U.S. Export Controls – Intermediate Workshop

Export Control Symposium
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Office locations
Regional desks and strategic alliances
Agenda

U.S. Export Controls Overview and Comparison of ITAR, EAR and UK Export Controls

- Overview of U.S. Export Controls and the current state of ECR
- Is the item under the EAR or the ITAR and what is the impact?
  - Developing a framework for order of review from USML to 600 series to general CCL
  - Differentiating between ITAR and EAR jurisdictional tests: “specifically” designed vs. “specially” designed and when each is used
  - Grasping how classification under ITAR, 600 series or general CCL impacts your business with comparison to UK export controls
  - Developing a framework to navigate the EAR with your 600 series item
# Laws, Regulations and Government Agencies

<table>
<thead>
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<th>Government Agency</th>
<th>Defense Articles &amp; Services</th>
<th>Other Items</th>
<th>Dealings – Sanctioned Countries / Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Department of State, Directorate of Defense Trade Controls (DDTC)</td>
<td>US Department of Commerce, Bureau of Industry and Security (BIS)</td>
<td>US Department of the Treasury, Office of Foreign Assets Control (OFAC)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal Authority</th>
<th>Implementing Regulations</th>
<th>Control List</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arms Export Control Act (AECA)</td>
<td>International Traffic in Arms Regulations (ITAR)</td>
<td>US Munitions List (USML)</td>
<td>pmddtc.state.gov</td>
</tr>
<tr>
<td>International Emergency Economic Powers Act (IEEPA), Export Administration Act (EAA) - lapsed</td>
<td>Export Administration Regulations (EAR)</td>
<td>Commerce Control List (CCL)</td>
<td>bis.doc.gov</td>
</tr>
<tr>
<td>Sanctions Regulations 31 C.F.R. 501-599</td>
<td>North Korea, Cuba, Syria, Sudan, Iran, Crimea SDN-driven programs (e.g., Russian Entities)</td>
<td>--</td>
<td>treas.gov/offices/enforcement/ofac</td>
</tr>
</tbody>
</table>
Scope of US Export Controls

The application of US export controls depends on:

- **WHERE: Place of export?**
  - Every person in United States, including a UK national or UK company, is subject to US export controls
  - Every item in the United States, including UK made item, is subject to US export controls

- **WHO: Nationality of the exporter?**
  - A US national or a US company is subject to US export controls, even when all export activities occur outside United States
  - May also be subject to the local country’s export controls

- **WHAT: Origin of the goods and/or technology being exported?**
  - US-origin items remain subject to US controls even after they leave the United States and even after incorporation into a UK product
  - May also be subject to the local country’s export controls
Scope of US Export Controls

• **ITAR governs:**
  – All exports from the United States
  – Reexports and retransfers of US-content

• **EAR governs:**
  – All exports from the United States
  – Most, not all, reexports and retransfers

![Diagram: US Co to Non-US Co with export categories]

- Re-export/Retransfer (US item, incl. tech data)
- Foreign-made item (using US content)
- Foreign-made item (using US technology)
- Derivative technology (using US technology)
## Comparison to UK Export Controls

<table>
<thead>
<tr>
<th>US System</th>
<th>UK System</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Nationality-based and geographical location based</td>
<td>- Geographical location based, regardless of nationality</td>
</tr>
<tr>
<td>- Split regulatory authority</td>
<td>- Single regulatory authority</td>
</tr>
<tr>
<td>- Post-delivery re-export controls</td>
<td>- Risk of diversion assessed up front</td>
</tr>
<tr>
<td>- “Deemed exports”</td>
<td>- No “deemed exports”</td>
</tr>
<tr>
<td>- Audits only if there are problems</td>
<td>- Regular audits by the ECO</td>
</tr>
<tr>
<td>- No open licensing, but makes copious use of “exemptions” (ITAR) and “exceptions” (EAR)</td>
<td>- Extensive use of open licensing</td>
</tr>
</tbody>
</table>
Current State of ECR List Reform: Military Items Moved to the EAR

- Not Transitioned, Totally ITAR
  - Category I – Firearms, Close Assault Weapons and Combat Shotguns
  - Category II Guns and Armament
  - Category III – Ammunition/Ordnance
  - Category XII – Fire Control, Range Finder, Optical and Guidance and Control Equipment (transition published in draft)
  - Category XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
  - Category XVII – Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
  - Category XIX – Directed Energy Weapons
  - Category XXI – Articles, Technical Data, and Defense Services Not Otherwise Enumerated

