

How to Determine if You Need an Export License



A SHIPPING SOLUTIONS WHITE PAPER



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(Major sections of this white paper have been pulled from the U.S.

Department of Commerce's publication:

Introduction to the Commerce Department's Export Controls.)

Background

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) is responsible for implementing and enforcing the Export Administration Regulations (EAR), which regulate the export and reexport of most commercial items. We often refer to the items that BIS regulates as dual-use—items that have both commercial and military or proliferation applications. However, purely commercial items without an obvious military use are also subject to the EAR.

The EAR do not control all goods, services and technologies. Other U.S. government agencies regulate more specialized exports. For example, the U.S. Department of State has authority over defense articles and defense services. [*Supplement No. 3 to Part 730 of the EAR*](#) lists the other agencies involved in export controls.

IMPORTANT LINKS

[**www.bis.doc.gov**](http://www.bis.doc.gov)

[**www.shippingsolutions.com**](http://www.shippingsolutions.com)

Any item that is sent from the United States to a foreign destination is an export. Items include commodities, software or technology such as clothing, building materials, circuit boards, automotive parts, blueprints, design plans, retail software packages and technical information.

This overview is designed to give people a general understanding of the EAR. To learn more about the regulations, consult the EAR, which include answers to frequently asked questions, detailed step-by-step instructions for determining if a transaction is subject to the regulations, how to request a commodity classification or advisory opinion, and how to apply for an export license.

What is an Export?

How an item is transported outside the U.S. doesn't matter in determining export license requirements. For example, an item can be sent by regular mail or hand-carried on an airplane. A set of schematics can be sent via facsimile to a foreign destination, software can be uploaded to or downloaded from an Internet site, or technology can be transmitted via email or during a telephone conversation. Regardless of the method used for the transfer, the transaction is considered an export for export control purposes.

An item is also considered an export even if it is leaving the U.S. temporarily, if it is leaving the U.S. but is not for sale (e.g., a gift), or if it is going to a wholly-owned U.S. subsidiary in a foreign country. Even a foreign-origin item exported from the U.S., transmitted or transshipped through the U.S., or being returned from the U.S. to its foreign country of origin is considered an export.

Finally, release of technology or source code subject to the Export Administration Regulations (EAR) to a foreign national in the United States is deemed to be an export to the home country of the foreign national under the EAR.

Factors to Consider

A small percentage of total exports and reexports require a license from BIS. License requirements are dependent upon an item's technical characteristics, the destination, the end user, and the end use. You as the exporter must determine whether your export requires a license. When making that determination consider:

1. **What** are you exporting?
2. **Where** are you exporting?
3. **Who** will receive your item?
4. **What** will your item be used for?

1. What Are You Exporting?

The Export Control Classification Number and the Commerce Control List

A key in determining whether or not you need an export license from the Department of Commerce is knowing whether the item you are intending to export has a specific Export Control Classification Number (ECCN). The ECCN is an alpha-numeric code (e.g., 3A001) that describes a particular item or type of item and shows the controls placed on that item. All ECCNs are listed in the [*Commerce Control List \(CCL\)*](#).

The CCL is divided into 10 broad categories, and each category is further subdivided into five product groups.

Commerce Control List Categories

- 0 = Nuclear Materials, Facilities and Equipment (and Miscellaneous Items)
- 1 = Materials, Chemicals, Microorganisms and Toxins
- 2 = Materials Processing
- 3 = Electronics
- 4 = Computers
- 5 = Telecommunications and Information Security
- 6 = Sensors and Lasers
- 7 = Navigation and Avionics
- 8 = Marine
- 9 = Propulsion Systems, Space Vehicles and Related Equipment

Five Product Groups

- A. Systems
- B. Test, Inspection and Production Equipment
- C. Material
- D. Software
- E. Technology

Classifying Your Item

The proper classification of your item is essential to determining any licensing requirements under the EAR. You may classify the item on your own, check with the manufacturer, or submit a classification request to have BIS determine the ECCN for you.

