



U.S. Department of Commerce
Bureau of Industry and Security (BIS)

Foreign Policy-Based Export Controls

May 15, 2009



Agenda

- Basis & Scope of Controls
- Embargoes, Comprehensive Sanctions, and Special Controls
- Points of Contact
- Questions



Basis & Scope of Controls



Basis for Controls

- Statutory Requirements
- Multilateral treaty obligations
- United Nations membership obligations
- Unilateral U.S. Government decisions to control items



Scope of Controls

- All items (tangible and intangible) in the United States other than published material, publicly available technology and software w/o encryption, and those items exclusively controlled by other agencies of the U.S. Government
- All U.S.-origin items not covered by the exceptions above wherever located
- Certain foreign-made items including:
 - items that have more than the *de minimis* percentage of controlled U.S. content
 - items that are the direct product of U.S. technology and software



De minimis U.S. Content

- Reexports to **terrorist-supporting countries** of foreign commodities, software or technology incorporating controlled U.S. content valued at greater than 10% of the total by value require a license.
- Reexports to other countries of foreign commodities, software or technology incorporating controlled U.S. content valued at greater than 25% of the total by value require a license.



Embargoes, Comprehensive Sanctions, and Special Controls



Export Licensing Responsibility by Country

- Cuba BIS
- Iran OFAC
- North Korea BIS
- Sudan
 - CCL items BIS & OFAC
 - EAR99 items OFAC
- Syria BIS



Cuba

- Cuba remains the most stringently embargoed country. With few exceptions, a license is required for all exports or reexports.
- BIS exercises jurisdiction over commodities, software, and technology; OFAC exercises jurisdiction over financial transactions and travel.
- Most items requiring a BIS license are subject to a general policy of denial, except:
 - agricultural commodities,
 - medicines and medical devices not on the Commerce Control List (CCL), and
 - certain exports or reexports in support of the Cuban people.



Cuba

- On April 13, the President directed certain actions to enhance the free flow of information to and from Cuba and to promote contacts between Americans and their relatives who reside in Cuba as a means of encouraging positive change in Cuba. As a result the Export Administration Regulations will be amended to:
 - revise license exceptions concerning gift parcels and personal baggage;
 - create a new license exception authorizing the donation of certain donated consumer communications devices;
 - and expand the scope of existing licensing policy regarding certain telecommunications links and services.



Cuba 2008 Licensing Statistics

- Licenses

Approved	235
RWA	114
<u>Rejected</u>	<u>9</u>
Total	358

Average Processing Time: 14 days



Cuba 2008 Licensing Statistics

- Agricultural Notices

Approved	143
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RWA	8
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<u>Rejected</u>	<u>0</u>
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Total	151
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Average Processing Time: 6 days



Iran

- Iran remains subject to a comprehensive embargo.
- OFAC is primarily responsible for administering the embargo against Iran.
 - If OFAC authorizes an export, no BIS license is required.
 - BIS completes commodity classifications for exporters seeking OFAC licenses.
- BIS issues licenses for “deemed exports” and “deemed reexports” of technology and source code controlled on the Commerce Control List.



Iran

- Presently, BIS does not require a license for the export or reexport of EAR99 items.
- BIS advises all exporters/reexporters to consult with OFAC concerning transactions involving Iran.



Iran

- BIS recently extended license requirements for the reexport of items controlled by the following ECCNs and now includes reexports of these items in calculations of controlled U.S. content:
 - 2A994, 3A992.a; 5A991.g; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e
- BIS also imposed a license requirement on Specially Designated Nationals identified as proliferators or supporters of proliferation by the suffix [NPWMD]



Iran 2008 Licensing Statistics

- Deemed Exports:

Approved	46
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RWA	5
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<u>Rejected</u>	<u>1</u>
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Total	52
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- Other:

RWA (OFAC jurisdiction)	32
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Average Processing Time:	31 days
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North Korea

- On October 11, 2008, the President lifted the designation of North Korea as a State Sponsor of Terrorism
- Food and medicine not controlled on the CCL do not require a license; a license is required for all other items destined to North Korea.
- Generally deny applications to export or reexport:
 - Luxury goods (An illustrative list of luxury goods appears on the BIS website www.bis.doc.gov)
 - Arms and related materiel, and items listed in UN documents S/2006/814, S/2006/815, S/2006/853; and



North Korea

- Items that could contribute to North Korea's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs.
- Generally approve applications to export or reexport:
 - non-food, non-medical humanitarian items meeting subsistence needs and intended for the benefit of the North Korean people;
 - items in support of United Nations humanitarian efforts;
- Case-by-case review of applications to export and reexport all other items subject to the EAR.



North Korea 2008 Licensing Statistics

Approved	18
RWA	11
<u>Rejected</u>	<u>2</u>
Total	31

Average Processing Time: 15 days



Sudan

- Sudan remains subject to comprehensive sanctions.
- OFAC and BIS share jurisdiction for licensing:
 - OFAC licenses some exports, including EAR99 items (e.g., TSRA-eligible items).
 - BIS only licenses items on the Commerce Control List (CCL).
 - Items on the CCL may require a license from both BIS and OFAC.
- Licensing policy depends upon end-use and the reason for control.



Sudan 2008 Licensing Statistics

Approved	108
RWA	37
<u>Rejected</u>	<u>5</u>
Total	150

Average Processing Time: 27 days



Syria

- Syria remains subject to comprehensive sanctions. With few exceptions, a license is required for the export and reexport of all items subject to the EAR, except food and medicine not controlled on the Commerce Control List.
- Most items are subject to a general policy of denial.



Syria

- Six categories of items are eligible for licensing under waiver:
 - items in support of activities of the U.S. Government;
 - medical devices and controlled medicine;
 - parts and components for the safety of civil aviation and the safe operation of commercial passenger aircraft;
 - leased aircraft for the transport of Syrian Government officials on official business;
 - telecommunications equipment and associated computer, software and technology;
 - items in support of UN operations.



Syria 2008 Licensing Statistics

Approved	247
RWA	91
<u>Rejected</u>	<u>3</u>
Total	341

Average Processing Time: 25 days



Burma

- A license is required for exports, reexports and transfers of all items subject to the EAR -- except agricultural commodities, and medicine or medical devices not listed on the CCL-- to persons designated in or pursuant to Executive Orders 13448 and 13464.
- Such persons are identified with the reference [BURMA] on OFAC's list of Specially Designated Nationals and Blocked Persons.



Burma

- License applications are reviewed under a general policy of denial.
- To avoid duplication, separate authorization is not required if OFAC issues an authorization.



Points of Contact

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QUESTIONS?