

Bureau of Industry and Security

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ON EXPORT CONTROLS
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Proscribed Parties and Catch-All Controls

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Export Screening Lists

1. Denied Persons List
2. Entity List
3. Unverified List



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Public Notification

- Additions to and removals from each list are published in the *Federal Register*
 - <http://www.federalregister.gov/>
- All three lists, plus lists from the Departments of State and Treasury are electronically searchable
 - [http://www.export.gov/consolidated screening list/](http://www.export.gov/consolidated_screening_list/)



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Denied Persons List (DPL) – Effect

- Prohibits any listed person from participating in any way in an export transaction
- Prohibits third parties (e.g., freight forwarders, etc.) from facilitating any export transaction by a listed person



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DPL – Criteria for Addition

- When a denial order is imposed on a U.S. or foreign person in connection with a criminal conviction or outcome of an administrative enforcement action for a violation of U.S. export controls
- When a temporary denial order is issued to prevent an imminent violation of U.S. export controls



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DPL – Expiration

- Generally, denial orders for criminal export control violations are issued for a period of 10 years
- Temporary denial orders are issued for a period of 180 days, but may be renewed



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The Entity List – Effect

- Imposes a license requirement on the export, reexport and/or transfer (in-country) of U.S.-origin items to listed entities
 - Items in the U.S.
 - Items made in the U.S.
 - Items made abroad with certain U.S. parts/technology
- Generally, a license is required for all items, even unlisted items
- Generally, license applications to export to listed entities are reviewed with a presumption of denial



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The Entity List – Criteria for Addition

- The List includes foreign persons involved in activities contrary to U.S. national security or foreign policy interests, e.g.:
 - Supporting persons engaged in terrorism
 - Supporting the military capability of state sponsors of terrorism
 - Refusal to cooperate with an end-use check
 - Violating U.S. export controls



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The Entity List – Addition Process

- Entities added by majority approval of the End-User Review Committee (ERC):
 - Department of Commerce (chair)
 - Department of State
 - Department of Defense
 - Department of Energy
 - Department of the Treasury (as appropriate)
- Any ERC agency may submit a proposal for addition
- Additions should be voted on within 30 days



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The Entity List – Removal Process

- Any listed entity may request removal from the Entity List
- The ERC reviews and votes on all requests
 - Unanimous ERC approval required for removal
 - Decisions can be escalated to a higher review level
- Multiple requests for removal may be submitted and should address the reason for addition, as published in the *Federal Register*



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The Entity List: Common Questions

- All rules include BIS contact information
 - 202-482-5991
 - ERC@BIS.DOC.GOV
- BIS receives and responds to inquiries on the Entity List and particular entries



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Requests for Removal – Inquiries

- *What is the process for submitting requests?*
 - *See 744.16(e)*
- *What information should be included in requests?*
 - *“...including reasons therefor...” (744.16(e))*
- *Where is my request for removal?*
 - *BIS review – no time limit*
 - *ERC review – 30 day review period*
- *My request was denied: can I submit another?*
 - *No limit on number of requests that may be submitted*



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Name Matches – Inquiries

- *I have matched an individual to a name on the Entity List – can BIS determine if he/she is on the Entity List?*
 - *Obtain additional information on the individual (e.g., employment history) or company (business registration)*
 - *Options for contacting BIS:*
 - *Contact BIS / ERC: ERC@BIS.DOC.GOV, 202-482-5911*
 - *Submit an Advisory Opinion request: § 748.3(c)*



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License Requirements /

License Review Policies – Inquiries

- *Do I need to apply for a license for EAR99 items?*
 - *Yes, if license requirement states “all items subject to the EAR”*
 - *Note: License Review Policy for EAR99 items may differ from CCL items*
- *Do I need to apply for a license if the export only involves technology, not commodities?*
 - *Yes, “all items subject to the EAR” includes: commodities, software, technology (§ 772.1)*



