Export Control Reform Update: Enhancing Interoperability and Industrial Cooperation

Michael Vaccaro
Director
Office of Strategic Industries and Economic Security
Bureau of Industry and Security
Michael.Vaccaro@bis.doc.gov
202-482-8232

Export Control Reform Resources: www.bis.doc.gov
Topics

- Our Defense Trade and Industrial Base Mission
- Export Control Reform Update
- Licensing Impact/Trends
Office of Strategic Industries and Economic Security

Defense Programs Division
- Defense Priorities and Allocations System/Security of Supply
- Emergency Preparedness/Continuity of Operations
- National Defense Stockpile Market Impact Committee
- NATO Industrial Resources and Communications Services Working Group

Munitions Control Division
- 600 Series Policy
- 600 Series Licensing/Classifications/Determinations
- 600 Series Compliance/Outreach

Strategic Analysis Division
- Committee on Foreign Investment in the United States
- Defense Policy (Advocacy, Excess Defense Articles, International Agreements, Offshore FMS/FMF Waivers)
- Offsets in Defense Trade
- NATO International Competitive Bidding Certification
Primary U.S. Export Control Regulations

International Traffic in Arms Regulations (ITAR)
- Administered by U.S. Dept. of State, Directorate of Defense Trade Controls
- 22 C.F.R. Parts 120-130
- Covers defense articles (commodities, software, and technical data) and defense services

Export Administration Regulations (EAR)
- Administered by U.S. Dept. of Commerce, Bureau of Industry and Security
- 15 C.F.R. Parts 730-774
- Historically covered mostly commercial and dual-use commodities, software, and technology; some services related to proliferation
- Now also includes less-sensitive military items and commercial spacecraft items

Export Control Reform
### Primary U.S. Export Control Regulations

<table>
<thead>
<tr>
<th>International Traffic in Arms Regulations (ITAR)</th>
<th>Export Administration Regulations (EAR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• U.S. Munitions List (USML)</td>
<td>• Commerce Control List (CCL)</td>
</tr>
<tr>
<td>• Describes, as specifically as possible,</td>
<td>• Describes dual-use items (including</td>
</tr>
<tr>
<td>those items providing a critical military</td>
<td>9x515 spacecraft items)</td>
</tr>
<tr>
<td>or intelligence capability</td>
<td>• Describes less-sensitive military</td>
</tr>
<tr>
<td>• Applies to exports, reexports, and</td>
<td>items (600 series items)</td>
</tr>
<tr>
<td>retransfers, as well as temporary</td>
<td>• Applies to exports and reexports, as</td>
</tr>
<tr>
<td>imports into the U.S.</td>
<td>well as some in-country transfers;</td>
</tr>
<tr>
<td>• “See-through” rule for most U.S.-origin</td>
<td>does not apply to temporary imports</td>
</tr>
<tr>
<td>ITAR content incorporated in non-U.S.</td>
<td>into the U.S.</td>
</tr>
<tr>
<td>made item</td>
<td>• Application of <em>de minimis</em> for most</td>
</tr>
<tr>
<td>• License generally always required,</td>
<td>U.S.-origin EAR content incorporated</td>
</tr>
<tr>
<td>regardless of type of item or</td>
<td>in non-U.S. made item</td>
</tr>
<tr>
<td>destination</td>
<td>• License required based on four factors:</td>
</tr>
<tr>
<td></td>
<td>type of item, country of destination,</td>
</tr>
<tr>
<td></td>
<td>end use, end users</td>
</tr>
</tbody>
</table>
## Status

