba NSPM.

Under certain circumstances, Cuban state-owned enterprises may receive exports or reexports authorized by license exception, such as License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) or License Exception Consumer Communications Devices (CCD) (15 CFR § 740.19). Please review other relevant frequently asked questions and the license exceptions for additional information.

13. Where can I find the State Department’s Cuba Restricted List?

The State Department’s List of Restricted Entities and Subentities associated with Cuba (“Cuba Restricted List”) can be found in the *Federal Register* and at <https://www.state.gov/cuba-sanctions/>. The State Department will update the list periodically.

14. How will the State Department’s Cuba Restricted List affect exports to Cuba?

Pursuant to the National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (NSPM-5), dated June 16, 2017, license applications submitted to the Bureau of Industry and Security (BIS) that involve one or more parties on the Department of State’s Cuba Restricted List generally will be denied unless the transactions are determined by BIS, in coordination with the Department of State, to be consistent with the Cuba NSPM.

15. Can I export U.S.-origin agricultural equipment to Cuban state-owned farms and cooperatives that produce food for the benefit of the Cuban people?

A license from the Bureau of Industry and Security (BIS) is required to export or reexport items to Cuban state-owned farms and cooperatives, including agricultural equipment. Such exports or reexports may be authorized on a case-by-case basis, provided the items will be used to meet the needs of the Cuban people. You are encouraged to submit a license application through BIS’s online portal, SNAP-R (<https://www.bis.doc.gov>).

16. How does the Bureau of Industry and Security define “artistic endeavors”?

For purposes of the case-by-case licensing policy for items to meet the needs of the Cuban people in § 746.2(b)(3)(i) of the Export Administration Regulations (EAR) (15 CFR Parts 730-774), artistic endeavors could include the creation of public content, historic and cultural works, and preservation. License applications to export or reexport such items must explain how the items would be used for artistic endeavors to meet the needs of the Cuban people.

17. Public health and sanitation are listed in the case-by-case review policy in the amended regulations. Does this mean that the licensing policy for medicine and medical devices has changed?

No, applications to export to Cuba medicines and medical devices, as defined in Part 772 of the Export Administration Regulations (EAR) (15 CFR Parts 730-774), continue to be generally approved, except in certain circumstances specified in § 746.2(b)(1) of the EAR. No changes have been made to the licensing policy for medicine and medical devices.

IV. Physical and Business Presence

18. Can persons authorized to establish a physical presence in Cuba receive exports and reexports of eligible items to support their presence?

Paragraph (e)(1) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes exports and reexports to Cuba of certain items for use by specified persons to establish and maintain a physical or business presence in Cuba. Please note that separate authorization is required for exports, reexports, or transfers (in-country) of items that would be sold, donated, or otherwise used by other persons.

V. Communications

**19. What telecommunications and internet-related items may I sell to Cuba?
(UPDATED)**

License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the export and reexport to Cuba of certain items, including equipment, intended to improve the free flow of information to, from, and among the Cuban people. Paragraph (d)(1) authorizes the export or reexport to Cuba of items for telecommunications *infrastructure* creation and upgrades. Items eligible for export or reexport to Cuba are limited to those designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons. Additionally, for infrastructure items that would be used to connect specific end users (*i.e.*, non-backbone items), those items may be used to connect

U.S. Department of Commerce
Bureau of Industry and Security
Cuba Frequently Asked Questions

individual Cubans or the Cuban private sector only. A license is required for the export or reexport to Cuba of items for telecommunications infrastructure that would be used to connect other specific end users (*e.g.*, Cuban government ministries and state-owned hotels), which will be reviewed pursuant to the licensing policy in 15 CFR § 746.2(b).

Paragraph (d)(4) of License Exception SCP (15 CFR § 740.21) authorizes the export or reexport of certain commodities and software to individuals and private sector entities in Cuba that will be used to develop software that will improve the free flow of information or that will support private sector activities described in paragraph (b) of License Exception SCP. The Cuban Government, Cuban Communist Party and certain officials thereof are designated as ineligible end users for commodities and software exported under paragraph (d)(4). Additionally, commodities and software authorized for export or reexport under this paragraph (d)(4) are limited to those that are either EAR99 (*i.e.*, items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) but not specified in any Export Control Classification Number (ECCN)) or controlled on the Commerce Control List (CCL) for anti-terrorism reasons only.

