



U.S. DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY

# Foreign Policy Update

UPDATE 2016

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UPDATE 2016

# Cuba Regulatory Update

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## Summary

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- On December 17, 2014, the President announced Cuba policy changes intended to support the ability of the Cuban people to gain greater control over their own lives and determine their country's future
- Since then, BIS has published six amendments to the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*) regarding exports and reexports to the island

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## Jurisdiction and License Requirements

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- Exports and reexports of commodities, software, and technology (i.e., items)
- License requirement for exports and reexports of all items subject to the EAR unless authorized by license exception (§ 746.2(a))
- General 25 percent *de minimis* level for foreign-made items located abroad (§ 734.4)

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# Cuba

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## Licensing Policy Revisions (January 27, 2016; 81 FR 4580)

- Revised general policy of approval (§ 746.2(b)(2))
  - Telecommunication items
  - Commodities and software to human rights organizations and NGOs
  - Commodities and software to U.S. news bureaus
  - Agricultural items that are outside the scope of “agricultural commodities”
  - Items necessary to ensure the safety of civil aviation and the safe operation of commercial aircraft engaged in international air transportation
- Revised case-by-case review policy (§ 746.2(b)(3))
  - Exports and reexports of certain items to meet the needs of the Cuban people, including exports and reexports to state-owned enterprises, agencies, and other organizations of the Cuban government that provide goods and services for the use and benefit of the Cuban people

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# Cuba

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## Revisions to License Exceptions and Licensing Policy (March 16, 2016; 81 FR 13972)

- Revised General Prohibition 8 to explicitly state that the prohibition does not apply if a license or license exception authorizes the in-transit shipment (§ 736.2(b)(8))
- Expanded License Exception Aircraft, Vessels and Spacecraft (§ 740.15(d)(6))
  - Authorizes temporary sojourn to Cuba of a vessel carrying cargo destined to other countries provided that such cargo departs with the vessel at the end of its temporary sojourn to Cuba, does not enter the Cuban economy and is not transferred to another vessel
- Created a case-by-case review of items that will enable or facilitate export from Cuba of items produced by the Cuban private sector (§ 746.2(b)(3)(i))

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## Iran

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- On January 16, 2016, the United States lifted certain nuclear-related “secondary sanctions”.
- BIS license requirements and policies in the EAR did not change.
- Please refer to OFAC’s website for information about the JCPOA and Iran sanctions.
- <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>

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## Russia, Occupied Crimea

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- Entity List is updated continuously
  - September 7, 2016: 81 new entries for fueling Ukrainian conflict
- All items to and within the Crimea region require a license, other than food and medicine
  - Presumption of denial with few exceptions

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## Russia

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- Items for exploration or production from deepwater (500 feet), arctic offshore, or shale projects
  - Reviewed under a presumption of denial
- Certain items on the CCL intended for military end uses or military end users
  - Reviewed on a case-by-case basis

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# Burma, North Korea

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Regulatory provisions are under review pursuant to relevant Executive Orders

- Burma
  - EO 13742 October 7, 2016
- North Korea
  - EO 13722 March 18, 2016

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# Questions

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