§ 740.14 Baggage (BAG).

(a) Scope. This License Exception authorizes individuals leaving the United States either temporarily (i.e., traveling) or longer-term (i.e., moving) and crew members of exporting or reexporting carriers to take to any destination, as personal baggage, the classes of commodities, software and technology described in this section.

(b) Eligibility. Individuals leaving the United States may export or reexport any of the following commodities or software for personal use of the individuals or members of their immediate families traveling with them to any destination or series of destinations. Individuals leaving the United States who are U.S. persons, as defined in paragraph (b)(4)(i), may export or reexport technology as a tool of trade under paragraph (b)(4) for their personal use or for the personal use of members of their immediate families who are traveling or moving with them, provided they are also U.S. persons, as defined in paragraph (b)(4)(i), to any destination or series of destinations. Technology exports and reexports authorized under paragraph (b)(4) of this section may be made as actual shipments, transmissions, or releases. Individuals leaving the United States temporarily (i.e., traveling) must bring back items exported and reexported under this License Exception unless they consume the items abroad or are otherwise authorized to dispose of them under the EAR. Crew members of them a copy of the publicly available encryption source code. If you update or modify the source code, you must also provide additional copies to each of them each time the cryptographic functionality of the source code is updated or modified. In addition, if you posted the source code on the Internet, you must notify BIS and the ENC Encryption Request Coordinator each time the Internet location is changed, but you are not required to notify them of updates or modifications made to the encryption source code at the previously notified location. In all instances, submit the notification or copy to crypt@bis.doc.gov and to enc@nsa.gov.

NOTE TO PARAGRAPH (e): Posting encryption source code on the Internet (e.g., FTP or World Wide Web site) where it may be downloaded by anyone neither establishes “knowledge” of a prohibited export or reexport for purposes of this paragraph, nor triggers any “red flags” imposing a duty to inquire under the “Know Your Customer” guidance provided in Supplement No. 3 to part 732 of the EAR. Publicly available encryption object code software classified under ECCN 5D002 is not subject to the EAR when the corresponding source code meets the criteria specified in this paragraph (e), see §734.3(b)(3) of the EAR.

(5) Special recordkeeping requirements: ECCNs 2D983, 2D984, 2E983 and 2E984. In addition to any other recordkeeping requirements set forth elsewhere in the EAR, exporters are required to maintain records, as specified in this paragraph, when exporting operation software or technology controlled under ECCNs 2D983, 2D984, 2E983, and 2E984, respectively, under License Exception TSU. Records maintained pursuant to this section may be requested at any time by an appropriate BIS official as set forth in §782.7 of the EAR. The following information must be specially maintained for each export or reexport transaction, under License Exception TSU, of operation software and technology controlled by ECCNs 2D983, 2D984, 2E983, and 2E984:

(1) A description of the software or technology exported or reexported, including the ECCN, as identified on the CCL;

(2) A description of the equipment for which the software or technology is intended to be used, including the ECCN, as identified on the CCL;

(3) The intended end-use of the software or technology;

(4) The name and address of the end-user;

(5) The quantity of software shipped; and

(6) The location of the equipment for which the software or technology is intended to be used, including the country of destination.

may export or reexport only commodities and software described in paragraphs (b)(1) and (b)(2) of this section to any destination.

(1) Personal effects. Usual and reasonable kinds and quantities for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects, and their containers.

(2) Household effects. Usual and reasonable kinds and quantities for personal use of furniture, household effects, household furnishings, and their containers.

(3) Vehicles. Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, perambulators, and their containers.

(4) Tools of trade. Usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers and also technology for use in the trade, occupation, employment, vocation, or hobby of the traveler or members of the household who are traveling or moving. For special provisions regarding encryption commodities and software subject to EI controls, see paragraph (f) of this section. For a special provision that specifies restrictions regarding the export or re-export of technology under this paragraph, see paragraph (g).

(i) For purposes of this paragraph (b), U.S. person is defined as follows: an individual who is a citizen of the United States, an individual who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(2) or an individual who is a protected individual as defined by 8 U.S.C. 1324b(a)(3).

(ii) [Reserved]

(c) Limits on eligibility. The export of any item is limited or prohibited, if the kind or quantity is in excess of the limits described in this section. In addition, the items must be:

(1) Owned by the individuals (or by members of their immediate families) or by crew members of exporting carriers on the dates they depart from the United States;

(2) Intended for and necessary and appropriate for the use of the individuals or members of their immediate families traveling with them, or by the crew members of exporting carriers;

(3) Not intended for sale or other disposal; and

(4) Not exported under a bill of lading as cargo if exported by crew members.

