

Libya: Frequently Asked Questions and Answers

Libya FAQs

1. Which U.S. Government Agency has licensing jurisdiction over exports and reexports of dual-use items to Libya?

As of April 29, 2004, following the termination of the U.S. Government's comprehensive embargo on Libya on April 23, the Department of Commerce's Bureau of Industry and Security (BIS) has assumed sole jurisdiction over the export and reexport of dual-use items subject to the Export Administration Regulations (EAR) to Libya.

2. Is Libya still a terrorist-designated state?

On May 15, 2006, the President submitted a report to Congress certifying that Libya had not provided any support for international terrorism during the preceding six months and that Libya had provided assurances that it would not support future acts of international terrorism. In light of the report, on June 30, 2006, the U.S. Government rescinded Libya's designation as a state sponsor of terrorism.

3. Does the Department of the Treasury still have jurisdiction over Libya following the rescission of Libya's designation as a state sponsor of terrorism?

The Department of the Treasury's Office of Foreign Assets Control (OFAC) continues to restrict certain financial transactions involving previously blocked assets or Specially Designated Nationals (SDNs). You should consult with OFAC about such transactions.

4. What are the license requirements to export or reexport to Libya?

As a consequence of the August 31, 2006 amendment to the EAR implementing the rescission of Libya's terrorist designation, items that are controlled only for anti-terrorism (AT) reasons generally no longer require a license for export or reexport to Libya. Additionally, items that are subject to the EAR but not listed on the Commerce Control List (CCL) set forth in 15 CFR part 774 (i.e., EAR99 items) of the EAR will generally not be subject to license requirements for export or reexport to Libya. However, the end user and end-use controls set forth in part 744 of the EAR will apply to AT and EAR99 items that are exported or reexported to Libya.

Items on the EAR's CCL set forth in 15 CFR Part 774 that are controlled for multilateral (chemical/biological (CB), nuclear nonproliferation (NP), national security (NS), and missile technology (MT)) reasons continue to require a license for export or reexport to Libya. Items controlled for regional stability (RS) and crime control (CC) reasons will also continue to require licenses for Libya. These requirements are found in Part 742 of the EAR.

5. How is BIS going to review license applications requesting authorization to export or reexport to Libya?

Generally, BIS will review license applications for exports and reexports to Libya on a case-by-case basis. The licensing policies for the export and reexport of dual-use items to Libya are found in Part 742 of the EAR as outlined in the question above.

6. Have the de minimis rules changed for Libya?

Yes. As of August 31, 2006, the threshold for calculating the de minimis level of foreign goods destined to Libya is 25% controlled U.S. content. Guidance on making de minimis calculations is found in Part 734 of the EAR.

7. Are there people in Libya with whom I can't do business?

Yes, many of these groups and individuals can be found on the [OFAC Specially Designated National and Blocked Party list](#). The EAR also sets forth restrictions on

exports and reexports to certain organizations and persons that have been designated by OFAC. See Sections 744.12, 744.13, and 744.14.

9. Are there end-uses that are restricted?

Yes, the end-uses established pursuant to the end-use/end-user controls in Part 744 of the EAR are restricted.

10. What License Exceptions are available?

The following License Exceptions may be available in whole or in part: CIV, APP, TMP, RPL, GOV, GFT, TSU, BAG, AVS, ENC and KMI. Remember that a specific transaction is eligible for a License Exception only if it satisfies all of the terms and conditions of the relevant License Exception and is not subject to any of the restrictions that apply to all License Exceptions, as set forth in Section 740.2 of the EAR.

License Exception USPL (U.S. Persons in Libya) has been removed from the EAR as it was rendered irrelevant by the August 31, 2006 amendment to the EAR.

11. Do I need a license to service/maintain/use/upgrade items already in Libya?

The “installed base” provisions in Section 764.7 were not impacted by Libya’s removal from the list of Designated State Sponsors of Terrorism or BIS’s August 31, 2006 rule and still applies to Libya. If the items already in Libya are “installed base” items, you will need to either file a report with BIS or submit a license application to BIS prior to engaging in activities involving such items consistent with the requirements set forth in Section 764.7.

