License Exceptions

Sharron Cook
Export Policy Analyst
Regulatory Policy Division
There is an “X” in the Box... or Some other license requirement...

What do I do?
Topics of Discussion

• What is a License Exception?

• Restrictions

• License Exception Criteria
Decision Tree

(Supp. No. 1 to Part 732)

Subject to the EAR?  
(See 734.2 - 1)

Is your item classified under an ECCN on the CCL?  
(General Prohibitions 1, 2, & 3)  
(See Supp. No. 1 to Part 774)

If yes, Is a License Exception Available?  
(See Part 740, including 740.2 "incidents that apply to all license exceptions")

If no, Do General Prohibitions 4-10 apply?  
(See 734.2(3)(4-10))

If yes, Is there an "X" in the box?  
(Using the Common Country Chart and the CCL)  
(See Supp. No. 1 to Part 738 or Supp. No. 1 to Part 774)

"No License Required" (NLR)  
(See 732.3(a)(1)(ii) & 738.1(a)(x))

If no, Use License Exception  
(See 740.2)

Submit an application for license  
(See Part 740)

Exit the EAR
What is a License Exception?
Part 740

An authorization that allows you to export or reexport, under stated conditions, items subject to the EAR that would otherwise require a license.
When can’t you use a License Exception?
§740.2

- Authorization has been suspended or revoked
- Export subject to a General Prohibition that is not eligible for License Exceptions.
- Surreptitious Interception Devices
- Crime control items to most destinations
- Most Missile Technology control items
- Embargoed destinations, in most instances
The way the EAR sees the world...

Country Groups

*Supplement 1 to Part 740*

- Group A: Regime Members
- Group B: Less Restricted
- Group D: Countries of Concern
- Group E: Terrorist Supporting
Commerce Control List-Based License Exceptions

Availability Based on ECCN

- Shipments to B Countries (GBS)
- Civil End Users (CIV)
- Limited Value Shipments (LVS)
- Technology and Software Restricted (TSR)
GBS Group B Shipments

§740.4

- Shipments to Country Group B

- Commodities requiring a license to the ultimate destination for national security reasons only
Civil End-Users
§740.5

- Country Group D:1, except North Korea
- Items that require a license to the ultimate destination for national security reasons only
- Civil end-uses and end-users
  - No military or proliferation end-users/uses
LVS Limited Value Shipment
§740.3

- Country Group B
- Commodities
- Net value cannot exceed LVS value limit
- Annual value restriction
  - 12 x LVS value of same ECCN to same consignee
- Single shipment

NO splitting orders!
TSR Technology & Software Under Restriction §740.6

- Country Group B

- Technology & software requiring a license to the ultimate destination for national security reasons only

- Prior to use, written assurance required from consignee
TSR Written Assurance

- Letter, other written communication, licensing agreement, fax
- No written assurance -- No TSR
Transaction Based License Exceptions

- **TMP** - Temporary Imports, Exports & Reexports
- **RPL** - Service & Replacement of Parts & Equipment
- **TSU** - Technology & Software Unrestricted
Temporarily Imports, Exports and Reexports

§740.9

- Temporary Exports and Reexports
  - § 740.9(a)

- Items temporarily in the U.S.
  - § 740.9(b)

- Beta Test Software
  - § 740.9(c)
Servicing & Replacement of Parts & Equipment
§740.10

Exports and Reexports for:
(a) One-for-one Replacement of Parts

(b) Servicing & Replacement of Commodities and Software
- Servicing of commodities and software sent to US or foreign party
- Replacements for defective or unacceptable US-origin equipment

No Enhancements!
Exports and Reexports for:

- Operating Technology and Software §740.13(a)
- Sales Technology § 740.13(b)
- Bug Fixes §740.13(c)
- General Software Note - “Mass Market Software” - not encryption §740.13(d)
- Publicly Available Encryption Source Code (and corresponding object code) §740.13(e)
Summary: License Exceptions

- Make sure your transaction requires a license (i.e. there is an “X” in the box, or some other licensing requirement) before reviewing the License Exceptions.

- Before going to a specific license exception, make sure there are no general restrictions.

- Each exception is unique, make sure you meet of all of the criteria.