



US Department of Commerce
Bureau of Industry and Security

Reexport Controls

• *Office of Exporter Services* • *Outreach & Educational Services* •

Topics



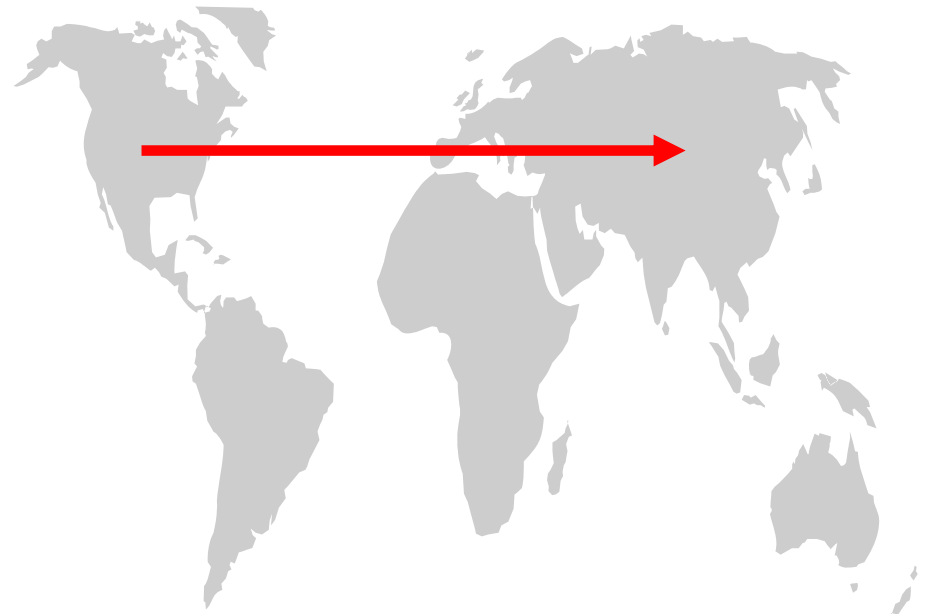
- Reexport terms
- Reexports subject to the EAR
- License application & responsibilities
- License Exceptions

Definition –Export

§734.2(b)(1)



Export – An actual shipment or transmission of an item *subject to the EAR* from the United States to a foreign country.

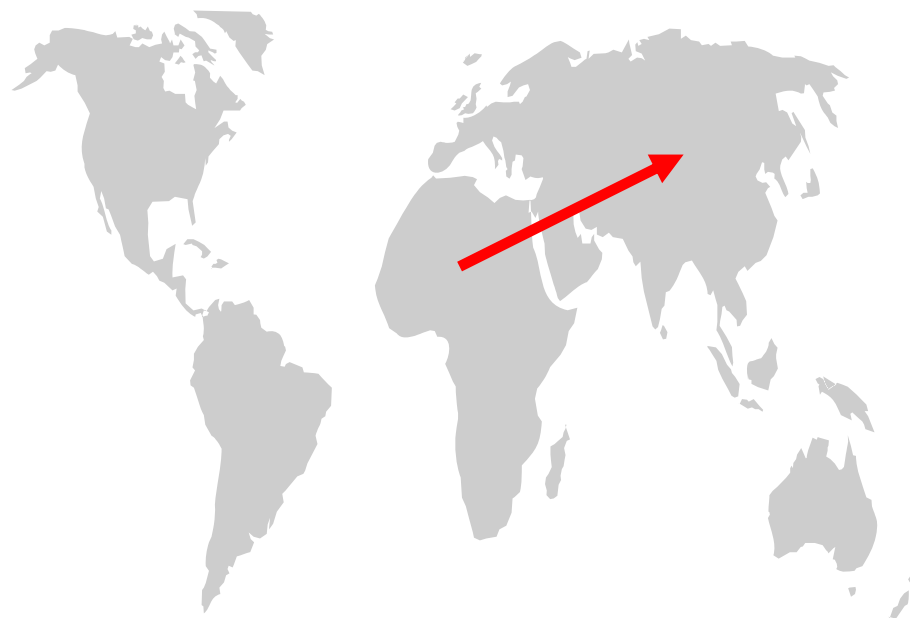


Definition – Reexport

§734.2(b)(4)



Reexport – An actual shipment or transmission of an item *subject to the EAR* from one foreign country to another.





Test Your Knowledge

- A US manufacturer exports an item to a Chinese company, who then sends the item to a Japanese company. Is that a reexport?
- A US manufacturer sends an item to a Chinese company. The Chinese company sends the item back to its subsidiary in the United States. Once in the US, the subsidiary sends the item to a customer in Japan. Is that a reexport?

