




Department of Commerce Bureau of Industry and Security

Have you ever applied for a Bureau of Industry and Security export license?

Polls are open.

Yes 

No 

[Poll 1]



Topics of Discussion



Plan Ahead

Be Prepared

- Determine jurisdiction for your item
- Classify your item
- Identify the reasons for control
- Cross-reference the controls against the Country Chart
- Screen all parties to the transaction
- Ensure no prohibited end-uses
- Export using appropriate ECCN and authorization

March 2007

BIS Licensing Determination Process

Topics of Discussion



First Consideration... ...Agency Jurisdiction



"Who ya gonna call?"

- Commerce - Bureau of Industry and Security (BIS)
 - Controls commercial items including “dual-use” items (items that may have both commercial and military applications)
- State - Directorate of Defense Trade Controls (DDTC)
 - Controls items specifically designed, developed, configured, modified or adapted for a military application
- Other Regulatory Agencies

March 2007

BIS Licensing Determination Process

First Consideration... ...Agency Jurisdiction “Who ya gonna call?”



Next Consideration... Determine your License Requirements



What is my item?
Where is it going?



ECCN and
Destination

Who is involved?
What are they doing
with it?



End-user/End-use

March 2007

BIS Licensing Determination Process

Next Consideration... Determine your License Requirements



What is My Item?

What is your ECCN - is it on the Commerce Control List?

- Check with the Manufacturer
- Work with company engineer/someone who knows the item
- Submit formal classification request to BIS



March 2007

BIS Licensing Determination Process

What is My Item? What is your ECCN - is it on the Commerce Control List?



Commerce Control List (CCL)



Supplement 1 to Part 774

- Each entry begins with an **Export Control Classification Number or ECCN**
 - Five alpha-numeric characters, i.e. 3A001
- Most items are described in terms of technical parameters
- Reasons for Control: NS, MT, CB, RS...
 - §738.2

March 2007

BIS Licensing Determination Process

Commerce Control List (CCL) Supplement 1 to Part 774



3A001 Electronic components,
as follows
(see List of Items Controlled).



LICENSE REQUIREMENTS

Reason for Control: NS, MT, NP, AT

Control(s)

Country Chart

NS applies to the entire entry

NS Column 2

MT applies to 3A001.a.1.a when usable
in “missiles”; and to...

MT Column 1

NP applies to pulse discharge capacitors
in 3A001.e.2 and...

NP Column 1

AT applies to the entire entry

AT Column 1

March 2007

BIS Licensing Determination Process

Slide 7



Where is It Going?

Destination



Commerce Country Chart

Reason for Control

| Countries | Chemical & Biological Weapons | | | Nuclear Nonproliferation | | National Security | | Missile Tech | Regional Stability | | Firearms Convention | Crime Control | | | Anti-Terrorism | |
|-------------------|-------------------------------|------|------|--------------------------|------|-------------------|------|--------------|--------------------|------|---------------------|---------------|------|------|----------------|------|
| | CB 1 | CB 2 | CB 3 | NP 1 | NP 2 | NS 1 | NS 2 | MT 1 | RS 1 | RS 2 | FC 1 | CC 1 | CC 2 | CC 3 | AT 1 | AT 2 |
| | Afghanistan | X | X | X | X | | X | X | X | X | X | | X | | X | |
| Albania | X | X | | X | | X | X | X | X | X | | X | X | | | |
| Algeria | X | X | | X | | X | X | X | X | X | | X | | X | | |
| Andorra | X | X | | X | | X | X | X | X | X | | X | | X | | |
| Angola | X | X | | X | | X | X | X | X | X | | X | | X | | |
| Antigua & Barbuda | X | X | | X | | X | X | X | X | X | X | X | | X | | |
| Argentina | X | | | | | X | X | X | X | X | X | X | | X | | |
| Armenia | X | X | X | X | | X | X | X | X | X | | X | X | | | |
| Aruba | X | X | | X | | X | X | X | X | X | | X | | X | | |
| Australia | X | | | | | X | | X | X | | | | | | | |
| Austria | X | | | | | X | | X | X | X | | X | | X | | |
| Azerbaijan | X | X | X | X | | X | X | X | X | X | | X | X | | | |
| Bahamas, The | X | X | | X | | X | X | X | X | X | X | X | | X | | |
| Bahrain | X | X | X | X | | X | X | X | X | X | | X | | X | | |


Export Administration Regulations January 26, 2007

Where is It Going? Destination

Are you familiar with license exceptions?

Polls are open.

Yes 

No 

[Poll 2]



License Exceptions

Part 740



- An authorization that takes the place of a license
 - In most instances exporter does not require anything in writing from BIS
- General Restrictions May Apply! (see §740.2)
- Many potential exceptions
 - List-based (eligibility is specified within ECCN entry)
 - Transaction-based (temporary exports, tools of trade, etc.)

