

§ 752.2

in part 748 of the EAR, or a License Exception described in part 740 of the EAR, for multiple exports and reexports of items subject to the EAR. The SCL provides authorization to make specified exports and reexports that are otherwise prohibited by General Prohibitions One, Two, and Three described in part 736 of the EAR. The existence of an SCL does not supersede an exporter's obligation to request a separate license as may be required by part 744 of the EAR. Because the Bureau of Industry and Security (BIS) does not review each individual transaction authorized by an SCL, parties to the SCL must have the mechanisms in place to ensure that each export and reexport made under an SCL meets all the terms and conditions of the license and are in accordance with all applicable provisions of the EAR. It is through the design and effective implementation of an Internal Control Program (ICP) that the SCL holder and the SCL consignee (referred to as "consignee" for purposes of this part) assure that exports and reexports are not made contrary to the EAR.

(2) *Definitions*—(i) *SCL holder*. As used in this part, "SCL holder" is that party approved on an SCL to perform activities approved under the SCL.

(ii) *SCL consignee*. As used in this part, "SCL consignee" or "consignee" means any party authorized to receive items under the SCL and named as a consignee on an approved Form BIS-752, Statement by Consignee in Support of Special Comprehensive License.

(b) *ICP requirement*. To qualify for an SCL, you must develop an ICP. Section 752.11 of this part includes a general description of the elements of the ICP, and guidance on which elements your company must implement before making shipments under the SCL. The elements of the ICP your company will develop reflect the complexity of the activities authorized under the SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees. BIS may require you to include in your ICP any combination of elements, depending upon the nature of your SCL application. During your pre-application consultation required by § 752.5(a)(1),

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BIS will provide you guidance on which elements you must implement.

[61 FR 12835, Mar. 25, 1996, as amended at 62 FR 25463, May 9, 1997]

§ 752.2 Eligible activities.

(a) *Possible authorizations*. Under the SCL, BIS may authorize you to perform any number of activities, which can be grouped under the general categories of "service", "end-user", "distribution" and "other" activities. Examples of the general categories include:

(1) *Service activities*. Exporting items subject to the EAR as spare and replacement parts for servicing or stocking.

(2) *End-user activities*. Exporting and reexporting items subject to the EAR for use as capital equipment.

(3) *Distribution activities*. Exporting and reexporting items subject to the EAR for the purpose of resale and reexport by consignees.

(4) *Other activities*. Other activities not included in paragraphs (a)(1) through (a)(3) of this section may be authorized by BIS under the SCL on a case-by-case basis.

(b) *Prohibited activities*. The general prohibitions described in § 736.2(b)(4) through (10) of the EAR apply to all exports and reexports by, and conduct of, all parties approved on your SCL, unless you are specifically authorized under the SCL to perform such activities, or the particular activity otherwise qualifies for a License Exception described in part 740 of the EAR.

§ 752.3 Eligible items.

(a) All items subject to the EAR, including items eligible for License Exceptions described in part 740 of the EAR, are eligible for export and reexport under the SCL, except:

(1) Items controlled for missile technology reasons that are identified by the letters MT in the applicable "Reason for Control" paragraph on the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR);

(2) Items controlled by ECCNs 1C351, 1C352, 1C353, 1C354, 1C991, 1E001, 2B352, 2E001, 2E002, and 2E301 on the CCL controlled for CB reasons;

(3) Items controlled by ECCNs 1C350, 1C995, 1D390, 1E350, 1E351, 2B350, and

2B351 on the CCL that can be used in the production of chemical weapons precursors and chemical warfare agents, to destinations listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR);

(4) Items controlled for short supply reasons that are identified by the letters "SS" in the applicable "Reason for Control" paragraph on the CCL;

(5) Items controlled for EI reasons on the CCL;

(6) Maritime (civil) nuclear propulsion systems or associated design or production software and technology identified in § 744.5 of the EAR;

(7) Communications intercepting devices and related software and technology controlled by ECCN 5A980, 5D980, or 5E980 on the CCL;

(8) Hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12. .f, and related controls;

(9) Items specifically identified as ineligible by BIS on your approved SCL; and

(10) Additional items consistent with international commitments.

(b) Items controlled for nuclear non-proliferation reasons that are identified by the letters NP in the applicable "Reason for Control" paragraph on the CCL may be authorized on a case-by-case basis provided controls are in place to screen for proscribed end-users or end-uses.

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§ 752.4 Eligible countries.

(a) *General provisions.* All countries are eligible under the SCL except:

(1) Cuba, Iran, Iraq, North Korea, Sudan, and Syria.

(2) Other countries that BIS may designate on a case-by-case basis as ineligible to receive items under the SCL.

(b) *Servicing prohibitions.* Under the SCL, you may not service any item when you know that the item is owned or controlled by, or under the lease or charter of, entities in countries identified in paragraphs (a)(1) and (a)(2) of

this section or any national of such countries.

[61 FR 12835, Mar. 25, 1996, as amended at 71 FR 51719, Aug. 31, 2006]

§ 752.5 Steps you must follow to apply for an SCL.

(a) *Step One: Establish applicant reliability—(1) Pre-application consultation.* To apply for an SCL, BIS must determine your reliability as a potential SCL holder. BIS usually does this through consultation with company officials and a review of the criteria identified in paragraph (a)(2) of this section. To determine whether your company requires a consultation before you apply for an SCL, contact BIS at the address, phone, or telefacsimile numbers included in § 752.17 of this part.

(2) *Criteria for determining eligibility.* BIS will review the following criteria to help determine SCL holder eligibility:

(i) Evidence of past licensing history and projected, continuous large volume exports;

(ii) Reliability of all parties relative to their compliance with the EAR;

(iii) Commitment of all parties of the necessary resources to implement and maintain an adequate ICP; and

(iv) Evidence of all parties knowledge of all provisions of the EAR.

(b) *Step Two: Establish consignee reliability—(1) Requirements.* You must make an initial determination of the reliability of all consignees that are listed on your application for an SCL, based upon the criteria described in paragraph (b)(2) of this section.

(2) *Determining reliability.* The criteria that you should take into consideration include, but are not limited to, the following:

(i) *Criteria.* (A) The proposed consignee has a satisfactory record established through BIS pre-license checks, or extensive experience as a consignee under any license issued by BIS;

(B) The proposed consignee is a wholly-owned subsidiary or a controlled-in-fact affiliate of the applicant or of a consignee that is already approved on an SCL. See part 772 of the EAR for a definition of controlled-in-fact; or