



Exports and Reexports to Iran



Overview

The U.S. Government has maintained comprehensive economic sanctions on Iran since March 16, 1995 as a result of Iran's sponsorship of international terrorism and its pursuit of weapons of mass destruction. The Treasury Department's Office of Foreign Assets Control (OFAC) administers the comprehensive trade and investment embargo against Iran. This embargo includes prohibitions on most export and reexport transactions involving Iran, including transactions dealing with items subject to the Export Administration Regulations (EAR). These prohibitions are set forth in OFAC's Iranian Transactions Regulations (31 CFR part 560). In addition, Commerce's Bureau of Industry and Security (BIS) maintains licensing

requirements on exports and reexports to Iran under the EAR. The export or reexport of most items on the Commerce Control List (CCL) to Iran requires a BIS license. However, to avoid duplication, exporters or reexporters are not required to seek authorization from BIS for an export or reexport subject to both the EAR and to OFAC's Iranian Transaction Regulations. Therefore, if OFAC authorizes an export or reexport, such authorization is considered sufficient for purposes of the EAR as well. Transactions that are not subject to OFAC regulatory authority may require BIS authorization. Please see parts 742 and 746 of the EAR for BIS license requirements.

BIS has licensing jurisdiction and requires a BIS license for the release of certain technology or software to foreign nationals. The U.S. Government deems this release to be an export to the home country of the foreign national, thus this type of release or export is referred to as a "deemed export." Under this "deemed export" rule, technology or software source code that would require a license for export or reexport to Iran also requires a license for release to an Iranian national.

OFAC Licensing

OFAC imposes license requirements on most exports and reexports to Iran or the Government of Iran from the United States or by a United States person, as defined in OFAC's Iranian Transactions Regulations.. With certain exceptions, OFAC also imposes license requirements on reexports by non-U.S. persons of sensitive U.S.-origin goods, technology, or services to Iran or the Government of Iran.

Certain exports and reexports – such as donations of articles like food, clothing, and medicine to relieve human suffering – are exempted by statute from regulation by OFAC. Certain other exports and reexports -- such as certain gifts between individuals, or accompanied baggage – are authorized by OFAC under its regulations. Consult OFAC's Iranian Transactions Regulations for more information on eligibility under these exemptions and general license authorizations.

Exporters and reexporters of agricultural commodities, medicines, and medical devices may be eligible for OFAC's expedited licensing procedures in its AgMed program. OFAC created this program to implement the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000, as amended. To be eligible, exporters or reexporters must first consult with BIS for an official commodity classification, as only agricultural commodities, medicines, and medical devices that are designated EAR99 (not listed on the CCL) are TSRA-eligible. The U.S. Department of Agriculture has prepared a list of eligible agricultural commodities that BIS has determined are designated EAR99. This list is available via the BIS website at http://www.bis.doc.gov/licensing/tsra_toc.html. If a proposed agricultural commodity is not on this list, exporters must seek an official commodity classification from BIS. Details on how to do this are available in Section 748.3 of the EAR. Once an exporter receives a commodity classification determination from BIS, they must then submit a copy of it to OFAC as part of their TSRA AgMed license application.

In general, medicines are designated EAR99. However, certain vaccines and immunotoxins are on the CCL. Items on the CCL are not eligible for OFAC's TSRA AgMed program.

BIS maintains an illustrative list of TSRA-eligible EAR99 medical supplies on its website available at <http://www.bis.doc.gov/policiesandregulations/tradesanctionsreformexportenhancementact.html>. If exporters' products are on this list, they do not need a commodity classification from BIS before submitting a license application with OFAC under its TSRA AgMed program. Exporters must obtain an official commodity classification from BIS for any other medical item not listed on the webpage, and must submit a copy of this classification with their OFAC license application.

Exporters and reexporters should consult with OFAC regarding its licensing policy for TSRA and non-TSRA exports and reexports to Iran.

BIS Licensing

The following BIS license requirements and licensing policy should be read with an understanding that, as stated above, OFAC is the primary licensing agency for transactions involving Iran.

Separate from the licensing requirements imposed by OFAC, BIS requires a license for exports or reexports to Iran of most items listed on the CCL. Please refer to parts 742 and 746 of the EAR for specific BIS license requirements and licensing policy. However, if OFAC authorizes an export or reexport that would otherwise require a BIS license, such authorization is considered sufficient for purposes of the EAR. For transactions that fall outside of OFAC

jurisdiction, but which require a license under the EAR, the licensing policy in the EAR will be used in reviewing license applications. The EAR state a general policy of denial for most applications other than applications for humanitarian transactions or for transactions related to the safety of civil aviation and safe operation of U.S. origin aircraft. No license exceptions may be used for exports or reexports to Iran.

Please note that, under the EAR, an export or reexport license is required, even when one would not otherwise be necessary, if you know, are “aware of a high probability” or are otherwise individually informed by BIS with respect to a specific transaction that the item will be used in activities related to nuclear, chemical, or biological weapons or rocket systems or unmanned aerial vehicles, as defined in part 744 of the EAR. The "Know Your Customer" guidance in Supplement 3 to part 732 of the EAR is provided to explain the "knowledge" standard that applies to these license requirements. In addition, several entities in Iran have been added to BIS's Entity List, found in Supplement 4 to part 744 of the EAR, and a BIS license is required, to the extent specified on the Entity List, to export or reexport any item subject to the EAR to such entities. Furthermore, as is the case before exporting or reexporting to any country, we recommend that you review the ten prohibitions outlined in part 736 of the EAR as part of your overall review of export requirements.

BIS generally does not impose a reexport license requirement for U.S.- origin controlled items if the U.S.-origin items are incorporated into a foreign product and constitute not more than 10 percent of the total value of the foreign made product. Reexporters should consult Section 734.4 of the EAR for more details on *de minimis* eligibility, including information about certain U.S. origin items that are not eligible for this *de minimis* treatment.

BIS has jurisdiction over the export, or release, of technology or software to foreign nationals, including Iranian nationals. The U.S. Government deems such a transfer to be an export to the home country of the foreign national, thus this type of release is referred to as a “deemed export”. “Deemed exports” are most often encountered in the context of employment, when a company will release technology or software source code to a foreign national as part of his/her job. If the export or reexport of that technology or source code to the foreign national’s home country would require a license, a license must be obtained before releasing the technology or source code to that foreign national. This license requirement does not apply to persons who are U.S. citizens or legal permanent residents in the United States or are "protected individuals" under the Immigration and Nationality Act.

If you have specific inquiries regarding exports and most reexports to Iran, please contact OFAC’s licensing division at 202-622-2480 or consult the OFAC website at <http://www.treas.gov/offices/enforcement/ofac/programs/iran/iran.shtml>. For inquiries regarding "deemed exports," please contact the BIS Export Counseling Division at 202-482-4811 or submit a query on the BIS website: <https://www.bis.doc.gov/forms/askacounselor.html>.

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