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License Requirements / License Review Policies – Inquiries

- *The license review policy is “Presumption of Denial” – what are the chances my license is approved?*
 - *Depends on a number of factors, including the item, end-use and end-user*
 - ***ALL** license applications are reviewed in accordance with established license review procedures*



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Subsidiaries and Affiliates – Inquiries

- *How can I determine if a subsidiary is “legally-distinct” from a listed entity?*
 - *Conduct additional due diligence!*
- *Can BIS assist in determining if Entity List requirements apply to a subsidiary of a listed entity?*
 - *BIS cannot conduct due diligence*
 - *Contact ERC – a subsidiary may be known to BIS*
 - *Submit an Advisory Opinion request: §748.3(c)*



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Universities – Inquiries

- *May I allow a professor or student from a listed university to visit my company/university?*
 - *Entity List requirements would not prohibit a visit but may trigger a license requirement as follows:*
 - *Determine if an “export” would occur*
 - *Determine if the visiting person is an integral part of the university*
 - *Integral Parts – license required.*
 - *Students – likely not an integral part; treat exports to students as shipment to their country of origin*
- * *Treat as Red Flag – exercise additional due diligence!*



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Universities – Inquiries

- *Are hospitals affiliated with a listed university included in the Entity List?*
 - *Review the relationship the same as would be done for a subsidiary/affiliate – is it legally-distinct?*
 - *BIS may already have reviewed certain hospitals to determine relationship – contact ERC if unsure*



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The Unverified List (UVL) – Effect

- Listed entities may not receive items by means of a license exception (i.e., “general license”)
 - In certain cases, this means an individual license will be required
- Listed entities must sign a statement prior to receiving items not subject to a license requirement confirming:
 - The end use, end user, and destination of the items
 - Intent to comply with export and reexport controls
 - Intent to cooperate with an end-use check



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UVL – Addition Process

- BIS adds foreign parties to the UVL when an end-use check could not be completed for reasons outside the U.S. government’s control:
 - The foreign party could not be located/contacted
 - The foreign party could not provide disposition information for U.S.-origin items
 - i.e., produce the item for inspection or provide resale documentation
 - Lack of host government cooperation prevents the check from being conducted



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UVL – Removal Process

- Requests for removal are submitted to BIS's Office of Enforcement Analysis
- Requests should include information confirming the *bona fides* of the party and the disposition of any items received from the U.S.
- Removal decisions are made by the Deputy Assistant Secretary for Export Enforcement



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Part 744: End-Use and End-User Controls

Nonproliferation “Catch-All” Controls

- **744.2:** Unsafeguarded Nuclear/Nuclear Explosive Activities
- **744.3:** Rocket Systems (including missiles and UAVs)
- **744.4:** Chemical and Biological Weapons

Other End-Use and End-User Controls

- **744.5:** Maritime Nuclear Propulsion
- **744.17:** Microprocessor military end-use/end-user control
- **744.21:** Military end-use/end-user controls



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Nuclear Catch-All (744.2)

- A license is required to export/reexport **ANY** item if you know or are informed by BIS the item may be used in:
 - Nuclear explosive activities (*required by NSG Guidelines*)
 - Certain unsafeguarded nuclear activities
 - Certain fuel cycle activities whether or not subject to IAEA safeguards



X Nuclear explosive activity:
catch-all applies



X Unsafeguarded nuclear
reactor: catch-all applies



X Safeguarded fuel cycle
facility: catch-all applies



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Missile Catch-All (744.3)

- A license is required to export or reexport **ANY** item if you know the item may be used in missiles or UAVs:
 - Capable of WMD delivery (*MTCR required*)(*EAR exempts France/UK*)
 - With a range $\geq 300\text{km}$ in D:4 countries
 - Missiles/UAVs of indeterminate capability (D:4 countries)
- BIS may impose a license requirement based on a) & b)