When reviewing the CCL to determine if your item is specified by an ECCN, you will first need to determine which of the 10 broad categories of the Commerce Control List includes your item and then consider the applicable product group.

For example, assume that you wish to export polygraph equipment that is used to help law enforcement agencies. What would be your ECCN?

Start by looking in the Commerce Control List under the category of electronics (Category 3) and product group that covers equipment (Product Group A). Read through the list to find whether your item is included in the list. In this example the item is 3A981 as show below:

3A981

Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specifically designed parts and accessories, n.e.s.

License Requirements:

Reasons for Control: CC

Control(s): CC applies to entire entry Country Chart: CC Column 1

License Exceptions:

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled:

Unit: Equipment in Numbers

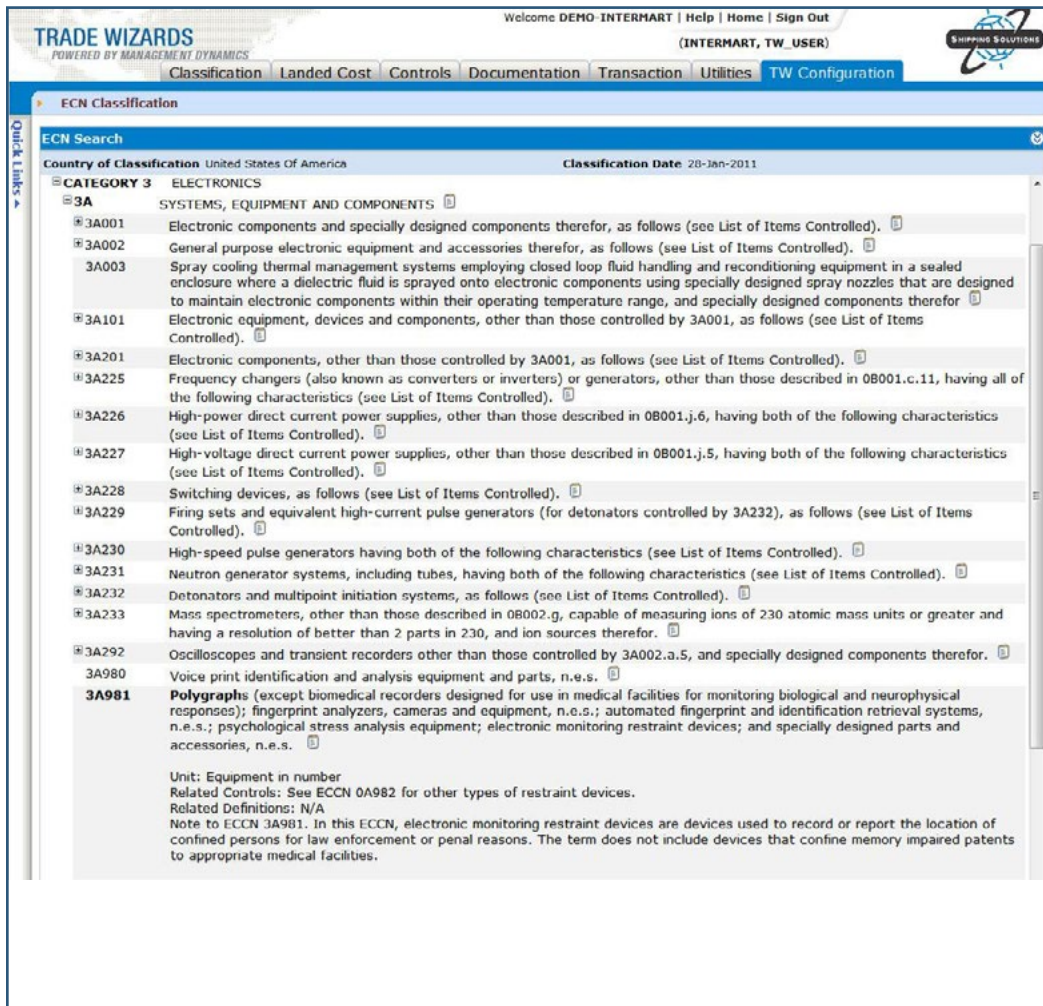
Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN headings.