Reexports Subject to the EAR



- U.S.-Origin items wherever located,
 - Unless they are:
 - Exclusively controlled for reexport by another U.S. Government Agency
 - Publicly available technology or software, except encryption
- Foreign produced items (in some cases)
 - *De minimis* rule
 - Direct Product rule

De Minimis

§§734.4 and 736.2(b)(2)



- Foreign-made items incorporating, commingled with, or drawn from controlled U.S origin items exceeding:
 - 10% for Cuba, North Korea, Sudan, Syria & Iran
 - 25% for all other destinations

Controlled Content and *De Minimis*



- “Controlled content” = US-origin items that would require a license for reexport to the ultimate destination of the foreign product
 - EAR99 items are considered “controlled content” for certain sanctioned countries
- Value of the “controlled content” is needed to calculate *de minimis* percentage

De Minimis



- Content that you don't have to count:
 - License Exception GBS or NLR eligible items
 - Foreign manufactured items
 - 2nd incorporation of U.S. origin items

De Minimis



- *De minimis* percentage based on ratio of cost of U.S.-origin items to foreign product's normal selling price.
- Compare:
 - commodities to commodities,
 - software to software,
 - technology to technology

Test your Knowledge

De Minimis



- Le Compu Inc., located in France, imported a chip manufactured in the United States. This chip is controlled for export to all destinations except for Canada. The cost of the chip is \$20. The company intends to incorporate the chip into a circuit board and then sell French circuit board to a customer in the United Kingdom for \$100.
- Is the circuit board subject to the EAR?

Test your Knowledge

De Minimis



- What if Le Computer imported U.S.-origin software (controlled to all destinations except for Canada) to be incorporated in the circuit board, would that make a difference?

De Minimis



- Content that is not eligible for *de minimis* treatment:
 - U.S. origin components of high performance computers (certain ones)
 - Encryption 5E002
 - QRS 11 if in commercial standby instrument system or commercial aircraft w/such system



De Minimis

Commingle Software or Technology

- One-time report required
 - Percentage of U.S. content by value
 - Description of your calculations
 - Values, assumptions, methodologies
 - Export price of U.S. content
 - For software, estimate of future sales
 - Description and fair market value of the foreign technology or software

If Over the *De minimis* Limit



- Classify the foreign product
- Determine ECCN and License Requirements
- Determine License Exception eligibility, if any
- Obtain any necessary authorization

Direct Product

§736.2(b)(3)



- Direct Product: technology
 - U.S. technology is National Security (NS) controlled
 - Foreign-made direct product is National Security (NS) controlled
 - Foreign-made direct product's destination is D:1 or Cuba
- Direct Product: plant or equipment
 - Direct product of a complete plant or any major component of a plant that was ... (use criteria from first bullet)

Test Your Knowledge

Direct Product



- A US company sends NS controlled technology to an Italian manufacturing company for the production of a widget. The widget, if classified using the CCL, would be controlled for NS and Missile Technology (MT) reasons. The foreign made widget is destined for Ukraine.
 - Would this foreign-made item be subject to the EAR?
 - Would it make a difference if the technology was controlled for MT reasons only?

Test Your Knowledge

Direct Product



- If it was produced from US-origin NS controlled technology and destined to France, would it be subject to the EAR?
- If when it gets to France it is then reexported to Russia, would it be subject to the EAR?

Authorization to Reexport



- Licenses
 - Application
 - Responsibilities

License Application

§748.4(a)(3)



- Who can apply for a reexport license?
 - Foreign Principal Party in interest; or
 - U.S. agent of the foreign party
 - Original Exporter on behalf of the foreign party

Licensee Responsibility



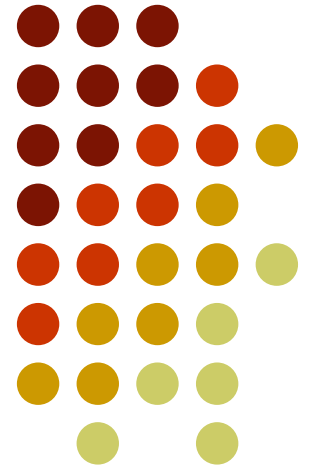
- Communicate license conditions
- Obtain written acknowledgement of receipt of the conditions
 - When required
 - From the parties to whom those conditions apply

License Exceptions Useful for Reexports

APR §740.16

RPL §740.10

TMP §740.9



Additional Permissive Reexports (APR)

§740.16



- Allows for reexports:
 - From, to, and among Country Group A:1 and cooperating countries (Supp. 1 to Part 740)
 - Commodities Only
 - Authorized by government of reexporting country
 - To a destination to which direct shipment from the US is authorized under an unused outstanding license

Servicing & Replacement of Parts and Equipment (RPL)

§740.10



- Authorizes the reexport of:
 - One-for-one replacement parts for previously exported equipment.
 - Previous export must have been lawful
 - Must destroy or return the replaced parts
 - Must not enhance item
 - US-origin commodities and software that were returned to the United States or a foreign party for servicing or replacement because they were unacceptable

Temporary Imports, Exports, and Reexports (TMP)

§740.9



- Authorizes the reexports of:
 - Tools of Trade
 - Must return within one year
 - Exhibition and Demonstration
 - Reexporter retains ownership and effective control
 - Maximum of 120 days at any one site
 - Must return within one year

No License Required

(NLR)



- Types of items eligible for NLR:
 - EAR99 items
 - ECCNs where there is no “X” on the Country Chart under reason(s) for control;
- *But Only When* the transaction does not require a reexport license based on any other licensing requirement (e.g., end-use/user requirements)

Session Summary



- Reexport terms
- Reexports subject to the EAR
- License application & responsibilities
- License Exceptions



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Current 2008 Overseas Seminar Schedule



- March 25-26, 2008: Tokyo, Japan
- March 28, 2008: Osaka, Japan
- March 31-April 1, 2008: Hong Kong
- April 3-4, 2008: Singapore
- April 7-8, 2008: Kuala Lumpur, Malaysia

<http://www.bis.doc.gov/seminarsandtraining/elsem.htm>