



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

August 5, 2013



Dear [REDACTED]:

On April 16, 2013, you requested an advisory opinion regarding the export license requirements for artwork temporarily exported to Cuba for exhibition purposes. Specifically, you explained that a number of [REDACTED]-based museums and institutions are interested in lending artwork to Cuba's [REDACTED] for display in an exhibition of [REDACTED]'s work in 2014. You sought confirmation from the Bureau of Industry and Security (BIS) that a license is not required to temporarily export [REDACTED]'s artwork to Cuba because it qualifies as "informational materials" not subject to the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*).

BIS implements the United States' embargo against Cuba, in part, pursuant to the President's authorities under the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1701 *et seq.* IEEPA limits the President's authority to use the statute to regulate or prohibit, directly or indirectly, "information and informational materials," and it specifically lists "artworks" as a form of "information or information material" for which such limitation applies. 50 U.S.C. § 1702(b)(3). The limitation, however, does not extend to exports that would otherwise be controlled for export under Sections 5 or 6 of the Export Administration Act of 1979, as amended.

Thus, for export controls implemented pursuant to IEEPA, the President would be prohibited from regulating "information or informational material," such as artwork, absent authority from a statute other than IEEPA. Because BIS presently relies on IEEPA to implement the Cuba embargo, artwork is considered "informational materials" exempt from the EAR's jurisdiction when exported to Cuba if it is classified under Chapter subheadings 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States (HTSUS). If the material at issue is exempt from the EAR, a BIS license is not required for its export to Cuba. Please contact the U.S. International Trade Commission if you need assistance with classifying the artwork in accordance with HTSUS.



You stated in your request that the artwork would be transported to Cuba using a vessel. Please note that, pursuant to Section 746.2 of the EAR, an export license is required for the temporary sojourn of vessels to Cuba. The vessel may not travel to Cuba unless the exporter of the vessel first obtains a temporary sojourn license from BIS.

Please also be aware that your proposed activities may be affected by regulations maintained by other U.S. Government agencies. For example, the Department of the Treasury's Office of Foreign Assets Control (OFAC) maintains license requirements for certain transactions involving Cuba or Cuban nationals pursuant to the Cuban Assets Control Regulations. You should determine whether authorization is required from other U.S. Government agencies prior to commencing any activities involving Cuba.

In rendering this opinion, BIS has relied upon information and representations included in your letter dated April 16, 2013, and enclosed supporting documentation. Any deviation from the factual circumstances as stated in this opinion may necessitate different regulatory obligations for you, including possible license requirements. Should you have any further questions, please contact Alan W. Christian at (202) 482-8004.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony Christino III", with a stylized flourish at the end.

Anthony Christino III
Director, Foreign Policy Division
Office of Nonproliferation and Treaty
Compliance