Pakistan Shaheen-2 MRBM

X Ballistic missile



X Unknown UAV



Pakistan RA'AD Cruise Missile

X Cruise missile



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D:4 Countries/Territories

- Bahrain
- China
- Egypt
- Iran
- Iraq
- Israel
- Jordan
- DPRK
- Kuwait
- Lebanon
- Libya
- Macau
- Oman
- Pakistan
- Qatar
- Saudi Arabia
- Syria
- UAE
- Venezuela
- Yemen



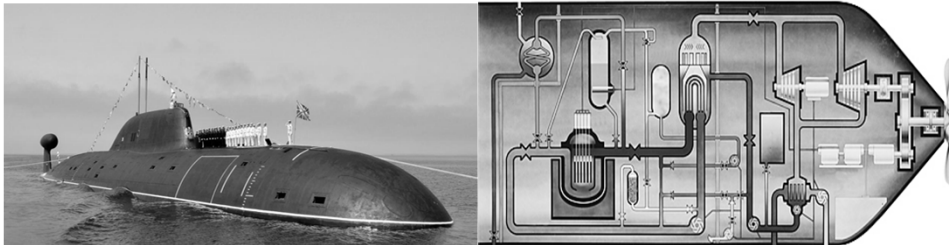
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Maritime Nuclear Propulsion (744.5)

A license is required to export or reexport technology not otherwise subject to a license requirement if you know the technology may be used in:

- Maritime nuclear propulsion plants
- Land prototypes of such plants
- Facilities for the construction/support/maintenance of such plants



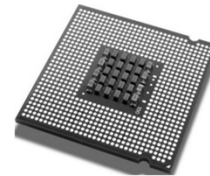


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Microprocessors for Military Applications (744.17)

- If you know or are informed by BIS of a risk of diversion to a military end use or end user, a license is required to export or reexport to a D:1 country the following microprocessors:
 - Processing speed ≥ 5 GFLOPS; access width ≥ 32 bit, e.g.:
 - 3A991.a.1
 - 5A001.a
- License exception ENC does not apply!
- Licensing policy: presumption of denial



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D:1 Countries/Territories

- | | | |
|--------------|---------------|----------------|
| • Armenia | • Kazakhstan | • Russia |
| • Azerbaijan | • North Korea | • Tajikistan |
| • Belarus | • Kyrgyzstan | • Turkmenistan |
| • Cambodia | • Laos | • Ukraine |
| • China | • Libya | • Uzbekistan |
| • Georgia | • Macau | • Venezuela |
| • Iraq | • Moldova | • Vietnam |
| | • Mongolia | |



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Military End Use/User Control: China, Russia, Venezuela (744.21)

- A license is required to export or reexport to **China** 32 ECCNs* if you know or are informed by BIS the item may be used for:
 - A military end use (i.e., weapon system/defense article)
- A license is required to export or reexport to **Russia or Venezuela** 32 ECCNs* if you know or are informed by BIS the item may be used:
 - For a military end use
 - By a military end user (e.g., armed services, national guard/police, or intelligence organizations)
- Denial policy for material contribution that advances country's military capability

* Most MEU controls only apply to specific ECCN subparagraphs



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Select 744.21 ECCNs

2B991	Machine tools not controlled by 2B001/2B201		e.g., 2-axis CNC machine tool
3A991	Microprocessors not controlled by 3A001.a		e.g., 32-bit/5 GFLOPS
6A993	Thermal cameras not controlled by 6A003.b		e.g., 9Hz frame rate
6A995	Lasers not controlled by 6A005		e.g., falling below power output and wavelength specified in 6A005
7A994	Navigation equipment not controlled by 7A001, 7A002, 7A003, 7A103, etc.		e.g., incorporating accelerometers or gyros of lesser accuracy
8A992	Marine systems not controlled by 8A001 or 8A002		e.g., less powerful brushless thrusters

* See Supplement No. 2 to Part 744 for a complete list



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Questions?