License Exception Consumer Communications Devices (CCD) (15 CFR § 740.19) authorizes the export and reexport to Cuba of certain consumer communications items for use by eligible recipients. License Exception CCD specifies the eligible items by description and ECCN.

Please see License Exceptions SCP and CCD for additional information. If your transaction is not eligible for one of those license exceptions, you may submit an export license application to the Department of Commerce's Bureau of Industry and Security (BIS). BIS accepts applications through its online portal, SNAP-R.

20. May I sell telecommunications infrastructure equipment to Cuban government owned, operated, or controlled companies and corporations? (UPDATED)

Yes. Subject to the terms and conditions of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21), certain items may be sold to Cuban government owned, operated, or controlled companies and corporations for telecommunications *infrastructure* creation and upgrades. Items eligible for export or reexport to Cuba pursuant to this portion of License Exception SCP are limited to those designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons. Additionally, for infrastructure items that would be used to connect specific end users (*i.e.*, non-backbone items), those items may be used to connect individual Cubans or the Cuban private sector only. A license is required for the export or reexport to Cuba of items for telecommunications infrastructure that would be used to connect other specific end users (*e.g.*, Cuban government ministries and state-owned hotels), which will be reviewed

U.S. Department of Commerce
Bureau of Industry and Security
Cuba Frequently Asked Questions

pursuant to the licensing policy in 15 CFR § 746.2(b). If your transaction is not eligible for License Exception SCP, you may submit an export license application to the Bureau of Industry and Security (BIS). BIS accepts applications through its online portal, SNAP-R.

21. Are all exports of telecommunications items to Cuba subject to a general policy of approval?

The general policy of approval applies to telecommunications items that would improve communications to, from, and among the Cuban people. Note that certain exports or reexports of telecommunications items to Cuba are eligible for License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) or License Exception Consumer Communications Devices (CCD) (15 CFR § 740.19). Please review other relevant frequently asked questions and the license exceptions for additional information.

22. May I sell consumer communications devices to Cuban government owned, operated, or controlled companies and corporations for resale to the Cuban people?

Yes. Consumer communications devices such as mobile phones, computers and related hardware and software may be sold to Cuban government owned, operated, or controlled companies and corporations for resale to the Cuban people. Please note that such items are limited to those designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons; other items require an individual validated license.

23. What is the difference between eligible consumer communications items in License Exception Consumer Communications Devices (CCD) and those eligible for export under License Exception Support for the Cuban People (SCP)?

Certain consumer communications items listed in License Exception CCD (15 CFR § 740.19) would also be eligible for export under License Exception SCP (15 CFR § 740.21) to support independent economic activity, including mobile phones, consumer “information security” equipment and software, consumer computers, modems, and network access controllers. Under certain circumstances, both license exceptions may apply and in those cases either may be relied on for authorization.

24. What changes have been made with regard to the export and reexport of items for use by news media?

Paragraphs (d)(2) and (d)(3) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the export and reexport to Cuba without a license of certain items for use by news media personnel and U.S. news bureaus engaged in the gathering and dissemination of news to the general public. Please note that such items are limited to

those designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons; other items require an individual validated license.

25. Do I need a license to export commodities and software to Cuba for use in software development?

Paragraph (d)(4) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes exports and reexports of certain commodities and software to individuals and private sector entities in Cuba that will be used to develop software that will improve the free flow of information or that will support private sector activities described in paragraph (b) of License Exception SCP. The Cuban Government, Cuban Communist Party and certain officials thereof are designated as ineligible end users for commodities and software exported under paragraph (d)(4). Additionally, commodities and software authorized for export or reexport under this paragraph (d)(4) are limited to those that are either EAR99 (*i.e.*, items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) but not specified in any Export Control Classification Number (ECCN)) or controlled on the Commerce Control List (CCL) for anti-terrorism reasons only.

26. Can I lease or loan eligible items under License Exception Consumer Communications Devices (CCD)?

Yes, if the items and end-users qualify for License Exception CCD (15 CFR § 740.19).