<table>
<thead>
<tr>
<th>USML Category</th>
<th>ECCNs</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>I: Firearms</td>
<td>0x601</td>
<td>Proposed rule TBD</td>
</tr>
<tr>
<td>II: Artillery</td>
<td>0x602</td>
<td>Proposed rule TBD</td>
</tr>
<tr>
<td>III: Ammunition</td>
<td>0x603</td>
<td>Proposed rule TBD</td>
</tr>
<tr>
<td>IV: Launch Vehicles/Missiles</td>
<td>0x604</td>
<td>Final rule Jan. 2, 2014; Effective July 1, 2014</td>
</tr>
<tr>
<td></td>
<td>9x604</td>
<td></td>
</tr>
<tr>
<td>V: Explosives/Propellants</td>
<td>1x608</td>
<td>Final rule Jan. 2, 2014; Effective July 1, 2014</td>
</tr>
<tr>
<td>VI: Vessels of War</td>
<td>8x609</td>
<td>Final rule July 8, 2013; Effective Jan. 6, 2014</td>
</tr>
<tr>
<td>VII: Tanks/Military Vehicles</td>
<td>0x606</td>
<td>Final Rule July 8, 2013; Effective Jan. 6, 2014</td>
</tr>
<tr>
<td>IX: Training Equipment</td>
<td>0x614</td>
<td>Final rule Jan. 2, 2014; Effective July 1, 2014</td>
</tr>
<tr>
<td>X: Personal Protective Equip.</td>
<td>1x613</td>
<td>Final rule Jan. 2, 2014; Effective July 1, 2014</td>
</tr>
<tr>
<td>XI: Electronics</td>
<td>3x611</td>
<td>Final rule July 1, 2014; Effective Dec. 30, 2014</td>
</tr>
<tr>
<td></td>
<td>9x620</td>
<td></td>
</tr>
</tbody>
</table>
## Status

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<tr>
<th>USML Category</th>
<th>ECCNs</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>XII: Sensors/Infrared/Lasers</td>
<td>7x611</td>
<td><strong>Second proposed rule Feb. 19, 2016</strong></td>
</tr>
<tr>
<td>XIII: Miscellaneous</td>
<td>0x617</td>
<td><strong>Final rule July 8, 2013; Effective Jan. 6, 2014</strong></td>
</tr>
<tr>
<td>XIV: Toxicological Agents</td>
<td>1x607</td>
<td><strong>Final rule July 28, 2016; Effective Dec. 31, 2016</strong></td>
</tr>
</tbody>
</table>
| XV: Spacecraft/Satellites     | 9x515 | **Interim final rule May 13, 2014**  
  **Effective June 27, 2014 (for rad-hard ICs)**  
  **Effective Nov. 10, 2014 (for all other items)** |
| XVI: Nuclear                  | N/A   | **Final rule Jan. 2, 2014; Effective July 1, 2014**                 |
| XVII: Classified              | N/A   | **Final rule Apr. 16, 2013; Effective Oct 15, 2013**                |
| XVIII: Directed Energy Weapons| 6x619 | **Final rule July 28, 2016; Effective Dec. 31, 2016**               |
| XIX: Gas Turbine Engines      | 9x619 | **Final rule Apr. 16, 2013; Effective Oct 15, 2013**                |
  **Proposed Revision Rule Feb. 9 2016, Comments due Mar. 25, 2016** |
| XX: Submersible Vessels       | 8x620 | **Final rule July 8, 2013; Effective Jan. 6, 2014**                 |
| XXI: Not Enumerated           | N/A   | **Final rule Apr. 16, 2013; Effective Oct 15, 2013**                |
Enhancing Interoperability/Industrial Cooperation

• Most 600 series items require a license to all countries except Canada, **but many are eligible for license exceptions**

• This avoids the need for prior approval from the U.S. Government for transactions of less concern, such as trade with allies (including South Korea)
Enhancing Interoperability/Industrial Cooperation

• Most 600 series items eligible for License Exception Strategic Trade Authorization (STA)
• Allows for license-free exports and reexports to 36 countries (including South Korea) for ultimate end use by the country’s armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or search/rescue agency, or for return to the United States

Online Web Tool, How to Use License Exception STA
www.bis.doc.gov
Greater Business Efficiency

• If a 600 series item needs to be serviced in the U.S., non-U.S. company may ship item without having to alert the U.S. company to obtain a temporary import authorization

• Most 600 series parts/components may be exported under a license exception to replace defective or worn parts/components abroad, as well as to return items serviced in the U.S. to non-U.S. customers
Greater Business Efficiency

• If a customer requests a sample 600 series commodity, it is possible to export the sample without needing a license. Shipments of most 600 series items valued at $1,500 or below may be exported under a license exception to many destinations.

