§ 746.1 Introduction.

In this part, references to the EAR are to references to 15 CFR chapter VII, subchapter C. This part implements broad based controls for items and activities subject to the EAR imposed to implement U.S. government policies. Two categories of controls are included in this part.

(a) Comprehensive controls. This part contains or refers to all the BIS licensing requirements, licensing policies, and License Exceptions for countries subject to general embargoes, currently Cuba and Iran. This part is the focal point for all the EAR requirements for transactions involving these countries.

(1) Cuba. All the items on the Commerce Control List (CCL) require a license to Cuba. In addition, most other items subject to the EAR, but not included on the CCL, designated by the Number “EAR99”, require a license to Cuba. Most items requiring a license to these destinations are subject to a general policy of denial. Because these controls extend to virtually all exports, they do not appear in the Country Chart in part 738 of the EAR, nor are they reflected in the Commerce Control List in part 774 of the EAR.

(2) Iran. BIS maintains license requirements and other restrictions on exports and reexports to Iran. A comprehensive embargo on transactions involving this country is administered by the Department of The Treasury’s Office of Foreign Assets Control (OFAC).

(b) Sanctions on selected categories of items to specific destinations. BIS controls the export and reexport of selected categories of items to Iraq, North Korea, and Rwanda consistent with United Nations Security Council Resolutions.

(c) This part also contains descriptions of controls maintained by the Office of Foreign Assets Control in the Treasury Department and by the Director of Defense Trade Controls in the Department of State. Comprehensive embargoes and supplemental controls implemented by BIS under the EAR usually also involve controls on items and activities maintained by these agencies. This part sets forth the allocation of licensing responsibilities between BIS and these other agencies.
References to the requirements of other agencies are informational; for current, complete, and authoritative requirements, you should consult the appropriate agency’s regulations.


§ 746.2 Cuba.

(a) License requirements. As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport all items subject to the EAR (see part 734 of the EAR for the scope of items subject to the EAR) to Cuba, except as follows:

(i) License Exceptions. You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(ii) Temporary exports and reexports (TMP) by the news media (see § 740.9(a)(2)(viii) of the EAR).

(iii) Operation technology and software (TSU) for legally exported commodities or software (see § 740.13(a) of the EAR).

(iv) Sales technology (TSU) (see § 740.13(b) of the EAR).

(v) Software updates (TSU) for legally exported software (see § 740.13(c) of the EAR).

(vi) Parts (RPL) for one-for-one replacement in certain legally exported commodities (see § 740.10(a) of the EAR).

(vi) Baggage (BAG) (see § 740.14 of the EAR).

(vii) Governments and international organizations (GOV) (see § 740.11 of the EAR).

(ix) Items in transit (TMP) from Canada through the U.S. (see § 740.9(b)(iv) of the EAR).

(x) Aircraft and vessels (AVS) for certain aircraft on temporary sojourn (see § 740.15(a) of the EAR).

(xi) Permissive reexports of certain spare parts in foreign-made equipment (see § 740.16(h) of the EAR).

(xii) Exports of agricultural commodities, classified as EAR 99, under License Exception Agricultural Commodities (AGR) and certain reexports of U.S. origin agricultural commodities, classified as EAR 99, under License Exception AGR (see § 740.18 of the EAR).

(xiii) Commodities and software authorized under License Exception Consumer Communications Devices (CCD) (see § 740.19 of the EAR).

(2) [Reserved]

(b) Licensing policy. Items requiring a license are subject to a general policy of denial, except as follows:

(i) Medicines and Medical Devices. Applications to export medicines and medical devices as defined in part 772 of the EAR will generally be approved, except:

(ii) If there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(iii) If there is a reasonable likelihood that the item to be exported will be reexported;

(iv) If the item to be exported could be used in the production of any biotechnological product; or

(v) If it is determined that the United States government is unable to verify, by on-site inspection or other means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people, but this exception shall not apply to donations of medicines for humanitarian purposes to a nongovernmental organization in Cuba.

(2) Items may be authorized for export or reexport to Cuba on a case-by-