VI. State Sponsor of Terrorism Rescission

27. What changes did the Bureau of Industry and Security make to implement the rescission of Cuba's State Sponsor of Terrorism designation? (*UPDATED*)

BIS removed anti-terrorism (AT) license requirements from Cuba and eliminated references to Cuba as a State Sponsor of Terrorism in the Export Administration Regulations (EAR) (15 CFR Parts 730-774), while maintaining preexisting license requirements for all items subject to the EAR unless authorized by a license exception. BIS also removed Cuba from Country Group E:1 (terrorist supporting countries) in Supplement No. 1 to Part 740 of the EAR, changing the general *de minimis* level for Cuba and making Cuba eligible for additional portions of License Exceptions Servicing and Replacement of Parts and Equipment (RPL) (15 CFR § 740.10); Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV) (15 CFR § 740.11); Baggage (BAG) (15 CFR § 740.14); and Aircraft, Vessels and Spacecraft (AVS) (15 CFR § 740.15). However, consistent with the comprehensive embargo on trade with Cuba, a license is still required to export or reexport to Cuba any item subject to the EAR unless

authorized by a license exception specified in § 746.2(a)(1) of the EAR. License applications submitted to BIS are reviewed pursuant to the licensing policy in § 746.2(b) of the EAR.

28. Does the rescission of Cuba’s State Sponsor of Terrorism designation mean items controlled for anti-terrorism reasons no longer require a license for export or reexport to Cuba?

No. Consistent with the comprehensive embargo on trade with Cuba, a license is still required to export or reexport to Cuba any item subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) unless authorized by a license exception specified in § 746.2(a)(1), including any item controlled on the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) only for anti-terrorism (AT) reasons. The license requirements and licensing policy for Cuba are specified in § 746.2 of the EAR.

29. I have licenses with conditions that refer to Country Group E:1. Since Cuba is no longer in Country Group E:1, does that mean the conditions specific to Country Group E:1 no longer apply to Cuba?

No. The rule that removed Cuba from Country Group E:1 also created General Order No. 3 in Supplement No. 1 to Part 736 of the Export Administration Regulations (EAR) (15 CFR Parts 730-774). General Order No. 3 specifies that all conditions that apply to Country Group E:1 on licenses issued prior to July 22, 2015, that are in effect on that date, are revised to apply to Country Groups E:1 and E:2 as specified in Supplement No. 1 to Part 740 of the EAR. Since Cuba is in Country Group E:2, those conditions continue to apply to Cuba. If you seek authorization for a transaction that is affected by General Order No. 3, you may submit a license application that refers to General Order No. 3 and explains the reason for the request in Block 24 of the application. All license applications involving Cuba are reviewed pursuant to the licensing policy in § 746.2(b) of the EAR. The request should provide any available information in support of the argument that the transaction would be consistent with the licensing policy in § 746.2(b) of the EAR.

30. My foreign-made products contain less than 25 percent U.S.-origin content. Do I still need a license to reexport to Cuba? (UPDATED)

The general *de minimis* rule for Cuba was changed from 25 percent to 10 percent on October 21, 2019. Consequently, if your foreign-made products contain greater than 10 percent U.S.-origin controlled content by value, then they are subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) if exported from abroad to

Cuba. Please review Part 734 of the EAR for additional information, including exceptions to the general 10 percent *de minimis* rule and guidelines for *de minimis*.

31. Do I need a license to export replacement parts to Cuba?

Your transaction may be eligible for paragraph (a) of License Exception Servicing and Replacement of Parts and Equipment (RPL) (15 CFR § 740.10). That provision authorizes certain exports and reexports associated with one-to-one replacement of parts, components, accessories, and attachments. With the removal of Cuba from Country Group E:1 (terrorist sponsoring countries), Cuba is no longer subject to the exclusions to License Exception RPL in paragraphs (a)(3)(iv)-(vi) relating to aircraft, commodities controlled for national security (NS) reasons, explosives detection equipment and software, and concealed object detection equipment and software.