March 2007

BIS Licensing Determination Process

License Exceptions Part 740



Not on CCL? EAR99!



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



March 2007

BIS Licensing Determination Process

Not on CCL? EAR99!



No License Required NLR



- You may use NLR for:
 - EAR99 items, and
 - ECCNs where there is no “X” on the Country Chart under reason(s) for control;
 - *When* the transaction does not require an export license based on any other licensing requirement (e.g., end-use/user requirements)

March 2007

BIS Licensing Determination Process

No License Required NLR



Who is Involved?

"Lists to Check"



- Denied Person's List
- Entity List
- Unverified List
- General Order No. 3 of Supp. No. 1 to part 736
- Specially Designated Nationals List - Treasury Department, Office of Foreign Assets Control
- Nonproliferation Sanctions List - State Department
- Debarred Parties List - State Department

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

March 2007

BIS Licensing Determination Process

Who is Involved? "Lists to Check"



"Know Your Customer" Guidance

Supplement 3 to Part 732



- Do not "self-blind"
- Look for "Red Flags"
 - abnormal or suspicious circumstances
 - Unverified List
- If found, inquire and reevaluate transaction
- Otherwise, no affirmative duty to "go behind" customer's representations



March 2007

BIS Licensing Determination Process

"Know Your Customer" Guidance Supplement 3 to Part 732



What Are They Doing with It?

Potential Areas of Concern Part 744



- Nuclear end-uses
- Missile delivery system end-uses
- Chemical and biological weapons end-uses
- Knowledge element affects export licensing as well as U.S. persons activities, i.e., facilitation of such an end-use







March 2007

BIS Licensing Determination Process

What Are They Doing with It? Potential Areas of Concern Part 744

For what is the SED or AES record used?

Polls are open.

- In place of an export license 
- Export Clearance Purposes 
- ECCN determination 
- Submitting an advisory opinion 
- Shipping without an export license 
- None of the above 

[Poll 3]



Lastly... What To Do with This Information

- Export using
 - Export License authorization issued by BIS,
 - License Exception authorization, or
 - No License Required designation (NLR)
- Include (when required) on clearance documents

March 2007

BIS Licensing Determination Process

Lastly... What To Do with This Information



SED or AES Record

*Shipper's Export Declaration or
Automated Export System*



- Includes:

- *BIS export license number, License Exception symbol, or NLR*
- *ECCN (when required)*

- Your signature certifies that the information is accurate and true



March 2007

BIS Licensing Determination Process

SED or AES Record Shipper's Export Declaration or Automated Export System



Destination Control Statement

§758.6

... is required on the export control documents of all items listed on the Commerce Control List.

“These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.”

March 2007

BIS Licensing Determination Process

Destination Control Statement §758.6



Example



Exporter has been exporting their custom-made drafting tables for years. They recently changed shippers and have been told they need to provide their ECCN and license number and have never had to do this before.

March 2007

BIS Licensing Determination Process

Example



Example



Exporter has been exporting rifle scopes to Germany and France and indicates that it has never needed a license to export to these countries. They would like to expand their market to several other European countries.

March 2007

BIS Licensing Determination Process

Example



Example



U.S. Customs is holding exporter's first time shipment of filtration equipment to China and have asked for additional documentation on the product. The BIS classification of their product (EAR99) dates back to September 2000.

March 2007

BIS Licensing Determination Process

Example



Resources



- Counseling
- BIS Website
- E-mail Notification Service
- On-Line Export Administration Regulations
- Brochures & Publications
- Export Control Seminars

March 2007

BIS Licensing Determination Process

Resources

<http://www.bis.doc.gov>

[Web Slide 1]



Plan Ahead and Be Prepared



- Determine your jurisdiction
- Classify your item
- Identify the reasons for control
- Cross-reference the controls against the Country Chart
- Screen all parties to the transaction
- Ensure no prohibited end-uses
- Export using appropriate ECCN and authorization

March 2007

BIS Licensing Determination Process

Plan Ahead and Be Prepared



Speaker Contact E-mail



- Brian Baker: bbaker@bis.doc.gov
- Kathleen Barfield: kbarfiel@bis.doc.gov
- Timothy Mooney: tmooney@bis.doc.gov

March 2007

BIS Licensing Determination Process

Speaker Contact E-mail



BIS Contact Information



- Website: www.bis.doc.gov
- Exporter Services Offices:
 - Washington, D.C. (202) 482-4811
 - Northern California (408) 291-4212
 - Southern California (949) 660-0144
- Export Enforcement Offices
 - Nationwide (800) 424-2980

March 2007


BIS Licensing Determination Process

BIS Contact Information

Would you be interested in participating in future webinars on other export control topics?

Polls are open.

Yes 

No 

[Poll 4]