- Transitioned, Moved to EAR
  - Certain items and “specially designed” parts and components of the following:
    - Categories IV, V, VI, VII, VIII, IX, X, XI, XIII, XV, XIX and XX

Certain items from Cat. XVI, Nuclear Weapons Related Articles, transitioned to Department of Energy or the Nuclear Regulatory Commission
### Current State of ECR List Reform: Military Items Moved to the EAR

<table>
<thead>
<tr>
<th>Cat</th>
<th>ECCN(s)</th>
<th>ECCN Heading</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>0A604 / 3A611 / 9A604</td>
<td>Commodities Related to Military Explosive Devices and Charges / Military electronics / Commodities related to launch vehicles, missiles, and rockets</td>
</tr>
<tr>
<td>V</td>
<td>1C111 / 1C608</td>
<td>Propellants and constituent chemicals for propellants / Energetic materials and related commodities</td>
</tr>
<tr>
<td>VI</td>
<td>8A609</td>
<td>Surface vessels of war</td>
</tr>
<tr>
<td>VII</td>
<td>0A606</td>
<td>Ground vehicles</td>
</tr>
<tr>
<td>VIII</td>
<td>9A610 / 9A619 / 3A611</td>
<td>Military aircraft / Military gas turbine engines / Military electronics</td>
</tr>
<tr>
<td>IX</td>
<td>0A614</td>
<td>Military Training Equipment</td>
</tr>
<tr>
<td>X</td>
<td>1A613 / 9A515</td>
<td>Armored and protective equipment / Spacecraft and related commodities</td>
</tr>
<tr>
<td>XI</td>
<td>3A611 / 9A620</td>
<td>Military electronics / Cryogenic and superconductive equipment</td>
</tr>
</tbody>
</table>
# Current State of ECR List Reform: Military Items Moved to the EAR

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<tr>
<th>Cat</th>
<th>ECCN(s)</th>
<th>ECCN Heading</th>
</tr>
</thead>
<tbody>
<tr>
<td>XIII</td>
<td>0A617 / 8A620.f / 0A606 / 1A613</td>
<td>Miscellaneous equipment and materials / Submersible vessels, oceanographic and associated commodities / Ground vehicles / Armored and protective equipment</td>
</tr>
<tr>
<td>XV</td>
<td>9A515 / 9A004 / 3Axxx / 6Axxx / 7A004 / 7A104</td>
<td>Spacecraft and related commodities / International Space Station / Space-qualified items / Star trackers / Gyro-astro compasses and other devices</td>
</tr>
<tr>
<td>XVI</td>
<td>N/A</td>
<td>No articles from Category XVI--Nuclear Weapons Related Articles are identified in “600 series” ECCNs. Exports of such items or services are under the export control of the Department of Energy or the Nuclear Regulatory Commission</td>
</tr>
<tr>
<td>XIX</td>
<td>9A619</td>
<td>New USML Category: Military gas turbine engines</td>
</tr>
<tr>
<td>XX</td>
<td>8A620</td>
<td>Submersible vessels, oceanographic and associated commodities</td>
</tr>
</tbody>
</table>
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### Post-Transition: Order of Review

<table>
<thead>
<tr>
<th>Step</th>
<th>Decision</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is item described or enumerated on the USML or covered in</td>
<td>yes</td>
<td>ITAR</td>
</tr>
<tr>
<td>“specially designed” paragraph on the USML?</td>
<td></td>
<td>• License</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Agreement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Exemptions</td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is item listed on corresponding 600 ECCN on CCL in paragraphs</td>
<td>yes</td>
<td>EAR</td>
</tr>
<tr>
<td>a-w?</td>
<td></td>
<td>• License</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• License Exception STA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Other exceptions</td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is item listed in paragraph y?</td>
<td>yes</td>
<td>EAR</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• NLR, except Cuba, North Korea, Iran, Syria,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sudan, Crimea and China</td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is item “specially designed” for an enumerated item on 600 ECCN</td>
<td>yes</td>
<td>EAR</td>
</tr>
<tr>
<td>item (paragraph x)?</td>
<td></td>
<td>• License</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• License Exception STA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Other exceptions</td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conduct normal CCL review</td>
<td>no</td>
<td></td>
</tr>
</tbody>
</table>