An alternative to searching through a printed version of the CCL, Shipping Solutions' [Trade Compliance Wizards](#) include a [Product Classification Wizard](#) that allows you to type in a short description of your product. The wizard then highlights potential matches in the CCL.

If you enter “polygraph” into the Product Classification Wizard, you get the following:



Product Classification Wizard Result for “Polygraph Equipment”

The Product Classification Wizard highlights Category 3, Electronics, as a potential match for this product by bolding the results. You can then drill down further into the results screening by clicking on the plus sign “+” next to the bolded entry. Doing so takes us down to the ECCN Classification of 3A981.

You must carefully read the entire entry, including any additional notes, to make sure this is the best potential match for your product.

If Your Item is Not on the Commerce Control List: EAR99

If your item falls under U.S. Department of Commerce jurisdiction and is not listed on the CCL, it is designated as EAR99. EAR99 items generally consist of low-technology consumer goods and do not require a license in many situations. If your proposed export of an EAR99 item is to an embargoed country, to an end user of concern, or in support of a prohibited end use, you may be required to obtain a license.

2. Where Are You Exporting?

Restrictions vary from country to country. The most restricted destinations are the embargoed countries and those countries designated as supporting terrorist activities including Cuba, Iran, Libya, North Korea, Sudan and Syria. There are restrictions on some products, however, that are worldwide.

How to Cross Reference the ECCN with the Commerce Country Chart

Once you have classified the item, the next step is to determine whether you need an export license based on the reasons for control of the item and the country of ultimate destination. You begin this process by comparing the ECCN with the Commerce Country Chart (*Supplement No. 1 to Part 738*). The ECCNs and the Commerce Country Chart, taken together, define the items subject to export controls based solely on the technical parameters of the item and the country of ultimate destination.

Below the main heading for each ECCN entry you will find the “Reason for Control” (e.g., NS for National Security, AT for Anti-Terrorism, CC for Crime Control, etc.). Below this you will find the Country Chart designator, which shows the specific export control code(s) applied to your item (e.g., NS Column 2, AT Column 1, CC Column 1, etc). These specific control codes for your ECCN need to be cross referenced against the Commerce Country Chart.

Commerce Control List Overview and the Country Chart Supplement No. 1 to Part 738—page 6

Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
	Grenada	X	X		X		X	X	X	X	X	X	X		X	
Guatemala	X	X		X		X	X	X	X	X	X	X		X		
Guinea	X	X		X		X	X	X	X	X		X		X		
Guinea-Bissau	X	X		X		X	X	X	X	X		X		X		
Guyana	X	X		X		X	X	X	X	X	X	X		X		
Haiti	X	X		X		X	X	X	X	X	X	X		X		
Honduras	X	X		X		X	X	X	X	X	X	X		X		
Hong Kong	X	X		X		X		X	X	X		X		X		
Hungary	X					X		X	X							
Iceland	X			X		X		X	X							
India	X	X	X	X		X	X	X	X	X		X		X		
Indonesia	X	X		X		X	X	X	X	X		X		X		
Iran	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.															
Iraq ¹	X	X	X	X	X	X	X	X	X	X		X	X			

Export Administration Regulations September 12, 2007

Excerpt from the Commerce Country Chart

If there is an “X” in the box based on the reason(s) for control of your item and the country of destination then a license is required unless a License Exception is available. [Part 742 of the EAR](#) sets forth the license requirements and licensing policy for most reasons for control.

Example 1: Export License May Be Required

Question: You have polygraph equipment classified as 3A981 for export to Honduras. Would you be required to obtain an export license from the Department of Commerce before selling and shipping it to your purchaser?

Answer: Yes. 3A981 is controlled for Crime Control reasons under CC Column 1, and the Country Chart shows that such items require a license for Honduras unless a License Exception is available.

If there is no “X” in the control code column(s) specified under your ECCN and country of destination, you will not need an export license unless you are exporting to an end user or end use of concern.