Under Section 764.7, “installed base items” refer to items that may have been originally illegally exported or reexported to Libya by third parties. This section is an application of Section 764.2(e)’s knowledge-based prohibition on the ordering, buying, removing, concealing, storing, using, selling, loaning, disposing of, transferring, financing, forwarding, or otherwise servicing, in whole or part, items subject to the EAR with knowledge that a violation has occurred, or will occur, in connection with such items.

12. Which activities require the submission of a report? Which activities require a license?

Activities involving the following installed base items generally require the submission of a report to BIS:

- Items subject to the EAR but not on the CCL;
- Items on the CCL that are now authorized for export or reexport to Libya under License Exception; and
- Items on the CCL that are controlled only for NS and AT or AT reasons only and are not on the Wassenaar Arrangement’s Sensitive List or Very Sensitive List.

Activities involving all other installed base items will require a BIS license to overcome the prohibition.

Please note that entities that were party to the original illegal export or reexport of the installed base items are not eligible for this provision. Such entities are encouraged to submit voluntary self-disclosures to BIS, as described in Section 764.5 of the EAR.

13. How does BIS treat installed base items in other countries?

At present, the EAR only refers to the term “installed base” items with respect to Libya. With respect to activities involving items that subject to the EAR that may have been exported or reexported illegally to other countries, the knowledge-based prohibitions in Section 764.2(e) of the EAR applies.

14. What do I do if the purchaser in Libya asks me to ship to a recipient or a location that is different from the recipients or locations I submitted in my application?

If BIS is still processing your license application, please contact us with complete information relating to the change. If BIS has already authorized your transaction, a change in location may not be a problem; see Section 750.7(c) of the EAR for information on non-material changes to licenses. In contrast, a change in recipient constitutes a material change to your license and will require resubmission for new authorization. Regardless, if you know or have reason to believe that the change in recipient or location is an attempt to evade the U.S. export controls or otherwise violate U.S. law, please contact BIS.

15. If I have exported or reexported an item to Libya under the authority of a BIS license issued prior to August 31, 2006, do the conditions of that license still apply if the items are now eligible for export or reexport without a license or under a license exception?

Pursuant to Section 750.7(i) of the EAR, exporters and reexporters who have shipped items under the authority of a license with conditions are no longer bound by those conditions once the items shipped become eligible for a License Exception or can be exported or reexported without a license. See Section 750.7(i) of the EAR for specific information on conditions and requirements that will still apply to these items. Note, however, that parties will still be responsible for violations that occurred prior to the availability of the License Exception or prior to the removal of the license requirements.

16. Is Libya eligible for a Special Comprehensive License (SCL)?

Yes, Libya is now an eligible destination for Special Comprehensive Licenses.

17. What is SNAP?

SNAP is the acronym for BIS's Simplified Network Application Process. It allows exporters to electronically submit export/reexport license applications, notifications, and commodity classification requests. SNAP may be used for Libya.

18. Where can I get forms?

You may request forms on-line or by contacting the Office of Exporter Services at 202-482-4811. In addition, the Department of Commerce's Commercial Service district offices often have forms. Check your local listing for the locations of Department of Commerce offices.

19. How will I know if BIS has registered my application?

You may call BIS's STELA "System for Tracking Export License Applications" at 202-482-2752 and enter the Application Control Number (it begins with "Z" followed by six digits) for the status of their applications.

20. What is STELA?

STELA is the acronym for BIS's automated System for Tracking Export License Applications. It is an automated voice response system that you can access using a touch-tone phone (see question 19 above).

21. Do I need a BIS commodity classification prior to submitting a license application to export agricultural commodities, medicine, and medical devices to Libya?

No. Note that many examples of items in these categories are classified as EAR99 and would not normally require a license for export or reexport to Libya. However, you should request a commodity classification when you are not sure and additional BIS website guidance or outreach services do not answer your questions regarding this matter.

22. How do I contact BIS?

Your first point of contact with questions regarding export control policies and procedures at BIS is the Office of Exporter Services at 202-482-4811.