

# Introduction to Commerce Department Export Controls



U.S. Department of Commerce  
Bureau of Industry and Security  
Office of Exporter Services

# O verview

The Department of Commerce’s Bureau of Industry and Security (BIS) is responsible for implementing and enforcing the Export Administration Regulations (EAR) (15 CFR Parts 730-774), which regulate the export, reexport, and transfer (in-country) of most commercial and some military items. We often refer to items that BIS regulates as “dual-use” – items that have both commercial and military or proliferation applications – but some military items and purely commercial items without an obvious military use are also subject to the EAR.

The EAR do not control all goods, services, and technologies. Other U.S. government agencies regulate more specialized exports. For example, the U.S. Department of State has authority over defense articles and defense services. A list of other agencies involved in export controls is provided in Supplement No. 3 to Part 730 of the EAR which is available on the BIS website at [www.bis.doc.gov](http://www.bis.doc.gov) and the Government Printing Office website at [www.ecfr.gov](http://www.ecfr.gov).

This publication is designed to give people who are new to exporting, and, in particular, new to export controls, a general understanding of the EAR and how to use them. However, nothing provided here can substitute for consulting the EAR. The EAR include answers to frequently asked questions, detailed step-by-step instructions for determining if a transaction is subject to the regulations, how to request a commodity classification or advisory opinion, and how to apply for a license. In using the EAR, you may want to first review Part 732 for the steps to follow to determine your obligations.



## **Note!**

**The EAR contain provisions relating to matters not discussed in this short overview. Two examples of important concepts not discussed here are controls on the activities of U.S. persons in support of proliferation programs (see section 744.6 of the EAR) and the antiboycott provisions contained in Part 760 of the EAR.**

# W hat is an export?

Any item that is sent from the United States to a foreign destination is an export. “Items” include commodities, software or technology, such as clothing, building materials, circuit boards, automotive parts, blue prints, design plans, retail software packages and technical information.

How an item is transported outside of the United States does not matter in determining export license requirements. For example, an item can be sent by regular mail or hand-carried on an airplane. A set of schematics can be sent via facsimile to a foreign destination, software can be uploaded to or downloaded from an Internet site, or technology can be transmitted via e-mail or during a telephone conversation. Regardless of the method used for the transfer, the transaction is considered an export. An item is considered an export even if it is leaving the United States temporarily, if it is leaving the United States but is not for sale (*e.g.*, a gift) or if it is going to a wholly-owned U.S. subsidiary in a foreign country. Even a foreign-origin item exported from the United States, transmitted or transshipped through the United States or being returned from the United States to its foreign country of origin is considered an export. Finally, release of technology or source code subject to the EAR to a foreign national in the United States is “deemed” to be an export to the home country of the foreign national under the EAR.

## H ow to determine if you need a Commerce export license

A relatively small percentage of total U.S. exports and reexports require a license from BIS. The first step is to determine whether the EAR are the applicable regulations for your item. BIS provides contact information for agencies with export responsibilities in Supplement No. 3 to Part 730 of the EAR at <https://www.bis.doc.gov/index.php/documents/regulation-docs/410-part-730-general-information/file>. If your item has military applications, you may submit a commodity jurisdiction request to the Department of State, Directorate of Defense Trade Controls to receive an official U.S. Government jurisdiction determination. BIS license requirements are dependent upon an item’s technical characteristics, and the destination, end user, and end use of the item. You, as the exporter, must determine whether your export requires a license. When making that determination consider:

1. **What** are you exporting?
2. **Where** are you exporting?
3. **Who** will receive your item?
4. **What** will your item be used for?

# What are you exporting?

## *The Export Control Classification Number and the Commerce Control List*

A key in determining whether an export license is needed from the Department of Commerce is knowing whether the item you intend to export has a specific Export Control Classification Number (ECCN). The ECCN is an alpha-numeric code, e.g., 3A001 that is made up of the item category, its product group, and primary reason for control. The ECCN entry describes the item and specifies licensing requirements. All ECCNs are listed in the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) which is available at <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>. The CCL is divided into ten broad categories, and each category is further subdivided into five product groups.