Example 2: Export License May *Not* Be Required

Question: You have polygraph equipment classified as 3A981 for export to Iceland. Would you be required to obtain an export license from the Department of Commerce before selling and shipping it to your purchaser?

Answer: No. 3A981 is controlled for Crime Control reasons under CC Column 1, and the Country Chart shows that such items do not require a license for Iceland unless you are exporting to an end user or end use of concern.

Although a relatively small percentage of all U.S. exports and reexports require a BIS license, virtually all exports and many reexports to embargoed destinations and countries designated as supporting terrorist activities require a license. These countries are Cuba, Iran, North Korea, Sudan and Syria. [Part 746 of the EAR](#) describes embargoed destinations and refers to certain additional controls imposed by the Office of Foreign Assets Control (OFAC) of the Treasury Department.

Rather than manually searching the Commerce Country Chart, the [Export Controls Wizard](#) allows you to enter the country of export, country of manufacture, country of import and your product’s ECCN code to quickly determine if it requires an export license.

As you can see from the screen shot below, the Export Control Wizard indicates that a license is required for exporting polygraph equipment classified as 3A981 to Honduras:

TRADE WIZARDS
POWERED BY MANAGEMENT DYNAMICS

Welcome DEMO-INTERMART | Help | Home | Sign Out
(INTERMART, TW_USER)

Classification Landed Cost **Controls** Documentation Transaction Utilities TW Configuration

Export Controls Printable Version

Export Controls Results

Country of Export	United States Of America	Country of Manufacture	United States Of America
Country of Import	Honduras	Export Date	28-Jan-2011
Export HS Number	-	ECN Number	3A981
Export IIS Description			

Export Controls Summary

Control Type	Result
Embargo/Sanction	● No Controls
Prohibition	● No Controls
Licenses, Permits, etc.	● Controls Apply
Absolute Quota	● No Controls
Other Controls	● No Controls

Global Notes
KEY: EL (Export License Required) - - NLR (No License Required) - - LVS (License Exception Shipments of Limited Value) - - GBS (License Exception Shipments to Country Group B Countries) - - CIV (License Exception Civil End-Users) - - TSR (License Exception Technology and Software Under Restriction) - - DOS (Department of State License required)

Export Controls Details

License Requirements

EL

Country Reasons for Control
CB1, CB2, NP1, NS1, NS2, MT1, RS1, RS2, CC1, CC3, EI, FC1

