



Bureau of Industry and Security



Complying with US Export Controls

Sharron Cook
Export Policy Analyst
Regulatory Policy Division

US Department of Commerce



Webinar Series Objectives

- Provide an overview of BIS and its role in the U.S. export control system
- Show how to navigate and use the EAR
- Establish points of contact





Topics of Discussion

- What the regulations cover (scope)
- Determining your Export Control Classification Number (ECCN)
- Determining your licensing requirements
 - Regulatory requirements based on the item and country of ultimate destination
 - Other regulatory requirements
- License Exceptions



Topics of Discussion

- Applying for an export license
- The license application process
- Export clearance requirements
- Role of Export Enforcement
- Managing compliance



Need Assistance?

✓ **Export Administration Offices:**

- Northern California (408) 998-8806
- Southern California (949) 660-0144
- Washington, D.C. (202) 482-4811

✓ **Export Enforcement Offices:**

- Northern California (408) 998-4204
- Southern California (949) 251-9001
- Nationwide (800) 424-2980



BIS is here to help!

- Outreach Activities
- Exporter Counseling
- Commodity Classifications
- Advisory Opinions
- Compliance Strategies



Bureau of Industry and Security



Overview of the Export Administration Regulations (EAR)

Sharron Cook
Export Policy Analyst
Regulatory Policy Division

Overview of the Export Administration Regulations	Classification of Items on the Commerce Control List	Determining License Requirements Based on ECCN and Destination	Determining Other Licensing Requirements
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Topics of Discussion

- An introduction to export controls
- Important terms of the EAR
- What is subject to the EAR



BIS Mission Statement

To advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership



How Do We Control Exports?

- Export Administration Act (EAA) of 1979, as amended
- International Emergency Economic Powers Act, as amended
- BIS is responsible for implementing and enforcing these laws which regulate the export and reexport of most commercial items.



Why Do We Control Exports?

- National Security
- Foreign Policy
 - Anti-terrorism
 - Crime control
 - Regional Stability
- Non Proliferation
 - Nuclear weapons
 - Chemical/biological weapons
 - Missiles



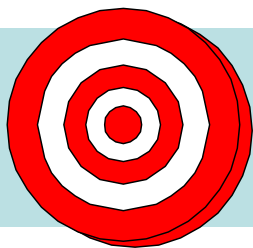
What Types Of Transactions Do We Control?

BIS regulates *exports, reexports* and certain transfers of *items "subject to the EAR"* in addition to *certain activities* of U.S. persons.

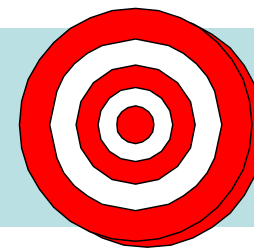


Export Administration Regulations (EAR)

- Implement the Export Administration Act
- Apply to dual-use and commercial items



*Broad jurisdiction BUT...
narrow license requirements*





Dual-use Items

- Items that have both commercial and military or proliferation applications.
- This term is often used *informally* to describe items that are subject to the EAR.



Who Else is Involved in Export Controls? Other Regulatory Agencies Part 730, Supplement 3

- **US Dept. of State - Directorate of Defense Trade Controls**
- **US Dept. of Treasury - Office of Foreign Assets Control**
- **US Dept. of Energy**
- **Nuclear Regulatory Commission**
- **US Dept. of Commerce – Patent & Trademark Office**
- **US Department of Interior**
- **Food and Drug Administration**
- **U.S. Department of Commerce –records) Bureau of the Census (trade statistics and AES)**
- **U.S. Department of Homeland Security – Border and Transportation Security**
 - **U.S. Customs Service (works with BIS to ensure compliance)**



Where can you find the Export Administration Regulations (EAR)?