32. What was the effect of the rescission on License Exception Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV)?

Since Cuba is no longer in Country Group E:1, the following restrictions in License Exception GOV (15 CFR § 740.11) no longer apply to Cuba:

- Paragraphs (a)(2)(iv) and (d)(4), which restricts access by Country Group E:1 nationals to certain computers used for authorized international safeguards, inspections, and verification activities;
- Paragraph (e)(7)(i), which precludes the export, reexport, or transfer (in-country) to Country Group E:1 nationals of items used to support of the International Space Station (ISS); and paragraph (e)(8)(iii), which precludes the return of parts for the ISS to destinations in Country Group E:1.

33. What was the effect of the rescission on License Exception Baggage (BAG)?

Since Cuba is no longer in Country Group E:1, the following restrictions in License Exception BAG (15 CFR § 740.14) no longer apply to Cuba:

- Paragraph (f)(1), which authorizes certain exports and reexports of encryption commodities and software subject to Encryption Items (EI) controls on the Commerce Control List by United States citizens and permanent resident aliens to destinations other than Country Group E:1;
- Paragraph (f)(2), which authorizes such exports and reexports by individuals other than nationals of a country in Country Group E:1; and

- Paragraph (g), which authorizes certain exports and reexports of technology by U.S. persons, but excludes in paragraph (g)(4) exports and reexports of encryption technology controlled in Export Control Classification Number (ECCN) 5E002 to destinations in Country Group E:1.

34. Now that Cuba is no longer a State Sponsor of Terrorism, do I need a license to sell items to the Cuban government or Cuban state-owned enterprises?

A license is still required to export or reexport to Cuba any item subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) unless authorized by a license exception specified in § 746.2(a)(1).

VII. Vessels and Aircraft

35. Are cruise ships allowed to sail to Cuba?

No. A license from the Bureau of Industry and Security (BIS) is required for cruise ships to sail to Cuba, even if they call a port in another country first. License applications for the temporary sojourn to Cuba of non-cargo vessels, including cruise ships, are subject to a general policy of denial.

36. May I sail my pleasure boat to Cuba?

No. A license from the Bureau of Industry and Security (BIS) is required to sail your pleasure boat to Cuba, even if the vessel sails to another country first. License applications for the temporary sojourn to Cuba of non-cargo vessels, including sailboats and fishing boats, are subject to a general policy of denial.

37. Are cargo vessels destined for Cuba eligible for License Exception Aircraft, Vessels and Spacecraft (AVS)?

Yes, provided all of the terms and conditions of paragraph (d)(6) of License Exception AVS (15 CFR § 740.15) are met. That paragraph authorizes temporary sojourns to Cuba of cargo vessels for hire for use in the transportation of items. However, one must submit a license application to the Bureau of Industry and Security (BIS) if the cargo vessel would remain in Cuba for longer than 14 consecutive days before departing for a country to which the vessel could be exported without a license or to the United States. Of note, all cargo transported by the vessel requires separate BIS authorization for export to Cuba.

38. Are commercial airlines allowed to fly to Cuba?

Yes, provided all of the terms and conditions of License Exception Aircraft, Vessels and Spacecraft (AVS) (15 CFR § 740.15(a)) are met.

39. May I fly a private or corporate aircraft to Cuba?

No. A license from the Bureau of Industry and Security (BIS) is required to fly private or corporate aircraft to Cuba, even if the aircraft stops in another country first. License applications for the temporary sojourn to Cuba of non-commercial aircraft are subject to a general policy of denial.

40. What is the licensing policy for civil aviation safety items? (UPDATED)

Section 746.2(b)(2)(v) contains a general policy of approval for exports and reexports to Cuba of items necessary to ensure the safety of civil aviation and the safe operation of commercial aircraft engaged in international air travel, *excluding* the export or reexport of such aircraft leased to state-owned enterprises.

41. Are aircraft for use by Cuban government-owned airlines eligible for the general policy of approval for civil aviation? (UPDATED)

No, aircraft are no longer eligible for the general policy of approval for items necessary to ensure the safety of civil aviation and the safe operation of commercial aircraft engaged in international air transportation.