• If a U.S. reexport license is required, no purchase order is required to be submitted with the application. Companies may anticipate future business opportunities in requesting authorization from the U.S. Government, which reduces need for future licenses.
Applying for a BIS License

• Free online submission system (SNAP-R); no cost associated with license application
• Default four-year validity period
• May export or reexport to and among end users listed on license
• No purchase order required
• No large agreements to draft or lengthy agreement guidelines to follow
• May pre-position applications prior to effective date of applicable final rule
ECR License Trend Comparison

BIS Average Monthly Applications by ECR Transition Rules
October 15, 2013 to July 31, 2016

- 1st Rule Aircraft and Gas Turbine Engines: 672
- 2nd Rule Vehicles and Vessels: 114
- 3rd Rule Missiles and Explosives: 121
- 4th Rule Satellites: 89
- 5th Rule Military Electronics: 245

DDTC License Trends by ECR Transition Rules
October 15, 2013 to July 31, 2016
Average Monthly Applications

- 1st Rule Aircraft and Gas Turbine Engines: 1,513
  - Pre-ECR: 507 (66.5%)
  - Post-ECR: 484
- 2nd Rule Vehicles and Vessels: 484
  - Pre-ECR: 279 (42.2%)
  - Post-ECR: 318
- 3rd Rule Missiles and Explosives: 500
  - Pre-ECR: 365 (36.5%)
  - Post-ECR: 68
- 4th Rule Satellites: 365
  - Pre-ECR: 81.6%
  - Post-ECR: 53.1%
- 5th Rule Military Electronics: 607
  - Pre-ECR: 53.1%
Leading Destinations

Top Ten Destinations of BIS Approved Licenses for 600-Series and 9x515 Items by Count
October 15, 2013 - July 31, 2016

1. Japan - 3,826
2. United Kingdom - 3,029
3. South Korea - 1,780
4. Germany - 1,441
5. United Arab Emirates - 1,223
6. Italy - 1,102
7. Israel - 1,080
8. France - 1,039
9. Australia - 1,002
10. Saudi Arabia - 932
# Top Destinations of ECR Exports

600 Series and 9x515 Items (10/2013-7/2016)

<table>
<thead>
<tr>
<th>Country</th>
<th>% of Total Count</th>
<th>% of Total Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>10.2%</td>
<td>14.8%</td>
</tr>
<tr>
<td>French Guiana</td>
<td>0.0%</td>
<td>10.0%</td>
</tr>
<tr>
<td>Canada</td>
<td>9.1%</td>
<td>9.2%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>11.0%</td>
<td>7.1%</td>
</tr>
<tr>
<td><strong>South Korea</strong></td>
<td><strong>7.7%</strong></td>
<td><strong>6.4%</strong></td>
</tr>
<tr>
<td>Mexico</td>
<td>4.3%</td>
<td>4.1%</td>
</tr>
<tr>
<td>France</td>
<td>2.3%</td>
<td>3.7%</td>
</tr>
<tr>
<td>Israel</td>
<td>4.2%</td>
<td>3.2%</td>
</tr>
<tr>
<td>Germany</td>
<td>4.4%</td>
<td>3.1%</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>4.0%</td>
<td>2.8%</td>
</tr>
<tr>
<td><strong>Top Ten/Total</strong></td>
<td><strong>57.2%</strong></td>
<td><strong>64.6%</strong></td>
</tr>
</tbody>
</table>
The U.S. Exports of 600-Series and 9x515 Items by BIS License Type
October 15, 2013 to July 31, 2016
Smillion

- Licensed, $7,298.3, 57.0%
- STA
- NLR to Canada and 9A515.e
- RPL
- GOV
- NLR .y 600-Series
- TSU
- TMP
- BAG

- NLR .y 600-Series, $621.0, 4.9%
- GOV, $787.2, 6.2%
- RPL, $827.7, 6.5%
- NLR to Canada and 9A515.e, $1,115.3, 8.7%
- STA, $1,642.0, 12.8%
- LVS, $15.3, 0.1%
- TSU, $0.4, 0.003%
- BAG, $0.2, 0.001%
Resources

• Online Web Tools
  – Order of Review Decision Tree: Is your item controlled under ITAR or EAR?
  – Is your item “Specially Designed”?
  – License Exception STA
  – De Minimis and Direct Product Rule

• Webinars
  
  http://www.bis.doc.gov
Resources

• Export Control Reform Resources
  Sign up for e-mail notifications
  http://www.bis.doc.gov

• Monthly public reports on Export Control Reform licensing and export trends/Strategic Trade Authorization use
  http://www.bis.doc.gov/index.php/ecr-analysis

• Export Control Reform Frequently Asked Questions
  http://www.bis.doc.gov/index.php/2012-03-30-17-54-11/ecr-faqs