ECCN Reasons for Control
CC1

Country License Exceptions available
GBS, TSR, LVS

ECCN License Exceptions available
NONE

Notes regarding license determination

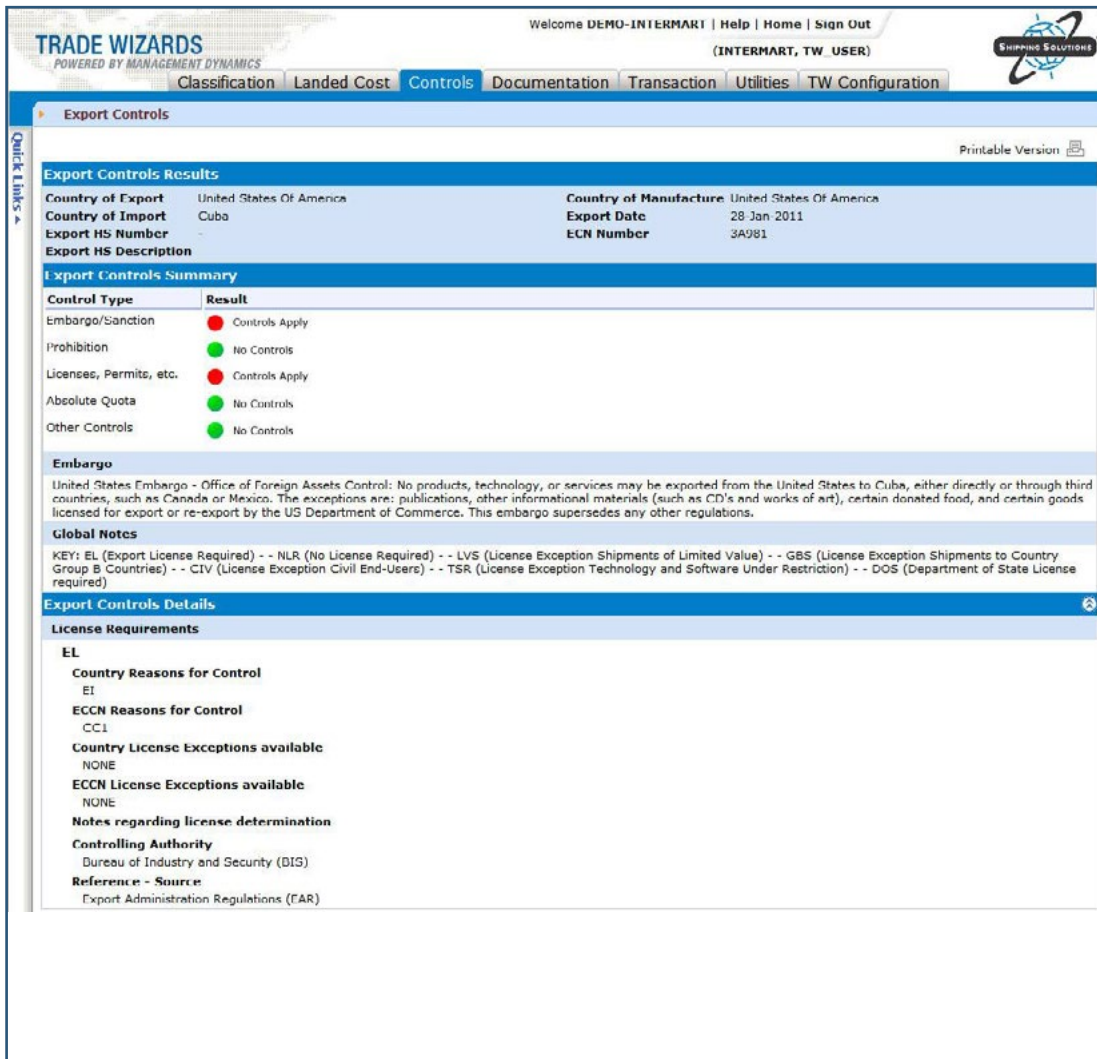
Controlling Authority
Bureau of Industry and Security (BIS)

Reference - Source
Export Administration Regulations (EAR)

Export Control Wizard Results for Shipping Polygraph Equipment to Honduras.

In addition to the red stoplight that indicates that an export license is required, the Export Controls Details section at the bottom of the screen outlines the reasons for control. The Crime Control Code (CCI) is listed under both the Country and ECCN reasons for control so, in this case, the product is controlled for crime control reasons. Since there are no license exceptions for this ECCN, a license is required.

If we screen a shipment destined for one of the embargoed countries such as Cuba outlined in Part 746 of the EAR as the country of import, the Wizard also tells us that Cuba is an embargoed country:



TRADE WIZARDS
POWERED BY MANAGEMENT DYNAMICS

Welcome DEMO-INTERMART | Help | Home | Sign Out
(INTERMART, TW_USER)

Classification Landed Cost **Controls** Documentation Transaction Utilities TW Configuration

Export Controls Printable Version

Export Controls Results

Country of Export	United States Of America	Country of Manufacture	United States Of America
Country of Import	Cuba	Export Date	28 Jan 2011
Export HS Number	-	ECN Number	3A981
Export HS Description			

Export Controls Summary

Control Type	Result
Embargo/Sanction	● Controls Apply
Prohibition	● No Controls
Licenses, Permits, etc.	● Controls Apply
Absolute Quota	● No Controls
Other Controls	● No Controls

Embargo
United States Embargo - Office of Foreign Assets Control: No products, technology, or services may be exported from the United States to Cuba, either directly or through third countries, such as Canada or Mexico. The exceptions are: publications, other informational materials (such as CD's and works of art), certain donated food, and certain goods licensed for export or re-export by the US Department of Commerce. This embargo supersedes any other regulations.