42. May I transit Cuba with cargo destined for other countries?

Vessels or aircraft on temporary sojourn to Cuba may transport authorized cargo from the United States to Cuba and then travel to other countries with any remaining cargo that was unloaded in the United States, provided the terms and conditions of paragraph (e) of License Exception Aircraft, Vessels and Spacecraft (AVS) (15 CFR § 740.15) are met *and* the cargo is properly authorized for export to the country of ultimate destination.

43. May I transfer cargo to another vessel or aircraft in Cuba?

No. Pursuant to General Prohibition Eight in § 736.2 of the Export Administration Regulations (EAR) (15 CFR Parts 730-774), you may not transfer cargo in Cuba to another vessel or aircraft without authorization from the Bureau of Industry and Security (BIS) if the cargo is subject to the EAR. BIS generally would not approve such a transfer in Cuba.

44. What restrictions apply to cargo transiting Cuba?

To be eligible for paragraph (e) of License Exception Aircraft, Vessels and Spacecraft (AVS) (15 CFR § 740.15), cargo laden on board an aircraft or vessel may transit Cuba provided that:

- the aircraft or vessel is exported or reexported on temporary sojourn to Cuba pursuant to paragraph (a) or paragraph (d) of License Exception AVS respectively, or a license from the Bureau of Industry and Security (BIS); and
- the cargo departs with the aircraft or vessel at the end of its temporary sojourn to Cuba, is not removed from the aircraft or vessel for use in Cuba and is not transferred to another aircraft or vessel while in Cuba.

Additionally, certain restrictions on all license exceptions are specified in § 740.2 of the EAR.

VIII. Temporary Exports

45. May I temporarily reexport eligible items to Cuba in support of professional meetings?

Paragraph (c)(2) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes certain temporary reexports to Cuba. Paragraph (c)(2) previously authorized certain temporary exports of items to Cuba by persons departing the United States for use in scientific, archeological, cultural, ecological, educational, historic preservation, or sporting activities, or in the traveler's professional research. Travelers departing the United States or a foreign country may temporarily export or reexport authorized items to Cuba for eligible end-uses under paragraph (c)(2) of License Exception SCP, including professional meetings, provided all of the terms and conditions are met.

46. Do I need a license for the temporary export or reexport of items for my own use while engaged in scientific, archaeological, cultural, ecological, educational, historic preservation or sporting activities or professional meetings or research in Cuba?

No. Paragraph (c)(2) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the temporary (up to two years) export or reexport to Cuba by travelers for the travelers' use in scientific, archaeological, cultural, ecological, educational, historic preservation or sporting activities or professional meetings or research. Please note that paragraph (c)(2) also includes certain additional limitations that could affect your eligibility.

47. May I take my company-owned laptop or mobile device to Cuba under License Exception Support for the Cuban People (SCP)?

Paragraph (c)(2) of License Exception SCP (15 CFR § 740.21) authorizes certain temporary exports and reexports by travelers to Cuba for the travelers' use in professional

meetings and research. Eligible items include company-owned or personally-owned laptops and mobile devices designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons. Please note that paragraph (c)(2) also includes certain additional limitations that could affect your eligibility.

48. Do I need an export license to exhibit my products at a trade show in Cuba?

No, provided the items are temporarily exported and you meet the other terms and conditions of paragraph (f)(4) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21).

49. Do I need an export license for tools that I would take to Cuba to install or repair equipment?

No, provided the items are eligible under paragraph (f) of License Exception Support for the Cuban People (SCP) (15 CFR § 740.21), are temporarily exported, and you meet the other terms and conditions of paragraph (f)(1) and/or (f)(2) of License Exception SCP.

IX. Civil Society

50. Do I need a license to export or reexport items to human rights organizations or non-governmental organizations in Cuba?

License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the export and reexport to Cuba of certain items without a license to human rights organizations, individuals, or non-governmental organizations that promote independent activity intended to strengthen civil society. Please note that such items are limited to those designated as EAR99 or controlled on the Commerce Control List (CCL) only for anti-terrorism (AT) reasons; other items require an individual validated license.