### *Commerce Control List Categories*

- 0 = Nuclear materials, facilities, and equipment (and miscellaneous items)
- 1 = Special Materials and Related Equipment, Chemicals, “Microorganisms,” and “Toxins”
- 2 = Materials Processing
- 3 = Electronics
- 4 = Computers
- 5 = Telecommunications and “Information Security”
- 6 = Sensors and Lasers
- 7 = Navigation and Avionics
- 8 = Marine
- 9 = Aerospace and Propulsion

### *Product Groups*

- A. “End items,” “Equipment,” “Accessories,” “Attachments,” “Parts,” “Components,” and “Systems”
- B. “Test,” “Inspection” and “Production Equipment”
- C. “Materials”
- D. “Software”
- E. “Technology”



## Classifying Your Item

The proper classification of your item is essential to determining any licensing requirements under the EAR. You may classify the item on your own, check with the manufacturer, or submit a classification request to have BIS determine the ECCN for you.

When reviewing the CCL to determine if your item is specified by an ECCN, you will first need to determine in which of the ten broad categories of the Commerce Control List your item is included and then consider the applicable product group.

### Example

Assume that you have polygraph equipment that is used to help law enforcement agencies. What would be your ECCN? Start by looking in the Commerce Control List under the category of electronics (Category 3) and product group which covers equipment (Product Group A). Then read through the list to find whether your item is included in the list. In this example, the ECCN for the item is 3A981, as shown below.

**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” “components” and “accessories” therefor, n.e.s.

#### License Requirements

Reason for Control: CC

#### Control(s)

CC applies to entire entry

#### Country Chart

CC Column 1

#### List Based License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

#### List of Items Controlled

*Related Controls:* See ECCN 0A982 for other types of restraint devices

*Related Definitions:* N/A

*Items:*

The list of items controlled is contained in the ECCN heading.

***If Your Item is Not on the Commerce Control List – EAR99***

If your item falls under U.S. Department of Commerce jurisdiction and is not listed on the CCL, it is designated as EAR99. The following EAR99 entry is found at the end of each CCL category:

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

EAR99 items generally consist of less sensitive consumer goods and do not require a license in most situations. However, if you plan to export an EAR99 item to an embargoed country, to an end user of concern or in support of a prohibited end use, you may be required to obtain a license.

**Where are you exporting?**

***How to cross-reference the ECCN with the Commerce Country Chart***

Once you have classified the item, the next step is to determine whether you need an export license based on the “Reasons for Control” and the country of ultimate destination. You begin this process by comparing the “Reasons for Control” found in the ECCN entry with the Commerce Country Chart (Supplement No. 1 to Part 738).

Below the main heading for each ECCN entry, you will find “Reason for Control” (e.g., NS for National Security, AT for Anti-Terrorism, CC for Crime Control, etc.). Below this, you will find the “Country Chart” designator which shows the specific export control code(s) for your item (e.g., NS Column 2, AT Column 1, CC Column 1). These control codes for your ECCN must be cross-referenced against the Commerce Country Chart.

Commerce Country Chart																
Reason for Control																
Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Technology	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
Guyana	X	X		X		X	X	X	X	X	X	X				
Haiti	X	X		X		X	X	X	X	X	X	X				
Honduras	X	X		X		X	X	X	X	X	X	X		X		
Hong Kong	X	X		X		X	X	X	X	X		X		X		
Hungary	X					X		X	X							
Iceland	X					X		X	X							
India	X			X		X		X	X							
Indonesia	X	X		X		X	X	X	X	X		X		X		

If there is an “X” in the box based on the Reason(s) for Control of your item and the country of destination, a license is required, unless a License Exception is available. Part 742 of the EAR sets forth the license requirements and licensing policy for most reasons for control.

*Example*

**Question:** You have polygraph equipment classified as 3A981 for export to Honduras. Would you be required to obtain an export license from the Department of Commerce before selling and shipping it to your purchaser?