Global Notes
KEY: EL (Export License Required) - - NLR (No License Required) - - LVS (License Exception Shipments of Limited Value) - - GBS (License Exception Shipments to Country Group B Countries) - - CIV (License Exception Civil End-Users) - - TSR (License Exception Technology and Software Under Restriction) - - DOS (Department of State License required)

Export Controls Details

License Requirements

EL
Country Reasons for Control
EI
ECCN Reasons for Control
CC1
Country License Exceptions available
NONE
ECCN License Exceptions available
NONE
Notes regarding license determination
Controlling Authority
Bureau of Industry and Security (DIS)
Reference - Source
Export Administration Regulations (EAR)

Export Control Wizard Results for Shipping Polygraph Equipment to Cuba.

3. Who Will Receive Your Item?

Certain individuals and organizations are prohibited from receiving U.S. exports and others may only receive goods if they have been licensed, even items that do not normally require a license based on the ECCN and Commerce Country Chart or based on an EAR99 designation. You must be aware of the following lists:

- **Entity List**—A list of organizations identified by BIS as engaging in activities related to the proliferation of weapons of mass destruction. Depending on your item, you may be required to obtain a license to export to an organization on the Entity List even if one is not otherwise required.
- **Treasury Department Specially Designated Nationals and Blocked Persons List**—A list maintained by the Department of Treasury’s Office of Foreign Assets Control (OFAC) comprising individuals and organizations deemed to represent restricted countries or known to be involved in terrorism and narcotics trafficking.
- **The Unverified List**—A list composed of firms for which BIS was unable to complete an end-use check. Firms on the unverified list present a red flag that exporters have a duty to inquire about before making an export to them.
- **Denied Persons**— A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order is prohibited.

A list of those firms and individuals whose export privileges have been denied is available on the BIS website: [Lists of Parties of Concern](#). Note that some denied persons are located within the United States.

BIS does not combine all of its various lists into one searchable list. In addition, other government agencies in the U.S. and other organizations around the world such as the United Nations and the European Union also publish lists of people and organizations with whom you should not do business.

Instead of checking each of the BIS lists individually, the [Restricted Party Screening Wizard](#) allows you to enter the name, address and contact for any potential export customer and quickly screens several dozen different lists all at one time.

The screenshot displays the 'Trade Wizards' interface, powered by Management Dynamics. The user is logged in as 'INTERMART, TW_USER'. The main navigation menu includes 'Classification', 'Landed Cost', 'Controls', 'Documentation', 'Transaction', 'Utilities', and 'TW Configuration'. The current view is 'Screening Results', which includes a 'Printable Version' link.

Partner Information

Status	Potential Match	Address 1	4 CALLE, 15 Y 16 AVE., S.O. BARRIO SUYAPA #105, 58-0081	View RPS Lists
Embargo	No	Address 2		
Partner Name	Seguridad Y Electronica Mafo	Address 3		
Contact Name		Address 4		
Secondary Contact Name		City	SAN PEDRO SULA	
Organization	INTERMART	State / Province		
		Country		
		Zip / Postal		

Name Match Details (1)

Entity ID	List Name	Name	Match Score
ENTITY2472393	DOC-DPL	SEGURIDAD Y ELECTRONICA MAFO, S.A.	97%

Address Match Details (2)

Entity ID	List Name	Address	Match Score
ENTITY2472393	DOC-DPL	4 CALLE, 15 Y 16 AVE., S.O. BARRIO SUYAPA #105, 58-0081 SAN PEDRO SULA HN	100%
ENTITY2472428	DOC-DPL	4 CALLE, 15 Y 16 AVE., S.O. BARRIO SUYAPA #105, 58-0081 SAN PEDRO SULA HN	100%

Trade Party Screening Wizard Results for Seguridad Y Electronica Mafo.