51. Do I need a license to export or reexport *donated* items for use by the Cuban people? (UPDATED)

License Exception Support for the Cuban People (SCP) (15 CFR § 740.21) authorizes the export and reexport to Cuba of certain *donated* items without a license for use in scientific, archaeological, cultural, ecological, educational, historic preservation or sporting activities. The items may not be donated to organizations administered or controlled by the Cuban government or communist party, and must support eligible activities independent of the Cuban government and communist party. Additionally, the activities may not relate to the development, production, use, operation, installation maintenance, repair, overhaul or refurbishing of any item enumerated or otherwise described on the United State Munitions List (USML) (22 CFR Part 121) or the Commerce Control List

(CCL) unless the only reason for control that applies to the item as set forth in the Export Control Classification Number (ECCN) that controls the item is anti-terrorism (AT) reasons.

X. Agricultural Commodities, Medicines, and Medical Devices

52. Have any changes been made with regard to the export and reexport to Cuba of agricultural commodities?

No. The terms and conditions of License Exception Agricultural Commodities (AGR) (15 CFR § 740.18) continue to apply. Notifications of intent to export/reexport eligible agricultural commodities may be submitted through the Bureau of Industry and Security's online portal, SNAP-R (<https://www.bis.doc.gov>).

53. When do I have to sign the contract for exports of agricultural commodities to Cuba?

Pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000, you must sign the contract within 12 months of receiving authorization from the Bureau of Industry and Security (BIS) to export agricultural commodities to Cuba. You have an additional 12 months from the signing of the contract to export the agricultural commodities to Cuba. Alternatively, you may sign the contract before receiving export authorization from BIS, but you are still required to obtain BIS authorization prior to exporting the agricultural commodities and must export them within 12 months of the signing of the contract. However, you are not required to sign a contract for exports to Cuba of agricultural commodities that are donated or commercial samples, but you must still obtain BIS authorization to export them and must do so within 12 months of receiving BIS authorization. License Exception Agricultural Commodities (AGR) (15 CFR § 740.18) includes an expedited review process for exports of agricultural commodities to Cuba.

54. Have any changes been made with regard to the export and reexport to Cuba of medicine and medical devices?

No. As specified in § 746.2(b)(1) of the Export Administrations Regulations (EAR) (15 CFR Parts 730-774), medicine and medical devices continue to require an individual validated license. Exporters/reexporters may submit an export license application to the Bureau of Industry and Security through its online portal, SNAP-R (<https://www.bis.doc.gov>). Applications for the export/reexport of medicine and medical devices will generally be approved subject to certain limited exceptions.

55. May I export agricultural commodities, medicines, or medical devices using License Exception Support for the Cuban People (SCP)?

No. Agricultural commodities, medicines, and medical devices are not eligible for any provision of License Exception SCP (15 CFR § 740.21) due to limitations in the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended (22 U.S.C. 7201-7211) and the Cuban Democracy Act of 1992, as amended (22 U.S.C. 6001-6010).

56. Public health and sanitation are listed in the case-by-case review policy in the amended regulations. Does this mean that the licensing policy for medicine and medical devices has changed?

No, applications to export to Cuba medicines and medical devices, as defined in Part 772 of the Export Administration Regulations (EAR) (15 CFR Parts 730-774), continue to be generally approved, except in certain circumstances specified in § 746.2(b)(1) of the EAR. No changes have been made to the licensing policy for medicine and medical devices.

XI. Environmental Protection

57. Do I need a license to sell items necessary for environmental protection to Cuba?

Yes. The export and reexport of items necessary for environmental protection require a license. You may submit an export license application to the Bureau of Industry and Security through its online portal, SNAP-R (<https://www.bis.doc.gov>). Applications for items necessary for the environmental protection of U.S. and international air quality, waters and coastlines (including items related to renewable energy or energy efficiency) will generally be approved. No license exception applies.

XII. Consolidated Shipments and Gift Parcels

58. What responsibilities do consolidators retain pursuant to the Export Administration Regulations?

Given that an authorization is required for the export or reexport to Cuba of all items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774), the consolidator must know which authorization (*i.e.*, the relevant license exception or an individual validated license) applies to the consolidated shipment. Additionally, consolidators and other parties involved in exports and reexports have general compliance responsibilities (*e.g.*, recordkeeping requirements) specified in the EAR.