**Answer:** Yes. 3A981 is controlled for Crime Control (CC) reasons under CC Column 1 and the Country Chart shows that such items require a license for Honduras.

If there is no “X” in the control code column(s) specified under your ECCN and country of destination, you will not need an export license unless you are exporting to an end user or end use of concern.

*Example*

**Question:** You have polygraph equipment classified as 3A981 for export to Iceland. Would you be required to obtain an export license from the Department of Commerce before selling and shipping it to your purchaser?

**Answer:** No. 3A981 is controlled for Crime Control (CC) reasons under CC Column 1 and the Country Chart shows that such items do not require a license for Iceland. Therefore, a license is not required unless you are exporting to an end user or end use of concern.

Although a relatively small percentage of all U.S. exports and reexports require a BIS license, virtually all exports and many reexports to embargoed destinations and countries designated as supporting terrorist activities, such as Cuba, Iran, North Korea, Sudan, and Syria, are more restricted and require a license. However, restrictions vary from country to country. Part 746 of the EAR describes embargoed destinations and refers to certain additional controls imposed by the Department of the Treasury’s Office of Foreign Assets Control.

## Who will receive your item?

Certain individuals and organizations are prohibited from receiving U.S. goods and others may only receive goods if the items have been licensed (even items that do not normally require a license based on the ECCN and Commerce Country Chart or based on an EAR99 designation). The Departments of State, Treasury, and Commerce maintain lists of these proscribed parties, including those listed below. The Consolidated Screening List is a searchable database available for you to screen your end user against these lists. The Consolidated Screening List is available at <https://www.export.gov/article?id=Consolidated-Screening-List>.

**Entity List** – A list of parties whose participation in a transaction can trigger a license requirement under the EAR. The list specifies the license requirements that apply to each listed party. These license requirements are in addition to any license requirements imposed on the transaction by other provisions of the EAR.

**Specially Designated Nationals and Blocked Persons List** – A list maintained by the Department of the Treasury’s Office of Foreign Assets Control which administers and enforces economic and trade sanctions against targeted foreign countries, terrorism sponsoring organizations, and international narcotics traffickers.

**Unverified List** – A list of parties BIS was unable to verify in previous transactions. For transactions that do not require a license for export, reexport, or transfer (in-country), parties must first obtain a statement from the person listed on the Unverified List, verifying, among other things, the contact details of the person and the end use of the item(s). Electronic Export Information must be filed for exports, regardless of value, and exports to parties on the unverified list are not eligible for license exceptions.

**Denied Persons List** – A list of firms and individuals whose export privileges have been denied. You may not participate in an export or reexport transaction subject to the EAR with a person whose export privileges have been denied by BIS. Note that some denied persons are located within the United States. If you believe a person whose export privileges have been denied wants to buy your product, you must not make the sale and may report the situation to BIS’s Office of Export Enforcement. If you have questions about the Denied Persons List, you may contact BIS’s Office of Export Enforcement at (202) 482-0043.

## What will your item be used for?

Some end uses are prohibited, while others may require a license. For example, you may not export to certain parties involved in the proliferation of weapons of mass destruction (*e.g.*, nuclear, biological, chemical) and the missiles to deliver them, without specific authorization, no matter what your item is. For more information on prohibited end uses, please refer to Part 744 of the EAR.



# Ways to export

Authorization to export under the EAR is determined by the transaction: what the item is, where it is going, who will receive it, and what it will be used for. The majority of U.S. commercial exports do not require a license.

## **No License Required (NLR)**

Most exports from the United States do not require a license, and may be exported under the designation “NLR.” Except in those relatively few transactions, when a license is required because the destination is under embargo or because of a proliferation end use or end user, no license is required when:

1. The item to be shipped is not on the CCL (*i.e.*, it is EAR99); or
2. The item is on the CCL but there is no “X” in the box on the Country Chart under the appropriate Reason for Control for the country of destination. (See the Commerce Country Chart example on page 5.)

In each of these situations, you would enter “NLR” on your export documents.