In this case, the Wizard determines there is a 97% likelihood that the company name matches a company on at least one of the restricted party lists, and the address is a 100% match with a company on a list. You can click on the Entity ID for each match to see more details about the matching company.

If you believe a prospective customer appears on one of the restricted party lists, you must not make the sale and should report the situation to the BIS's Office of Export Enforcement. If you have questions about Denied Persons, you may contact BIS's Office of Export Enforcement Analysis at (202) 482-4255.

4. What Will Your Item Be Used For?

Some end uses are prohibited while others may require a license. For example, you may not export to certain entities involved in the proliferation of weapons of mass destruction (e.g., nuclear, biological, chemical) and the missiles to deliver them without specific authorization no matter what your item is. For more information on prohibited end uses, please refer to [Part 744 of the EAR](#).

Ways to Export

Authorization to export is determined by the transaction: what the item is, where it is going, who will receive it, and what it will be used for. The majority of U.S. commercial exports do not require a license.

NLR—No License Required

Most exports from the U.S. do not require a license and are therefore exported under the designation NLR. Except in those relatively few transactions when a license requirement applies because the destination is subject to embargo or because of a proliferation end use or end user, no license is required when:

- The item to be shipped is not on the CCL (i.e., it's EAR99); or
- The item is on the CCL but there is no "X" in the box(es) on the Country Chart under the appropriate reason(s) for control column on the row for the country of destination. (See the country chart example above.)

In each of these situations, you would enter NLR on your export documents.

License Exception

If a license is required for your transaction, a License Exception may be available. License Exceptions and the conditions on their use are set forth in [Part 740 of the EAR](#). If your export is eligible for a License Exception, you would use the designation of that License Exception (e.g., LVS, GBS, TMP) on your export documents.

If you refer to the Export Control Wizard screen shot above on page 14, you'll see it provides you with a list of potential license exceptions that are available for a particular ECCN code. In this example of sending polygraph equipment to Honduras, no license exceptions are available.

License

If your item requires a license to be exported, you must apply to BIS for an export license. The best and fastest way to submit an export license application is to use the online [Simplified Network Application Process \(SNAP-R\)](#) found on the BIS website. If your application is approved, you will receive a license number and expiration date to use on your export documents. A BIS-issued license is usually valid for two years.

Summary

- Ensure that your export is under U.S. Department of Commerce jurisdiction.
- Classify your item by reviewing the [Commerce Control List](#).
- If your item is classified by an Export Control Classification Number (ECCN), identify the Reasons for Control on the Commerce Control List.
- Cross reference the ECCN Controls against the [Commerce Country Chart](#) to see if a license is required. If yes, determine if a License Exception is available before applying for a license.
- [Ensure that no proscribed end users or end uses](#) are involved with your export transaction. If proscribed end users or end uses are involved, determine if you can proceed with the transaction or must apply for a license.
- Export your item using the correct ECCN and the appropriate symbol (e.g., NLR, License Exception, or license number and expiration date) on your export documents.
- By utilizing Shipping Solutions' [Trade Compliance Wizards](#), you have a fast and easy method for following the export compliance procedures outlined above.

Want to Learn More About Export Licenses and Shipping Solutions?

Thousands of successful exporters are already using Shipping Solutions.

Determining whether or not your products require an export license is only part of the export process. You also need to properly complete the myriad of export forms to accompany the shipment.

Fortunately there is a fast, easy and accurate way to complete your export documents, file your export information through the Automated Export System (AES), and stay compliant with export regulations—including export license determination.

Shipping Solutions Professional export software eliminates redundant data entry for all your export tasks allowing you to complete your export process five-times faster than you are doing them now. And we back that with a 60-day, no-questions-asked, money-back guarantee.

Let us show you how Shipping Solutions can help your company.

Call us today at **888-890-7447**, and we'll arrange a free, no-obligation online demo of the software for you. Or download or request a free trial version of Shipping Solutions at our website: <http://shippingsolutions.com/freetrial>.

You'll be glad you did.



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