Note: This chart outlines the decision-making process for determining the appropriate control of items post-transition, based on whether the item is described or enumerated on the USML, listed in corresponding 600 ECCN on CCL, or specially designed for another item, and whether EAR or ITAR controls apply. Additional steps may involve checking for specific exceptions or controls.
Order of Review: Case Study

- Apply order of review to a GYRO
- Could be used in either of these applications

Inertial Navigation System for F-22
Cat. VIII.e

Purely Civilian Application Under EAR
Order of Review: Gyro Case Study

- Is item described or enumerated on the USML or covered in “specially designed” paragraph on the USML?
  - Not listed in Category VIII.
  - Assume we conclude gyro is not specially designed for an F-22 application
  - What is the next step?
    - Check the remainder of the USML before you go to the CCL
    - Cat. XII.d. controls “military accelerometers and gyros.”
      - But also states: “[f]or aircraft inertial reference systems and related components refer to Category VIII.”

- Is the gyro listed on corresponding 600 ECCN on CCL in paragraphs a-w?
  - 9A610.a-w - No

- Is the gyro listed in paragraph y?
  - 9A610.y - No

- Is the gyro “specially designed” for an enumerated item on 600 ECCN item (paragraph x)?
  - 9A610.x - Assume, No

- Is the gyro listed elsewhere on the CCL
  - See, 7A002, 7A102, EAR99, in this order.
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Determining Whether ITAR or EAR Applies

Two tests for determining export jurisdiction of items used in military applications

1. Test for USML categories not yet transitioned under ECR
   • Legacy test: “Specifically designed, modified or adapted test”
   • Every item that is specifically designed, modified or adapted for a military (or space) application is subject to the ITAR, unless determined by DDTC to be moved to the EAR, for example by a Commodity Jurisdiction process

2. Test for USML Categories transitioned under ECR
   • Transition and future test: “specially designed test”
   • USML becomes an enumerated list of items that require enhanced control because of their substantial or significant military or intelligence advantage, functionality or capability
   • In addition, the USML lists “parts, components, accessories, attachments, and equipment specially designed for” the enumerated items

“The Department understands that in the process of revising the USML, applications of both concepts will not be ideal.” 78 FR at 22745.
Specifically Designed Test: Decision Diagram for State (ITAR) vs. Commerce (EAR) Jurisdiction

Level 1
Is item listed or specifically designed, developed, configured, adapted or modified for a military (or space) application?

- yes
- no

Level 2
Does item have such significant military or intelligence applicability that ITAR control is necessary?

- yes
- no

Level 3
Does item have predominant civil applications?

- yes
- no

Level 4
Does item have performance equivalent (defined by form, fit and function) to civilian application items?

- yes
- no

- The intended use of the article after its export (i.e., for a military or civilian purpose) is not determinative
Specially Designed Test: Decision Diagram for State (ITAR) vs. Commerce (EAR) Jurisdiction

§ 120.41

As a result of development, does the item have properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in USML? (a)(1)

Is the item for use in or with defense article? (a)(2)

Has the item previously been determined not subject to ITAR by a Commodity Jurisdiction determination? (b)(1)

Is the item a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder? (b)(2)

Does the item have the same function, performance capabilities, and the same or “equivalent” form and fit as an item that (i) is/was in production and (ii) is not on USML? (b)(3)

Was the item developed (i) as a general purpose item or (ii) for use with both defense articles and non-defense articles? (b)(4, 5)
Definitions of Part, Component, Accessory, Attachment, or Software

- **Part** -- § 120.45(d)
  - Any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of designed use. (Examples: rivets, wire, bolts, etc.)

- **Component** -- § 120.45(b)
  - An item that is useful only when used in conjunction with an end-item. A major component includes any assembled element that forms a portion of an end-item without which the end-item is inoperable. (Examples: airframes, tail sections, transmissions, tank treads, hulls, etc.) A minor component includes any assembled element of a major component.

- **Accessories and attachments** -- § 120.45(c)
  - Associated articles for any component, equipment, system or end-item, and which are not necessary for its operation, but which enhance its usefulness or effectiveness. (Examples: military riflescopes, special paints, etc.)