## **License Exception**

If a license is required for your transaction, a license exception may be available. License exceptions, and the conditions for their use, are set forth in Part 740 of the EAR. If your export is eligible for a license exception, you would use the designation of that license exception (*e.g.*, LVS, GBS, TMP) on your export documents.

## **License**

If your item requires a license to be exported, you must apply to BIS for an export license. If your application is approved, you will receive a license number and expiration date to use on your export documents. A BIS-issued license is usually valid for four years.

# Where to get assistance

A good starting point for information on export licensing requirements and the EAR is to attend a BIS export control seminar. A list of upcoming seminars is posted on the Compliance and Training tab on the BIS website at [www.bis.doc.gov](http://www.bis.doc.gov).

For counseling assistance, you may call one of our export counselors at 202-482-4811 (Washington, DC), 949-660-0144 (Western Regional Office), or 408-998-8806 (Northern California). You may also register on the BIS website to receive email notifications of upcoming seminars.

## Summary of steps

- Determine jurisdiction. If your export is under U.S. Department of Commerce jurisdiction:
- Classify your item by reviewing the Commerce Control List.
- If your item is described under an Export Control Classification Number (ECCN), identify the Reasons for Control on the Commerce Control List.
- Cross-reference the ECCN reason(s) for control against the Commerce Country Chart to see if a license is required. If yes, determine if a License Exception is available before applying for a license.
- Ensure that no prohibited end users or end uses are involved with your export transaction. If prohibited end users or end uses are involved, determine if you can proceed with the transaction or must apply for a license.
- Export your item using EAR99 or the correct ECCN and the appropriate symbol (*e.g.*, NLR, license exception, or license number and expiration date) on your electronic export documentation (*e.g.*, Automated Export System (AES) record).

# **A**pplying for an export license

If an export license is required, you may submit an export license application via the on-line Simplified Network Application Process Redesign (SNAP-R) at <https://snapr.bis.doc.gov/snapr/>.

Requirements for submitting a license application are detailed in Part 748 of the EAR. Applicants must be certain to follow the instructions carefully. In most cases, technical brochures and support documentation must also be included.

# **E**xport license application processing

BIS conducts a complete analysis of the license application along with all documentation submitted in support of the application. BIS will review the item, its destination, its end use, and consider the reliability of each party to the transaction. In addition to BIS's review, applications are often sent for interagency review and recommendation by the Departments of State, Energy, and/or Defense. Additional information on the export licensing process is available in Parts 742 and 750 of the EAR.

You may check the status of your pending export or reexport license applications and classification requests via the SNAP-R system or by visiting BIS's System for Tracking Export License Applications (STELA) at <https://snapr.bis.doc.gov/stela> using your assigned application control number.

# **E**xporter's responsibility

Exporters should review BIS's "Know Your Customer Guidance and Red Flags" guidance available in Supplement No. 3 to Part 732 of the EAR. This guidance can help you identify and avoid situations that might violate the EAR.

If you are issued an export license or you rely on a license exception described in Part 740 of the EAR, you are responsible for the proper use of that license or license exception and for the performance of all of its terms and conditions.

If you export an item without either a license or a license exception, you are responsible for determining that the transaction is either outside the scope of the EAR or that the export is properly designated as "No License Required" (NLR).

Prior to shipment, details of the export might need to be submitted to the U.S. Government using the Automated Export System (AES). There are exceptions to this rule, but if you are required to submit an AES record, you must prepare it in accordance with the rules of the Foreign Trade Regulations (FTR) (15 CFR Part 30). For more information about the FTR and the AES, visit the Census Bureau website at <https://www.census.gov/foreign-trade/aes/index.html>. Refer to Part 758 of the EAR for BIS export clearance requirements.

In addition, records on exports must be retained for five years from date of export, reexport or certain later activities. For additional information on record keeping see Part 762 of the EAR.

For transactions involving the Middle East, you may receive a request to comply with the boycott of Israel. If you comply with one of these requests, or do not report it to BIS, you will likely violate U.S. law. Contact the BIS Office of Antiboycott Compliance at (202) 482-2381 for guidance.

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