

## **Embassy FAQs**

Published Date: Prior to 2013

Last Updated: Prior to 2013

### **Q.1: When exporting or reexporting to a non-U.S. Embassy located outside the United States, which country is used in the determination of the licensing requirements?**

A.1: Like shipments to U.S. embassies overseas, shipments to non-U.S. Embassies outside the United States are exports or reexports to the host country. For example, an export from the United States to the French Embassy in Germany is an export to Germany. License requirements are those that are applicable to the host country. There may also be relevant license exception availability (see below).

Note, however, that BIS does not treat the shipment of items via official diplomatic pouch to an embassy or consulate in a third country (host country) as a transaction covered by the destination-based licensing requirements set forth in the EAR. So long as the items remain within the ownership and control of the embassy or consulate in the host country, no license is required under the EAR. The items may also be returned to the home country via diplomatic pouch or shipped to other foreign embassies and consulates via diplomatic pouch without authorization from BIS. However, if the embassy or consulate resells or disposes of the items locally in the host country, licensing requirements set forth in the EAR for exports to the host country would be implicated. Similarly, reselling or disposing the items to end users outside of the host country would implicate reexport licensing requirements set forth in the EAR, to the extent the items are not shipped via diplomatic pouch.

### **Q.2: What licensing requirements and/or license exceptions may apply to commercial shipments of items subject to the Export Administration Regulations (EAR) to U.S. Embassies located outside of the United States?**

A.2: For purposes of the EAR, a commercial shipment to a U.S. Embassy located outside the United States is an export or reexport to the country in which the U.S. Embassy is located (the host country). For example, a shipment from the United States to the U.S. Embassy in Germany is an export to Germany. BIS may require a license under the EAR for such an export, based on the classification of the items involved and the license requirements applicable to the particular host country.

### **Q.3: What if the host country of a non-U.S. embassy is subject to multilateral or unilateral economic sanctions, such as Cuba or Sudan?**

A.3: Most transactions involving the export or reexport of items subject to the EAR to host countries that are subject to multilateral or unilateral economic sanctions require a license, as described in the specific regulatory provisions relevant to each destination,

generally found in Parts 742 and/or 746 of the EAR. However, if a host country is subject to economic sanctions implemented by the Department of the Treasury's Office of Foreign Assets Controls (OFAC), regulations maintained by OFAC may also restrict the transaction. Exporters are advised to contact OFAC for further clarification. OFAC may be contacted at 1-800-540-6322.

**Q.4: What if the embassy of a country subject to multilateral or unilateral economic sanctions is located in a country subject to less stringent export controls, for example the Cuban Embassy in France?**

A.4: For purposes of the EAR, shipments to embassies abroad are considered exports or reexports to the host country, even in the case of an embassy of a country subject to multilateral or unilateral economic sanctions. However, regulations maintained by OFAC may also restrict a transaction of this nature. Exporters are advised to contact OFAC for further clarification. OFAC may be contacted at 1-800-540-6322.

**Q.5: Is License Exception GOV available for exports to non-U.S. Embassies outside the United States?**

A.5: Yes, exports to non-U.S. embassies outside the United States may be eligible for License Exception GOV as described in Section 740.11 of the EAR.

GOV also authorizes the export of certain items to a "diplomatic or consular mission" of a cooperating government for official use within the territory of a country in Country Group B (Supplement No. 1 to Part 740 of the EAR). Cooperating governments are those listed in Country Group A:1 (Supplement No. 1 to part 740 of the EAR) as well as the governments of Argentina, Austria, Finland, Hong Kong, Ireland, the Republic of Korea, New Zealand, Singapore, Sweden, Switzerland, Singapore, and Taiwan. For example, GOV would authorize certain exports to the French Embassy in India because France is a cooperating government and India is a Country Group B country.

GOV does not authorize, however, the export of items to cooperating government embassies located outside of cooperating government or Country Group B destinations. For example, an export to the French Embassy in Belarus would not be authorized under GOV because while France is a cooperating government, Belarus is not listed in Country Group B. Such exports may, however, be eligible for other License Exceptions, including License Exception CIV (Section 740.5 of the EAR) which authorizes certain exports for civilian use in Country Group D countries.

Items eligible to be exported or reexported pursuant to these provisions of License Exception GOV are described in Supplement No. 1 to Section 740.11 of the EAR.

**Q.6: Is a shipment to an Army Post Office (APO) or Fleet Post Office (FPO) considered an export?**

A.6: Yes. These shipments are exports because they are being shipped to destinations outside the United States. License requirements are those that are applicable to the destination. Certain license exceptions may also be available.

**Q.7: Does it matter if a shipment to an embassy would require a license if it were instead being shipped to the home country of such embassy?**

A.7: For purposes of the EAR, shipments to embassies abroad are considered exports or reexports to the host country. License requirements for exports or reexports to the home country of the embassy are not directly applicable. However, exporters are reminded to pay particular attention to the presence of “red flags” as described in Supplement No. 3 to part 732 of the EAR. Information about a proposed transaction may suggest that the embassy is not the true ultimate destination of the shipment. For purposes of the EAR, the export or reexport of items subject to the EAR that will be transshipped in a country or countries to a new country or are intended for reexport to the new country are deemed to be exports to the new country.

**Q.8: What is a “deemed re-export”?**

A.8: The term “deemed re-export” is often used to indicate the transfer of controlled U.S. technology to a third-country national overseas. As an example, a U.S. exporter transfers its controlled proprietary technology to a firm in country A. The firm in country A, in turn, employs an individual from country B who is not a permanent employee of the firm in country A and who will need the controlled proprietary technology to perform his or her assigned duties. Before transferring this controlled technology to the Country B employee, the firm in country A is responsible for obtaining any required deemed re-export licenses as if it were transferring the technology to country B. Please see Section 734.2(b)(4) of the Export Administration Regulations (EAR).