- ✓ **Code of Federal Regulations**
 - 15 CFR 730-774
- ✓ **Available on-line:**
 - www.bis.doc.gov
 - <http://www.access.gpo.gov/bis/ear/eardata.html>
- ✓ **Order from Government Printing Office**
 - 866-512-1800 (toll-free)
 - <http://www.access.gpo.gov/bis/earorder.html>



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EXPORTER RESOURCES

STELA
System for Tracking
Export License Applications

NEW! Online Licensing Status Tracking System Now Available!

NEW! Commodity Classifications

[Export Administration Regulations](#)

[Commerce Control List](#)

[Lists To Check](#)

[BIS Online Training Room](#)

POLICY INITIATIVES

Thursday - April 1, 2010

Make a difference in your community.
WE CAN'T MOVE FORWARD UNTIL YOU MAIL IT BACK.

UPCOMING EVENTS

April 7 - 8, Denver, Colorado

BIS PUBLICATIONS

[BIS Annual Report 2008](#)

[Exporter User Manual](#)

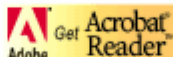
[Don't Let This Happen to You!](#)

[Major Cases List](#)

Export Administration Regulations Database

[EAR Home](#) | [EAR Database](#) | [Lists To Check](#) | [Federal Register](#) | [Subscribe to EAR Looseleaf](#) | [E-Mail](#) | [BIS \(formerly BXA\) Home](#)

Each of the listings below may be downloaded separately in the formats shown.

To view PDF files: 

Title View Online	Download Formats			Date Last Modified
Helpful Hints to Exporters	PDF	ASCII	WPD	01-11-08
Table of Contents for the EAR	PDF	ASCII	WPD	09-08-09
Alphabetical Index to the EAR	PDF	ASCII	WPD	09-08-09
BIS Organizational Chart	PDF		WPD	05-01-05
Directory of Office of Exporter Services	PDF	ASCII	WPD	01-11-08
Directory of Offices of Export Enforcement	PDF	ASCII	WPD	09-01-07
Directory of U.S. and Foreign Commercial Service	PDF	ASCII	WPD	01-01-07
Table of Contents for the Legal Authority for the EAR	PDF	ASCII	WPD	10-22-08
Legal Authority for the EAR	PDF	ASCII	WPD	01-2009
Part 730 - General Information	PDF	ASCII	WPD	10-15-09
Part 732 - Steps for Using the EAR	PDF	ASCII	WPD	10-03-08
Part 734 - Scope of the Export Administration Regulations	PDF	ASCII	WPD	10-15-09
Part 736 - General Prohibitions	PDF	ASCII	WPD	12-23-09



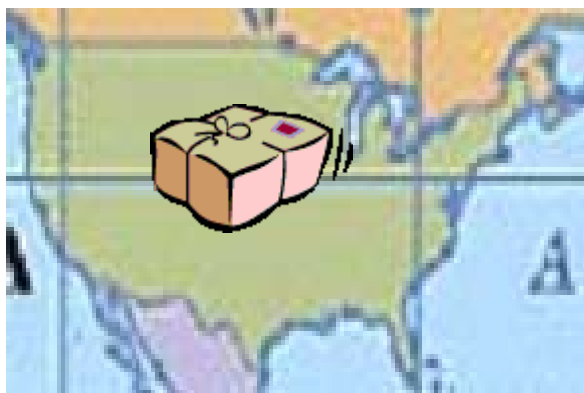
Important EAR Terms

- Export
- Reexport
- Item
- Subject to the EAR
- Commerce Control List (CCL)
- Export Control Classification Number (ECCN)



What is an export?