59. What changes have been made with regard to gift parcels?

License Exception Gift Parcels and Humanitarian Donations (GFT) (15 CFR § 740.12) was amended to remove the note that excluded from eligibility consolidated shipments of multiple parcels for delivery to individuals residing in a foreign country. Individuals who wish to send gift parcels to Cuba do not have to search for parties that have received a license from the Bureau of Industry and Security authorizing consolidated shipments to Cuba. The list of ineligible recipients in Paragraph (a)(2)(v) of License Exception GFT was also amended.

XIII. License Exception Usage and Eligibility

60. How do license exceptions relate to license requirements and licensing policy for Cuba in the Export Administration Regulations?

A license exception is an exception to the license requirement that would otherwise apply to the transaction. Thus if a license exception is available, requirements for a license and licensing policy specified in § 746.2 do not apply. For Cuba, only the license exceptions listed in § 746.2(a)(1) of the Export Administration Regulations (EAR) (15 CFR Parts 730-774) may be used. The transaction must meet all of the terms of the license exception and must not be prohibited by § 740.2 of the EAR. Persons who are unfamiliar with the structure of the EAR or the relationship of license exceptions to license requirements generally may wish to consult the Bureau of Industry and Security's online training room: <https://www.bis.doc.gov/index.php/compliance-a-training/export-administration-regulations-training>.

61. Do I need to notify the Bureau of Industry and Security prior to using a license exception available for Cuba?

The only license exception available for Cuba that requires prior notification is License Exception Agricultural Commodities (AGR) (15 CFR § 740.18). However, you should read 15 CFR §§ 740.1 and 740.2 for general information regarding the use of license exceptions and read the specific terms and conditions of the license exception that you want to use. You are responsible for making sure that your transaction meets the terms and conditions of the license exception.

62. Do I have to file an AES record in order to use a license exception?

The Bureau of Industry and Security's Export Administration Regulations (EAR) (15 CFR Parts 730-774) and the Census Bureau's Foreign Trade Regulations (FTR) (15 CFR 30) contain certain export clearance and recordkeeping requirements. In many instances, such as when using License Exceptions Support for the Cuban People (SCP) (15 CFR § 740.21)

and Consumer Communications Devices (CCD) (15 CFR § 740.19), you are required to file Electronic Export Information (EEI) in the Automated Export System (AES) (15 CFR § 758.1(b)). Bear in mind that when citing a license exception in the EEI filing to AES, the exporter is representing to the United States Government that the export is in accordance with the terms and conditions of the license exception cited. Exporters should be sure of the facts related to the transaction before making such a representation.

XIV. Technology

63. Is a deemed export or deemed reexport license required for the release of EAR99 technology or source code to a Cuban National in the United States or a third country?

No. A deemed export or deemed reexport license is no longer required for the release of EAR99 technology or source code to a Cuban national in the United States or in a third country. However, a license is still required for the release of technology or source code on the Commerce Control List (including those controlled for anti-terrorism reasons only) to Cuban nationals within the United States or in a third country.

XV. Foreign-Made Items

64. Do I need separate authorization from the Department of the Treasury to export to Cuba foreign-made items from the United States or reexport to Cuba items that are not 100 percent U.S.-origin from a third country?

Both the Department of Commerce's Bureau of Industry and Security (BIS) and the Department of the Treasury's Office of Foreign Assets Control (OFAC) administer Cuba sanctions pursuant to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) and the Cuban Assets Control Regulations (CACR) (31 CFR Part 515), respectively. Most export or reexport transactions require general or specific authorizations from both BIS and OFAC. OFAC has issued a general license authorizing all transactions ordinarily incident to the exportation of items from the United States, or the reexportation of 100 percent U.S.-origin items from a third country, to any person in Cuba, provided that the exportation is licensed or otherwise authorized by BIS. *See* 31 CFR § 515.533.

Accordingly, for those BIS-licensed exports or reexports, further OFAC authorization generally is not needed. However, in some cases, a specific license from OFAC may be required in connection with BIS-authorized exports or reexports. For example, even if BIS has authorized the reexport of items that are not 100 percent U.S.-origin to Cuba, persons subject to U.S. jurisdiction would also require a specific license from OFAC to reexport the items, and OFAC's consideration of applications for such licenses may be subject to statutory restrictions. *See* 31 CFR § 515.559.