- **Software** -- § 120.45(f)
  - Includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair.
(b)(3) - Same Function, Performance Capabilities, and the Same or "Equivalent" Form and Fit

- The comparison item must be in “production” not in “development”
- “Equivalent” form means that the item being classified has been modified solely for fit purposes.
  - Form = its configuration (including the geometrically measured configuration), material, and material properties that uniquely characterize it
  - Fit = its ability to physically interface or connect with or become an integral part of another commodity
  - Function = the action or actions it is designed to perform.
  - Performance = the measure of a commodity's effectiveness to perform a designated function in a given environment (e.g., measured in terms of speed, durability, reliability, pressure, accuracy, efficiency)
(b)(4, 5) - Developed as Dual-purpose or as General Purpose Item

- Must establish that:
  - (4) Was or is being developed with knowledge that it is or would be for use in or with both defense articles on the USML and also commodities not on the USML;
  - (5) Was or is being developed as a general purpose commodity or software, i.e., with no knowledge for use in or with a particular commodity (e.g., a F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool)

- This must be established by documents contemporaneous with the development.
  - For example, concept design information, marketing plans, declarations in patent applications, or contracts
  - Absent such documents, the commodity may not be excluded from being specially designed by either paragraph (b)(4) or (5)

- “Knowledge” includes not only the positive knowledge a circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence
  - Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts
## Specially Designed Test: Product Migration / Export Jurisdiction

### Product / Modification
- Specially designed component determined not subject to ITAR by prior CJ determination
- Fastener specially designed to meet MILSPEC and ruggedness
- Major component being developed to meet MILSPEC but also intended for civil market
- Part used in civ & mil production; military part differs only in mounting/physical dimensions
- Poor civil market sales, downgrade civ version capabilities and cost. Impact on military version?

### Export Jurisdiction
- EAR by (b)(1)
- EAR by (b)(2)
- EAR by (b)(4)
- No change. Comparable "was" in production
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## Comparison of Controls: ITAR vs. EAR

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<tr>
<th></th>
<th>ITAR</th>
<th>EAR</th>
<th>UK</th>
</tr>
</thead>
</table>
| **Registration of Manufacturers, Exporters and Brokers** | • Yes  
• Annual fee to register based on number of licenses obtained in prior year | • No  
• EAR does not have any registration or license fees  
• EAR does not contain brokering regulations | • No  
• BIS does not have any registration or license fees  
• Brokers are not required to register (YET) |
| **Licenses**                  | • Several different forms  
• End-use and end-user refers to ultimate government customer  
• PO or LOI required | • Single form  
• End-use and end-user refers to customer and information obtained in normal course (but, 600 series is like ITAR)  
• No PO or LOI requirement | • Several different forms  
• End use and end user refers to customer  
• PO may be accepted in lieu of end user undertaking |
| **Exemptions/Exceptions**     | • Narrow and used in special cases; often until TAA approved | • Many useful exceptions used routinely | • Many OGEL’s used routinely, Art, 22(10) |
## Comparison of Controls: ITAR vs. EAR

<table>
<thead>
<tr>
<th></th>
<th>ITAR</th>
<th>EAR</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agreements</strong></td>
<td>TAAs, MLAs, WDAs</td>
<td>None. All exports and reexports on a single form (including technology)</td>
<td>None</td>
</tr>
<tr>
<td><strong>DN/TCN Employee</strong></td>
<td>Based on current citizenship / nationality AND place of birth DN/TCN addressed by ITAR 124.16 and 126.18</td>
<td>Based only on most recent citizenship/nationality or permanent residence May use ITAR 124.16 and 126.18</td>
<td>None</td>
</tr>
<tr>
<td><strong>License Requirement</strong></td>
<td>A license is always required</td>
<td>License requirement depends on destination (“x” in the box)</td>
<td>A license is required,</td>
</tr>
<tr>
<td><strong>Proscribed Destinations</strong></td>
<td>Numerous 126.1 countries, including China</td>
<td>Only Cuba, Iran, Syria, Sudan, N. Korea, Crimea (and China and Venezuela for 600 series)</td>
<td>No policy of denial, but case by case</td>
</tr>
</tbody>
</table>
## Comparison of Controls: ITAR vs. EAR

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<th>EAR</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Retransfers</strong></td>
<td>Require prior approval</td>
<td>Generally no approval, but must follow license and exception conditions</td>
<td>Generally no license</td>
</tr>
</tbody>
</table>
| **Reexports**       | Require prior approval      | Reexport requirement follows export requirement  
|                     |                             | De minimis rule                              | Reexport requirement follows export requirement  
|                     |                             |                                              | Incorporation rule                           |
| **Contamination Problem** | Always                      | If US content is de minimis, EAR ceases to apply  
|                     |                             | If neither direct product nor US technology are NS, EAR ceases to apply | None                                        |
| **Enforcement**     | Less likely to impose a fine if company demonstrates it acted responsibly | More likely to impose a fine even if mistake is inadvertent and company acted responsibly | Fines and penalties minimal, loss of license more likely |
If Now Under EAR, Are We Done With the ITAR?