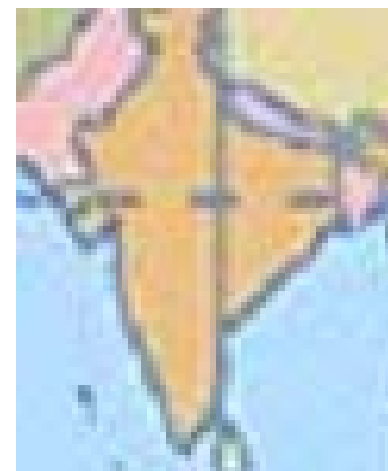
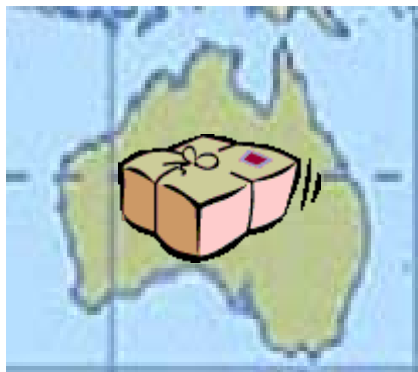
- An export is a shipment or transmission of items out of the United States.





What is a reexport?

- A reexport is a shipment or transmission of items subject to the EAR from one foreign country to another.





What is an Item?

Section 734.2

Commodity



Software



Technology





What is a Release of Technology? §734.2(b)

- Release of technology can occur through visual inspection, oral exchange, or application of knowledge
- Deemed Export is a release of technology or software source code to a foreign national in the United States
- Considered an export to the home country of the foreign national
- Does **not** apply to:
 - permanent resident aliens
 - Protected individuals



What does “subject to the EAR” mean? §734.2(a)

Items and activities under the regulatory jurisdiction of the EAR

- Remember there are other government agencies that administer export controls

“Subject to EAR” does not mean that a license is automatically required



What is the Commerce Control List? (CCL)

(§738 and 774, Supplement No. 1)

- ✓ The list of items subject to BIS licensing authority
- ✓ Used to determine Export Control Classification Number
- ✓ Used to determine license requirements



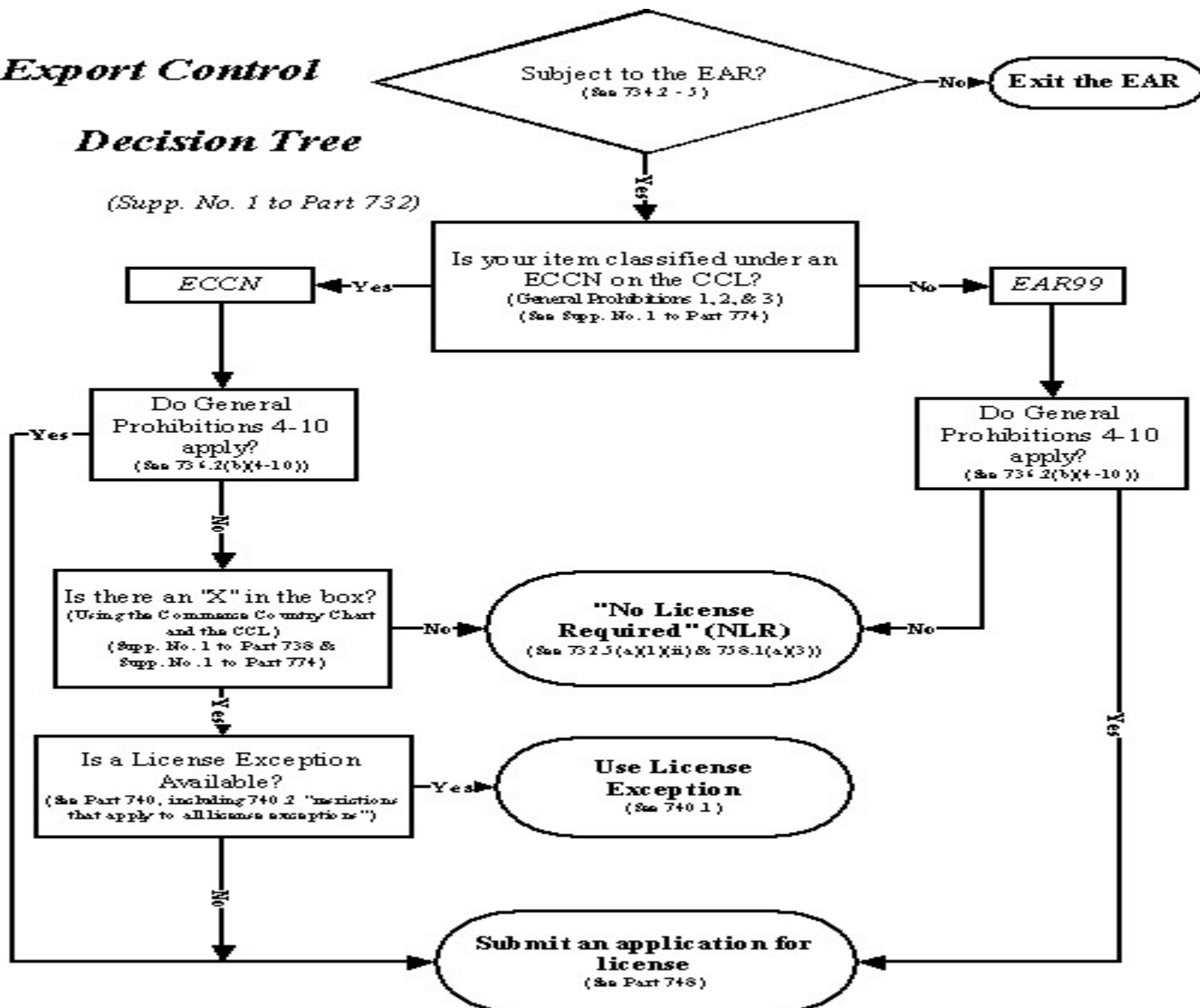
What is an Export Control Classification Number (ECCN)?