(d) Special provision: unaccompanied baggage. Individuals departing the United States may ship unaccompanied baggage, which is baggage sent from the United States on a carrier other than that on which an individual departs. Crew members of exporting carriers may not ship unaccompanied baggage. Unaccompanied shipments under this License Exception shall be clearly marked “BAGGAGE.” Shipments of unaccompanied baggage may be made at the time of, or within a reasonable time before or after departure of the consignee or owner from the United States. Personal baggage controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), encryption items (EI) or nuclear nonproliferation (NP) must be shipped within 3 months before or after the month in which the consignee or owner departs the United States. However, commodities controlled for CB, MT, NS, EI or NP may not be exported under this License Exception as unaccompanied baggage to Country Groups D:1, D:2, D:3, D:4, or E:1. (See Supplement No. 1 of this part).

(e) Special provisions: shotguns and shotgun shells. (1) A United States citizen or a permanent resident alien leaving the United States may export or reexport shotguns with a barrel length of 18 inches or over and shotgun shells under this License Exception, subject to the following limitations:

(i) Not more than three shotguns may be taken on any one trip.

(ii) The shotguns and shotgun shells must be with the person’s baggage but they may not be mailed.

(iii) The shotguns and shotgun shells must be for the person’s exclusive use for legitimate hunting or lawful sporting purposes, scientific purposes, or personal protection, and not for resale or other transfer of ownership or control. Accordingly, except as provided in (e)(2) of this section, shotguns and unused shotgun shells must be returned
to the United States. Note that since certain countries may require an Import Certificate or a U.S. export license before allowing the import of a shotgun, you should determine the import requirements of your country of destination in advance.

(2) A nonresident alien leaving the United States may export or reexport under this License Exception only such shotguns and shotgun shells as he or she brought into the United States under the provisions of the Department of Justice Regulations (27 CFR 478.115(d)).

(f) Special provisions: encryption commodities and software subject to E1 controls on the Commerce Control List. (1) A U.S. citizen or permanent resident alien of the United States as defined by 8 U.S.C. 1101(a)(20) may use this license exception to export or reexport encryption commodities and software to any destination not in Country Group E:1 of Supplement No. 1 of this part.

(2) A person other than a U.S. citizen or permanent resident alien of the United States as defined by 8 U.S.C. 1101(a)(20) (except a national of a country listed in Country Group E:1 of Supplement No. 1 of this part who is not a U.S. citizen or permanent resident alien of the United States) may also use this license exception to export or reexport encryption commodities and software to any destination not in Country Group E:1 of Supplement No. 1 of this part.

(g) Special provision: restrictions for Export or Reexport of Technology. This authorization for the export or reexport of technology under the tools of trade provisions of paragraph (b)(4) of this section may be used only if:

(1) The technology is to be used overseas solely by individuals or members of their immediate families traveling with them provided they are U.S. persons as defined in paragraph (b)(4)(i).

(2) The exporting or reexporting party and the recipient take adequate security precautions to protect against unauthorized access to the technology while the technology is being transmitted and used overseas. Examples of security precautions to help prevent unauthorized access include the following:

(i) Use of secure connections, such as Virtual Private Network connections when accessing IT networks for e-mail and other business activities that involve the transmission and use of the technology authorized under this license exception;

(ii) Use of password systems on electronic devices that will store the technology authorized under this license exception; and

(iii) Use of personal firewalls on electronic devices that will store the technology authorized under this license exception.

(3) The technology authorized under these provisions may not be used for foreign production purposes or for technical assistance unless authorized by BIS;

(4) Any encryption item controlled under ECCN 5E002 is not exported or reexported to any destination listed in Country Group E:1 of Supplement No. 1 of this part.


§ 740.15 Aircraft and vessels (AVS).

This License Exception authorizes departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad; the export of equipment and spare parts for permanent use on a vessel or aircraft; and exports to vessels or planes of U.S. or Canadian registry and U.S. or Canadian Airlines’ installations or agents. Generally, no License Exception symbol is necessary for export clearance purposes; however, when necessary, the symbol “AVS” may be used.

(a) Aircraft on temporary sojourn—(1) Foreign registered aircraft. An operating civil aircraft of foreign registry that has been in the United States on a temporary sojourn may depart from the United States under its own power for any destination, provided that:

(i) No sale or transfer of operational control of the aircraft to nationals of a