- No.

- You may not need:
  - DSP-5 export license for export of goods from the US
    - Eligible for STA or BIS license
  - MLA to manufacture goods developed in the US

- However, you may need:
  - TAA – technical assistance, end-product data and technical discussions
  - Brokering registration and license if you are a broker engaged in brokering activities
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**EAR Decision Diagram**

**Subject to the EAR?**
(See 734.2 -5)

- **Yes**
  - **ECCN**
    - **Yes**
      - Is your item classified under ECCN on the CCL?
        (General Prohibitions 1, 2 & 3)
        (See Supp. No. 1 to Part 774)
      - Do General Prohibitions 4-10 apply?
        (See 736.2(b)(4-10))
      - Is there an “X” in the box?
        (Using the Commerce Country Chart and the CCL)
        (Supp. No. 1 to Part 738 & Supp. No. 1 to Part 774)
      - Is a License Exception Available?
        (See Part 740, including 740.2 “restrictions that apply to all license exceptions”)
    - **No**
      - Use License Exception
        (See 740.1)
      - Submit application for license
        (See Part 748)
  - **No**
    - Do General Prohibitions 4-10 apply?
      (See 736.2(b)(4-10))
    - “No License Required” (NLR)
      (See 732.5(a)(1)(ii) & 758.1(a)(3))
    - “Excluded from EAR: • De minimis rule • Publicly available • ITAR”

- **No**
  - Exit the EAR

**600 Series**

**Screen Export Transaction**

**“x” in box Except Canada**

**See STA, RPL, GOV, TMP, TSU, LVS**
**De Minimis Rule**

- **General Rule:**
  - If the foreign-made item is destined for Iran, Syria, Sudan or North Korea, the US controlled content is de minimis if it is valued at 10% or less of the total value of the foreign-made item.
  - If the foreign-made item is destined for any other country, the US controlled content is de minimis if it is valued at 25% or less of the total value of the foreign-made item.
  - Compare hardware to hardware, software to software and technology to technology; do not sum US hardware, software and technology content.

- **600 Series Rule:**
  - There is no de minimis level for items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or “600 series” ECCN when destined for a country listed in D:5 countries.

\[ \text{Delivered value of US-origin content controlled to ultimate destination} \leq \frac{\text{Ex-works value of non-US made product incorporating US content}}{\text{Delivered value of US-origin content controlled to ultimate destination}} \]

- 0% - 600 series to D:5
- 10% - to sanctioned/AT
- 25% - to all others
**Gyro Classification**

ECCN 9A610 → 7A002 → 7A102 → EAR99

7A102 Gyros, other than those controlled by 7A002 (see List of Items Controlled), and "specially designed" "parts" and "components" thereof.

**License Requirements**

Reason for Control: MT, AT

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country Chart (See Supp. No. 1 to Part 738).</th>
</tr>
</thead>
<tbody>
<tr>
<td>MT applies to entire entry</td>
<td>MT Column 1</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
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</tbody>
</table>

**List Based License Exceptions** (See Part 740 for a description of all license exceptions)

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

**List of Items Controlled**

Related Controls: N/A

**Related Definitions:**
1. Drift rate is defined as the time rate of output deviation from the desired output. It consists of random and systematic components and is expressed as an equivalent angular displacement per unit time with respect to inertial space. (2) Stability is defined as standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.

**Items:**

a. All types of gyros, usable in rockets, missiles, or unmanned aerial vehicles capable of achieving a "range" equal to or greater than 300 km, with a rated "drift rate" 'stability' of less than 0.5 degrees (1 sigma or rms) per hour in a 1 g environment.

b. Gyros of any type, designed for use in inertial navigation systems or in guidance systems of all types, specified to function at acceleration levels greater than 100 g.