- An alpha-numeric code used in the Commerce Control List to classify items for determination of export licensing requirements
- Consists of a set of digits and a letter, e.g., 3A001

Export Control

Decision Tree

(Supp. No. 1 to Part 732)





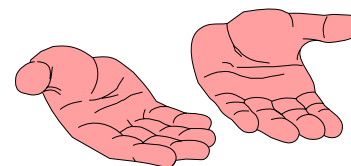
Facts in Hand

Must know for every export transaction

What is my item?

Where is it going?

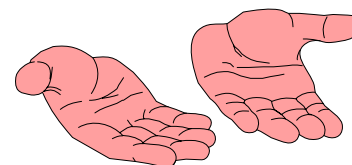
ECCN and Destination
(General Prohibitions 1-3)



Who will receive it?

What will be the end-use?

Other License Requirements
(General Prohibitions 4-10)





"Subject to the EAR"

§734.3-734.5

- Items in the United States
- Some items located outside of the United States
- Activities of U.S. and Foreign Persons





"Subject to the EAR"

Items in the United States

§734.3(a)(1)

- **ALL** Items in the United States, **except**:
 - Publicly available technology & software (excluding encryption)
 - Items subject to the exclusive jurisdiction of another federal department or agency
 - Literary publications, such as newspapers or literary works (non-technical in nature)



Publicly Available

- ✓ Published Information and Software (Section 734.7)
- ✓ Fundamental Research (Section 734.8)
- ✓ Educational Information (Section 734.9)
- ✓ Patent Information (Section 734.10)



"Subject to the EAR"

Some items outside the United States

- Items located **outside** the United States:
 - U.S.-origin items wherever located
 - Certain foreign-made items, if:
 - The value of the U.S. content exceeds the *de minimis* percentage
 - The foreign-product item is the direct product of U.S. technology or software



"Subject to the EAR"

U.S. Persons and Foreign Persons
§734.5

- Certain activities of U.S. persons (§744.6)
 - Related to proliferation
- Activities of U.S. or foreign persons prohibited by any order issued under the EAR.



Overview: Summary

- BIS regulates exports, reexports and certain transfers of items subject to the EAR in addition to certain activities of U.S. persons.
- Important terms: Items, export, reexport, CCL & ECCN
- First order of business is to determine whether or not your transaction is subject to the EAR.