**Technical Note:** In this entry, the term 'stability' is defined as a measure of the ability of a specific mechanism or performance coefficient to remain invariant when continuously exposed to a fixed operating condition. (This definition does not refer to dynamic or servo stability.) (IEEE STD 528-2001 paragraph 2.247)
Transaction Screening

- General Prohibition Four (Denial Orders)—Engaging in actions prohibited by a denial order
  - Screen denied parties list
- General Prohibition Five—Export or reexport to prohibited end-uses or end-users (Part 744)
  - Screen entity list
  - Screen OFAC SDN list
  - Screen for proliferation end-uses (nuclear, delivery system, CBW)
  - Screen for certain military end-uses (PRC, Venezuela)
- General Prohibition Six—Export or reexport to embargoed destinations (Part 746)
  - Screen for embargoed destinations: Cuba, Iran, Syria, Sudan, North Korea, Crimea, Russia oil/gas sector
- General Prohibition Seven—US Persons may not Support of Proliferation Activities
- General Prohibition Eight—In transit shipments and items to be unladen from vessels or aircraft
  - Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam
- General Prohibition Nine—Violation of any order, terms, and conditions
  - Syria
- General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur
  - Screen for diversion risk red flags
What does “x” in the box mean?

- A license is required if “x” in box
- If no “x” or EAR99 use NLR for exports or reexports (pass screening)

<table>
<thead>
<tr>
<th>Countries</th>
<th>Chemical &amp; Biological Weapons</th>
<th>Nuclear Nonproliferation</th>
<th>National Security</th>
<th>Missile Tech</th>
<th>Regional Stability</th>
<th>Firearms Convention</th>
<th>Crime Control</th>
<th>Anti-Terrorism</th>
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</table>
License Exception STA
See EAR Part 740 for License Exceptions and Supp. 1 for Country Groups

- Authorizes exports and reexports to the following 36 countries:
  - Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, or the United Kingdom.

- Comments
  - The *ultimate* end user must be armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or a search and rescue agency of a government of one of the countries listed in Country Group A:5, or the United States Government
  - The purchaser, intermediate consignee, ultimate consignee, and end user must have been previously approved on a license or other approval issued by BIS or DDTC (not necessarily for same product or program)
  - Consignee undertaking required for export *and for reexport and retransfer*
License Exception RPL
See EAR Part 740 for License Exceptions and Supp. 1 for Country Groups

- Authorizes
  - Exports and reexports associated with one-for-one replacement of parts previously lawfully exported from the US
  - Export and reexport of items that were returned to the United States for servicing and the replacement of defective or unacceptable US-origin commodities and software

- Comments
  - Items to be replaced are to be destroyed abroad or returned for replacement
  - Cannot be used for holding in stock
License Exception TMP
See EAR Part 740 for License Exceptions and Supp. 1 for Country Groups

- Authorizes temporary exports and reexports
  - Tools of the trade, except to Country Group E:2 + Sudan and Syria
  - Kits consisting of replacement parts, except to Country Group E:2
  - Items for exhibition or demonstration, except to Country Group E:2
  - Inspection, calibration, testing, repair, except to Country Group E:2
  - Exports to US sub, affiliate or facility in Country Group B (subject to further BIS authorization for retransfer or reexport)
  - Certain other exports and reexports

- Comments
  - Allows demonstration at trade show
  - 600 series not allowed to D:5 countries
License Exceptions TSU
See EAR Part 740 for License Exceptions and Supp. 1 for Country Groups

- Authorizes the export operation technology and sales technology
  - "Operation technology" is the minimum technology necessary for the installation, operation, maintenance (checking), and repair of those commodities or software that are lawfully exported or reexported under a license, a License Exception, or NLR.
  - "Sales technology" is data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any item.

- Comments
  - Technology to support a sale can be exported and reexported anywhere (except sanctioned countries) without notice or license
Other License Exceptions
See EAR Part 740 for License Exceptions and Supp. 1 for Country Groups

- License Exception GOV
  - Authorizes exports and reexports of the following to personnel and agencies of the US Government or agencies of cooperating governments
    - Items for use by personnel and agencies of the US Government
    - Items for use within national territory by agencies of cooperating governments
    - Items for use by diplomatic and consular missions of a cooperating government
    - Other international bodies
  - Comment:
    - This is for direct export to the MOD or other cooperating governments not for delivery through industry contractor

- License Exception LVS
  - Authorizes the export and reexport of items of limited value as specified in the ECCN to Country Group B (Supp. 1 to Part 740)
Our Gyro in Action!
U.S. Export Controls – Intermediate Workshop

Export Control Symposium
September 22, 2015

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